



AN ACT PROVIDING A PUBLIC EMPLOYMENT HIRING PREFERENCE FOR ELIGIBLE FORMER AND ACTIVE MEMBERS OF THE MONTANA ARMY AND AIR NATIONAL GUARD; AMENDING SECTION 39-29-101, MCA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-29-101, MCA, is amended to read:

"39-29-101. Definitions. For the purposes of this chapter, the following definitions apply:

~~(1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except for training, determining physical fitness, or service in the reserve or national guard.~~

~~(2)~~(1) "Armed forces" means the ~~United States~~:

(a) United States army, navy, air force, marine corps, and coast guard; ~~and~~
 (b) merchant marine for service recognized by the United States department of defense as active military service for the purpose of laws administered by the department of veterans affairs; and

(c) Montana army and air national guard.

~~(3)~~(2) "Disabled veteran" means a person:

(a) whether or not the person is a veteran ~~as defined in this section~~, who was separated under honorable conditions from active military duty in the armed forces and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a law administered by the department of veterans affairs, or a military department, or the state of Montana; or

(b) who has received a purple heart medal.

~~(4)~~(3) "Eligible relative" means:

(a) the unmarried surviving spouse of a veteran or disabled veteran;

(b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

(c) the mother of a veteran who died under honorable conditions while serving in the armed forces if:

(i) the mother's spouse is totally and permanently disabled; or

(ii) the mother is the widow of the father of the veteran and has not remarried;

(d) the mother of a service-connected permanently and totally disabled veteran if:

- (i) the mother's spouse is totally and permanently disabled; or
- (ii) the mother is the widow of the father of the veteran and has not remarried.

(4) "Military duty" means duty with military pay and allowances in the armed forces.

(5) (a) "Position" means a position occupied by a permanent, temporary, or seasonal employee, as defined in 2-18-101, for the state or a similar permanent, temporary, or seasonal employee with a public employer other than the state.

(b) The term does not include:

~~(a)~~(i) a state or local elected office;

~~(b)~~(ii) appointment by an elected official to a body, such as a board, commission, committee, or council;

~~(c)~~(iii) appointment by an elected official to a public office if the appointment is provided for by law;

~~(d)~~(iv) a department head appointment by the governor or an executive department head appointment by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local government; or

~~(e)~~(v) engagement as an independent contractor or employment by an independent contractor.

(6) "Public employer" means:

(a) a department, office, board, bureau, commission, agency, or other instrumentality of the executive, legislative, or judicial branches of the government of this state;

(b) a unit of the Montana university system;

(c) a school district or community college; and

(d) a county, city, or town.

(7) "Scored procedure" means a written test, structured oral interview, performance test, or other selection procedure or a combination of these procedures that results in a numerical score to which percentage points may be added.

(8) (a) "Under honorable conditions" means a discharge or separation from ~~active~~ military duty characterized by the armed forces as under honorable conditions. The term includes honorable discharges and general discharges.

(b) ~~but~~ The term does not include dishonorable discharges or other administrative discharges characterized as other than honorable.

(9) "Veteran" means a person who:

(a) was separated under honorable conditions from active federal military duty in the armed forces after

having served more than 180 consecutive days, other than for training; or

(b) as a member of a reserve component under an order of ~~active~~ federal duty pursuant to 10 U.S.C. 12301(a), (d), or (g), 10 U.S.C. 12302, or 10 U.S.C. 12304 served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from duty under honorable conditions; or

(c) is or has been a member of the Montana army or air national guard and who has satisfactorily completed a minimum of 6 years service in the armed forces, the last 3 years of which have been served in the Montana army or air national guard."

Section 2. Applicability. [This act] applies to positions of public employment that are subject to the provisions of [this act] that are open for employment on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
HB 0035, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 35
INTRODUCED BY H. JACOBSON
BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

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