

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3451

By Delegates Hillenbrand, Ridenour, Sheedy, Street,
and Cooper

[Introduced February 14, 2023; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §6-13-1 of the Code of West Virginia, 1931, as amended, relating to
2 updating the veteran preference ratings in state code for state employment.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 13. PREFERENCE RATING OF VETERANS ON WRITTEN EXAMINATION
ON NONPARTISAN MERIT BASIS.**

**§6-13-1. Preference rating of veterans on written examinations for positions in state
departments filled under nonpartisan merit system.**

1 ~~(a) For positions in any agency as defined in section four, article one, chapter five-f of this~~
2 ~~code §5F-1-4 of this code or any other political subdivision of this state in which positions are filled~~
3 ~~under civil service or any job classification system, a preference of five points in addition to the~~
4 ~~regular numerical score received on examination shall be awarded to all veterans having qualified~~
5 ~~for appointment by making a minimum passing grade; and to all veterans awarded the purple~~
6 ~~heart, or having a compensable service-connected disability, as established by any proper~~
7 ~~veterans' bureau or department of the federal government, an additional five points shall be~~
8 ~~allowed~~ a 1-Point Preference Sole Survivorship Preference (SSP) shall be utilized. This relatively
9 new Federal category was established for veterans released or discharged from a period of active
10 duty from the armed forces, after August 29, 2008, by reason of a "sole survivorship discharge."
11 Under the sole survivorship preference, the individual:

12 (1) Does not receive veterans' preference points as other preference eligibles do when the
13 "rule of 3" is applied;

14 (2) Is entitled to be listed ahead of nonpreference eligibles with the same score on an
15 examination, or listed ahead of nonpreference eligibles in the same quality category when
16 agencies are using category rating;

17 (3) Is entitled to receive the same pass over rights as other preference eligibles; and

18 (4) Is entitled to credit experience in the armed forces to meet the qualification
19 requirements for West Virginia jobs.

20 (b) A 1-point Preference shall be added to the passing score or rating of a veteran who is
21 the only surviving child in a family Sole Survivorship Preference (SSP) in which the father or
22 mother or one or more siblings:

23 (1) Served in the armed forces, and

24 (2) Was killed, died as a result of wounds, accident, or disease, is in a captured or missing
25 in action status, or is permanently 100 percent disabled or hospitalized on a continuing basis (and
26 is not employed gainfully because of the disability or hospitalization), where

27 (3) The death, status, or disability did not result from the intentional misconduct or willful
28 neglect of the parent or sibling and was not incurred during a period of unauthorized absence.

29 (c) A 5-Point Preference shall be added to the passing examination score or rating of a
30 veteran who served:

31 (1) During a war; or

32 (2) For more than 180 consecutive days, other than for training, any part of which occurred
33 after January 31, 1955, and before August 1, 1990; or

34 (3) During the Gulf War from August 2, 1990, through January 2, 1992; or

35 (4) For more than 180 consecutive days, other than for training, any part of which occurred
36 during the period beginning September 11, 2001, and ending on August 31, 2021, the last day of
37 Operation Iraqi Freedom, Sentinel; or

38 (5) In a campaign or expedition for which a campaign medal has been authorized. Any
39 Armed Forces Expeditionary medal for approved operations listed in Department of Defense
40 1348.33 Vol 2, or campaign badge. A veteran's DD Form 214 showing the award of any Armed
41 Forces Expeditionary Medal is acceptable proof. The DD form 214 does not have to show the
42 name of the theater or country of service for which that medal was awarded.

43 (d) A campaign medal holder or Gulf War veteran who originally enlisted after September
44 7, 1980, (or began active duty on or after October 14, 1982, and has not previously completed 24
45 months of continuous active duty) must have served continuously for 24 months or the full period
46 called or ordered to active duty. The 24-month service requirement does not apply to 10-point
47 preference eligibles separated for disability incurred or aggravated in the line of duty, or to
48 veterans separated for hardship or other reasons under 10 U.S.C. §§1171 or 1173.

49 (e) A 10-Point Compensable Disability Preference shall be added to the passing
50 examination score or rating of a veteran who served is 10 point preference eligible if they served at
51 any time and they have a service connected disability, or received a Purple Heart.

52 (f) For the purpose of this article, a person is defined as a "veteran" if he or she fulfills the
53 requirements of one of the following subsections:

54 (a) Served on active duty anytime between December 7, 1941, and July 1, 1955. However,
55 any person who was a reservist called to active duty between February 1, 1955, and October 14,
56 1976, must meet condition (b) stated below;

57 (b) Served on active duty anytime between July 2, 1955, and October 14, 1976, or a
58 reservist called to active duty between February 1, 1955, and October 14, 1976, and who served
59 for more than one hundred eighty days;

60 (c) Entered on active duty between October 15, 1976, and September 7, 1980, or a
61 reservist who entered on active duty between October 15, 1976, and October 13, 1982, and
62 received a campaign badge or expeditionary medal or is a disabled veteran; or

63 (d) Enlisted in the Armed Forces after September 7, 1980, or entered active duty other than
64 by enlistment on or after October 14, 1982;

65 (1) A veteran must have been discharged or released from active duty in the Armed Forces
66 under honorable conditions (i.e., with an honorable or general discharge). As defined in 5 U.S.C.
67 2101(2), "Armed Forces" means the Army, Navy, Air Force, Marine Corps , Coast Guard and
68 Space Force. The veteran must also be eligible under one of the preference categories below. For

69 nondisabled users, active duty for training by National Guard or Reserve soldiers does not qualify
70 as "active duty" for preference, but National Guard or Reserve soldiers placed on Title 10 for active
71 duty service shall qualify as "active duty" for preference.

72 (2) For disabled veterans, active duty includes training service in the Reserves or National
73 Guard, per the Merit Systems Protection Board decision in Hesse v. Department of the Army, 104
74 M.S.P.R.647(2007); and

75 (4) (3) Completed 24 months of continuous active duty or the full period called or ordered to
76 active duty, or was discharged under 10 U.S.C. 1171, or for hardship under 10 U.S.C. 1173, and
77 received or was entitled to receive a campaign badge or expeditionary medal; or

78 (2) (4) Is a disabled veteran.

79 (g) For purposes of this chapter, "war" means only those armed conflicts declared by
80 Congress as war and includes World War II, which covers the period from December 7, 1941, to
81 April 28, 1952.

82 (h) To receive veteran preference, separation from active duty must have been under
83 honorable conditions. This includes honorable and general discharges. A clemency discharge
84 does not meet the requirements of the Veteran Preference Act. ~~Active duty for training in the~~
85 ~~military reserve and National Guard programs is not considered active duty for purposes of~~
86 ~~veteran preference.~~

87 (i) These awards shall be made for the benefit and preference in appointment of all
88 veterans who have heretofore or who shall hereafter take examinations, but shall not operate to
89 the detriment of any person heretofore appointed to a position in a department or agency.

NOTE: The purpose of this bill is to update the veteran preference ratings in state code for state employment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.