

No. 2016-135

AN ACT

HB 1600

Amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, providing for voluntary veterans' preference in private employment; and, in veteran-owned small businesses, further providing for definitions and for regulations and providing for business fee exemption.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 51 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 72
VOLUNTARY VETERANS' PREFERENCE
IN PRIVATE EMPLOYMENT

Sec.

7201. Scope of chapter.

7202. Definitions.

7203. Veterans' preference private employment policy.

7204. Eligibility for preference.

7205. Nonviolation of equal opportunity laws.

§ 7201. Scope of chapter.

This chapter relates to private employer's veterans' preference policies.

§ 7202. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"DD-214." A United States Department of Defense Report of Separation Form 214 or a similarly effective form issued by the Department of Defense relating to separation from military service.

"Private employer." A sole proprietor, corporation, partnership, limited liability company or any other legal entity, including nonprofits, with more than one employee.

"Soldier." A person who served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, during any war or armed conflict in which the United States engaged and who was released from active duty under honorable conditions, other than from periods of active duty for training, or with an honorable discharge from such service, or a person who so served or hereafter serves in the armed forces of the United States, or in any women's organization officially connected therewith, since July 27, 1953, including service in Vietnam, and who has an honorable discharge from such service. Qualifying periods of service during a war or armed conflict, for purposes of this definition, will be designated by the Department of Military and Veterans Affairs.

"Spouse of a disabled veteran." The spouse of a veteran who has been classified by the United States Department of Veterans Affairs' Veterans Benefits Administration as having a permanent total disability and is a United States citizen.

"Surviving spouse." A spouse of a deceased soldier.

"Veteran." An individual who has served in the armed forces of the United States, including a reserve component and National Guard, and who has been discharged or released from the service under conditions other than dishonorable.

"Veterans' preference employment policy." A voluntary policy adopted by a private employer for hiring, promoting or retaining a veteran, a spouse of a disabled veteran or a surviving spouse over another qualified applicant or employee.

§ 7203. Veterans' preference private employment policy.

(a) Authority.—A private employer may adopt and apply a veterans' preference employment policy.

(b) Policy.—A veterans' preference employment policy shall:

- (1) be in writing;*
- (2) require the inclusion of a statement in any job posting that indicates that the employer has and applies a veterans' preference employment policy;*
- (3) be provided to the applicant at time of hiring and provided to all employees on an annual basis; and*
- (4) be applied uniformly to employment decisions regarding:

 - (i) the hiring of new applicants;*
 - (ii) the promotion of current employees; and*
 - (iii) the retention of employees during a reduction in the work force.**

§ 7204. Eligibility for preference.

A veteran, spouse of a disabled veteran or surviving spouse shall submit the DD-214 of the veteran to a private employer with a veterans' preference employment policy for consideration by the employer.

§ 7205. Nonviolation of equal opportunity laws.

A voluntary veterans' preference employment policy adopted and applied in accordance with this chapter shall not be considered a violation of any State or local equal employment opportunity law.

Section 2. Chapter 96 of Title 51 is amended by adding a subchapter heading to read:

SUBCHAPTER A PRELIMINARY PROVISIONS

Section 3. Section 9601 of Title 51 is amended to read:
§ 9601. Definitions.

Subject to section 9602 (relating to regulations), the following words and phrases, when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commonwealth agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Executive agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Purchasing agency." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Service-disabled." Being in possession of:

(1) a disability rating letter issued by the United States Department of Veterans Affairs; or

(2) a disability determination from the United States Department of Defense.

"Service-disabled veteran-owned small business." A small business owned and controlled by:

(1) a service-disabled veteran or veterans; or

(2) if approved by the Department of General Services, a surviving spouse or permanent caregiver of a service-disabled veteran.

"Small business." As defined in 62 Pa.C.S. § 2102 (relating to definitions).

"State-affiliated entity." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Veteran." **[An individual who served on active duty in the United States Armed Forces, including any of the following:**

(1) A reservist or member of the National Guard who was discharged or released from the service under honorable conditions.

(2) A reservist or member of the National Guard who completed an initial term of enlistment or qualifying period of service.

(3) A reservist or member of the National Guard who was disabled in the line of duty during training.] *An individual who served in the United States Armed Forces, including a reserve component or the National Guard, and who was discharged or released from service under conditions other than dishonorable.*

"Veteran-owned small business." A small business owned and controlled by a veteran or veterans.

Section 4. Chapter 96 of Title 51 is amended by adding a subchapter heading to read:

SUBCHAPTER B PARTICIPATION

Section 5. Section 9602 of Title 51 is amended to read:

§ 9602. Regulations.

(a) Promulgation.—The Department of General Services shall establish policy in accordance with this **[chapter] subchapter** for executive agencies and independent agencies and may, in consultation with the department, promulgate regulations establishing detailed definitions of the words and phrases defined in section 9601 (relating to definitions) using, in addition to the criteria set forth in section 9601, other criteria as it deems appropriate, including the number of employees and the dollar volume of business.

(b) Implementation.—State-affiliated entities shall implement the policy for their procurement programs.

(c) Antifraud provisions.—The Department of General Services shall establish policy and promulgate regulations establishing antifraud provisions to deter and penalize businesses that are not owned by those who are service-disabled or by veterans but who falsely claim that they are in order to receive any action authorized by this [chapter] *subchapter*.

(d) Notice.—Notice of the antifraud provisions and an e-mail address and telephone number to report violations of the antifraud provisions to the Department of General Services shall be included, if feasible, in any application to be certified or to be included in any source list authorized by this [chapter] *subchapter*. The Department of General Services shall include in its annual reports to the General Assembly information about the number of businesses penalized for violating antifraud provisions.

Section 6. Chapter 96 of Title 51 is amended by adding a subchapter to read:

SUBCHAPTER C
BUSINESS FEE EXEMPTION

Sec.

9610. Definitions.

9611. Exemption.

§ 9610. Definitions.

As used in this subchapter, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Business fee." A fee required to be paid to the Commonwealth or a political subdivision for starting or opening a business within this Commonwealth. The term does not include a fee for maintaining licensure or other requirement for continuing to operate a business.

"Reservist." A member of a United States Armed Forces reserve component or National Guard.

"Reservist-owned small business." A business owned and controlled by a member of a United States Armed Forces reserve component or National Guard.

§ 9611. Exemption.

(a) Payment.—A veteran-owned or reservist-owned small business shall be exempt from the payment of a business fee.

(b) Proof.—A veteran or reservist must provide the department or licensing authority of a political subdivision with proof of the veteran's or reservist's status using any of the following with any business application:

(1) A copy of a Federal DD-214 form.

(2) A copy of a Federal NGB-22 form.

(3) A valid Federal Veterans' Administration card.

(4) A valid Department of Defense-issued military identification card.

(c) Status.—The Department of State or licensing authority of a political subdivision, in consultation with other Commonwealth agencies, may determine an applicant's status as a veteran or reservist in accordance with this section.

(d) Offenses.—

(1) A person who fraudulently obtains a business fee exemption commits a misdemeanor of the third degree.

(2) A person assigning, transferring or attempting to assign or transfer a business fee exemption or using or attempting to use a business fee exemption contrary to this section commits a misdemeanor of the third degree.

(e) Reporting.—The Department of State shall annually determine the total number of business fee exemptions applied for and issued and the total dollar amount of the exemptions under this section and submit a report to the chair and minority chair of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chair and minority chair of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives. The report may be submitted electronically.

Section 7. The amendment of 51 Pa.C.S. §§ 9601 and 9602 shall not affect nor impair the status of any of the following under 51 Pa.C.S. Ch. 96 or 74 Pa.C.S.:

(1) A veteran-owned small business.

(2) A service-disabled veteran-owned small business.

Section 8. This act shall take effect in 60 days.

APPROVED—The 3rd day of November, A.D. 2016

TOM WOLF