

106TH CONGRESS
1ST SESSION

H. R. 364

To amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, to strengthen preference for veterans in hiring, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 19, 1999

Mr. FILNER introduced the following bill; which was referred to the
Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, to strengthen preference for veterans in hiring, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans’ Employment
5 and Training Bill of Rights Act of 1999”.

1 **SEC. 2. VETERANS' EMPLOYMENT AND TRAINING ASSIST-**
2 **ANCE.**

3 (a) IN GENERAL.—Chapter 42 of title 38, United
4 States Code, is amended by adding at the end the follow-
5 ing new section:

6 **“§ 4215. Veterans' Employment and Training Bill of**
7 **Rights**

8 “(a) ENTITLEMENT TO PRIORITY OF SERVICES.—A
9 covered person is entitled to priority of services under any
10 qualified employment training program if the person oth-
11 erwise meets the eligibility requirements for participation
12 in such program.

13 “(b) ADMINISTRATION OF PROGRAMS AT STATE AND
14 LOCAL LEVELS.—(1) An entity of a State or a political
15 subdivision of the State that administers or delivers serv-
16 ices under a qualified employment training program
17 shall—

18 “(A) provide information and effective referral
19 assistance to covered persons regarding benefits and
20 services that may be obtained through other entities
21 or service providers; and

22 “(B) ensure that each covered person who ap-
23 plies to or who is assisted by such a program is in-
24 formed of the employment-related rights and bene-
25 fits to which the person is entitled under this sec-
26 tion.

1 “(2) Each council, board, or advisory body of a State
2 or a political subdivision of the State that is established
3 in support of a qualified employment training program
4 shall include adequate representation from the veterans
5 community, particularly from veterans service organiza-
6 tions.

7 “(c) ANNUAL REPORT.—By not later than December
8 31, 2000, and each December 31 thereafter, the Secretary
9 of Labor, following review and comment by the Advisory
10 Committee on Veterans Employment and Training, shall
11 submit to the Committees on Veterans’ Affairs of the
12 House of Representatives and Senate a report. The report
13 shall evaluate whether covered persons are receiving prior-
14 ity of services and are being fully served by qualified em-
15 ployment training programs, and whether the levels of
16 service of such programs are in proportion to the incidence
17 of representation of veterans in the labor market, includ-
18 ing within groups targeted by such programs, if any.

19 “(d) DEFINITIONS.—As used in this section:

20 “(1) The term ‘covered person’ means any of
21 the following individuals:

22 “(A) A veteran who has a service-con-
23 nected disability.

24 “(B) A veteran who served on active duty
25 in the Armed Forces during a war, in a cam-

1 paign or expedition for which a campaign badge
2 has been authorized.

3 “(C) The spouse of any of the following
4 persons:

5 “(i) Any person who died of a service-
6 connected disability.

7 “(ii) Any member of the Armed
8 Forces serving on active duty who, at the
9 time of application for assistance under
10 this section, is listed, pursuant to section
11 556 of title 37 and regulations issued
12 thereunder, by the Secretary concerned in
13 one or more of the following categories and
14 has been so listed for a total of more than
15 90 days: (I) missing in action, (II) cap-
16 tured in line of duty by a hostile force, or
17 (III) forcibly detained or interned in line of
18 duty by a foreign government or power.

19 “(iii) Any person who has a total dis-
20 ability permanent in nature resulting from
21 a service-connected disability.

22 “(iv) A veteran who died while a dis-
23 ability so evaluated was in existence.

24 “(2) The term ‘qualified employment training
25 program’ means any work force preparation, devel-

1 opment, or delivery program or service that is feder-
2 ally funded, in whole or in part, and includes the fol-
3 lowing:

4 “(A) Any such program or service that
5 uses technology to assist individuals to access
6 work force development programs (such as job
7 and training opportunities, labor market infor-
8 mation, career assessment tools, and related
9 support services).

10 “(B) Any such program or service under
11 the public employment service system, one-stop
12 career centers, the Workforce Investment Act of
13 1998, a demonstration or other temporary pro-
14 gram, and those programs implemented by
15 States or local service providers based on Fed-
16 eral block grants.

17 “(C) Any such program or service that is
18 a work force development program targeted to
19 specific groups.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 42 of such title is amended
22 by inserting after the item relating to section 4214 the
23 following new item:

“4215. Veterans’ Employment and Training Bill of Rights.”.

1 **SEC. 3. EMPLOYMENT OF VETERANS WITH RESPECT TO**
2 **FEDERAL CONTRACTS.**

3 (a) IN GENERAL.—Section 4212(a) of title 38,
4 United States Code, is amended to read as follows:

5 “(a)(1) Any contract in the amount of \$25,000 or
6 more entered into by any department or agency of the
7 United States for the procurement of personal property
8 and nonpersonal services (including construction) for the
9 United States, shall contain a provision requiring that the
10 party contracting with the United States take affirmative
11 action to employ and advance in employment qualified cov-
12 ered veterans. This section applies to any subcontract en-
13 tered into by a prime contractor in carrying out any such
14 contract.

15 “(2) In addition to requiring affirmative action to
16 employ such qualified covered veterans under such con-
17 tracts and subcontracts and in order to promote the imple-
18 mentation of such requirement, the Secretary of Labor
19 shall prescribe regulations requiring that—

20 “(A) each such contractor undertake in each
21 such contract to list all of its employment openings
22 immediately with the appropriate local employment
23 service office, other appropriate service delivery
24 points, or America’s Job Bank (or any additional or
25 subsequent national computerized job bank estab-
26 lished by the Department of Labor), except that the

1 contractor may exclude openings for positions which
2 are to be filled from within the contractor's organi-
3 zation and positions lasting three days or less; and

4 “(B) each such local office or other service de-
5 livery point shall give such qualified covered veterans
6 priority in referral to such employment openings.

7 “(3) As used in this section:

8 “(A) The term ‘covered veteran’ means any of
9 the following veterans:

10 “(i) Disabled veterans.

11 “(ii) Veterans who served on active duty in
12 the Armed Forces during a war or in a cam-
13 paign or expedition for which a campaign badge
14 has been authorized.

15 “(iii) Veterans who, while serving on active
16 duty in the Armed Forces, participated in a
17 United States military operation for which an
18 Armed Forces service medal was awarded pur-
19 suant to Executive Order 12985 (61 Fed. Reg.
20 1209).

21 “(B) The term ‘qualified’, with respect to an
22 employment position, means having the ability to
23 perform the essential tasks of the position with rea-
24 sonable accommodation.”.

1 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

2 Section 4212 of such title is amended—

3 (1) by striking subsection (b) and redesignating
4 subsections (c) and (d) as subsections (b) and (c),
5 respectively;

6 (2) in subsection (b), as so redesignated—

7 (A) by striking “filed pursuant to sub-
8 section (b) of this section” and inserting “relat-
9 ing to this section filed pursuant to section
10 4216 of this title”;

11 (B) by striking “suitable”; and

12 (C) by striking “subsection (a)(2) of this
13 section” and inserting “subsection (a)(2)(B)”;
14 and

15 (3)(A) in paragraph (1) of subsection (c), as so
16 redesignated—

17 (i) in the matter preceding subparagraph
18 (A), by striking “subsection (a) of this section”
19 and inserting “subsection (a)”; and

20 (ii) by amending subparagraphs (A) and
21 (B) to read as follows:

22 “(A) the number of employees in the work force
23 of such contractor, by job category and hiring loca-
24 tion, and the number of such employees, by job cat-

1 category and hiring location, who are qualified covered
2 veterans; and

3 “(B) the total number of new employees hired
4 by the contractor during the period covered by the
5 report and the number of such employees who are
6 qualified covered veterans.”; and

7 (B) in paragraph (2) of such subsection, by
8 striking “paragraph (1) of this subsection” and in-
9 serting “paragraph (1)”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply with respect to contracts entered
12 into on or after the date that is 60 days after the date
13 of the enactment of this Act.

14 **SEC. 4. EMPLOYMENT WITHIN THE FEDERAL GOVERN-**
15 **MENT.**

16 (a) IN GENERAL.—The second sentence of section
17 4214(a) of title 38, United States Code, is amended—

18 (1) by inserting “, competent” after “effective”;
19 and

20 (2) by striking “major” and inserting “uniquely
21 qualified”.

22 (b) TECHNICAL AMENDMENTS.—(1) Section
23 4214(b)(1) of such title is amended by striking “readjust-
24 ment” and inserting “recruitment”.

1 (2) Section 4214(g) of such title is amended by strik-
2 ing “qualified” the first place it occurs and all that follows
3 through “era” and inserting “qualified covered veterans
4 (as described in section 4212(a) of this title)”.

5 **SEC. 5. ENFORCEMENT OF VETERANS’ EMPLOYMENT**
6 **RIGHTS AND BENEFITS.**

7 (a) IN GENERAL.—Chapter 42 of title 38, United
8 States Code, as amended by section 2, is further amended
9 by adding at the end the following new section:

10 **“§ 4216. Enforcement of veterans’ employment rights**
11 **and benefits**

12 “(a) ASSISTANCE OF SECRETARY OF LABOR.—The
13 Secretary of Labor (through the Assistant Secretary of
14 Labor for Veterans’ Employment and Training) shall pro-
15 vide assistance to any person or entity with respect to the
16 requirements of sections 4212 (relating to United States
17 contracts) and 4215 (relating to federally funded work
18 force programs and services) of this title. In providing
19 such assistance, the Secretary may request the assistance
20 of existing Federal and State agencies engaged in similar
21 or related activities and utilize the assistance of volun-
22 teers.

23 “(b) COMPLAINT.—(1) An individual described in
24 section 4212(a) or in section 4215(a) of this title may file

1 a complaint with the Secretary of Labor if the individual
2 believes that—

3 “(A) the individual is entitled to rights or bene-
4 fits under section 4212 or 4215; and

5 “(B) an entity with obligations under either of
6 such sections has failed to comply or refuses to com-
7 ply with the provisions of such sections.

8 “(2) Such complaint shall be in writing, be in such
9 form as the Secretary of Labor may prescribe, include the
10 name and address of the party against whom the com-
11 plaint is filed, and contain a summary of the allegations
12 that form the basis for the complaint.

13 “(3) A complaint may only be filed under paragraph
14 (1) within 90 days after the date of a failure or refusal
15 described in paragraph (1)(B).

16 “(c) INVESTIGATION OF COMPLAINT.—(1) The Sec-
17 retary of Labor shall promptly investigate the complaint.
18 If the Secretary of Labor determines as a result of the
19 investigation that the action alleged in such complaint oc-
20 curred, the Secretary shall attempt to resolve the com-
21 plaint by making reasonable efforts to ensure that the
22 party named in the complaint complies with the provisions
23 of section 4212 or 4215, as appropriate.

24 “(2) If, within 90 days after the date on which the
25 complaint is filed, the efforts to resolve the complaint are

1 unsuccessful, the Secretary of Labor shall notify the indi-
2 vidual who submitted the complaint of—

3 “(A) the results of the investigation; and

4 “(B) the individual’s rights.

5 “(d) ACTION FOR RELIEF.—(1) An individual who
6 receives from the Secretary of Labor a notification under
7 subsection (c) relating to a complaint may request that
8 the Secretary refer the complaint to the Attorney General
9 of the United States. If the Attorney General is reasonably
10 satisfied that the person on whose behalf the complaint
11 is referred is entitled to the rights or benefits sought, the
12 Attorney General may appear on behalf of, and act as at-
13 torney for, the person on whose behalf the complaint is
14 submitted and commence an action for relief for such per-
15 son in any United States district court.

16 “(2) An individual may commence an action for relief
17 with respect to a complaint if that individual—

18 “(A) has chosen not to file a complaint under
19 subsection (b);

20 “(B) has chosen not to request that the Sec-
21 retary of Labor refer the complaint to the Attorney
22 General under paragraph (1); or

23 “(C) has been refused representation by the At-
24 torney General with respect to the complaint under
25 such paragraph.

1 “(e) REMEDIES.—(1) In any action under this sec-
2 tion, the court may award relief as follows:

3 “(A) The court may require the entity to com-
4 ply with the provisions of section 4212 or 4215 of
5 this title, as appropriate.

6 “(B) The court may require the entity to com-
7 pensate the individual for any loss of wages or bene-
8 fits suffered by reason of such entity’s failure to
9 comply with the such provisions.

10 “(C) The court may require the entity to pay
11 the individual an amount equal to the amount re-
12 ferred to in clause (ii) as liquidated damages, if the
13 court determines that the entity’s failure to comply
14 with the provisions of such section was willful.

15 “(2) Any compensation under subparagraph (B) or
16 (C) of paragraph (1) shall be in addition to, and shall not
17 diminish, any of the other rights and benefits provided for
18 in such section.

19 “(3) The United States and a State shall be subject
20 to the same remedies, including prejudgment interest, as
21 may be imposed upon any private entity under this sec-
22 tion.

23 “(f) FEES.—In any action or proceeding to enforce
24 a provision of section 4212 or 4215 of this title by an
25 individual under subsection (d)(2) who obtained private

1 counsel for such action or proceeding, the court may
2 award any such individual who prevails in such action or
3 proceeding reasonable attorney fees, expert witness fees,
4 and other litigation expenses.

5 “(g) EQUITY POWERS.—The court may use its full
6 equity powers, including temporary or permanent injunc-
7 tions, temporary restraining orders, and contempt orders,
8 to vindicate fully the rights or benefits of individuals pur-
9 suant to this section.

10 “(h) STANDING.—An action under this section may
11 be initiated only by an individual claiming rights or bene-
12 fits under section 4212 or 4215 of this title, not by any
13 other entity with obligations under such section.

14 “(i) RESPONDENT.—In any such action, only an en-
15 tity with obligations under section 4212 or 4215, as the
16 case may be, shall be a necessary party respondent.

17 “(j) INAPPLICABILITY OF STATE STATUTE OF LIM-
18 TATIONS.—No State statute of limitations shall apply to
19 any proceeding pursuant to this section.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 42 of such title, as amended
22 by section 2, is further amended by inserting after the
23 item relating to section 4215 the following new item:

“4216. Enforcement of veterans’ employment rights and benefits.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply with respect to complaints filed

1 on or after the date that is 60 days after the date of the
2 enactment of this Act.

3 **SEC. 6. ADDITIONAL PERSONNEL.**

4 The Secretary of Labor is authorized to allocate an
5 additional 10 full-time equivalent positions from the Em-
6 ployment and Training Administration to the Veterans'
7 Employment and Training Service to carry out chapter
8 42 of title 38, United States Code, as amended by this
9 Act.

○