



## PROTECTION FOR PRIVATE SECTOR VETERANS' HIRING POLICIES

*Private sector employers attempting to establish preferred veteran hiring practices may be risking claims of discrimination.*

**KEY MESSAGE:** Many companies would like to hire veterans because of their unique skill sets, proven work ethic, and reliability, but are hesitant to do so out of fear of being sued under Title VII of the Civil Rights Act of 1964. However, Title VII, Section 11 of the Civil Rights Act contains a carve-out that exempts veterans' preference processes that are authorized by state statute.



### DISCUSSION POINTS:

- States are making great strides to improve veteran employability by removing professional licensing barriers and crediting military education and experience. However, employment ultimately depends on employers providing workforce opportunities.
- Forty States and the District of Columbia award preference to veterans who are being considered for hire to a *public* position.
  - Unlike government employers, who have been incorporating veterans' hiring preferences since 1944, *private* employers are prohibited from establishing comparable business hiring policies.
  - Because veterans are overwhelmingly male, the United States Equal Employment Opportunity Commission (EEOC) interpreted many veterans' preference processes to have a disparate impact on women.
- Statutes that allow private sector veteran preference policies (that are parallel to those used by state and local governments) allow employers to equitably compete for veteran talent.
- Through statute, states can establish policy that enables employers to provide targeted improvements in veteran workforce opportunities:
  - The statute can authorize, without mandating, a private sector employer to establish a veterans' preference process for honorably discharged veterans;
  - The veterans' preference processes authorized in state statute are not subject to EEOC challenge under the Title VII exception<sup>1</sup>:
    - "Nothing contained in this subchapter shall be construed to repeal or modify any Federal, State, territorial, or local law creating special rights or preference for veterans."<sup>2</sup>
    - The language requires that an employer applies the preference policy uniformly to employment decisions regarding hiring and promotion.

As of June 2014, 573 thousand Veterans were unemployed and the jobless rate for post-9/11 veterans was 6.4 %, with young male Veterans (ages 18 to 24) experiencing an unemployment rate of 12.4%.<sup>1</sup>

<sup>1</sup> U.S. Equal Employment Opportunity Commission, *Policy Guidance on Veterans' Preference Under Title VII*, Notice N-915.06.

<sup>2</sup> 42 U.S.C. § 2000e-11 (1982).