

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS**

March 19, 2015

1:04 p.m.

**MEMBERS PRESENT**

Representative Bob Herron, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Jim Colver  
Representative Shelley Hughes  
Representative Max Gruenberg  
Representative Chris Tuck

**MEMBERS ABSENT**

Representative Bob Lynn

**COMMITTEE CALENDAR**

HOUSE BILL NO. 6

"An Act relating to a voluntary preference for veterans and for spouses and domestic partners of veterans by private employers."

- MOVED CSHB 6 (MLV) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 6

SHORT TITLE: EMPLOYMENT PREFERENCE FOR VETS & SPOUSES

SPONSOR(S): REPRESENTATIVE(S) TUCK

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	MLV, L&C
03/19/15	(H)	MLV AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

KENDRA KLOSTER, Staff  
Representative Chris Tuck  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Speaking on behalf of Representative Tuck, sponsor of HB 6, explained a change in Version N of the bill, and answered questions.

MARK SAN SOUCI, Regional Liaison  
Office of the Deputy Assistant Secretary of Defense for Military  
Community and Family Policy  
U.S. Department of Defense  
Tacoma, Washington

**POSITION STATEMENT:** Testified in support of HB 6.

RUSSELL BALL, Owner  
ACD Solutions  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 6.

ROBERT DOEHL, Deputy Commissioner  
Office of the Commissioner/Adjutant General  
Department of Military & Veterans' Affairs  
Joint Base Elmendorf-Richardson, Alaska

**POSITION STATEMENT:** Answered a question during the hearing on  
HB 6.

#### **ACTION NARRATIVE**

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**CHAIR BOB HERRON** called the House Special Committee on Military and Veterans' Affairs meeting to order at 1:04 p.m. Representatives Hughes, Tuck, Gruenberg, LeDoux, and Herron were present at the call to order. Representative Colver arrived as the meeting was in progress.

#### **HB 6-EMPLOYMENT PREFERENCE FOR VETS & SPOUSES**

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CHAIR HERRON announced that the only order of business would be HOUSE BILL NO. 6, "An Act relating to a voluntary preference for veterans and for spouses and domestic partners of veterans by private employers."

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REPRESENTATIVE LEDOUX moved to adopt the proposed committee substitute (CS) for HB 6, labeled 29-LS0042\N, Wayne, 3/19/15, as the working draft.

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CHAIR HERRON objected for discussion purposes.

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REPRESENTATIVE TUCK, speaking as the sponsor of HB 6, explained that Version N removes ["spouses and domestic partners"] from the bill because their inclusion would be a violation of the [Civil Rights Act of 1964].

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KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, added that Version N expands the definition of veteran to include members of the Alaska National Guard (AKNG).

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REPRESENTATIVE TUCK directed attention to the intent of the bill and paraphrased from the following sponsor statement [original punctuation provided]:

House Bill 6 removes barriers to employment for veterans. According to a 2012 survey of veterans from all eras, 64% of respondents said they had a difficult transition from military service to civilian life, attributed largely to employment challenges. As of June 2014, nearly 600,000 veterans were unemployed. The jobless rate for post- 9/11 veterans was 6.4%, with young male veterans experiencing a jobless rate of more than 12%. During 2013, Alaska saw over 2,000 military personnel separate from service and return home and the Department of Defense has stated they expect this number to rise in coming years. Many states are making great strides to improve veteran employment by removing professional licensing barriers and crediting military education and experience. However, employment ultimately depends on employers providing workforce opportunities. Although forty states and the District of Columbia award preference to veterans who are being considered for hire to a public position, private employers are prohibited from establishing comparable business hiring policies. House Bill 6 would allow an optional veteran hiring preference for private employers by taking advantage of an option available under the Civil Rights Act of 1964. To date, twelve states have adopted similar legislation and is supported by the United States Department of Defense.

REPRESENTATIVE TUCK spoke of the "Helmets to Hardhats" program which is a federal program that allows veteran preference for applications into training programs. The program has found that former military personnel have many qualities for employment, for example, they are ready to learn and work hard in the construction industry, are responsible, and have a great attitude. Representative Tuck said HB 6 is an expansion of optional veteran hiring preference for private employers.

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CHAIR HERRON asked what advantage HB 6 provides to a private employer.

REPRESENTATIVE TUCK responded that a private employer would not be in violation of the [Civil Rights Act] when hiring a veteran over another applicant.

REPRESENTATIVE LEDOUX questioned what law makes it illegal to hire a veteran over another applicant.

MS. KLOSTER explained that Title VII of the Civil Rights Act of 1964 prohibits veteran preference by private employers unless the language within HB 6 is enacted. Currently, instituting a hiring preference for veterans could lead to a lawsuit against private employers.

REPRESENTATIVE LEDOUX inquired as to why the aforementioned training programs are not illegal.

REPRESENTATIVE TUCK said federal training programs differ from an employer hiring an employee; an employer who wants to hire an apprentice cannot use veteran preference.

REPRESENTATIVE LEDOUX questioned whether ["spouse"] was removed from the bill because although it is not a problem in federal law, to give a preference to a military spouse is illegal under current Alaska state law.

MS. KLOSTER said correct. Although four states included spouses in their legislation, the [Alaska State Commission for Human Rights] prohibits discrimination based on marital status; therefore, Legislative Legal Services (LLS) has advised that the original language in the bill held the potential to violate Alaska law.

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REPRESENTATIVE LEDOUX asked whether the [Alaska State Commission for Human Rights] has written regulations.

MS. KLOSTER said yes. Alaska Statute [Title 18 Chapter 80] prohibits discrimination based on marital status.

REPRESENTATIVE GRUENBERG asked whether LLS had provided a written opinion in this regard.

MS. KLOSTER said no; however, LLS drafted the proposed committee substitute.

REPRESENTATIVE HUGHES asked whether Alaska was one of the forty states that allow veteran preference for public employees.

MS. KLOSTER said yes, and clarified that information in the sponsor statement was incorrect; in fact, all 50 states allow veteran preference for public employees.

REPRESENTATIVE HUGHES pointed out [in Version N, on page 1, line 15] the use of the word "may" directed at private employers, and asked whether legislation directed to public employers uses "may" or "shall."

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REPRESENTATIVE TUCK was unsure. He noted the intent of the bill was to provide an employer with a choice without violating the [Civil Rights Act].

REPRESENTATIVE GRUENBERG expressed his understanding that the purpose of the bill is to comply with federal law, and without HB 6, the state is in violation of federal law.

MS. KLOSTER answered no. At this time, under the Civil Rights Act, [Title VII, section 11], each state can pass a law allowing veteran hiring preference. She confirmed that if private businesses hire based on veteran preference, they would be in violation; however, there is enabling federal legislation that allows HB 6.

REPRESENTATIVE GRUENBERG suggested that since this law has been adopted in all 50 states, the federal law should be changed.

REPRESENTATIVE TUCK observed that changing federal law was beyond the legislature's control.

REPRESENTATIVE GRUENBERG suggested a resolution may be in order.

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CHAIR HERRON opened public testimony on HB 6 and removed his objection. There being no further objection, Version N was before the committee.

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MARK SAN SOUCI, Regional Liaison, Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy, U.S. Department of Defense (DoD), said he is a retired U.S. Air Force officer and DoD's regional liaison for Alaska. He said his office has learned that many private sector employers would like to hire veterans because of their skills, work ethic, and reliability, but they are reluctant to do so in fear of being sued under the Civil Rights Act, Title VII. He opined that private sector employers are best suited to choose their employees, and since the public sector has accepted veteran preference hiring practices in all 50 states, HB 6 would allow the private sector to equitably compete for the talents of returning veterans. Mr. San Souci recalled that the National Conference of State Legislators (NCSL) Military and Veterans Affairs Task Force has advocated for private sector protection. He relayed that data from the Bureau of Labor Statistics, U.S. Department of Labor, reported in February 2015, the unemployment rate for veterans aged 18-24 years was 18.7 percent versus 11.6 percent for non-veterans, and for veterans aged 25-44 years, the unemployment rate was 7.4 percent versus 5.7 percent for non-veterans. For the near future, there will be more highly-trained veterans coming to Alaska to return to civilian life, and he urged that the committee move the bill.

REPRESENTATIVE LEDOUX understood that there are certain categories or groups that employers cannot discriminate against; for example, it is illegal to not hire someone based on race, religion, or marital status. However, she questioned whether it is illegal to give a preference to someone because one likes their looks. She remarked:

So I guess I'm wondering, whether or not, if under our current law, whether if somebody just wants to hire a veteran whether that really is, is illegal.

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MR. SAN SOUCI stated that if a private sector company wants to hire veterans, and has a preference policy, "it can run counter to Title VII of the Civil Rights Act of 1964." In fact, the U.S. Equal Opportunity Employment Commission interpreted many veteran preference processes to have disparate impacts on women and other groups. Thus, NCLS and DoD have embraced this legislation so private sector employers can voluntarily have a preference policy in alignment with state law.

REPRESENTATIVE GRUENBERG asked for the relevant statute.

MR. SAN SOUCI cited Title VII, section 11, of the Civil Rights Act of 1964.

REPRESENTATIVE GRUENBERG recommended that this problem be brought to the attention of the Committee on Suggested State Legislation, The Council of State Governments.

MR. SAN SOUCI said the first state to address this issue was Washington, followed by Arkansas, Florida, Idaho, Iowa, Maine, Massachusetts, Minnesota, North Carolina, North Dakota, Oregon, South Carolina, and Virginia.

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RUSSELL BALL, Owner, ACD Solutions, said ACD Solutions is a statewide IT service provider. The company's veteran employees have been found to be some of its top employees because of their skills, work ethics, and other qualities which are beneficial to small businesses. Currently, ACD Solutions is unable to include a veteran preference hiring process through its advertising or recruitment materials. Mr. Ball said HB 6 would allow his company to communicate its veteran preference and accomplish two goals: to show an appreciation for the service of veterans and allow employers to attract desired employees, and to support veterans' transitions from military service to civilian life and work.

[Additional written public testimony was included in the committee packet.]

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CHAIR HERRON, after ascertaining that no one else wished to testify, closed public testimony on HB 6.

REPRESENTATIVE TUCK directed attention to AS 39.25.159 Employment Preference For Veterans and Former Prisoners of War. He paraphrased language in [subsection (a)] of the statute as follows:

What they use the term "shall" for is when scoring and assessing an applicant, that they shall score 5 percent preference, 5 percent of their score, additionally, for those who are veterans, and 10 percent for those who happen to be prisoners of war in the past. So it doesn't say you shall hire them, but it does say you shall give them a preference score in those two conditions.

REPRESENTATIVE TUCK concluded, pointing out that his training organization grants veterans with electrical experience direct-entry into the program, and grants an interview for all others with military experience. He restated the many qualities of a military background, and opined that HB 6 would provide benefits to private employers. Finally, he said, "As Americans, we like to take care of those who take care of us, and why not do something for those that sacrificed so much for our behalf?"

CHAIR HERRON posed the situation in which a private employer has two candidates of equal qualifications - one who is a veteran and one who is not - and asked whether HB 6 requires the employer to hire the veteran.

REPRESENTATIVE TUCK said no, it does not.

REPRESENTATIVE GRUENBERG opined the bill would also protect employers from being sued for discrimination.

REPRESENTATIVE TUCK said that is correct.

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ROBERT DOEHL, Deputy Commissioner, Office of the Commissioner/Adjutant General, in response to Chair Herron, confirmed by nodding his head that the Department of Military & Veterans' Affairs had no position on the bill.

REPRESENTATIVE HUGHES expressed her support for preference for veterans in hiring which may contribute to veterans' productivity and fulfillment.

REPRESENTATIVE GRUENBERG asked whether the sponsor was aware of any related lawsuits, or of the possible need for a retroactivity clause.

MS. KLOSTER said she asked this question of representatives from DoD and NCSL, and was not informed of any past or pending lawsuits. She agreed to notify the committee in this regard.

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REPRESENTATIVE LEDOUX moved to report CSHB 6, Version 29-LS0042\N, Wayne, 3/19/15, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 6(MLV) was reported out of the House Special Committee on Military and Veterans' Affairs.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 1:40 p.m.