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104TH CONGRESS

2D SESSION H. R. 3938 To amend title 38, United States Code, to provide for a Veterans’ Employ- ment and Training Bill of Rights, to strengthen preference for veterans

in hiring, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES AUGUST 1, 1996 Mr. FILNER (for himself, Mr. MONTGOMERY, Mr. EVANS, Mr. KENNEDY of Massachusetts, Mr. EDWARDS, Mr. CLEMENT, Mr. TEJEDA, Mr. BAESLER, Mr. CLYBURN, Mr. BISHOP, Ms. BROWN of Florida, and Mr. MASCARA) introduced the following bill; which was referred to the Com- mittee 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’ Training and 5 Employment Bill of Rights Act of 1996’’.

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1 SEC. 2. VETERANS’ TRAINING AND EMPLOYMENT 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:
6 ‘‘§ 4215. Veterans’ Employment and Training Bill of
7 Rights

8 ‘‘(a) For the purposes of this section, an individual

9 is a covered person if the individual is—
10 ‘‘(1) a veteran who has a service-connected dis-
11 ability;

12 ‘‘(2) a veteran who served on active duty in the
13 armed forces during a war, in a campaign or expedi-

14 tion for which a campaign badge has been author-
15 ized; or
16 ‘‘(3) the spouse of—

17 ‘‘(A) any person who died of a service-con-
18 nected disability;
19 ‘‘(B) any member of the Armed Forces

20 serving on active duty who, at the time of appli-
21 cation for assistance under this section, is list-

22 ed, pursuant to section 556 of title 37 and reg-
23 ulations issued thereunder, by the Secretary

24 concerned in one or more of the following cat-
25 egories and has been so listed for a total of
26 more than 90 days: (i) missing in action, (ii)

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1 captured in line of duty by a hostile force, or
2 (iii) forcibly detained or interned in line of duty

3 by a foreign government or power;
4 ‘‘(C) any person who has a total disability

5 permanent in nature resulting from a service-
6 connected disability; or
7 ‘‘(D) a veteran who died while a disability
8 so evaluated was in existence.

9 ‘‘(b) A covered person is entitled to priority of serv-
10 ices under any federally-funded (in whole or in part) work-

11 force preparation, development, or delivery program or
12 service if the person otherwise meets the eligibility require-

13 ments for participating in such program or service, includ-14 ing a program or service that uses technology to assist

15 individuals to access workforce development programs
16 (such as job and training opportunities, labor market in-
17 formation, career assessment tools, and related support
18 services).

19 ‘‘(c) In addition to subsection (b), the entities at the

20 State and local levels that administer or deliver services
21 under a program described in subsection (b) shall be re-
22 sponsible for the following:

23 ‘‘(1) Providing information and effective refer-
24 ral assistance to covered persons regarding benefits

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1 and services that may be obtained through other en-
2 tities or service providers.

3 ‘‘(2) Ensuring that each covered person who
4 applies or is assisted by a program referred to in
5 subsection (b) is informed of the employment-related

6 rights, and benefits to which the person is entitled
7 under this section.

8 ‘‘(d) Each State or local council, board, or advisory
9 body established in support of a program described in sub-
10 section (b) shall include adequate representation from the

11 veterans’ community, particularly from veterans’ service
12 organizations.

13 ‘‘(e) The Secretary of Labor, following review and
14 comment by the Advisory Committee on Veterans Employ-

15 ment and Training, shall submit an annual report to the
16 Committees on Veterans’ Affairs of the Senate and House
17 of Representatives which shall include the information

18 necessary to (1) evaluate whether covered persons are re-19 ceiving priority in services and are being fully served by
20 programs described in subsection (b), and (2) that the lev-

21 els of service of such programs are in proportion to the
22 incidence of representation of veterans in the labor mar-

23 ket, including within groups targeted by such programs, 24 if any. The Secretary of Labor may promulgate such regu-

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1 lations and procedures as may be necessary to ensure that
2 such reports are provided.

3 ‘‘(f) For the purposes of this section, a federally-
4 funded (in whole or in part) work-force preparation, devel-5 opment, or delivery program includes (1) programs within

6 the public employment service system, one-stop career cen-
7 ters, the Job Training Partnership Act, a demonstration

8 or other temporary program, and those programs imple-9 mented by States or local service providers based on Fed-10 eral block grants, and (2) workforce development pro-

11 grams targeted to specific groups.’’.
12 (b) CONFORMING AMENDMENT.—The table of sec-

13 tions at the beginning of chapter 42 of such title is amend-14 ed by inserting after the item relating to section 4214 the

15 following new item:
‘‘4215. Veterans’ Employment and Training Bill of Rights.’’.

16 SEC. 3. EMPLOYMENT OF VETERANS WITH RESPECT TO
17 FEDERAL CONTRACTS.

18 (a) IN GENERAL.—Section 4212 of title 38, United

19 States Code, is amended by striking out subsections (a)
20 and (b) and inserting in lieu thereof the following:

21 ‘‘(a) For the purposes of this section—
22 ‘‘(1) the term ‘covered contract’ means a con-
23 tract in the amount of $100,000 or more entered

24 into by any department or agency for the procure-

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1 ment of personal property and nonpersonal services
2 (including construction) for the United States Gov-

3 ernment;
4 ‘‘(2) the term ‘covered grant’ means a grant in
5 the amount of $100,000 or more made by any de-

6 partment or agency under which the principal pur-
7 pose is to transfer a thing of value to the State or

8 local government or other recipient to carry out a
9 public purpose of support or stimulation authorized
10 by a law of the United States instead of acquiring

11 (by purchase, lease, or barter) property or services
12 for the direct benefit or use of the United States

13 Government; and
14 ‘‘(3) the term ‘qualified’, with respect to an em-

15 ployment position, means having the ability to per-
16 form the essential tasks of the position, with reason-
17 able accommodation.

18 ‘‘(b)(1) Any covered contract or grant shall contain
19 a provision requiring that the party contracting with, or 20 receiving a grant from, the United States shall take af-

21 firmative action to employ and advance in employment—
22 ‘‘(A) qualified disabled veterans,

23 ‘‘(B) qualified veterans who served on active
24 duty in the Armed Forces during a war, in a cam-

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

3 ‘‘(C) qualified veterans who, while serving on
4 active duty in the Armed Forces, participated in a
5 United States military operation for which an Armed

6 Forces service medal was awarded pursuant to Exec-
7 utive Order 12985 (61 Fed. Reg. 1209).

8 ‘‘(2) The provisions of this section shall apply—
9 ‘‘(A) in the case of a covered contract, to any

10 subcontract entered into by a prime contractor; and
11 ‘‘(B) in the case of a covered grant, to any sub-
12 grantee.

13 ‘‘(3) In addition to requiring affirmative action to
14 employ such veterans under such contracts and sub-

15 contracts and with respect to such grants and subgrants,
16 and in order to promote the implementation of such re-
17 quirement, the President shall implement the provisions

18 of this section by promulgating regulations which shall re-19 quire that—
20 ‘‘(A) each such contractor or grantee undertake

21 in such contract or grant agreement to list all of its
22 employment openings immediately with the appro-

23 priate local employment service office, other appro-
24 priate service delivery points, or America’s Job Bank
25 (or any additional or subsequent national computer-

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1 ized job bank established by the Department of
2 Labor), except that the contractor or grantor may

3 exclude openings for positions which are to be filled
4 from within the contractor’s or grantee’s organiza-

5 tion and positions lasting three days or less; and
6 ‘‘(B) each such local office or other service de-
7 livery point shall give such veterans priority in refer-

8 ral to such employment openings.’’.
9 (b) ADDITIONAL AND CONFORMING AMENDMENTS.—

10 Section 4212 of such title is amended—
11 (1) in subsection (c)—
12 (A) by striking out ‘‘filed pursuant to sub-

13 section (b) of this section’’ and inserting in lieu
14 thereof ‘‘relating to this section filed pursuant
15 to section 4216 of this title’’;

16 (B) by striking out ‘‘suitable’’; and
17 (C) by striking out ‘‘subsection (a)(2)’’ and

18 inserting in lieu thereof ‘‘subsection (a)(3)(B)’’;

19 and

20 (2) in subsection (d)—

21 (A) by amending subparagraphs (A) and
22 (B) of paragraph (1) to read as follows:

23 ‘‘(A) the number of employees in the work force
24 of such contractor or grantee, by job category and

25 hiring location, and the number of such employees,

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1 by job category and hiring location, who are veterans
2 described in subsection (a); 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 veterans described in subsection (a).’’; and
7 (B) by inserting ‘‘or grantee’’ after ‘‘con-
8 tractor’’.

9 (c) EFFECTIVE DATE.—The amendments made by

10 this section shall apply with respect to contracts entered
11 into and grants made on or after 60 days after the date
12 of the enactment of this Act.
13 SEC. 4. EMPLOYMENT WITHIN THE FEDERAL GOVERN-
14 MENT.

15 Section 4214 of title 38, United States Code, is

16 amended—
17 (1) by amending the second sentence of sub-
18 section (a) to read as follows: ‘‘The Federal Govern-

19 ment is also continuously concerned with building an

20 effective, competent work force, and veterans con-
21 stitute a uniquely qualified recruiting source.’’;
22 (2) in subsection (b)(1), by striking out ‘‘read-

23 justment’’ and inserting in lieu thereof ‘‘recruit-
24 ment’’; and

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1 (3) in subsection (g), by striking out ‘‘quali-
2 fied’’ the first place it occurs and all that follows

3 through ‘‘era’’ and inserting in lieu thereof ‘‘those
4 veterans described in subparagraphs (A), (B), and
5 (C) of section 4212(b)(1) of this title’’.

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

8 (a) IN GENERAL.—Chapter 42 of title 38, United
9 States Code, as amended by section 2, is further amended

10 by adding at the end the following:
11 ‘‘§ 4216. Enforcement of veterans’ employment rights
12 and benefits

13 ‘‘(a) The Secretary of Labor (through the Assistant
14 Secretary of Labor for Veterans’ Employment and Train-
15 ing) shall provide assistance to any person or entity with

16 respect to the requirements of sections 4212 and 4215.
17 In providing such assistance, the Secretary may request

18 the assistance of existing Federal and State agencies en-19 gaged in similar or related activities and utilize the assist-

20 ance of volunteers.

21 ‘‘(b)(1) An individual described in subparagraph (A),
22 (B), or (C) of section 4212(b)(1) or in section 4215(a)
23 of this title who believes that—

24 ‘‘(A) such individual is entitled to rights or ben-
25 efits under section 4212 (relating to United States

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1 Government contracts and grants), or 4215 (relating
2 to federally-funded work-force programs and serv-

3 ices), respectively, and
4 ‘‘(B) an entity with obligations under either of

5 such sections has failed to comply or refuses to com-
6 ply with the provisions of such sections,
7 may file a complaint with the Secretary of Labor.

8 ‘‘(2) Such complaint shall be in writing, be in such
9 form as the Secretary may prescribe, include the name

10 and address of the party against whom the complaint is
11 filed, and contain a summary of the allegations that form
12 the basis for the complaint.

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

16 ‘‘(c) The Secretary of Labor shall promptly inves-
17 tigate the complaint. If the Secretary of Labor determines

18 as a result of the investigation that the action alleged in 19 such complaint occurred, the Secretary shall attempt to

20 resolve the complaint by making reasonable efforts to en-
21 sure that the party named in the complaint complies with
22 the provisions of section 4212 or 4215, as appropriate.

23 If, within 90 days after the date on which such complaint 24 is filed, the efforts to resolve the complaint are unsuccess-

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1 ful, the Secretary of Labor shall notify the individual who
2 submitted the complaint of—

3 ‘‘(1) the results of the investigation; and
4 ‘‘(2) the individual’s rights.
5 ‘‘(d)(1) An individual who receives from the Secretary

6 a notification under subsection (c) relating to a complaint
7 may request that the Secretary refer the complaint to the

8 Attorney General of the United States. If the Attorney 9 General is reasonably satisfied that the person on whose

10 behalf the complaint is referred is entitled to the rights
11 or benefits sought, the Attorney General may appear on
12 behalf of, and act as attorney for, the person on whose

13 behalf the complaint is submitted and commence an action 14 for appropriate relief for such person in an appropriate

15 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 refer the complaint to the Attorney General
22 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.

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1 ‘‘(e)(1)(A) The district courts of the United States
2 shall have jurisdiction, upon the filing of a complaint, mo-

3 tion, petition, or other appropriate pleading by or on be-4 half of the person claiming a right or benefit pursuant

5 to this section—

6 ‘‘(i) to require an entity to comply with the pro-
7 visions of section 4212 or 4215, as appropriate, of

8 this title;
9 ‘‘(ii) to require the entity to compensate the in-

10 dividual for any loss of wages or benefits suffered by
11 reason of such entity’s failure to comply with the
12 provisions of such section; and

13 ‘‘(iii) to require the entity to pay the individual
14 an amount equal to the amount referred to in clause
15 (ii) as liquidated damages, if the court determines

16 that the entity’s failure to comply with the provi-
17 sions of such section was willful.

18 ‘‘(B) Any compensation under clauses (ii) and (iii)
19 of subparagraph (A) shall be in addition to, and shall not

20 diminish, any of the other rights and benefits provided for
21 in such sections.
22 ‘‘(2) In any action or proceeding to enforce a provi-

23 sion of section 4212 or 4215 of this title by an individual 24 under subsection (d)(2) who obtained private counsel for

25 such action or proceeding, the court may award any such

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1 individual who prevails in such action or proceeding rea-
2 sonable attorney fees, expert witness fees, and other litiga-

3 tion expenses.
4 ‘‘(3) The court may use its full equity powers, includ-

5 ing temporary or permanent injunctions, temporary re-
6 straining orders, and contempt orders, to vindicate fully
7 the rights or benefits of individuals pursuant to this sec-
8 tion.

9 ‘‘(4) An action under this section may be initiated

10 only by an individual claiming rights or benefits under sec-
11 tion 4212 or 4215 of this title, not by any other entity
12 with obligations under such sections.

13 ‘‘(5) In any such action, only an entity with obliga-
14 tions under section 4212 or 4215, as the case may be,

15 shall be a necessary party respondent.
16 ‘‘(6) No State statute of limitations shall apply to any
17 proceeding pursuant to this section.

18 ‘‘(7) The United States and a State shall be subject
19 to the same remedies, including prejudgment interest, as

20 may be imposed upon any private entity under this sec-
21 tion.’’.
22 (b) CONFORMING AMENDMENT.—The table of sec-

23 tions at the beginning of chapter 42 of such title, as 24 amended by section 2, is further amended by inserting

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1 after the item relating to section 4215 the following new
2 item:
‘ ‘4216. Enforcement of veterans’ employment rights and benefits.’’.

3 (c) EFFECTIVE DATE.—The amendments made by

4 this section shall apply with respect to complaints filed
5 on or after 60 days after the date of the enactment of
6 this Act.
7 SEC. 6. ADDITIONAL PERSONNEL.

8 The Secretary of Labor is authorized to allocate an

9 additional 10 full-time equivalent positions from the Em-
10 ployment and Training Administration to the Veterans’

11 Employment and Training Service to carry out chapters 12 41 and 42 of title 38, United States Code, as amended

13 by this Act.

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