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CIVIL SERVICE COMMISSION**Veterans and Disabled Veterans Preference****Proposed Readoption with Amendment: N.J.A.C.****4A:5**

Authorized By: Civil Service Commission, Robert M. Czech,
Chair/CEO.

Authority: N.J.S.A. 11A:2-6.d, 11A:4-1.e, 11A:4-8, 11A:4-9, 11A:5-1 through 11A:5-8, and 11A:5-15; P.L. 2000, c. 127, P.L. 2005, c. 64, and P.L. 2007, c. 115.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2015-078.

A **public hearing** concerning the notice of rules proposed for readoption with amendments will be held on:

Wednesday, August 19, 2015, at 3:00 P.M.
Civil Service Commission Room
44 South Clinton Avenue
Trenton, New Jersey

Please call Walker Ristau at (609) 777-0910 if you wish to be included on the list of speakers.

Submit written comments by September 4, 2015, to:

Henry Maurer, Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312

Or electronically at: <http://info.csc.state.nj.us/cscmailer>

Summary

Pursuant to N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 4A:5 expires on December 28, 2015. The Civil Service Commission has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by law. Since N.J.A.C. 4A:5 was last readopted in 2008, no amendments have been adopted in connection with this chapter.

N.J.A.C. 4A:5-1.1, Veterans preference, is an informational rule that specifies the types of military service that will qualify an individual for veterans preference for purposes of Civil Service system appointments. Paragraph (b)I is proposed for amendment to relocate existing subparagraph (b)Iv into paragraph (b)I and subparagraph (b)Iiv, as appropriate, with no substantive change to the paragraph. Paragraph (b)I2 is proposed for amendment to provide the inception date of Operation Iraqi Freedom, which was March 19, 2003. This amendment would bring the paragraph in line with information provided by the Department of Military and Veterans' Affairs on its web site, at www.state.nj.us/military/veterans/preference.html. Additionally, the date is in accordance with the date declared by the then President of the United States. See "U.S. Periods of War and Dates of Recent Conflicts," by Barbara Salazar Torreon, Congressional Research Service, February 27, 2015, <http://fas.org/sgp/crs/natsec/RS21405.pdf>.

N.J.A.C. 4A:5-1.2, Disabled veterans preference, provides the circumstances under which an individual may be entitled to disabled veterans preference for purposes of Civil Service system appointments.

N.J.A.C. 4A:5-1.3, Filing for veterans or disabled veterans preference, specifies the procedures an individual must follow to apply for veterans or disabled veterans preference. Individuals interested in establishing such preference must apply to the Adjutant General of the Department of Military and Veterans' Affairs. Subsection (b) provides that individuals are eligible for veterans or disabled veterans preference if they receive a determination awarding such status from the Adjutant General no later than eight days prior to the issuance of an eligible list for which the individuals received passing scores.

N.J.A.C. 4A:5-2.1, Open competitive examinations, provides the procedures by which eligibles are appointed from an open competitive list in accordance with veterans and disabled veterans preference.

N.J.A.C. 4A:5-2.2, Promotional examinations, provides the procedures by which eligibles are appointed from a promotional list in accordance with veterans and disabled veterans preference.

N.J.A.C. 4A:5-2.3, Veterans and disabled veterans preference in the noncompetitive division, provides for the use of veterans and disabled veterans preference in the case of appointments in the noncompetitive division of the career service.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

It is anticipated that the proposed readoption with an amendment of N.J.A.C. 4A:5 would have a positive social impact. The rules would continue to ensure the protection of the rights of veterans in the Civil Service system selection process that is guaranteed by the New Jersey State Constitution. Moreover, the proposed amendment to N.J.A.C. 4A:5-1.1(b)12 would have a positive social impact in informing appointing authorities and members of the military of the correct inception date of Operation Iraqi Freedom.

Economic Impact

It is anticipated that the proposed readoption with an amendment of N.J.A.C. 4A:5 would have a positive economic impact on veterans and disabled veterans seeking Civil Service system appointment. In particular, N.J.A.C. 4A:5-1.1 would recognize these veterans' wartime service by assisting them in attaining gainful Civil Service system employment. The proposed amendment to paragraph (b)12 would further the effectiveness of N.J.A.C. 4A:5-1.1 in so assisting veterans. Moreover, the readoption of N.J.A.C. 4A:5-1.3 would have a positive economic impact on the Civil Service Commission. The Commission would not have to devote substantial resources to evaluating veterans preference applications and reviewing veterans preference eligibility appeals. However, the economic impact on the Department of Military and Veterans' Affairs of making veterans preference eligibility determinations and reviewing related appeals would be negligible, particularly in light of that Department's expertise in this area.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with an amendment are not subject to any Federal requirements or standards. The rules proposed for readoption with an amendment are governed by State law.

Jobs Impact

It is not anticipated that the rules proposed for readoption with an amendment would result in any jobs being generated or lost. The rules proposed for readoption with an amendment would govern veterans and disabled veterans preference.

Agriculture Industry Impact

The rules proposed for readoption with an amendment would not have any impact on the agriculture industry. As indicated in the prior statements, the rules proposed for readoption with an amendment would govern veterans and disabled veterans preference.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the rules proposed for readoption with an amendment would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with an amendment would regulate employment in the public sector.

Housing Affordability Impact Analysis

It is not anticipated that the rules proposed for readoption with an amendment would have any impact on the number of housing units or the average cost of housing in New Jersey. The rules concern employment in the public sector by veterans and disabled veterans.

Smart Growth Development Impact Analysis

The rules proposed for readoption with an amendment would govern veterans and disabled veterans preference and would have no impact on new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 4A:5.

Full text of the proposed amendment follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. ELIGIBILITY

4A:5-1.1 Veterans preference

(a) The Adjutant General of the Department of Military and Veterans' Affairs is empowered by statute to make veterans preference eligibility determinations. See P.L. 2000, [c.127] c. 127. The provisions of this section are for informational purposes only.

(b) A person is entitled to veterans preference (abbreviated as "V") if he or she has been discharged or released from active United States military or naval service under conditions other than dishonorable; and:

1. Served at least 90 days in the active United States military or naval service and had been discharged under conditions other than dishonorable **(the 90-day period must have begun on or before one of the ending dates in this paragraph, and shall not include any period of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of a civilian course, nor any time spent as a cadet or midshipman at one of the service academies)**, during:

- i. World War I, between April 6, 1917 and November 11, 1918;
- ii. World War II, on or after September 16, 1940 and on or before December 31, 1946;
- iii. Korean Conflict, on or after June 23, 1950 and on or before January 31, 1955; or
- iv. Vietnam Conflict, on or after December 31, 1960 and on or before May 7, 1975[.].

(1) During the period of the Vietnam Conflict, the following are excluded: any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code; or any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

[v. The 90 day period must have begun on or before one of the ending dates above, and shall not include any period of education or training under the Army Specialized Training Program or the Navy College Training Program which was a continuation of a civilian course, nor any time spent as a cadet or midshipman at one of the service academies. During the period of the Vietnam conflict, the following are excluded: any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code; or any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve or Coast Guard Reserve.]

2. Served in the Lebanon crisis on or after July 1, 1958, in Lebanon on or board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958, or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest;

3. Served in the Lebanon peacekeeping mission or on board any ship actively engaged in patrolling the territorial waters of that nation, for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after September 26, 1982, and on or before December 1, 1987;

4. Served in the Grenada peacekeeping mission or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after October 23, 1983, and on or before November 21, 1983;

5. Served in the Panama peacekeeping mission or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days. The 14 days must have commenced on or after December 20, 1989, and on or before January 31, 1990;

6. Served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for the Operation Desert Shield/Desert Storm mission for a period, continuous or in the aggregate,

of at least 14 days. The 14 days must have commenced on or after August 2, 1990;

7. Served in the Arabian peninsula and the Persian Gulf, and in direct support of Operation Northern Watch and Operation Southern Watch, for a period, continuously or in the aggregate, of at least 14 days, on or after August 27, 1992, but commencing on or before the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest;

8. Served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for the Operation Restore Hope mission for a period, continuously or in the aggregate, of at least 14 days. The 14 days must have commenced on or after December 5, 1992, or on or after the date of inception of that operation as proclaimed by the President of the United States or the Congress, whichever date is earliest, and on or before March 31, 1994, or the date of termination as proclaimed by the President of the United States or the Congress, whichever date is latest;

9. Served in Operation Uphold Democracy in Haiti for a period of at least 14 days, continuously or in the aggregate, on or after September 19, 1994, and commencing on or before March 31, 1995, in Haiti or on board any ship actively engaged in patrolling the territorial waters of Haiti for that period, and received an Armed Forces Expeditionary Medal for such service;

10. Served in the Republic of Bosnia and Herzegovina for a period of 14 days, continuously or in the aggregate, on or after November 20, 1995, in direct support of Operation Joint Endeavor or Operation Joint Guard, commencing on or before June 20, 1998, and:

- i. Was deployed in that nation or in another area in the region;
- ii. Was on board a United States naval vessel operating in the Adriatic Sea; or
- iii. Operated in airspace above the Republic of Bosnia and Herzegovina;

11. Served in Operation Enduring Freedom in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days, on or after September 11, 2001, but commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation;

12. Served in Operation Iraqi Freedom in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days, on or after [the date the President of the United States or the United States Secretary of Defense designates as the inception date of the operation,] **March 19, 2003, but** commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation;

13. Received a service-incurred injury or disability during a period in (b)1 above or while serving in a mission during a period and within the corresponding geographical area, as specified in (b)2 through 12 above, regardless of the length of service or, in the case of (b)9 above, regardless of receipt of an Armed Forces Expeditionary Medal;

14. Served in any army or navy of the United States allies in World War I between July 14, 1914 and November 11, 1918, or World War II between September 1, 1939 and September 2, 1945, provided he or she voluntarily enlisted in such service, was a United States citizen at the time of enlistment, did not renounce or lose United States citizenship, and was honorably discharged; or

15. Is the surviving spouse of a person entitled to veterans preference and has not remarried.