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Veterans' Preference Act

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CATEGORY: Miscellaneous

Q: What is the Veterans' Preference Act (VPA)? How is it different from the Uniformed Services Employment and Reemployment Rights Act (USERRA)?

A: These are two entirely separate acts. Congress enacted the VPA in 1944, and it is codified in sections 1302, 2108, 3305, 3306, 3308-3320, 3351, 3363, 3364, 3501-3504, 7512, and 7701 of title 5, U.S. Code. Congress enacted USERRA in 1994, and it is codified in sections 4301-4334 of title 38, U.S. Code. USERRA is a rewrite of a law that can be traced back to 1940.

The VPA only applies to the federal government, as a civilian employer, but most states have enacted similar laws at the state level, for employees of the state and political subdivisions (counties, cities). USERRA applies to all employers in this country, except religious institutions, Indian tribes, international organizations, and foreign embassies.

USERRA gives persons the right to *reemployment* after a period of voluntary or involuntary uniformed service (whether for five hours or five years) that *interrupts* relevant civilian employment. USERRA also outlaws discrimination against those who serve, have served, or apply to serve with respect to initial employment, retention in employment, or any promotion or benefit of employment. USERRA makes it unlawful for an employer to discriminate in hiring, but it does not require an employer to grant a *preference* to veterans or Reserve Component members when hiring.

The VPA requires federal agencies to grant a preference (five extra points, or 10 in the case of veterans with significant service-connected disabilities) when hiring, and also with respect to reductions in force. The VPA is not irrelevant, but its relevance was much greater when it was enacted, in 1944. At that time, the norm in federal hiring was an entrance examination with a numeric score, to which five points or 10 points could be added. Such entrance examinations are rare today.