

**SENATE BILL No. 166**

By Committee on Commerce

2-3

1 AN ACT concerning state employees; enacting the fostering competitive  
2 career opportunities act; removing postsecondary degree requirements  
3 from state employment considerations; ~~amending K.S.A. 75-2929d and~~  
4 ~~repealing the existing section.~~

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) The provisions of sections 1 through—5 4, and  
8 amendments thereto, shall be known and may be cited as the fostering  
9 competitive career opportunities act.

10 (b) The fostering competitive career opportunities act removes  
11 unnecessary postsecondary degree requirements from hiring  
12 considerations for state employment positions. Many such positions have  
13 experienced a phenomenon called degree inflation as more employers rely  
14 on a postsecondary degree as an indicator of career readiness, instead of  
15 using relevant work experience. These requirements limit opportunities for  
16 hard-working Americans and encourage unnecessary student debt. This act  
17 does not apply to positions for which a postsecondary degree is a  
18 justifiable necessity.

19 New Sec. 2. As used in sections 1 through—5 4, and amendments  
20 thereto:

21 (a) "Applicant" means any individual seeking gainful employment  
22 from a state employer;

23 (b) "baseline requirement" means the minimum skills, prior training  
24 or prior experience necessary to perform the primary duties of a position;

25 (c) "postsecondary degree" means an associate's, bachelor's or  
26 graduate degree from an accredited postsecondary educational institution;

27 (d) "direct experience" means any verifiable, previous work  
28 experience during which:

29 (1) The applicant's primary duties were consistent with the primary  
30 duties of the position currently sought; or

31 (2) the skills necessary to perform the applicant's primary duties are  
32 transferable to the position currently sought;

33 (e) "hiring consideration" means:

34 (1) A decision to move an applicant on to a subsequent round in the  
35 hiring process;

36 (2) a decision to include the applicant on a list of applicants for

1 consideration by another member of the employer's team;

2 (3) a decision to offer an applicant an interview for a position;

3 (4) a decision to promote, retain, increase compensation or provide  
4 some other benefit to an employee of the state employer;

5 (5) an interview conducted in good faith between the state employer  
6 and the applicant; or

7 (6) a decision to make a final offer of employment; and

8 (f) "state employer" means any state office or officer, department,  
9 board, commission, institution, bureau, society or any agency, division or  
10 unit within any state office, department, board, commission or other state  
11 authority. "State employer" does not include any state office or officer,  
12 department, board, commission, institution, bureau or society in the  
13 legislative or judicial branches of government.

14 New Sec. 3. (a) For all hiring considerations, a state employer shall  
15 not make any decision based solely on an applicant's lack of a  
16 postsecondary degree.

17 (b) State employers shall determine the baseline requirements for  
18 applicants for each job posting. Baseline requirements may include prior  
19 direct experience, specific certifications or specific courses of instruction,  
20 but shall not include a postsecondary degree requirement except as  
21 provided in subsection (c). In all hiring considerations, no state employer  
22 shall impose any additional requirements on applicants for a job posting  
23 that exceed the baseline requirements.

24 (c) State employers may require a postsecondary degree for a position  
25 if the state employer demonstrates that such degree is necessary for the  
26 position based on specific skills required for the position that can only be  
27 obtained through the attainment of a degree. For any job posting that  
28 requires a postsecondary degree, a state employer shall include  
29 information in such job posting substantiating the necessity of the specific  
30 postsecondary degree required. Such information shall demonstrate that  
31 the postsecondary degree is the only possible measure to determine if an  
32 applicant possesses the specific skills required for the position or that the  
33 position requires accreditation or licensure that is only available to holders  
34 of specific postsecondary degrees.

35 (d) Each job posting shall include any tests, training, apprenticeships  
36 or other forms of assessment that may validate the competencies of a  
37 candidate for such position.

38 (e) For any position in which direct experience may be considered in  
39 lieu of a postsecondary degree, the state employer shall not require more  
40 years of direct experience than:

41 (1) Two years for an associate's degree;

42 (2) four years for a bachelor's degree;

43 (3) six years for a master's degree;

1 (4) seven years for a professional degree; or

2 (5) nine years for a doctoral degree.

3 (f) Nothing in this section shall apply to any position that is filled by  
4 political appointment.

5 New Sec. 4. Any state employer that issues a request for proposal or  
6 other solicitation for any goods or services shall not require any minimum  
7 experience or postsecondary educational attainment for any contractor  
8 personnel as a prerequisite for consideration for an award of a contract  
9 unless the state employer includes in the request for proposal or  
10 solicitation a statement describing why the needs of the state employer  
11 cannot be met without such requirement and how such requirement  
12 ensures that such needs will be met.

13 ~~New Sec. 5. (a) Any applicant who receives an adverse hiring~~  
14 ~~consideration and who reasonably believes such decision was based solely~~  
15 ~~on the applicant's lack of a postsecondary degree may appeal such decision~~  
16 ~~to the state civil service board. Such appeals shall be submitted in such~~  
17 ~~form and manner as prescribed by the state civil service board. All appeals~~  
18 ~~shall be considered in accordance with K.S.A. 75-2929a et seq., and~~  
19 ~~amendments thereto.~~

20 ~~(b) Any person may report to the state civil service board any job~~  
21 ~~postings by a state employer that require a postsecondary degree but fail to~~  
22 ~~include the information required under section 3(c), and amendments~~  
23 ~~thereto.~~

24 ~~(c) Upon a finding that a state employer has violated the provisions of~~  
25 ~~section 3, and amendments thereto, the state civil service board shall~~  
26 ~~require the state employer to reopen the process for the hiring~~  
27 ~~consideration in question, require the state employer to modify the job~~  
28 ~~posting, if necessary, and take such other corrective action as necessary to~~  
29 ~~comply with the provisions of sections 1 through 5, and amendments~~  
30 ~~thereto.~~

31 ~~(d) All administrative proceedings pursuant to this section shall be~~  
32 ~~conducted in accordance with the provisions of the Kansas administrative~~  
33 ~~procedure act and the Kansas judicial review act.~~

34 ~~Sec. 6. K.S.A. 75-2929d is hereby amended to read as follows: 75-~~  
35 ~~2929d. (a) The state civil service board shall hear appeals taken to it~~  
36 ~~pursuant to:~~

37 ~~(1) K.S.A. 75-2940, 75-2949 and 75-3747, and amendments thereto,~~  
38 ~~concerning demotion, dismissal or suspension of a permanent employee in~~  
39 ~~the classified service, or concerning refusal to examine an applicant or to~~  
40 ~~certify a person as eligible for a job class, and;~~

41 ~~(2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary~~  
42 ~~action in violation of that statute; and~~

43 ~~(3) section 5, and amendments thereto, concerning violations of the~~

1 ~~fostering competitive career opportunities act.~~

2 (b) ~~When an appeal is taken to the board, the board shall establish a~~  
3 ~~time and a place for the hearing which shall be held within 45 days after~~  
4 ~~receipt of request for the appeal. The board shall notify the person bringing~~  
5 ~~the appeal and the appointing authority or other person whose action is~~  
6 ~~being reviewed of the time and the place of the hearing at least 14 days~~  
7 ~~prior to such hearing. Each party at the hearing shall have the right to be~~  
8 ~~represented by a person of the party's own choice. Hearings shall be~~  
9 ~~conducted in accordance with the provisions of the Kansas administrative~~  
10 ~~procedure act. For purposes of the administrative procedure act, the state~~  
11 ~~civil service board shall be deemed the agency head. The board may~~  
12 ~~affirm, modify or reverse an agency action and order any other action it~~  
13 ~~deems appropriate.~~

14 (c) ~~The board, or the director of personnel services when authorized~~  
15 ~~by majority vote of the board, may depose witnesses. Either party to a~~  
16 ~~hearing may depose witnesses in accordance with the Kansas~~  
17 ~~administrative procedure act. If books and papers are required to be~~  
18 ~~produced in advance of a hearing date, the person or agency producing the~~  
19 ~~books and papers shall be entitled to receive reasonable compensation to~~  
20 ~~recover all costs of such production from the person or agency for which~~  
21 ~~they are produced. The board, any presiding officer or the director may~~  
22 ~~examine such public records as may be required in relation to any matter~~  
23 ~~which the board has authority to investigate.~~

24 (d) ~~Each person not in the classified or unclassified service who~~  
25 ~~appears before the board or the director by order shall receive for such~~  
26 ~~person's attendance the fees and mileage provided for witnesses in civil~~  
27 ~~actions in the district court. Such fees and mileage shall be audited and~~  
28 ~~paid by the state upon presentation of proper vouchers. Each witness~~  
29 ~~subpoenaed at the request of parties other than the board or the director~~  
30 ~~shall be entitled to compensation from the state for attendance or travel~~  
31 ~~only if the board certifies that the testimony of such witness was relevant~~  
32 ~~and material to the matter investigated or, if such witness is not called to~~  
33 ~~testify, the board determines and certifies that such compensation should~~  
34 ~~be paid.~~

35 ~~Sec. 7.—K.S.A. 75-2929d is hereby repealed.~~

36 ~~Sec. 8: 5. This act shall take effect and be in force from and after its~~  
37 ~~publication in the statute book.~~