WEST VIRGINIA CODE CHAPTER 9A ARTICLE 1

WV Legislature

§9A-1-1. Creation and general purposes.

(a) Effective July 1, 2011, the West Virginia Division of Veterans' Affairs is redesignated the Department of Veterans' Assistance.

(b) The purpose of the department is to aid, assist, counsel and advise, and to encourage competition among counties and municipalities to develop, improve and enhance veteran-friendly services, benefits and assistance to, veterans who have served in and been honorably discharged or separated under honorable conditions from the Armed Forces of the United States and their widows, widowers and dependents, including populations of veterans who may have special needs as a result of homelessness, incarceration or physical or mental disabilities.

(c) All references in this code to the West Virginia Division of Veterans' Affairs and the Director of the West Virginia Division of Veterans' Affairs shall mean the Department of Veterans' Assistance and the Secretary of the Department of Veterans' Assistance, respectively.

WV Legislature

§9A-1-1a. Department of Veterans' Assistance; office of Secretary of Department of Veterans' Assistance.

(a) The Secretary of the Department of Veterans' Assistance is the chief executive officer of the department. Subject to the requirements for the qualification and appointment of the secretary provided in section four of this article, the Governor shall appoint the secretary, by and with the advice and consent of the Senate, for the term for which the Governor is elected and until a successor shall have been appointed and qualified. The Secretary shall serve at the will and pleasure of the Governor. Any reference in this code to the Division of Veterans' Affairs or to the Department of Veterans' Affairs means the Department of Veterans' Assistance. Any reference in this code to the Director of the Division of Veterans' Affairs means the Secretary of the Department of Veterans' Assistance. As used in this chapter, "secretary" means the Secretary of Veterans' Assistance and "division" means Department of Veterans' Assistance.

(b) The department may receive federal funds.

(c) The secretary serves at the will and pleasure of the Governor. The annual compensation of the secretary shall be as specified in section two-a, article seven, chapter six of this code.

WV Legislature

§9A-1-1b. Powers and duties of the secretary.

(a) The secretary controls and supervises the department and is responsible for the work of each department employee.

(b) The secretary has the power and authority specified in this article, in article two, chapter five-f of this code and as otherwise specified in this chapter.

(c) The secretary may employ staff, assistants and employees as necessary for the efficient operation of the department.

(d) The secretary may delegate his or her powers and duties to assistants and employees, but the secretary is responsible for all official acts of the department.

WV Legislature

§9A-1-1c. Reports by secretary.

The secretary shall report annually to the Governor concerning the conduct of the department and make other reports as the Governor may require.

WV Legislature

§9A-1-1d. Right of appeal from interference with functioning of agency.

Any governmental entity may appeal to the Governor for review upon a showing that application of the secretary's authority may interfere with the successful functioning of that entity. The Governor's decision controls on appeal.

WV Legislature

§9A-1-2. Veterans Council; administration of department.

(a) There is continued the Veterans Council consisting of 11 members who must be citizens and residents of this state and who have served in and been honorably discharged or separated under honorable conditions from the Armed Forces of the United States, and whose service was within a time of war as defined by the laws of the United States.

(b) Where feasible, members of the council shall be veterans who are active in the veteran community and who have been recommended by a West Virginia veterans service organization, with consideration given to ensure a diverse representation of service branches in council membership. Additionally, no more than seven members of the council shall reside in any one congressional district. The members of the veterans council shall be selected with special reference to their ability and fitness to effectuate the purposes of this article. If an eligible veteran is not available or cannot be selected, a veteran who is a citizen and resident of this state, who served in and was honorably discharged or separated under honorable conditions from the Armed Forces of the United States, and who served during any time of war or peace, may be selected.

(c) The secretary and such officers, assistants, and employees as the secretary considers advisable, shall administer the West Virginia Department of Veterans Assistance.

WV Legislature

§9A-1-2a.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§9A-1-3. Appointment of veterans' council members; term of office; removal.

The term of office of the members of the veterans' council is six years, and members must be appointed by the Governor by and with the advice and consent of the Senate: Provided, That upon the expansion of the council from seven to nine members, the Governor shall initially appoint one new member for a term of four years and shall initially appoint the other new member for a term of six years. Thereafter the successors of these members shall be appointed for the term of six years. In case of a vacancy in the veterans' council, the appointment is for the remainder of the unexpired term. A member of the veterans' council is subject to removal by the Governor for cause, but may have upon his or her own request an open hearing before the Governor on the complaints or charges lodged against him or her. The action of the Governor is final.

WV Legislature

§9A-1-4. Duties and functions of Veterans' Council; appointment of secretary; honoring academic achievement at military academies.

(a) It is the duty and function of The Veterans' Council to advise the secretary on the general administrative policies of the department, to select, at their first meeting in each fiscal year commencing on July 1, a chairperson to serve one year, to advise the secretary on rules as may be necessary, to advise the Governor and the Legislature with respect to legislation affecting the interests of veterans, their widows, widowers, dependents and orphans and to make annual reports to the Governor respecting the service of the department. The secretary has the same eligibility and qualifications prescribed for members of the Veterans' Council. The secretary ex officio shall maintain all records of the Veterans' Council.

(b) The Veterans' Council may annually honor each West Virginian graduating from the U. S. Military Academy, the U. S. Naval Academy, the U. S. Air Force Academy and the U. S. Coast Guard Academy with the highest grade point average by bestowing upon him or her the West Augusta Award. The award shall be in a design and form established by the council and include the famous Revolutionary War phrase from which the award's name is derived: "Once again our brethren from West Augusta have answered the call to duty." The council shall coordinate the manner of recognition of the recipient at graduation ceremonies with each academy.

WV Legislature

§9A-1-5. Compensation to and expenses of Secretary and Veterans' Council members; meetings of Veterans' Council.

(a) The secretary shall receive an annual salary as provided in section two-a, article seven, chapter six of this code and necessary traveling expenses incident to the performance of his or her duties.

(b) The members of the Veterans' Council shall receive no salary, but each member shall receive the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. The requisition for such expenses and traveling expenses shall be accompanied by a sworn and itemized statement, which shall be filed with the Auditor and permanently preserved as a public record.

(c) The Veterans' Council shall meet on the call of its chairman, except as otherwise provided.

(d) The Veterans' Council shall meet not more than once every two months at such times as may be determined by and upon the call of the chairman for a period of not more than two days, unless there should be an emergency requiring a special meeting or for a longer period and so declared and called by the Governor or by the chairman with the approval of the Governor.

(e) A majority of the members of the Veterans' Council in office shall constitute a quorum for the conduct of official business.

WV Legislature

§9A-1-6. Oaths.

The members of the Veterans' Council, the secretary and the officers of the department shall take and subscribe to the oath prescribed by article four, section five of the state Constitution before entering on their duties. Their oaths shall be filed with the Secretary of State.

WV Legislature

§9A-1-7. Definitions.

(a) The word, "veterans," shall be construed to mean any person who shall have served in the Armed Forces of the United States as defined in section one of this article.

(b) The term, "federal agency," shall mean any agency, department or bureau created and established by the act of Congress, or executive order of the president of the United States.

(c) The word or term, "administrator," shall be construed to designate and refer to the administrator of veterans' affairs of the United States.

(d) The term or words, "federal act," shall mean any law of the United States.

WV Legislature

§9A-1-8. Offices.

(a) The offices of the secretary shall be located at the state capitol or other place provided in the capital city. The secretary shall keep his or her offices open at all reasonable times for the transaction of business.

(b) The offices and meeting place of the Veterans' Council shall be in the offices of the secretary: Provided, That the Veterans' Council with the approval of the Governor may hold meetings at other places but not outside of this state, except in the District of Columbia.

WV Legislature

§9A-1-9. Duties of department.

The department of veterans' assistance shall:

(1) Assist veterans, their widows, widowers, dependents and orphans within the state, in properly presenting their claims before the United States Veterans' Administration, its administrator, or any federal agency, the State of West Virginia, or any of the several states of the United States, when the claims arise out of service with the armed forces of the United States as defined in section one of this article;

(2) Contact all veterans' organizations in this state through their duly elected or appointive officers to effectuate the purposes of this article and aid in the efficiency of the operations of the department;

(3) Render all possible and proper advice, assistance and counsel to veterans, their families, and their widows, dependents and orphans, within the state, and furnish them information on compensation, allowances, pensions, insurance, rehabilitation, hospitalization, education, vocational training, or refresher or retraining courses in education or training, employment, loans or aid for the purchase, acquisition or construction of homes, farms, farm equipment and business property, preference in the purchase of property and preference in employment, as provided or may be provided by any federal act, any federal agency, this state or other states;

(4) Make careful inquiry into all claims presented for payment out of the State Treasury from any appropriation made for the benefit of veterans, their widows, widowers, dependents and orphans.

WV Legislature

§9A-1-10. Powers and duties of secretary.

The secretary is the executive and administrative head of the department and has the power and duty, subject to the provisions of section four of this article, to:

(a) Supervise and put into effect the purposes and provisions of this article and the rules for the government of the department;

(b) Prescribe methods pertaining to investigations and reinvestigations of all claims and to the rights and interests of all veterans, their widows, widowers, dependents and orphans;

(c) Prescribe uniform methods of keeping all records and case records of the veterans, their widows, widowers, dependents and orphans;

(d) Sign and execute, in the name of the state by West Virginia Department of Veterans' Assistance, any contract or agreement with the federal government or its agencies, other states, subdivisions of this state, corporations, associations, partnerships or individuals;

(e) Supervise the fiscal affairs and responsibilities of the department;

(f) Organize the department to comply with the requirements of this article and with the standards required by any federal act or any federal agency;

(g) Establish any regional or area offices throughout the state that are necessary to promote efficiency and economy in administration;

(h) Make reports that comply with the requirements of any federal act or federal agency and the provisions of this article;

(i) Cooperate with the federal and state governments for the more effective attainment of the purposes of this article;

(j) Keep a complete and accurate record of all proceedings; record and file all contracts and agreements and assume responsibility for the custody and preservation of all papers and documents pertaining to his or her office and the department;

(k) Prepare for the Veterans' Council the annual reports to the Governor of the condition, operation and functioning of the department;

(l) Exercise any other powers necessary and proper to standardize the work; to expedite the service and business; to assure fair consideration of the rights and interests and claims of veterans, their widows, widowers, dependents and orphans; to provide resources for a program which will promote a greater outreach to veterans and which will advise them of the benefits and services that are available; and to promote the efficiency of the department;

(m) Invoke any legal, equitable or special remedies for the enforcement of his or her orders

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or the provisions of this article;

(n) Appoint the officers and heads of divisions of the department, and of regional or area offices, and employ assistants and employees, including case managers and counselors, that are necessary for the efficient operation of the department;

(o) Provide resources and assistance in the development of an Internet website which is to be used to inform veterans of programs and services available to them through the department and the state and federal governments;

(p) Delegate to all or any of his or her appointees, assistants or employees all powers and duties vested in the secretary, except the power to sign and execute contracts and agreements: Provided, That the secretary shall be responsible for the acts of his or her appointees, assistants and employees; and

(q) Award grants, in his or her discretion, subject to available appropriations, to provide for the transportation of veterans to veterans' hospitals from the veteran's home or local Veterans' Assistance offices.

(r) Enter into an agreement with the Commissioner of the Department of Agriculture to transfer without consideration all or part of the approximately seventeen acres of the Department of Agriculture property in Beckley, West Virginia, located adjacent to the Jackie Withrow Hospital which was formerly known as Pinecrest Hospital, for construction of a veterans skilled nursing facility.

WV Legislature

§9A-1-11. Establishment of veterans facilities support fund; authorized expenditures.

(a) There is continued in the State Treasury a special revenue fund to be designated and known as the Veterans Facilities Support Fund which shall be administered by the secretary.

(b) All interest or other returns earned on the investment of the moneys in the fund shall be credited to the fund.

(c) Funds paid into the account shall be derived from the following sources: (1) Any gift, grant, bequest, endowed fund or donation which may be received by any veterans facility created by statute from any governmental entity or unit or any person, firm, foundation or corporation; and (2) All interest or other return on investment accruing to the fund.

(d) Moneys in the fund are to be used for the operational costs of any veterans facility created by statute, the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the foregoing and/or as otherwise designated or specified by the donor.

(e) Any balance, including accrued interest or other earnings, in this special fund at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the fund.

(f) Funds from the Veterans Facility Support Fund for operational costs of any veterans' facility as defined in this section will be distributed by appropriation of the Legislature.

(g) Funds from the Veterans Facility Support Fund for the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the veterans nursing home shall be transferred to the Veterans Nursing Home Building Fund upon written request of the secretary.

WV Legislature

§9A-1-11a. Establishment of Veterans Cemetery Fund.

There is hereby created in the state Treasury a special revenue fund to be designated and known as the Veterans Cemetery Fund which shall consist of excess revenues derived from the veterans instant lottery scratch-off game as appropriated to the fund by the Legislature and all interest or other returns earned from investment of the fund. Funds may also be derived from any gift, grant, bequest, endowed fund or donation which may be received by any veterans cemetery created by statute from any governmental entity or unit or any person, firm, foundation or corporation. Any balance, including accrued interest or other earnings, in this special fund at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the fund.

WV Legislature

§9A-1-12. Legal assistance.

The Attorney General of the state and his or her assistants, and the prosecuting attorneys of the various counties, shall render to the Veterans' Council or secretary, such legal services as may be required in the discharge of the provisions of this article.

WV Legislature

§9A-1-13.

Repealed.

Acts, 2014 Reg. Sess., Ch. 186.

WV Legislature

§9A-1-14.

Repealed.

Acts, 2014 Reg. Sess., Ch. 186.

WV Legislature

§9A-1-15.

Repealed.

Acts, 2014 Reg. Sess., Ch. 186.

WV Legislature

§9A-1-16. West Virginia veterans service decoration; West Virginia Service Cross.

(a) A West Virginia veterans service decoration may be awarded to any resident of West Virginia who served in any of the federally recognized military services for a period at a time during which there was armed conflict.

(b) A West Virginia Service Cross and ribbon bar, along with a certificate signed by the Governor, may be awarded to any veteran who meets the criteria set forth in subsection (a) of this section, and who also was awarded a federal achievement medal, commendation medal, meritorious service medal, or a medal for valor by one of the federally recognized military services.

(c) West Virginia National Guard members may also be authorized to receive and wear the medals and ribbons authorized under the provisions of this section in an order of precedence determined by the Adjutant General.

(d) The secretary may propose rules pursuant to §29A-3-1 *et seq*. of this code to implement the provisions of this section.

WV Legislature