

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951

ENROLLED

HOUSE BILL No. 54

(By Mr. Speaker, Mr. Flannery)

PASSED February 5, 1951

In Effect from Passage



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House Bill No. 54

(By MR. SPEAKER, MR. FLANNERY)

[Passed February 5, 1951; in effect from passage.]

AN ACT providing for the payment of the veterans' bonus and for the administration thereof, prohibiting certain acts with respect thereto, and prescribing penalties for the violation of such provisions.

Be it enacted by the Legislature of West Virginia:

Section 1. *Department of Veterans' Affairs to Administer Act; Veterans' Advisory Committee.*—The West Virginia department of veterans' affairs is hereby designated as the state agency to administer the provisions of this act. The director of the department of veterans' affairs shall do all things necessary for the proper administration thereof. The director, with the advice and consent of the veterans' council, may adopt and promulgate such reasonable rules and regulations, not inconsistent herewith, as may be necessary to effect the purposes of this act, including regulations concerning the evidence or other data

12 required to establish eligibility and qualification for the
13 bonus as herein provided. The director shall prepare and
14 furnish all necessary forms, which shall be distributed
15 by him through such veterans' and other organizations
16 as he may deem most practicable.

17 The department of veterans' affairs shall, insofar as
18 possible, utilize the full personnel, supplies and equip-
19 ment of the department in the administration of this act.
20 The department may employ such additional deputies
21 and other assistants as may be necessary for the proper
22 administration of this act, subject, however, to the ap-
23 proval of the veterans' council and the director of the
24 budget, who must also approve the salaries and other
25 compensation of such deputies and assistants.

26 The governor may appoint a veterans' advisory com-
27 mittee, consisting of representatives of veterans' organi-
28 zations chartered under acts of Congress and operating
29 in this state, to advise and counsel with the director in
30 the administration of this act. Such committee shall meet
31 on the call of the director at such times and places as he
32 may specify.

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Sec. 2. *Veterans Entitled to Bonus.*—In grateful recognition of their sacrifices in times of war, a cash bonus as herein provided shall be paid to veterans of World War I and World War II. Such bonus shall be paid to all persons who rendered active service in the armed forces of the United States in World War I between the sixth day of April, one thousand nine hundred seventeen, and the eleventh day of November, one thousand nine hundred eighteen, both dates inclusive, or in World War II between the seventh day of December, one thousand nine hundred forty-one, and the second day of September, one thousand nine hundred forty-five, both dates inclusive, or in both such wars, who were bona fide residents of the state of West Virginia at the time of their entry into such service and for a period of at least six months prior thereto, who were not dishonorably discharged from such forces, and who within the periods specified actively served in such armed forces for a period of at least ninety days. A cash bonus shall also be paid to any disabled veteran, otherwise qualified, who was

22 discharged within ninety days after entering the services
23 because of a service connected disability.

24 As used in this act, "armed forces" shall include the
25 following: The United States Army, Army of the United
26 States, Women's Army Corps, Women's Auxiliary Army
27 Corps, Army Nurses' Corps, United States Navy, United
28 ^{States} Naval Reserve, United States Navy Women's Reserve,
29 Navy Nurses' Corps, United States Marine Corps, United
30 States Marine Corps Reserve, United States Marine Corps
31 Women's Reserve, United States Coast Guard, United
32 States Coast Guard Reserve, and the United States Coast
33 Guard Women's Reserve.

Sec. 3. *Payment of Bonus to Relatives of Deceased Vet-*
2 *erans.*—The bonus to which any deceased veteran would
3 have been entitled, had he lived, shall be paid only to
4 the following surviving relatives of such veteran, if such
5 relatives are residents of this state when application for
6 payment is made: Any unremarried widow, or if none,
7 any child or children under the age of sixteen, or if none,
8 any dependent parent or parents.

Sec. 4. *Amount of Bonus.*—The amount of such cash
2 bonus shall be calculated on the basis of ten dollars for

3 each month, or major fraction thereof, served within the
4 territorial limits of the forty-eight states and the District
5 of Columbia, and fifteen dollars for each month, or major
6 portion thereof, served outside such limits, but such
7 amount shall in no case exceed three hundred dollars for
8 those who served only within the territorial limits speci-
9 fied above, and four hundred dollars for those who served
10 outside such limits.

Sec. 5. *Limitation on Time for Filing Application.*—No
2 bonus shall be paid to any person otherwise entitled
3 thereto unless application therefor shall be filed with
4 the department on or before the thirty-first day of Decem-
5 ber, one thousand nine hundred fifty-two.

Sec. 6 *Determination by Director of the Validity of*
2 *Claims.*—Upon receipt of an application for benefits here-
3 under, the director shall, as soon as may be practicable,
4 determine the validity of the claim. As soon as such
5 determination has been made, the director shall mail to
6 the applicant a notice stating the amount of the bonus
7 payment, if any, which he finds to be due.

8 Any applicant who is aggrieved by any such determina-

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tion of the director may demand that his claim be re-
viewed as hereinafter provided. Such demand for review
shall be ^{filed} ~~filed~~ with the director in writing within sixty
days after the date on which the notice by the director
was mailed to the applicant. Upon receipt of such demand
for review the director shall certify the demand, together
with all files and records relating to the application, to a
board of review. Unless such demand for review is duly
filed with the director, all findings and orders of the di-
rector with reference to such claim shall be final and con-
clusive upon the applicant.

Sec. 7. *Review Board Hearing.*—For the purpose of this
act, the veterans' council of the state department of vet-
erans' affairs is hereby designated as the "Veterans'
Bonus Review Board". Under rules and regulations
adopted by the veterans' council, any one or more mem-
bers of a board of review may conduct hearings on a
demand by an applicant for review of the determination
of the director, and may report his or their findings there-
on, together with the entire record of the case, to the
review board for its final determination and decision.

11 If the number of demands for review hereunder shall
12 become too numerous to be handled expeditiously by the
13 veterans' council, the governor, upon the recommenda-
14 tion of the council, may appoint one or more additional
15 boards of review. Additional boards shall consist of not
16 more than three members, one of whom shall be a law-
17 yer, who shall have the same qualifications as the mem-
18 bers of the veterans' council, and who shall serve at the
19 will and pleasure of the governor for such time as may be
20 necessary for the purposes of this act. Each such addi-
21 tional review board shall have the same authority and its
22 final decision shall have the same force and effect as that
23 of the veterans' council under the provisions of this act.
24 Upon receipt from the director of the files and records
25 relating to any claim, the board, or a member or mem-
26 bers thereof, as the case may be, shall fix a time and place
27 for a hearing thereon. The applicant shall be notified of
28 the time and place fixed and shall be informed of his
29 right to demand a public hearing if he so desires. At the
30 hearing the claim shall be reexamined *de novo* and the
31 submission of additional evidence may be required or

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32 permitted. Upon the conclusion of such hearing the board
33 of review, on the basis of the record and the recommenda-
34 tions, if any, made by the member or members who con-
35 ducted the hearing, shall enter its order reversing, affirm-
36 ing or modifying the determination made by the director.

37 Any order so entered by the board shall be final and
38 conclusive upon the applicant and the director unless an
39 application is made for review to the supreme court of
40 appeals as hereinafter provided. The board shall mail to
41 the applicant and to the director a copy of the order
42 entered by it in each case.

43 All notices and correspondence shall be directed to the
44 applicant at the address listed in his application and all
45 notices and correspondence to the director shall be ad-
46 dressed to him at his office in the city of Charleston.

47 The director shall provide for each review board such
48 clerical and stenographic assistants and such supplies as
49 may be necessary for the performance of its duties.

50 Each member of a review board shall receive as com-
51 pensation fifteen dollars per day for each day actually
52 spent in the performance of his duties under the provis-

53 ions of this act, and shall be reimbursed for all traveling
54 and other expenses necessarily incurred by him in the
55 performance of such duties.

Sec. 8. *Court Review of Final Orders of Review*
2 *Board.*—Within thirty days after the entry of any final
3 order of a board of review, the director or any applicant
4 may petition for review of such order by the supreme
5 court of appeals in the same manner as is provided by sec-
6 tion four, article five, chapter twenty-three of the code,
7 for judicial review of final decisions by the workmen's
8 compensation appeal board.

Sec. 9. *Payments from Veterans' Bonus Fund; Balance*
2 *to Veterans' Bonus Sinking Fund.*—All bonus payments
3 and other expenses and costs of administering this act
4 shall be paid from the veterans' bonus fund, otherwise
5 established by law. Any balance remaining in such fund
6 after all such payments have been made shall be trans-
7 ferred to the veterans' bonus sinking fund and used
8 solely for the payment of the bonus bonds.

Sec. 10. *Penalty for Making False Statements.*—Any
2 person who shall knowingly make any false or misleading

3 statement or representation, oral or written, in support
4 of any claim for a bonus under the provisions of this act,
5 shall be guilty of a felony, and upon conviction thereof,
6 shall be punished by imprisonment in the penitentiary for
7 not less than one year nor more than five years.

 Sec. 11. *Penalty for Filing More Than One Applica-*
2 *tion.*—Only one application shall be filed by any veteran
3 or by any person who claims that he is entitled to a share
4 of the bonus payable in the case of any deceased veteran.
5 Any person who, with intent to defraud, violates the pro-
6 visions of this section shall be guilty of a felony, and upon
7 conviction thereof shall be punished by a fine of not less
8 than five hundred dollars nor more than one thousand
9 dollars, or by imprisonment in the penitentiary for not
10 less than one nor more than two years, or by both such
11 fine and imprisonment.

 Sec. 12. *Bonus Payment not Subject to Taxation or*
2 *Legal Process; Claim Therefor not Assignable.*—The
3 bonus provided by this act is hereby declared to be a gift
4 or gratuity made as a token of appreciation for the ser-
5 vice rendered by the veteran to the people of West Vir-

6 ginia in time of grave national emergency and is in no
7 sense compensation for such services. The money re-
8 ceived as such bonus shall be exempt from taxation and
9 such money, or any claim therefor, shall not be subject
10 to garnishment, attachment or levy of execution. A claim
11 for payment of a bonus under the provisions of this act
12 shall not be assignable for any purpose whatsoever.

Sec. 13. *Collection of Fees or Charges; Penalty.*—No fee
2 or charge shall be made by any person, attorney, agent or
3 representative for any service in connection with the
4 filing of an application for payment of a bonus hereunder,
5 except such fees as are provided by law for the perfor-
6 mance of official duties by a duly elected or appointed
7 officer of this state or a political subdivision thereof. No
8 person shall, for a consideration, discount or attempt to
9 discount or advance money upon any warrant issued for
10 payment of any bonus provided for in this act.

11 If an applicant shall employ an attorney to represent
12 him in connection with the prosecution of his claim before
13 a board of review, or before the supreme court of appeals,
14 the attorney shall file with the director an executed copy

15 of his contract of employment, and the total amount of
16 the fee therein provided shall not exceed twenty-five per
17 cent of the total amount awarded. It shall be the duty of
18 the director to protect such attorney in the collection of
19 the fee provided in such contract from the award made
20 in favor of the applicant under the provisions of this act.

21 Any person who violates any provision of this section
22 shall be guilty of a misdemeanor, and upon conviction
23 thereof shall be punished by a fine of not less than
24 twenty-five dollars nor more than five hundred dollars,
25 or by imprisonment for not less than ten days nor more
26 than twelve months, or by both such fine and imprison-
27 ment.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James C. Byrd
Chairman Senate Committee

James M. Loop
Chairman House Committee

Originated in the House of Delegates

Takes effect *from* _____ passage.

Howard Meyer
Clerk of the Senate

J. R. Alley
Clerk of the House of Delegates

Laurel H. Hunter
President of the Senate

W. E. Hamner
Speaker House of Delegates

The within *APPROVED* this the *13th*
day of *FEBRUARY*, 1951.

Chas. L. Patton
Governor



FILED IN THE OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES
of West Virginia **FEB 13 1951**
D. PITT O'BRIEN,
SECRETARY OF STATE