

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957


ENROLLED

HOUSE BILL No. 363

(By Mr. Flannery)

PASSED March 8 1957

In Effect July 1, 1957 Passage



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House Bill No. 363

(By MR. SPEAKER, MR. FLANNERY)

[Passed March 8, 1957; in effect July 1, 1957.]

AN ACT providing for the payment of the Korean 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:

Payment of Korean Veterans Bonus

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

10 necessary to effect the purposes of this act, including regu-
11 lations concerning evidence or other data required to
12 establish eligibility and qualifications for the bonus as
13 herein provided. The director shall prepare and furnish
14 all necessary forms which shall be distributed by him
15 through such veterans and other organizations as he may
16 deem most practicable.

17 The department of veterans affairs shall, insofar as
18 possible, utilize the personnel, supplies and equipment of
19 the department in the administration of this act. The
20 department may employ such additional personnel as
21 may be necessary for the proper administration of this
22 act, subject, however, to the approval of the commissioner
23 of finance and administration, who must also approve
24 the salaries and other compensation for such personnel;

25 The governor may appoint a veterans advisory com-
26 mittee, consisting of representatives of veterans organi-
27 zations chartered under acts of Congress and operating in
28 this state, to advise and counsel with the director in the
29 administration of this act. Such committee shall meet on

30 the call of the director at such times and places as he may
31 specify.

Sec. 2. *Veterans Entitled to Bonus*.—In grateful recog-
2 nition of their services in time of grave national emer-
3 gency, a cash bonus as herein provided shall be paid to
4 veterans of the Korean conflict. Such bonus shall be paid
5 to all persons who rendered active service in the armed
6 forces of the United States during the Korean conflict
7 between the twenty-seventh day of June, one thousand
8 nine hundred fifty, and the twenty-seventh day of July,
9 one thousand nine hundred fifty-three, both dates inclu-
10 sive, who were bona fide residents of the state of West
11 Virginia at the time of their entry into such service and
12 for a period of at least six months immediately prior
13 thereto, who were not dishonorably discharged from such
14 forces, and who within the period specified actively served
15 in such armed forces for a period of at least ninety days.
16 A cash bonus shall also be paid to any disabled veteran,
17 otherwise qualified, who was discharged within ninety
18 days after entering the services because of a service-
19 connected disability.

20 As used in this act, "armed forces" means the army,
21 navy, air force, marine corps and coast guard of the United
22 States.

23 As used in this act, "active duty" means full-time
24 active military or naval service with full duty pay status,
25 but shall not include time absent from leave, absent over
26 leave, while in confinement or any other time classified
27 by the respective branches of the armed forces as "bad"
28 or "lost" time.

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

9 As used in this act, "unremarried widow" means the
10 female spouse of a deceased veteran, legally married to
11 the veteran at the time of his death, who has not re-
12 married at the time of making application.

13 As used in this act, "child" means the natural son
14 or daughter of the deceased veteran upon whose
15 service eligibility is derived and who has not attained
16 the age of sixteen years at the time of making applica-
17 tion.

18 As used in this act, "parent" means the father or mother
19 by blood of the deceased veteran upon whose service eligi-
20 bility is derived. "Dependency" of such parent shall be
21 deemed to exist when such parent's taxable income for
22 the twelve months preceding application is less than two
23 thousand dollars. If surviving parents live together, they
24 shall file joint applications and, in such case, "depend-
25 ency" shall be deemed to exist if their combined taxable
26 income for the twelve months preceding date of appli-
27 cation is less than thirty-five hundred dollars.

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 during the
4 prescribed period within the territorial limits of the
5 forty-eight states and the District of Columbia, and fifteen
6 dollars for each month or major fraction thereof, served

7 during the prescribed period outside such limits. Such
8 bonus, however, shall in no case exceed three hundred
9 dollars for those who served only within the territorial
10 limits specified, and four hundred dollars for those who
11 served outside such limits.

Sec. 5. *Limitation on Time of Filing Application.*—No
2 bonus shall be paid to any person, otherwise entitled
3 thereto, unless application therefor shall be filed with the
4 department of veterans affairs on or before the thirtieth
5 day of June, one thousand nine hundred fifty-nine. No
6 warrant for the payment of any bonus shall be issued
7 or reissued to any applicant after the thirty-first day of
8 December, one thousand nine hundred sixty-one.

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 warrant in the amount of the bonus pay-
7 ment he finds to be due. If the determination is made
8 that no benefits hereunder are payable then the director

9 shall mail to the applicant a notification denying benefits
10 and citing the reason or reasons for such denial.

11 Any applicant who is aggrieved by any such determi-
12 nation of the director may demand that his claim be re-
13 viewed as hereinafter provided. Such demand for review
14 shall be filed with the director, in writing, within sixty
15 days after the date on which the warrant of award or
16 notice of denial was mailed to the applicant. Upon receipt
17 of such demand for review the director shall certify the
18 demand, together with all files and records relating to
19 the application, to a board of review. Unless such demand
20 for review is duly filed with the director, all findings and
21 orders of the director with reference to such claim shall
22 be final and conclusive upon the applicant.

Sec. 7. *Review Board Hearing.*—For the purposes of
2 this act, the veterans council of the department of veterans
3 affairs is hereby designated as the “Korean Veterans
4 Bonus Review Board”. Under rules and regulations
5 adopted by the veterans council, any one or more mem-
6 bers of a board of review may conduct hearings on a
7 demand by an applicant for review of the determination

8 of the director, and may report his or their findings
9 thereon, together with the entire record of the case, to
10 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
13 the veterans council, the governor, upon the recom-
14 mendation of the council, may appoint one or more
15 additional boards of review. Additional boards shall con-
16 sist of not more than three members, one of whom shall
17 be a lawyer, who shall have the same qualifications as
18 the members of the veterans council, and who shall serve
19 at the will and pleasure of the governor for such time
20 as may be necessary for the purposes of this act. Each
21 such additional review board shall have the same author-
22 ity and its final decision shall have the same force and
23 effect as that of the veterans council under the provisions
24 of this act.

25 Upon receipt from the director of the files and records
26 relating to any claim, the board, or a member or mem-
27 bers thereof as the case may be, shall fix a time and
28 place for a hearing thereon. The applicant shall be noti-

29 fied of the time and place fixed and shall be informed
30 of his right to demand a public hearing if he so desires.
31 At the hearing the claim shall be reexamined *de novo*
32 and the submission of additional evidence may be re-
33 quired or permitted. Upon the conclusion of such hearing
34 the board of review, on the basis of the record and the
35 recommendations, if any, made by the member or mem-
36 bers who conducted the hearing, shall enter its order
37 reversing, affirming or modifying the determination made
38 by the director.

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

45 All notices and correspondence shall be directed to
46 the applicant at the address listed on his application
47 and all notices and correspondence to the director shall
48 be addressed to him at his office in the city of Charleston.

49 The director shall provide for each review board such

50 clerical and stenographic assistants and such supplies as
51 may be necessary for the performance of its duties.

52 Each member of a review board shall receive as com-
53 pensation fifteen dollars per day for each day actually
54 spent in the performance of his duties under the provis-
55 ions of this act, and shall be reimbursed for all traveling
56 and other expenses necessarily incurred by him in the
57 performance of such duties.

Sec. 8. *Court Review of Final Orders of Review Board.*---

2 Within thirty days after notification of an entry of any
3 final order of a board of review, the director or any ap-
4 plicant may petition for review of such order by the su-
5 preme court of appeals in the same manner as is provided
6 by section four, article five, chapter twenty-three of the
7 code, for judicial review of final decisions by the work-
8 men's compensation appeal board.

Sec. 9. *Payments from Korean Veterans Bonus Fund;*

2 *Balance to Korean Veterans Bonus Sinking Fund.*— All
3 bonus payments and other expenses and costs of adminis-
4 tering this act shall be paid from the Korean veterans
5 bonus fund, otherwise established by law. Any balance

6 remaining in such fund after all such bonus payments and
7 other expenses and costs have been made shall be trans-
8 ferred to the Korean veterans bonus sinking fund and
9 used 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 of
4 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 nor more than five years.

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

10 one nor more than two years, or by both such fine and im-
11 prisonment.

Sec. 12. *Bonus Payment not Subject to Taxation or Legal*
2 *Process; Claim Therefor not Assignable.*—The bonus pro-
3 vided by this act is hereby declared to be a gift or gratu-
4 ity made as a token of appreciation for the service ren-
5 dered by the veteran to the people of West Virginia in
6 time of grave national emergency and is in no sense com-
7 pensation for such services. The money received as such
8 bonus shall be exempt from taxation and such money, or
9 any claim therefor, shall not be subject to garnishment,
10 attachment or levy of execution. A claim for payment
11 of a bonus under the provisions of this act shall not be
12 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
3 or 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 perform-
6 ance of official duties by a duly elected or appointed offi-
7 cer 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 amount under dispute.

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

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

E. A. McCourt
Chairman Senate Committee

W. H. Heston
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1957 passage.

Thomas H. Hester
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph J. Bean
President of the Senate

W. E. Fleming
Speaker, House of Delegates

The within approved this the 15th
day of March, 1957.

Swift A. Henderson
Governor



Filed in the Office of the Secretary of State
of West Virginia MAR 15 1957

D. PITT O'BRIEN
SECRETARY OF STATE