WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED
Committee Substitute for
HOUSE BILL No. 842

(By Mr. Speaker, Mr. Speaker of the Senate)

PASSED March 5, 1974
In Effect July 1, 1974
Passage

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ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 842
(By Mr. Speaker, Mr. McManus, and Mr. Queen)

[Passed March 5, 1974; in effect July 1, 1974.]

AN ACT providing for the payment of the Vietnam 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:

§1. Department of veterans affairs to administer act; veterans advisory committee.

1 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 evidence or other data required to establish eligibility and qualifications for the bonus as herein provided. The director shall prepare and furnish all necessary forms which shall be distributed by him through such veterans and other organizations as he may deem most practicable.
The department of veterans affairs may employ such additional personnel as may be necessary for the proper administration of this act, subject, however, to the approval of the commissioner of finance and administration, who must also approve the salaries and other compensation for such personnel.

The governor may appoint a veterans advisory committee, consisting of representatives of veterans organizations chartered under acts of Congress and operating in this state, to advise and counsel with the director in the administration of this act. Such committee shall meet on the call of the director at such times and places as he may specify.

§2. Veterans entitled to bonus.

In grateful recognition of their services in time of grave national emergency, a cash bonus as herein provided shall be paid to veterans of the Vietnam conflict. Such bonus shall be paid to all persons who rendered active service in the armed forces of the United States during the Vietnam conflict between the first day of August, one thousand nine hundred sixty-four, and the twenty-eighth day of March, one thousand nine hundred seventy-three, both dates inclusive, 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 immediately prior thereto, who have not been separated from such armed forces under conditions other than honorable and who within the period specified above, actively served in such armed forces for a period of at least ninety days. Such bonus shall also be paid to any person, otherwise eligible under the preceding sentence, who rendered active service in the armed forces of the United States prior to the first day of August, one thousand nine hundred sixty-four, and who received a Vietnam armed forces expeditionary medal. Such cash bonus shall also be paid to any veteran, otherwise qualified under either of the two sentences next preceding, who was discharged within ninety days after entering the armed forces because of a service-connected disability.

As used in this act, “armed forces” means the army, navy, air force, marine corps and coast guard of the United States.
As used in this act, “active duty” means full-time active
service in the armed forces with full duty pay status, but shall
not include time absent from leave, absent over leave, while
in confinement or any other time classified by the respective
branches of the armed forces as “bad” or “lost” time.

§3. Payment of bonus to relatives of deceased veterans.

The bonus to which any deceased veteran would have been
entitled, had he lived, shall be paid only to the following
surviving relatives of such veteran, provided that such
relatives are residents of this state when application for
payment is made and if such relatives are living at the time
payment is made: Any unmarried widow or widower, or,
if none, any child or children under the age of eighteen, or
if none, any parent or parents. The categories of persons
listed shall be treated as separate categories listed in order
of entitlement and where there be more than one member
of a class, the bonus shall be paid to each member according
to his proportional share. Where a deceased veteran’s death
was connected with such service and resulted from such
service during the time period specified, however, the sur-
viving relatives shall be paid, in accordance with the same
order of entitlement, the sum of five hundred dollars in lieu
of any bonus to which the deceased might have been entitled
if living.

As used in this act, “unremarried widow” or “unremarried
widower” means the spouse of a deceased veteran, legally
married to the veteran at the time of his death, who has
not remarried at the time of making application.

As used in this act, “child” means the natural child,
adopted child or stepchild of the deceased veteran upon whose
service eligibility is derived and who has not attained the
age of eighteen years at the time of making application.

As used in this act, “parent” means either the natural, step,
or adoptive father or mother of, or person standing in loco
parentis to, the deceased veteran upon whose service eligibility
is derived.

§4. Amount of bonus.

The amount of such bonus shall be calculated on the basis
of twenty dollars per month for each month of active service, or major fraction thereof, for veterans who received the Vietnam armed forces expeditionary medal or the Vietnam service medal, up to four hundred dollars, and ten dollars per month for each month of active service, or major fraction thereof, for veterans who have not received the Vietnam armed forces expeditionary medal or the Vietnam service medal, up to three hundred dollars. Not more than one bonus shall be paid to or on behalf of the service of any one veteran.

§5. Limitation on time of filing application.

No bonus shall be paid to any person, otherwise entitled thereto, unless application therefor shall be filed with the department of veterans affairs on or before the thirty-first day of December, one thousand nine hundred seventy-six. No warrant for the payment of any bonus shall be issued or reissued to any applicant after the thirty-first day of December, one thousand nine hundred seventy-eight.

§6. Determination by director of the validity of claims.

Upon receipt of an application for benefits hereunder, the director shall, as soon as may be practicable, determine the validity of the claim. As soon as such determination has been made, the director shall mail to the applicant a warrant in the amount of the bonus payment he finds to be due. If the determination is made that no benefits hereunder are payable then the director shall mail to the applicant a notification denying benefits and citing the reason or reasons for such denial.

Any applicant who is aggrieved by any such determination of the director may demand that his claim be reviewed as hereinafter provided. Such demand for review shall be filed with the director, in writing, within sixty days after the date on which the warrant of award or notice of denial 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 director with
reference to such claim shall be final and conclusive upon
the applicant.

§7. **Review board hearing.**

For the purposes of this act, the veterans council of the
department of veterans affairs is hereby designated as the
"Vietnam Veterans Bonus Board of Review." Under rules and
regulations adopted by the veterans council, any one or more
members of the 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 thereon,
together with the entire record of the case, to the board of
review for its final determination and decision.

If the number of demands for review hereunder shall
become too numerous to be handled expeditiously by the
veterans council, the governor, upon the recommendation of
the council, may appoint one or more additional boards of
review. Additional boards shall consist of not more than
three members, one of whom shall be a lawyer, who shall have
the same qualifications as the members of the veterans council,
and who shall serve at the will and pleasure of the governor
for such time as may be necessary for the purposes of this
act. Each such additional board of review shall have the same
authority and its final decision shall have the same force
and effect as that of the veterans council under the provisions
of this act.

Upon receipt from the director of the files and records
relating to any claim, the board, or a member or members
thereof as the case may be, shall fix a time and place for a
hearing thereon. The applicant shall be notified of the time
and place fixed and shall be informed of his right to demand
a public hearing if he so desires. At the hearing the claim
shall be reexamined de novo and the submission of additional
evidence may be required or permitted. Upon the con-
clusion of such hearing the board of review, on the basis
of the record and the recommendations, if any, made by the
member or members who conducted the hearing, shall enter its
order reversing, affirming or modifying the determination
made by the director.
Any order so entered by the board shall be final and conclusive upon the applicant and the director unless an application is made for review to the West Virginia supreme court of appeals as hereinafter provided. The board shall mail to the applicant and to the director a copy of the order entered by it in each case.

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

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

Each member of a board of review shall receive as compensation twenty-five dollars per day for each day actually spent in the performance of his duties under the provisions of this act, and shall be reimbursed for all reasonable and necessary expenses actually incurred by him in the performance of such duties.

§8. Court review of final orders of review board.

Within thirty days after notification of the entry of any final order of a board of review, the director or the applicant affected may petition for review of such order by the West Virginia supreme court of appeals in the same manner and within the same period of time as is provided by section four, article five, chapter twenty-three of the code, for judicial review of final decisions by the workmen's compensation appeal board.


All bonus payments and other expenses and costs of administering this act shall be paid from the Vietnam veterans bonus fund, otherwise established by law. Any balance remaining in such fund after all such bonus payments and other expenses and costs have been made shall be transferred to the Vietnam Veterans bonus sinking fund and used solely for the payment of the bonus bonds.
§10. Penalty for making false statements.

Any person who shall knowingly make any false or misleading statement or representation, oral or written, in support of any claim for a bonus under the provisions of this act, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

§11. Penalty for filing more than one application.

Only one application shall be filed by any veteran or by any person who claims that he is entitled to a share of the bonus payable in the case of any deceased veteran. Any person who, with intent to defraud, violates the provisions of this section shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the penitentiary for not less than one nor more than two years, or by both such fine and imprisonment.

§12. Bonus payment not subject to taxation or legal process; claim therefor not assignable.

The bonus provided by this act is hereby declared to be a gift or gratuity made as a token of appreciation for the service rendered by the veteran to the people of West Virginia in time of grave national emergency and is in no sense compensation for such services. The money received as such bonus shall be exempt from taxation and such money, or any claim therefor, shall not be subject to garnishment, attachment or levy of execution. A claim for payment of a bonus under the provisions of this act shall not be assignable for any purpose whatsoever.

§13. Collection of fees or charges; penalty.

No fee or charge shall be made by any person, attorney, agent or representative for any service in connection with the filing of an application for payment of a bonus hereunder, except such fees as are provided by law for the performance of official duties by a duly elected or appointed officer of this state or a political subdivision thereof. No person shall, for a consideration, discount or attempt to discount or ad-
vance money upon any warrant issued for payment of any
bonus provided for in this act.

If an applicant shall employ an attorney to represent him
in connection with the prosecution of his claim before a
board of review, or before the supreme court of appeals, the
attorney shall file with the director an executed copy of
his contract of employment, and the total amount of the fee
therein provided shall not exceed twenty-five percent of the
amount under dispute.

Any person who violates any provision of this section
shall be guilty of a misdemeanor, and, upon conviction there-
of, shall be punished by a fine of not less than twenty-five
dollars nor more than five hundred dollars, or by imprisonment
in the county jail for not less than ten days nor more than
twelve months, or by both such fine and imprisonment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

J. David Clark
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect July 1, 1974.

Howard W. Cannon
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

A. P. Brotherton, Jr.
President of the Senate

Lewis F. Reece
Speaker House of Delegates

The within __________________________ approved this the 26th day of __________________________, 1974.

Able B. Carver, Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date 3/12/74
Time 4:55 p.m.