WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1993

ENROLLED

HOUSE BILL No. 101

(By Delegate Mr. Speaker, Mr. Chambers, and Delegate Buck)
[By Request of the Executive]

Passed May 21, 1993

In Effect July 1, 1993
ENROLLED

H. B. 101

(By Mr. Speaker, Mr. Chambers, and Delegate Burk)

[By Request of the Executive]

[Passed May 21, 1993; to take effect July 1, 1993.]

AN ACT providing for the payment of the veterans bonus to veterans of the Persian Gulf, Panama, Grenada and Lebanon conflicts and for the administration thereof; definitions; 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 VETERANS Bonus.

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

1 The West Virginia division of veterans affairs is hereby designated as the state agency to administer the provisions of this bill. The director of the division 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 bill, 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 or her through such veterans and other organizations as he or she may deem most practicable.
The division of veterans affairs shall, insofar as possible, utilize the personnel, supplies and equipment of the division in the administration of this bill. The division may employ such additional personnel as may be necessary for the proper administration of this bill, subject, however, to the approval of the secretary of the department of military affairs and public safety 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 bill. Such committee shall meet on the call of the director at such times and places as he or she 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 Persian Gulf, Panama, Grenada and Lebanon conflicts. Such bonus shall be paid to (1) all persons who served on active duty in the armed forces of the United States or who were members of reserve components called to active duty in the armed forces of the United States by the President of the United States under Title 10, United States Code section 782(D), 783, or 783(B), during the Persian Gulf conflict, Operation Desert Shield/Desert Storm, between the first day of August, one thousand nine hundred ninety and the eleventh day of April, one thousand nine hundred ninety-one, both dates inclusive, and (2) all veterans, active service members, or members of reserve components, of the armed forces of the United States, who served on active duty in one of the military operations referred to herein for which he or she received a campaign badge or expeditionary medal during the periods hereinafter described. For purposes of this bill, periods of active duty in a campaign or expedition are designated as: The conflict in Panama, between the twentieth day of December, one thousand nine hundred eighty-nine, through the thirty-first day of
January, one thousand nine hundred ninety, both dates inclusive; the conflict in Grenada, between the twenty-third day of October, one thousand nine hundred eighty-three, and the twenty-first day of November, one thousand nine hundred eighty-three, both dates inclusive; and the conflict in Lebanon, between the twenty-fifth day of August, one thousand nine hundred eighty-two, and the twenty-sixth day of February, one thousand nine hundred eighty-four, both dates inclusive: Provided, That said bonus shall only be paid to the veterans as described herein 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 periods specified above, actively served in such armed forces for a period of at least ninety days.

Such cash bonus shall also be paid to any disabled veteran otherwise qualified, who was discharged within ninety days after entering the armed forces because of a service-connected disability.

As used in this bill, “armed forces” means the army, navy, air force, marine corps and coast guard of the United States.

As used in this bill, “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.

For purposes of this bill “active service” shall mean the person’s active duty as a member of one of the armed forces during the periods of conflict referred to herein.

As used in this bill, “bona fide resident” shall mean any person who, at the time of his or her entry into active service as such is defined herein, was a legal resident of the state of West Virginia. Evidence of legal residence shall be shown by the presentation of evidence that the person filed a West Virginia personal income
tax for the tax year immediately preceding his or her
entry into active service or proof that he or she
maintained a permanent place of abode in West
Virginia at the time of his or her entry into active
service and for a period of at least six months prior to
entry into active service.

§3. Payment of bonus to relatives of deceased veterans.
The bonus to which any deceased veteran would have
been entitled, had he or she 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
unremarried widow or widower, or, if none, all children,
stepchildren and adopted children under the age of
eighteen, or if none, any parent, stepparent, adoptive
parent or person standing in loco parentis. The catego-
ries 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 or her propor-
tional share. Where a deceased veteran's death was
connected with such service and resulted from such
service during the time period specified, however, the
surviving relatives shall be paid, in accordance with the
same order of entitlement, the sum of one thousand
dollars in lieu of any bonus to which the deceased might
have been entitled if living.

As used in this bill, "unremarried widow" or "unrem-
married widower" means the spouse of a deceased veteran,
legally married to the veteran at the time of his or her
death, who has not remarried at the time of making
application.

As used in this bill, "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 bill, "parent" means either of 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 bonus shall be five hundred dollars per
eligible person who was in active service, inside the
combat zone designated by the President or Congress of
the United States at anytime during the dates specified
herein. In the case of the Persian Gulf conflict, the
amount of bonus shall be three hundred dollars per
eligible person who was in active service outside the
combat zone designated by the President or Congress of
the United States during the dates specified herein. For
purposes of this bill not more than one bonus shall be
paid to or on behalf of the service of any one veteran.
In the event any veteran is eligible to receive more than
one bonus, said veteran shall receive the greater bonus.

§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 division of veterans affairs on or before the
thirtieth day of June, one thousand nine hundred ninety-
four. Warrants for the payment of any bonus shall be
issued or reissued to any applicant on or before the
thirtieth day of June, one thousand nine hundred ninety-
five.

§6. Determination of 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 or she 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 determi-
nation of the director may demand that his or her 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.


For the purposes of this bill, the veterans council of the division of veterans affairs is hereby designated as the “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 her 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 bill. 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 bill.

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 or her right to demand a public hearing if he or she 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 conclusion 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 or her application and all notices and correspondence to the director shall be addressed to him or her at his or her 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 fifty dollars per day for each day actually spent in the performance of his or her duties under the provisions of this bill, and shall be reimbursed for all reasonable and necessary expenses actually incurred by him or her 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 workers' compensation appeal board.
§9. Legislative appropriations paid into veterans bonus fund; expenditures; investment thereof; unexpended balance.

All money as appropriated by the Legislature for the payment of a cash bonus to veterans as provided in the veterans bonus amendment of 1992 shall be paid into the veterans bonus fund which is hereby created in the office of the state treasurer and such fund shall be expended solely for the payment of such veterans bonus and the cost of administration necessarily incident thereto. Except for such sums necessary for current operating balances, such fund shall be invested and reinvested by the West Virginia state board of investments in accordance with the provisions of article six, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended: Provided, That no such investment or reinvestment shall adversely affect the current operating balances of such fund. Any unexpended balance remaining in this fund after payment of all legal bonuses and other expenses and costs have been made or adequately provided for shall be available for appropriation by the Legislature.

§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 bill, 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 to be 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 bill 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 bill 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 advance money upon any warrant issued for payment of any bonus provided for in this bill.

If an applicant shall employ an attorney to represent him or her in connection with the prosecution of his or her 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 or her 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
thereof, shall be punished by 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.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1993.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved, this the 25th day of May, 1993.

Governor