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As of: February 15, 2002 (11:37AM)

LC5551

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act generally revising the board of veterans affairs; specifying the board's duties and responsibilities; granting the board rulemaking authority; authorizing county veteran service officers; clarifying provisions related to official communications and applying for grants; transferring administration of the state veterans' cemeteries from the department of military affairs to the board; amending sections 2-15-1205, 10-2-101, 10-2-102, 10-2-103, 10-2-106, 10-2-601, 10-2-602, and 10-2-603, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-1205, MCA, is amended to read:

"2-15-1205. Board of veterans' affairs. (1) There is a board of veterans' affairs.

(2) The board consists of 14 members as follows:

(a) five voting members appointed by the governor with the consent of the senate. Not more than one of the five member shall members may be appointed from a single county; ~~However~~

(b) four non-voting members, one appointed by each of the four largest congressionally-chartered veteran service organizations

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operating in the state;

(c) four non-voting members, one appointed by each auxiliary of the four largest congressionally-chartered veteran service organizations in the state; and

(d) one non-voting non-veteran member appointed by the governor.

(3) The voting members must select from among themselves a presiding officer and vice-presiding officer.

(4) For purposes of subsection (1), a change of residence within the state after appointment does not alter a member's status.

(5) ~~All members shall~~ Each voting member must be residents a resident of this state ~~and shall, must~~ have been honorably discharged from service in the military forces of the United States, and must have served on active duty in any of its wars in a combat theater during a war, conflict, or campaign.

(6) A vacancy occurring on the board shall be filled by the governor, subject to the conditions of this subsection in the same manner as the original appointment. A voting member who fails to attend two meetings within 12 months must be replaced as if a vacancy had occurred.

(3)(7) Each voting member shall is entitled to receive compensation and travel expenses as provided for in 37-1-133. A non-voting member is not entitled to compensation or travel expenses paid by state public funds.

(4)(8) Each voting member shall serve for a term of 5 3 years and may not serve more than two consecutive terms. Each non-voting member shall serve for the term specified by the appointing

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authority.

~~(5)(9)~~ The board is allocated to the department for administrative purposes only as prescribed in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply. Board employees shall constitute the Montana veterans' affairs division."

{*Internal References to 2-15-1205:
a10-2-101*}

Section 2. Section 10-2-101, MCA, is amended to read:

"10-2-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the board of veterans' affairs provided for in 2-15-1205.

(2) "Division" means the Montana veterans' affairs division consisting of the board's employees provided for under 2-15-1205(9).

(3) "Veteran" means an honorably discharged individual who served on active duty, other than for training, with the United States armed forces, including an individual who served with the United States coast guard. The term includes individuals who served with the first special service force and the American merchant marine in oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945."

{*Internal References to 10-2-101: None.*}

Section 3. Section 10-2-102, MCA, is amended to read:

"10-2-102. ~~Duty~~ Duties and responsibilities of board and

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division -- employee qualifications. (1) The board shall establish and oversee the Montana veterans' affairs division to provide a statewide service for ~~discharged~~ veterans and their families~~,~~.

(2) The division, as directed by the board, shall be the lead agency for state veterans' affairs and shall:

(a) actively cooperate with local, state and federal agencies having to do with the affairs of providing benefits or services to veterans and their families, and.

(b) promote the general welfare of all veterans and their families~~,~~.

(c) assist veterans and their families who are residents of this state in filing claims for the benefits to which they are entitled. In carrying out this duty, the division and its qualified employees shall, upon the request of an eligible claimant, act as an agent for the claimant in developing and presenting claims for benefits provided under Title 38 of the United States Code. The division shall seek to secure speedy and just action for each claimant. Division employees providing benefit claims assistance must be properly accredited pursuant to 38 CFR, 14.628 and 14.629.

(d) officially advocate for the fair treatment of Montana's veterans and their families by the U.S. department of veterans' affairs, or its successor, with respect to claims processing, health care services, and other veteran-related programs, and inform veterans and their family members of all available grievance procedures.

(e) develop and implement an information and communication program to keep veterans and their family members informed about

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available federal, state, and community-based services and benefits.

The program shall include, but not be limited to:

(i) development and distribution of a service and benefits directory;

(ii) regular public service announcements through various media;

(iii) an internet website with information and links relevant to veterans and their families and including information about board meetings and division functions; and

(iv) a quarterly newsletter, which may be printed or electronically distributed through e-mail or by posting to the website.

(f) facilitate regular communication and coordination among veteran organizations in order to promote community-based efforts to assist veterans and their families.

(g) develop a memorandum of understanding with the veterans' employment and training programs under the U.S. department of labor to facilitate interagency cooperation, resource sharing, cross-training, data collection, information sharing, and coordinated service delivery.

(h) establish management tools, including but not limited to, needs assessments, policy statements, program goals and objectives, performance measures, and program evaluation criteria.

(i) prepare a biennial report to the governor, the appropriate legislative interim committee, and veteran service organizations. The report must include, but is not limited to, demographic data on Montana's veteran population, a summary of identified needs, the

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board's policies goals and program objectives, a performance evaluation, and planned initiatives.

(j) request legislation responsive to identified needs.

(3) The board shall conduct at least one meeting each quarter.

At least two meetings each year must be conducted outside of Helena. At each meeting, the board shall solicit and accept public comment on issues within the scope of the board's duties. The board shall respond in writing to any party forwarding an issue within the scope of the board's duties and shall delineate the board's actions on the issue raised.

(2)(4) (a) The board shall hire an executive director to administer the division. Employees

(b) Any employee of the board must be ~~residents~~ a resident of this state. ~~Whenever possible, all employees of the board must have served in the military forces of the United States during World War I, World War II, the Korean war, or the Vietnam conflict and must have been~~ and an honorably discharged veteran as defined in 10-2-101, except that the board may hire a non-veteran if a qualified veteran did not apply for the position being hired.

(c) Preference for employment must be given to disabled veterans.

(d) The salary and benefits of an employee whose duties include administration of the state veterans' cemeteries program under part 6 must be paid from the cemetery account established in 10-2-603. The amount paid must be proportional to the time allocated to those duties."

{Internal References to 10-2-102: None.}

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Section 4. Section 10-2-103, MCA, is amended to read:

"10-2-103. Seal -- acknowledgments -- officers official communications. (1) The board ~~may~~ shall provide for ~~a~~ an official seal.

(2) The members and employees of the board may take acknowledgments, depositions, and administer oaths and affirmations in any matters connected with the affairs of the board or ~~with the official duties of the members or employees of the board~~ division.

~~(3) The board shall select from its membership a chairman, a vice-chairman, and a secretary.~~

(3) The board and the division shall conduct official business on letterhead representative of the board and division."

{Internal References to 10-2-103: None.}

NEW SECTION. **Section 5. County veteran service officers.** A county may, with the advise and consent of the board, provide for a county veteran service officer to assist veterans and their families in filing benefit claims. A county veteran service officer must be trained, accredited, and supervised by the board in accordance with the applicable provisions of 38 CFR 14.629. However, a county veteran service officer may not be a state employee. A county may fund the position as provided for in 15-10-425 or through any other means available to the county.

Section 6. Section 10-2-106, MCA, is amended to read:

"10-2-106. Acceptance Application for and acceptance of

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federal or private non-profit funds. The board may apply for and accept from the federal government or any of its agencies thereof any funds or from private non-profit organizations gifts, grants, or donations made available to carry out purposes within the scope of the ~~activities and purposes of the board and accept such funds as the board directs~~ board's duties."

{Internal References to 10-2-106: None.}

NEW SECTION. Section 7. Rulemaking authority. To implement the provisions of this part, the board may adopt rules in accordance with the Montana Administrative Procedures Act.

Section 8. Section 10-2-601, MCA, is amended to read:

"10-2-601. State veterans' cemeteries. ~~The department of military affairs board~~ shall establish state veterans' cemeteries. A cemetery must be located at Fort William Henry Harrison, Lewis and Clark County, Montana, and at Miles City. The board may establish additional state veterans' cemeteries as the funding appropriated pursuant to 10-2-603 allows."

{Internal References to 10-2-601: None.}

Section 9. Section 10-2-602, MCA, is amended to read:

"10-2-602. Rulemaking authority -- fees. (1) ~~The department of military affairs board~~ shall adopt rules that provide eligibility criteria for determining ~~which veterans who~~ who may be buried in a state veterans' cemetery. The criteria must include but are not limited to a veterans' discharge status and length of service.

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(2) The board shall adopt rules establishing appropriate burial fees. However, the fees may not exceed actual costs and the board must credit to an eligible claimant any burial benefits, including plot allowances, paid to the state on behalf of the claimant by the U.S. department of veterans affairs, or its successor, or by a county pursuant to 10-2-501."

{Internal References to 10-2-602: None.}

Section 10. Section 10-2-603, MCA, is amended to read:

"10-2-603. Special revenue account -- use of funds -- solicitation. (1) There is an account in the special revenue fund to the credit of the ~~department of military affairs board~~ for the state veterans' cemeteries.

(2) Plot allowances paid to the state by the U.S. department of veterans affairs, or its successor, burial benefits paid by a county pursuant to 10-2-501, burial fees charged by the board pursuant to 10-2-602, and gifts, grants, or donations to the cemetery program, and fees from license plates issued pursuant to 61-3-332(10)(a)(ii), (10)(f), and (10)(h) must be deposited into the account.

(3) As appropriated by the legislature, money in the account may be used only for the construction, maintenance, operation, and administration of the state veterans' cemeteries. Administration includes the proportion of salaries and benefits paid pursuant to 10-2-102(4)(d).

(4) The ~~department of military affairs may~~ board shall actively solicit veterans' license plate sales and gifts, grants, and

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donations on behalf of the state veterans' cemeteries."

{*Internal References to 10-2-603:*
x15-1-122}

NEW SECTION. Section 11. {standard} Codification instruction.

(1) [Section 5] is intended to be codified as an integral part of Title 10, chapter 2, part 1, and the provisions of Title 10, chapter 2, part 1, apply to [section 5].

(2) [Section 7] is intended to be codified as an integral part of Title 10, chapter 2, part 6, and the provisions of Title 10, chapter 2, part 6, apply to [section 7].

NEW SECTION. Section 12. {standard} Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 13. {standard} Effective date. [This act] is effective July 1, 2003.

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