

AMENDED IN ASSEMBLY MAY 16, 2013

**SENATE BILL**

**No. 106**

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**Introduced by Senator Monning**

January 10, 2013

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An act to amend ~~Section~~ *Sections 1451 and 1453* of the Military and Veterans Code, relating to veterans, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 106, as amended, Monning. California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund.

Existing law creates the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund (Endowment Fund) in the State Treasury, and requires moneys in the Endowment Fund to be allocated, upon appropriation by the Legislature, to the ~~department~~ *Department of Veterans Affairs* for the annual administrative and oversight costs of the veterans cemetery, as specified, and to generate funding through interest for the veterans cemetery. Existing law provides that the Endowment Fund may consist of, among other things, donations from public and private entities and fees. Existing law authorizes the department to enter into any financial agreement to receive cash advances in the Endowment Fund, provided that no obligations of repayment are made to the state and the agreement is reviewed and performed in consultation with the Department of Finance.

This bill would instead authorize the department to enter into any financial agreement to receive cash advances in the Endowment Fund, provided that the agreement does not require the state to repay or make payments on cash advances and that the agreement is reviewed and approved by the Department of Finance.

*Existing law requires the department to develop and submit a State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs for the establishment of a veterans cemetery upon the determination of the Controller, after consultation with the Secretary of Veterans Affairs, that the Endowment Fund has adequate principal to annually yield sufficient investment earnings from the date of the determination to cover the annual administrative and oversight costs and to fund the estimated costs of developing and submitting the application.*

*This bill would instead require the department to develop and submit a State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs for the establishment of a veterans cemetery upon the determination of the Controller, after consultation with the Secretary of Veterans Affairs, that the Endowment Fund has adequate principal to yield sufficient investment earnings in each year for the next 10 years from the date of the determination to fully fund the respective year's administrative and oversight costs, net of all other estimated revenue sources, and to fund the estimated costs of developing and submitting the application.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1451 of the Military and Veterans Code
- 2 is amended to read:
- 3 1451. (a) The California Central Coast State Veterans
- 4 Cemetery at Fort Ord Endowment Fund is hereby created in the
- 5 State Treasury. Moneys in the Endowment Fund shall be allocated,
- 6 upon appropriation by the Legislature, to the department for the
- 7 annual administrative and oversight costs of the veterans cemetery,
- 8 pursuant to Sections 1453 and 1454, and to generate funding
- 9 through interest for the veterans cemetery.
- 10 (b) (1) Moneys in the fund shall first be invested with the goal
- 11 of achieving capital appreciation to create a balance sufficient to
- 12 generate ongoing earnings to cover the estimated annual oversight
- 13 and maintenance costs associated with the veterans cemetery
- 14 pursuant to Section 1453.

1 (2) Upon the determination of the Controller that the Endowment  
2 Fund balance has attained the goal established in paragraph (1),  
3 moneys in the fund shall be invested to generate earnings to fund  
4 annual oversight and maintenance costs associated with the  
5 veterans cemetery.

6 (c) (1) The Endowment Fund may consist of donations from  
7 public and private entities, partnerships between public and private  
8 entities, fees, cash advances, and transfers from the state General  
9 Fund as may be specified by law.

10 (2) The department may enter into any financial agreement to  
11 receive cash advances in the Endowment Fund, provided that the  
12 agreement does not require the state to repay or make payments  
13 on cash advances and the agreement is reviewed and approved by  
14 the Department of Finance.

15 (d) To the extent possible, donations made in-kind to the  
16 Endowment Fund shall be monetized so as to offset the ongoing  
17 administrative and oversight costs under Sections 1452 and 1453.

18 (e) Earnings generated by the Endowment Fund shall be retained  
19 by the fund.

20 (f) Moneys deposited in the Endowment Fund are exempt from  
21 the requirements of Sections 11270 through 11277 of the  
22 Government Code.

23 (g) Moneys in the Endowment Fund shall be invested by the  
24 Treasurer, after consultation with the department, in a manner that  
25 best meets the goals of the fund.

26 (h) If, through changes in state or federal law, additional  
27 revenues are identified for the administration and oversight of the  
28 cemetery, including increases in federal burial allowances, so that  
29 the amount of annual revenue exceeds the annual administrative  
30 and oversight costs, the excess revenues shall be deposited in the  
31 Endowment Fund.

32 *SEC. 2. Section 1453 of the Military and Veterans Code is*  
33 *amended to read:*

34 1453. (a) (1) Upon the determination of the Controller, after  
35 consultation with the Secretary of Veterans Affairs, that the  
36 Endowment Fund has adequate principal to—~~annually~~ yield  
37 sufficient investment earnings *in each year for the next 10 years,*  
38 from the date of the determination, to ~~cover the annual fully fund~~  
39 *the respective year's* administrative and oversight costs ~~over the~~  
40 *next 10 years, net of all other estimated revenue sources,* and to

1 fund the estimated costs of developing and submitting the State  
2 Veterans Cemetery Grant Program application, the department  
3 shall develop and submit a State Veterans Cemetery Grant Program  
4 application to the United States Department of Veterans Affairs  
5 for the establishment of a veterans cemetery. *The department shall*  
6 *consider cashflow needs when providing estimates to the Controller*  
7 *in making this determination.*

8 (2) The Controller, upon appropriation by the Legislature, shall  
9 transfer moneys from the Endowment Fund to the Operations Fund  
10 in an amount equal to the estimated costs of developing and  
11 submitting the State Veterans Cemetery Grant Program application  
12 to the United States Department of Veterans Affairs.

13 (3) Notwithstanding paragraph (1), the Controller, upon  
14 appropriation by the Legislature, shall transfer funds from the  
15 Endowment Fund to the Operations Fund in an amount at least  
16 equal to the estimated costs to complete preliminary plans and  
17 working drawings. Transfers shall be made only when sufficient  
18 funds, as determined by the Director of Finance, exist to fully  
19 accomplish each of these project phases.

20 (4) The department shall not proceed with advertisement for  
21 construction bids until the Endowment Fund has adequate principal  
22 to cover annual administrative and oversight costs, in accordance  
23 with paragraph (1).

24 (b) (1) The Secretary of Veterans Affairs shall submit the State  
25 Veterans Cemetery Grant Program application to the United States  
26 Department of Veterans Affairs within six months of the  
27 Controller's determination pursuant to subdivision (a). The  
28 Secretary of Veterans Affairs is authorized to act as the official  
29 representative of the state in connection with the State Veterans  
30 Cemetery Grant Program application, including providing the  
31 United States Department of Veterans Affairs throughout the  
32 application process with all necessary assurances that additional  
33 information shall be provided when required. The Secretary of  
34 Veterans Affairs shall have final approval of all aspects of the  
35 cemetery design and operation.

36 (2) Upon transfer of funds pursuant to paragraphs (2) and (3)  
37 of subdivision (a), the department is authorized to proceed with  
38 all activities necessary to support the submission of the State  
39 Veterans Cemetery Grant Program application.

1 (3) Upon the United States Department of Veterans Affairs’  
2 certification of the grant award, the department is authorized to  
3 proceed with construction and equipping of the veterans cemetery.

4 (c) (1) If awarded, the moneys received from the State Veterans  
5 Cemetery Grant Program shall be used to reimburse the  
6 Endowment Fund for the costs of developing and submitting the  
7 State Veterans Cemetery Grant Program application to the United  
8 States Department of Veterans Affairs and other eligible costs,  
9 and to fund 100 percent of costs allowed by the grant requirements,  
10 as well as the state’s share of any other costs for the design,  
11 construction, and equipping of the veterans cemetery.

12 (2) Any moneys received from the State Veterans Cemetery  
13 Grant Program that are transferred to the Endowment Fund for the  
14 reimbursement of the costs specified in paragraph (1) may be used  
15 by the department to reimburse any cash advances made to the  
16 Endowment Fund used for those costs to the extent allowed by  
17 grant requirements, once it is determined by the California  
18 Department of Veterans Affairs and certified by the Controller’s  
19 office that sufficient funds remain in the Endowment Fund to cover  
20 ongoing maintenance and operating costs.

21 *SEC. 3. This act is an urgency statute necessary for the*  
22 *immediate preservation of the public peace, health, or safety within*  
23 *the meaning of Article IV of the Constitution and shall go into*  
24 *immediate effect. The facts constituting the necessity are:*

25 *In order to meet the deadline of July 1, 2013, established by the*  
26 *United States Department of Veterans Affairs as a result of federal*  
27 *sequestration, which requires the California Department of*  
28 *Veterans Affairs to submit its application for millions of dollars*  
29 *in federal funds to cover the cost of building the California Central*  
30 *Coast State Veterans Cemetery at Fort Ord, it is necessary that*  
31 *this act take effect immediately.*