

AMENDED IN ASSEMBLY JUNE 11, 2013

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 Sections 1451 and 1453 of the Military and Veterans Code, relating to veterans, *making an appropriation therefor*, 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 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, if the Secretary of Veterans Affairs or the department fails to submit a grant application to the State Veterans Cemetery Grant Program, if the United States Department of Veterans Affairs denies the grant application, or if the grant funding is not received for any other reason, require any amounts donated, received, or deposited to the Endowment Fund by specified entities to be refunded by the Controller to those entities, and would make an appropriation for the purpose of making those refunds. This bill would also require any amounts remaining in the Endowment Fund after making the refunds, if any, to be transferred to the General Fund.*

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

Vote:  $\frac{2}{3}$ . Appropriation: ~~no~~-yes. 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:

1 1451. (a) The California Central Coast State Veterans  
2 Cemetery at Fort Ord Endowment Fund is hereby created in the  
3 State Treasury. Moneys in the Endowment Fund shall be allocated,  
4 upon appropriation by the Legislature, to the department for the  
5 annual administrative and oversight costs of the veterans cemetery,  
6 pursuant to Sections 1453 and 1454, and to generate funding  
7 through interest for the veterans cemetery.

8 (b) (1) Moneys in the fund shall first be invested with the goal  
9 of achieving capital appreciation to create a balance sufficient to  
10 generate ongoing earnings to cover the estimated annual oversight  
11 and maintenance costs associated with the veterans cemetery  
12 pursuant to Section 1453.

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

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

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

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

30 (e) Earnings generated by the Endowment Fund shall be retained  
31 by the fund.

32 (f) Moneys deposited in the Endowment Fund are exempt from  
33 the requirements of Sections 11270 through 11277 of the  
34 Government Code.

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

38 (h) If, through changes in state or federal law, additional  
39 revenues are identified for the administration and oversight of the  
40 cemetery, including increases in federal burial allowances, so that

1 the amount of annual revenue exceeds the annual administrative  
2 and oversight costs, the excess revenues shall be deposited in the  
3 Endowment Fund.

4 SEC. 2. Section 1453 of the Military and Veterans Code is  
5 amended to read:

6 1453. (a) (1) Upon the determination of the Controller, after  
7 consultation with the Secretary of Veterans Affairs, that the  
8 Endowment Fund has adequate principal to yield sufficient  
9 investment earnings in each year for the next 10 years, from the  
10 date of the determination, to fully fund the respective year's  
11 administrative and oversight costs, net of all other estimated  
12 revenue sources, and to fund the estimated costs of developing  
13 and submitting the State Veterans Cemetery Grant Program  
14 application, the department shall develop and submit a State  
15 Veterans Cemetery Grant Program application to the United States  
16 Department of Veterans Affairs for the establishment of a veterans  
17 cemetery. The department shall consider cashflow needs when  
18 providing estimates to the Controller in making this determination.

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

24 (3) Notwithstanding paragraph (1), the Controller, upon  
25 appropriation by the Legislature, shall transfer funds from the  
26 Endowment Fund to the Operations Fund in an amount at least  
27 equal to the estimated costs to complete preliminary plans and  
28 working drawings. Transfers shall be made only when sufficient  
29 funds, as determined by the Director of Finance, exist to fully  
30 accomplish each of these project phases.

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

35 (b) (1) The Secretary of Veterans Affairs shall submit the State  
36 Veterans Cemetery Grant Program application to the United States  
37 Department of Veterans Affairs within six months of the  
38 Controller's determination pursuant to subdivision (a). The  
39 Secretary of Veterans Affairs is authorized to act as the official  
40 representative of the state in connection with the State Veterans

1 Cemetery Grant Program application, including providing the  
2 United States Department of Veterans Affairs throughout the  
3 application process with all necessary assurances that additional  
4 information shall be provided when required. The Secretary of  
5 Veterans Affairs shall have final approval of all aspects of the  
6 cemetery design and operation.

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

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

14 (c) (1) If awarded, the moneys received from the State Veterans  
15 Cemetery Grant Program shall be used to reimburse the  
16 Endowment Fund for the costs of developing and submitting the  
17 State Veterans Cemetery Grant Program application to the United  
18 States Department of Veterans Affairs and other eligible costs,  
19 and to fund 100 percent of costs allowed by the grant requirements,  
20 as well as the state’s share of any other costs for the design,  
21 construction, and equipping of the veterans cemetery.

22 (2) Any moneys received from the State Veterans Cemetery  
23 Grant Program that are transferred to the Endowment Fund for the  
24 reimbursement of the costs specified in paragraph (1) may be used  
25 by the department to reimburse any cash advances made to the  
26 Endowment Fund used for those costs to the extent allowed by  
27 grant requirements, once it is determined by the California  
28 Department of Veterans Affairs and certified by the Controller’s  
29 office that sufficient funds remain in the Endowment Fund to cover  
30 ongoing maintenance and operating costs.

31 (3) (A) *If the Secretary of Veterans Affairs or the department*  
32 *fails to submit a grant application as described in paragraph (1)*  
33 *of subdivision (b) to the United States Department of Veterans*  
34 *Affairs State Veterans Cemetery Grant Program, the United States*  
35 *Department of Veterans Affairs denies the grant application, or*  
36 *if the grant funding pursuant to the United States Department of*  
37 *Veterans Affairs State Veterans Cemetery Grant Program is not*  
38 *received for any other reason, any amounts donated to, received*  
39 *by, or deposited to the Endowment Fund by the entities described*  
40 *in subdivision (c) of Section 1451 shall be refunded by the*

1 *Controller to those entities, and that amount is hereby appropriated*  
2 *from that fund the purpose of making those refunds.*

3 *(B) Any amounts remaining in the Endowment Fund after*  
4 *making the refunds described in subparagraph (A), if any, shall*  
5 *be transferred to the General Fund.*

6 *(C) The Controller shall make the refunds to the entities,*  
7 *including the Central Coast Veterans Cemetery Foundation,*  
8 *pursuant to subparagraph (A) within six months from the date of*  
9 *the announcement or receipt of the grant funding denial*  
10 *notification or any other equivalent notification that the project*  
11 *will be unable to secure the grant funds and proceed to*  
12 *construction. Any transfer to the General Fund pursuant to*  
13 *subparagraph (B) shall also be made within that six month period.*

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

18 In order to meet the deadline of July 1, 2013, established by the  
19 United States Department of Veterans Affairs as a result of federal  
20 sequestration, which requires the California Department of  
21 Veterans Affairs to submit its application for millions of dollars  
22 in federal funds to cover the cost of building the California Central  
23 Coast State Veterans Cemetery at Fort Ord, it is necessary that this  
24 act take effect immediately.

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27 **CORRECTIONS:**

28 **Text—Page 6.**

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