

Senate Bill No. 106

CHAPTER 41

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.

[Approved by Governor June 28, 2013. Filed with
Secretary of State June 28, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 106, 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. Existing law also provides that the Endowment Fund is 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.

Appropriation: yes.

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

SECTION 1. Section 1451 of the Military and Veterans Code is amended to read:

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

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

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

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

(2) The department may 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 the agreement is reviewed and approved by the Department of Finance.

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

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

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

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

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

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

1453. (a) (1) 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 State Veterans Cemetery Grant Program application, the department shall 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. The department shall consider cashflow needs when providing estimates to the Controller in making this determination.

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

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

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

(b) (1) The Secretary of Veterans Affairs shall submit the State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs within six months of the Controller's determination pursuant to subdivision (a). The Secretary of Veterans Affairs is authorized to act as the official representative of the state in connection with the State Veterans Cemetery Grant Program application, including providing the United States Department of Veterans Affairs throughout the application process with all

necessary assurances that additional information shall be provided when required. The Secretary of Veterans Affairs shall have final approval of all aspects of the cemetery design and operation.

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

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

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

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

(3) (A) If the Secretary of Veterans Affairs or the department fails to submit a grant application as described in paragraph (1) of subdivision (b) to the United States Department of Veterans Affairs State Veterans Cemetery Grant Program, the United States Department of Veterans Affairs denies the grant application, or if the grant funding pursuant to the United States Department of Veterans Affairs State Veterans Cemetery Grant Program is not received for any other reason, any amounts donated to, received by, or deposited to the Endowment Fund by the entities described in subdivision (c) of Section 1451 shall be refunded by the Controller to those entities, and that amount is hereby appropriated from that fund the purpose of making those refunds.

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

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

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

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