

Senate Bill No. 232

CHAPTER 694

An act to amend Sections 1450, 1451, 1452, 1453, 1454, and 1456 of the Military and Veterans Code, and to amend the Budget Act of 2013 (Chapter 20 of the Statutes of 2013) by repealing Item 8955-011-0001 of Section 2.00 of that act, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 2013. Filed with
Secretary of State October 10, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 232, 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 requires moneys in the Endowment Fund to be invested to generate ongoing earnings to cover the estimated annual oversight and maintenance costs associated with the veterans cemetery, as provided.

This bill would instead require any moneys to be allocated to the department for the nonreimbursable costs of design and construction and the annual operations and maintenance costs of the veterans cemetery for the next 10 years. This bill would allow, but not require, moneys in the fund to be invested to generate ongoing earnings to offset the estimated annual operations and maintenance costs associated with the veterans cemetery.

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 Controller's determination 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, and to fund the estimated costs of developing and submitting the application, as specified.

This bill would instead require the department to develop and submit an application upon the Controller's determination that the Endowment Fund has adequate amounts, in addition to funding the estimated costs of developing and submitting the application, to fully fund the nonreimbursable costs of design and construction and the operations and maintenance costs for the next 10 years. This bill would require the Controller to consider the

estimated revenues from specified fees expected to be deposited into the Endowment Fund in making this determination.

This bill would allow any moneys, if awarded, received from the State Veterans Cemetery Grant Program to be used to reimburse the Endowment Fund for specified allowable costs as established by that program.

Existing law authorizes the Director of Finance to transfer up to \$1,500,000 as a loan from the General Fund to the Endowment Fund, and requires the loan to be repaid with interest, as provided.

This bill would repeal that authorization, and instead make an appropriation of \$1,000,000 from the General Fund to the Endowment Fund for the construction of the California Central Coast State Veterans Cemetery at Fort Ord. This bill would require any amounts transferred by the Director of Finance as a loan from the General Fund to the Endowment Fund to be returned to the General Fund.

This bill would make technical, conforming changes to change the references to “administrative and oversight” to “operations and maintenance.”

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 1450 of the Military and Veterans Code is amended to read:

1450. For purposes of this chapter, the following definitions apply:

(a) “Department” means the Department of Veterans Affairs.

(b) “Endowment Fund” means the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund.

(c) “Nonreimbursable costs of design and construction” means the costs of planning, design, and construction of the California Central Coast State Veterans Cemetery at Fort Ord that are not reimbursable from the moneys received from the State Veterans Cemetery Grant Program as allowable costs as established by the United States Department of Veterans Affairs State Veterans Cemetery Grant Program.

(d) “Operations and maintenance costs” means costs incurred by the department for the operations and maintenance of the veterans cemetery including, but not limited to, personnel costs, the opening and closing of graves, the interment of remains, committal service coordination, grounds keeping, landscaping, general maintenance, and janitorial services.

(e) “Operations Fund” means the California Central Coast State Veterans Cemetery at Fort Ord Operations Fund.

(f) “Phases” means the usual phases of a capital outlay project, and includes studies, preliminary plans, working drawings, including documents necessary to put the construction phase out to bid, and construction.

(g) “Veterans cemetery” means the California Central Coast State Veterans Cemetery at Fort Ord.

SEC. 2. 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 nonreimbursable costs of design and construction and the annual operations and maintenance costs of the veterans cemetery for the next 10 years.

(b) Moneys in the fund may be invested to generate earnings to offset annual operations 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 operations and maintenance 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 operations and maintenance of the cemetery, including increases in federal burial allowances, so that the amount of annual revenue exceeds the annual operations and maintenance costs, the excess revenues shall be deposited in the Endowment Fund.

SEC. 3. Section 1452 of the Military and Veterans Code is amended to read:

1452. (a) On or before July 1, 2014, and annually thereafter, the Controller, after consultation with the department, shall report to the Assembly and Senate Committees on Veterans Affairs, Monterey County, the City of Seaside, and the Fort Ord Reuse Authority on the status of the Endowment Fund, the amount of any interest and investment earnings generated by the Endowment Fund, and the estimated amount needed that will sufficiently cover the estimated annual operations and maintenance costs.

(b) The estimated annual operations and maintenance costs shall be developed annually by the department and provided to the Controller for purposes of the report required by subdivision (a) by no later than June 15 of each year.

SEC. 4. 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 amounts to fully fund the nonreimbursable costs of design and construction and the operations and maintenance costs for the next 10 years, 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. The Controller shall consider the estimated revenues from the fees described in Section 1455 expected to be deposited into the Endowment Fund 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 amounts to cover annual operations and maintenance 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 allowable costs as established by the United States Department of Veterans Affairs State Veterans Cemetery Grant Program 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 operations and maintenance 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. 5. Section 1454 of the Military and Veterans Code is amended to read:

1454. (a) The Central Coast Veterans Cemetery Master Development Fund is hereby renamed the California Central Coast State Veterans Cemetery at Fort Ord Operations Fund. Moneys in the Operations Fund may be transferred, upon appropriation by the Legislature, from the

Endowment Fund to the Operations Fund for expenditure by the department, solely for the annual operations and maintenance costs of the veterans cemetery.

(b) (1) The Controller shall reserve an amount, not to exceed 20 percent of the amount allocated pursuant to subdivision (a), in the Operations Fund, which shall be used solely as a reserve for unforeseen operations and maintenance costs.

(2) For purposes of this subdivision, “unforeseen operations and maintenance costs” means any costs that could not have been reasonably anticipated by the department when preparing its estimate of annual operations and maintenance costs and that are needed to carry out the purposes of this chapter.

SEC. 6. Section 1456 of the Military and Veterans Code is amended to read:

1456. (a) Proposals for the construction, placement, or donation of monuments or memorials, excluding headstones, and other amenities to the veterans cemetery shall be subject to review by the California Central Coast Veterans Cemetery Advisory Committee.

(b) All proposals for the construction, placement, or donation of monuments, memorials, and amenities to the veterans cemetery shall be subject to the approval of the Secretary of Veterans Affairs.

(c) The department shall adopt regulations for the policies and procedures to be followed with respect to the design, placement, and approval of monuments and memorials proposed to be placed on veterans cemetery grounds.

(d) Endowment Fund balances exceeding that determined to be sufficient to meet annual operations and maintenance costs, as determined pursuant to Section 1453, may be expended, upon appropriation by the Legislature, for the purpose of establishing monuments, memorials, and amenities.

SEC. 7. Item 8955-011-0001 of Section 2.00 of the Budget Act of 2013 is repealed.

SEC. 8. (a) The amount of one million dollars (\$1,000,000) is hereby appropriated from the General Fund to the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund for the construction of the California Central Coast State Veterans Cemetery at Fort Ord.

(b) Any amounts transferred by the Director of Finance as a loan from the General Fund to the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund pursuant to Item 8955-011-0001 of Section 2.00 of the Budget Act of 2013 (Chapter 20 of the Statutes of 2013) shall be returned to the General Fund.

(c) The Secretary of Veterans Affairs shall report annually, by January 10 of each year, commencing January 10, 2015, to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees of each house of the Legislature on all expenditures made pursuant to subdivision (a).

SEC. 9. 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 raise necessary funds by October 1, 2013, to be able to qualify to receive 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.

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