

Senate Bill No. 815

Passed the Senate August 19, 2013

Secretary of the Senate

Passed the Assembly August 8, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 699.5, 721, 951, 952, 970, 971, 981.2, 981.3, 1012.2, 1025, and 1026 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 815, Committee on Veterans Affairs. Veterans.

Existing law authorizes the Department of Veterans Affairs to assist a veteran and his or her dependents or survivors to make a claim against the United States arising out of war service and establishing a right to a privilege, preference, care, or compensation.

This bill would instead authorize assistance for claims against the United States arising out of military service.

The existing Military and Veterans Code contains various references to the "Director of the Veterans Administration" and to the "Veterans Administration" that have been rendered obsolete by subsequent changes in the law.

This bill would correct these obsolete references by instead referring to the "Secretary of Veterans Affairs" and to the "United States Department of Veterans Affairs," respectively.

Existing law authorizes the board of supervisors of each county to appoint a county veterans service officer to perform duties relating to the administration of benefits to veterans.

This bill would make technical, nonsubstantive changes to that provision.

Existing law requires the county veterans service officer to assist every veteran and the dependents of every deceased veteran in presenting and pursuing any claim the veteran may have against the United States and in establishing the veteran's right to any privilege, preference, care, or compensation provided for by the laws.

This bill would require the county veterans service officer to also assist, in the manner described above, any qualified former member, as defined.

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

SECTION 1. Section 699.5 of the Military and Veterans Code is amended to read:

699.5. (a) The department may assist every veteran of the United States and the dependent or survivor of every veteran of the United States in presenting and pursuing the claim as the veteran, dependent, or survivor may have against the United States arising out of military service and in establishing the veteran's, dependent's, or survivor's right to any privilege, preference, care, or compensation provided for by the laws of the United States or of this state. The department may cooperate and, with the approval of the Department of Finance, contract with any veterans service organization, and pursuant to the contract may compensate the organization for services within the scope of this section rendered by it to any veteran or dependent or survivor of a veteran. The contract shall not be made unless the department determines that, owing to the confidential relationships involved and the necessity of operating through agencies that the veterans, dependents, or survivors involved will feel to be sympathetic toward their problems, the services cannot satisfactorily be rendered otherwise than through the agency of the veterans organization and that the best interests of the veterans, dependents, or survivors involved will be served if the contract is made.

(b) (1) The Legislature finds and declares that services provided by veterans service organizations play an important role in the department's responsibilities to assist veterans and their dependents and survivors in presenting and pursuing claims against the United States, and that it is an efficient and reasonable use of state funds to provide compensation to veterans service organizations for these services.

(2) The Legislature further finds and declares that paragraph (1) shall not be implemented by using the General Fund until the annual budget for county veterans service officers reaches a minimum of five million dollars (\$5,000,000). This subdivision shall not be construed to preclude the use of federal funding in implementing these provisions.

(c) Veterans service organizations that elect to contract with the department in accordance with this section shall document the claims processed each year by the veterans service officers

employed by the veterans service organization at offices located in California. The documentation shall be in accordance with procedures established by the department.

(d) The department shall determine annually the amount of monetary benefits paid to eligible veterans and their dependents and survivors in the state as a result of the work of the veterans service officers of the contracting organizations. Beginning on January 1, 2006, the department shall, on or before January 1 of each year, prepare and transmit its determination for the preceding fiscal year to the Department of Finance and the Legislature. The department shall also identify federal sources to support the efforts of veterans service organizations pursuant to this section. The Department of Finance shall review the department's determination in time to use the information in the annual Budget Act for the budget of the department for the next fiscal year.

(e) For purposes of this section:

(1) "Survivor" means any relation of a deceased veteran who may be entitled to make a claim for any privilege, preference, care, or compensation under the laws of the United States or this state based upon the veteran's war service.

(2) "Veterans service officer" means an individual employed by a veterans service organization and accredited by the United States Department of Veterans Affairs to process and adjudicate claims and other benefits for veterans and their dependents and survivors.

(3) "Veterans service organization" means an organization that meets all of the following criteria:

(A) Is formed by and for United States military veterans.

(B) Is chartered by the United States Congress.

(C) Has regularly maintained an established committee or agency in a regional office of the United States Department of Veterans Affairs in California rendering services to veterans and their dependents and survivors.

SEC. 2. Section 721 of the Military and Veterans Code is amended to read:

721. If any public agency which has rendered a service, provided benefits, or furnished assistance to a veteran determines that the costs of rendering the service or providing the benefits or assistance are recoverable from the United States Department of Veterans Affairs, it shall refer the matter to the county veterans

service officer, where applicable, for action pursuant to Section 971 and shall assist the county veterans service officer in any way.

SEC. 3. Section 951 of the Military and Veterans Code is amended to read:

951. (a) “Veteran status information” means the data required by the Department of Veterans Affairs to verify the status of a decedent as either a veteran or the dependent of a veteran for purposes of eligibility for burial in a national or state cemetery, including the person’s name, service number, social security number, date of birth, date of death, place of birth, branch of the service, and military rank.

(b) “Veterans’ remains organization” means any entity recognized by the United States Department of Veterans Affairs and the National Personnel Records Center as an organization authorized to verify and inter unclaimed cremated remains of American veterans, including a member or employee of that entity.

SEC. 4. Section 952 of the Military and Veterans Code is amended to read:

952. (a) A cemetery corporation or association, or other entity in possession of the cremated remains of a veteran or dependent of a veteran, shall, upon request of a veterans’ remains organization and after verifying the status of the veterans’ remains organization as an organization currently authorized by the United States Department of Veterans Affairs and the National Personnel Records Center or as an organization authorized by the local county board of supervisors to verify and inter unclaimed cremated remains of American veterans, release veteran status information to the veterans’ remains organization.

(b) The use or disclosure of veteran status information obtained by a veterans’ remains organization pursuant to subdivision (a) shall be permitted only for the purpose of verifying veteran interment benefits of the deceased veteran or a dependent of a veteran with the California Department of Veterans Affairs and shall not be used or disclosed for any other purpose.

(c) The cemetery authority, cemetery corporation or association, or other entity in possession of the cremated remains of a veteran or dependent of a veteran may, upon request of a veterans’ remains organization and after verifying the status of the veterans’ remains organization as an organization currently authorized by the United States Department of Veterans Affairs and the National Personnel

Records Center or as an organization authorized by the local county board of supervisors to verify and inter unclaimed cremated remains of American veterans, release the cremated remains of the veteran or dependent of a veteran to a veterans' remains organization for the sole purpose of interment, subject to Section 943 and Sections 7110 and 7208 of the Health and Safety Code, when all of the following conditions have been met:

(1) The veterans' remains organization has verified the interment benefits of the deceased veteran or dependent of a veteran with the California Department of Veterans Affairs and provided documentation of the verification to the cemetery authority, cemetery corporation or association, or other entity that the decedent is a veteran or a dependent of a veteran eligible for burial in a national or state cemetery.

(2) The veterans' remains organization has made a reasonable effort to locate the agent or family member who has the right to control the cremated remains of the veteran or dependent of a veteran.

(3) The veterans' remains organization has provided notice to all known agents or family members who have the right to control the cremated remains of the veteran or dependent of a veteran of the veteran's remains organization's intent to claim the cremated remains of the veteran or dependent of a veteran for the purpose of providing a proper burial of the cremated remains of the veteran or dependent of a veteran in accordance with Section 943 and Sections 7110 and 7208 of the Health and Safety Code.

(4) An agent or family member who has the right to control the cremated remains of the veteran or dependent of a veteran has made no attempt to claim the cremated remains.

(5) The cremated remains have been in the possession of the cemetery authority, cemetery corporation or association, or other entity for a period of at least one year.

(d) The cemetery authority, cemetery corporation or association, or other entity that releases veteran status information or cremated remains of the veteran or dependent of a veteran pursuant to this section shall not be subject to civil liability, except for gross negligence, if all of the conditions of this section are met.

SEC. 5. Section 970 of the Military and Veterans Code is amended to read:

970. (a) The board of supervisors of each county may, but is not required to, appoint, prescribe the qualifications of, and fix the compensation of an officer to be titled “county veterans service officer.” The appointee shall be a veteran.

(b) It shall be the duty of the county veterans service officer to administer the aid provided for in this chapter, to investigate all claims, applications, or requests for aid made pursuant to the terms of this chapter, and to perform any other veteran related services as requested by the county board of supervisors.

(c) Notwithstanding subdivision (a), two or more counties may jointly establish a single county veterans service office which shall serve all the counties that agree to the joint establishment of that office.

SEC. 6. Section 971 of the Military and Veterans Code is amended to read:

971. (a) The county veterans service officer shall assist every veteran of any war of the United States and every qualified former member, and the dependents of every deceased veteran and every qualified former member, in presenting and pursuing any claim the veteran or the qualified former member may have against the United States and in establishing the veteran’s or qualified former member’s right to any privilege, preference, care, or compensation provided for by the laws of the United States or of this state.

(b) The county veterans service officer shall present and pursue claims against the United States referred by any public agency pursuant to Section 721.

(c) For purposes of this section, “qualified former member” means any former member of the United States Armed Forces, who is eligible under federal law to receive any veterans benefit from the United States Department of Veterans Affairs or any other agency of the federal government.

SEC. 7. Section 981.2 of the Military and Veterans Code is amended to read:

981.2. The department, insofar as the funds permit, may provide an allowance of one hundred dollars (\$100) for each month the student is in satisfactory and actual full-time attendance at an educational institution, and pursuing a course of study leading to a bachelor of arts or bachelor of science degree, or to a recognized degree, license, certificate, or diploma.

For purposes of this section, the term “full-time attendance” shall be defined in the same manner as it is defined by the educational institution attended by the student. For purposes of this section, “educational institution” shall be defined as any school or college of the collegiate level accredited by the Western Association of Schools and Colleges, including a community college, and shall include a vocational school or any other school approved by the State Department of Education for the purpose of receipt by a student of educational benefits afforded by the United States Department of Veterans Affairs.

The department may provide for such educational benefits for full-time students pursuing a course of study leading to a recognized postgraduate or professional degree, license, certificate, or diploma in educational institutions in other states or in other countries when such course of study is otherwise unavailable to the student.

SEC. 8. Section 981.3 of the Military and Veterans Code is amended to read:

981.3. The amount expended on account of any one veteran under this article shall not exceed one thousand two hundred dollars (\$1,200). Eligibility for benefits conferred under this article shall not be granted if either the student has not exhausted his or her rights to educational benefits afforded by the United States Department of Veterans Affairs, or four years have elapsed from termination of educational benefits afforded by the United States Department of Veterans Affairs.

SEC. 9. Section 1012.2 of the Military and Veterans Code is amended to read:

1012.2. Notwithstanding any other law, any member of the home who is receiving an aid and attendance allowance from the United States Department of Veterans Affairs and who has no dependent spouse, child, grandchild, father, or mother shall pay to the home an amount equal to that allowance in all levels of care excluding domiciliary. One hundred percent of the moneys received by the home under this section shall be placed to the credit of the home and shall augment the current appropriation for the support of the home.

SEC. 10. Section 1025 of the Military and Veterans Code is amended to read:

1025. The home shall be open at any time to the inspection of the Secretary of Veterans Affairs or his or her authorized representative.

SEC. 11. Section 1026 of the Military and Veterans Code is amended to read:

1026. The records, reports, and accounts kept by the home shall conform, as nearly as possible, to the requirements of the United States Department of Veterans Affairs.

Approved _____, 2013

Governor