

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1124 Session of
1991

INTRODUCED BY KENNEY, JOHNSON, MRKONIC, GEIST, ARMSTRONG, ALLEN,
DeLUCA, BELFANTI, BELARDI, STABACK, BARLEY, CLARK, ANGSTADT,
MAYERNIK, SAURMAN, PETRARCA, BUNT, LUCYK, NOYE, DEMPSEY,
HARPER, O'BRIEN AND DONATUCCI, APRIL 10, 1991

REFERRED TO COMMITTEE ON MILITARY AND VETERANS AFFAIRS,
APRIL 10, 1991

AN ACT

1 Providing for compensation to veterans of the Persian Gulf
2 Conflict and administration of a compensation program;
3 imposing penalties; and making an appropriation.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Persian Gulf
8 Conflict Veterans' Compensation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Legal resident." An individual who gave this Commonwealth
14 or any specific place in this Commonwealth as his or her place
15 of residence or home address when entering the armed forces of
16 the United States without regard to the place of enlistment,
17 commission or induction. The proof of such residence shall be

1 either the official records of the United States or such other
2 evidence of bona fide residence as may be deemed sufficient by
3 the Adjutant General.

4 "Veteran." A member of the armed forces of the United
5 States, including a member of the Army National Guard of the
6 United States, the Air National Guard of the United States or a
7 reserve component of the armed forces who was ordered into or
8 volunteered to serve on active duty in the Persian Gulf theater
9 of operations during the period from August 2, 1990, to the date
10 on which hostilities ended. This term shall not include:

11 (1) any individual who, at any time during the Persian
12 Gulf War or thereafter, was separated from the armed forces
13 under other than honorable conditions; and

14 (2) any individual who has renounced his United States
15 citizenship.

16 Section 3. Computation of compensation.

17 Compensation shall be payable under this act only to any
18 veteran who was a legal resident of this Commonwealth.

19 Compensation shall be computed on the basis of \$250 for every
20 month, or major fraction thereof, of active duty service in the
21 Persian Gulf theater of operations, or time spent in military
22 hospitals as a result of service-connected wounds, diseases or
23 injuries, sustained or acquired in such Persian Gulf theater of
24 operations. Compensation of a veteran who died in the active
25 armed forces duty in the Persian Gulf theater of operations or
26 as a result of disease, wound or injury incurred in the Persian
27 Gulf theater of operations, or those missing in action who have
28 not been declared dead or captured shall be \$10,000. No veteran,
29 except a veteran who has been declared missing in action or who
30 died in active military, naval or air service during the period

1 set forth in section 2 shall be entitled to receive compensation
2 under this act in a sum to exceed \$8,000.

3 Section 4. Application for compensation.

4 (a) Application to Adjutant General.--Applications for
5 compensation shall be made to the Adjutant General on forms and
6 in the manner as he shall prescribe.

7 (b) Application process.--All applications shall be made
8 personally by the veteran. If the veteran has died or is
9 mentally incompetent, or missing in action, the application
10 shall be made by such representative of the veteran as the
11 Adjutant General shall, by regulation, prescribe. An application
12 made by a representative other than one authorized by regulation
13 shall be void.

14 (c) Application deadline.--The Adjutant General shall not
15 accept or consider any application filed or mailed after four
16 years beyond the date of the Presidential Executive Order
17 terminating hostilities in the Persian Gulf.

18 Section 5. Persons to whom payment shall be made.

19 (a) General rule.--If, prior to the date of distribution of
20 compensation under the provisions of this act, a veteran
21 entitled thereto dies or is determined to be legally dead by the
22 Federal authorities under any act for the payment of Federal
23 benefits or becomes mentally incapable of receiving his or her
24 compensation, payment shall be made by the Adjutant General
25 without proceedings in this Commonwealth.

26 (b) Mental incompetency.--In the case of mental
27 incompetence, payment shall be made to the guardian or
28 committee, if any, of the veteran, or in the case of a veteran
29 who is hospitalized in a Federal, State or county institution
30 for treatment of mental illness, upon order of the Adjutant

1 General, without regard to the residence of the veteran, payment
2 shall be made to the person who would be entitled to payment
3 under this act if the veteran were deceased, and in the absence
4 of any such claimant, to the superintendent, manager or person
5 in charge of such Federal, State or county institution to be
6 expended for the clothing and incidental needs of the veteran.
7 No part of the compensation shall be paid to any State or county
8 institution for the maintenance of the veterans. A statement
9 from the superintendent, manager or person in charge of any
10 Federal, State or county institution in which the veteran is a
11 patient shall be admitted in evidence to determine the mental
12 condition of the veteran. The statement shall set forth that the
13 veteran, due to mental illness, is likely to dissipate such
14 funds as may be due to him under this act and is apt to become
15 the victim of designing person.

16 (c) Dead or missing in action.--In the case of a death or a
17 veteran missing in action, who has not been declared dead or
18 captured, payment shall be made to the following persons in the
19 order named: surviving spouse or unremarried widow or widower if
20 the spouse or widow or widower was living with the veteran at
21 the time of death or departure, or if not living with the
22 veteran at the time of death or departure, or if spouse
23 establishes to the satisfaction of the Adjutant General that the
24 living apart was not due to a willful act and that the spouse
25 was actually dependent upon the veteran at the time of death or
26 departure or at anytime thereafter, and before the final payment
27 is made by the designated authorities, or surviving minor child
28 or surviving minor children, share, and share alike, or
29 surviving mother and/or surviving father.

30 (d) Definition.--As used in this section, the term "child"

1 shall include an adopted child. The terms "mother" and "father"
2 include mothers and fathers through adoption and persons who
3 have, for a period of not less than one year, acted in the
4 capacity of a foster parent to the veteran immediately to his or
5 her having attained the age of 18 years.

6 Section 6. Applicant to designate beneficiaries.

7 Every person making an application for compensation shall set
8 forth in the application the names and addresses of all persons
9 who, under this act, would be entitled to receive compensation
10 in the event of the death of the applicant, and if the applicant
11 dies before the payment of the compensation, then the
12 application shall be deemed to inure to the benefit of the
13 person next entitled to compensation, and payment shall be made
14 to the person upon proof of identity satisfactory to the
15 Adjutant General. If all persons designated in this act as being
16 entitled to compensation die before payment, their right to
17 compensation shall cease and determine. Application for
18 compensation, made on behalf of minor children, shall be made by
19 the duly appointed guardian of the children or by any person who
20 stands in loco parentis to the minor children, and payment shall
21 be made to the guardian or person who stands in loco parentis.

22 Section 7. Exemption from attachment, etc.

23 No sum payable under this act to a veteran or to any other
24 person under this act shall be subject to attachment, levy or
25 seizure under any legal or equitable process, and shall be
26 exempt from all State taxation. No right to compensation under
27 the provisions of this act shall be assignable, except as
28 hereinafter provided, or serve as a security for any loan. Any
29 assignment or loan made in violation of the provisions of this
30 section shall be held void. Assignments to any group or

1 organization of veterans, incorporated or unincorporated, or to
2 any nonprofit corporation heretofore formed, solely for aiding
3 disabled or incapacitated veterans and assignments to the State
4 Veterans' Commission shall be valid. The State Veterans'
5 Commission is hereby authorized to accept the assignments which
6 shall be treated as confidential, and the funds realized from
7 them shall be expended by the State Veterans' Commission solely
8 for the aid of needy veterans and their families. Except as
9 provided in this section, the Adjutant General shall not direct
10 the payment nor shall payment be made under this act to any
11 person other than a veteran or the representatives of a veteran.

12 Section 8. Digest and explanation of act.

13 (a) Preparation of pamphlet.--The Adjutant General shall, as
14 soon as practicable, after the approval of this act, prepare and
15 publish a pamphlet or pamphlets containing a digest and
16 explanation of the provisions of this act, accompanied by
17 statements which he may believe may be of assistance to the
18 veterans in filing their applications, and shall, from time to
19 time, prepare and publish any additional or supplementary
20 information as may be found necessary.

21 (b) Distribution of pamphlet.--The pamphlet or pamphlets
22 shall be distributed in a manner as the Adjutant General may
23 determine to be most effective to inform veterans of their
24 rights under this act. The Adjutant General shall enlist, as far
25 as possible, the services of veteran organizations in this
26 Commonwealth to assist in the dissemination of such information.

27 Section 9. Ascertainment of service.

28 Immediately upon the effective date of this act, and at such
29 other times as the Adjutant General may deem necessary, the
30 Adjutant General shall ascertain the individuals who are

1 veterans and, as to each veteran, the number of months of
2 service for which the veteran is entitled to receive
3 compensation. The decision of the Adjutant General as to the
4 eligibility and payment of compensation shall be final and not
5 subject to review. In all cases not within the express purview
6 of this act, the decision of the Adjutant General as to payment
7 or nonpayment of compensation or eligibility for compensation,
8 shall be in all things final.

9 Section 10. Payment.

10 (a) Proceeds for proposed bond issue.--The compensation
11 payable under this act shall be paid by the State Treasurer from
12 the Persian Gulf War Veterans' Compensation Fund, to be created
13 with funds realized from a proposed bond issue, if and when
14 approved pursuant to section 7(a)(3) of Article VIII of the
15 Constitution of Pennsylvania, upon requisition by the Adjutant
16 General.

17 (b) Prompt payment.--Payments under this act shall be made
18 as soon as possible after funds thereof are available.

19 (c) Payments from fund.--Compensation paid for
20 hospitalization under section 3 spent in military hospitals
21 outside of the Persian Gulf theater of operations shall be paid
22 from the Persian Gulf War Veterans' Compensation Fund, if and
23 when approved by the electorate.

24 Section 11. Administration of act.

25 (a) Duties of Adjutant General.--The Adjutant General shall
26 administer this act and, for that purpose, he shall prepare and
27 distribute application blanks, investigate all claims and
28 applications filed with him, and, if satisfied of the proof of a
29 claim or application, approve the claim or application and
30 direct payment of compensation. The Adjutant General shall

1 promulgate rules and regulations to implement, administer and
2 enforce this act.

3 (b) Permanent records.--The books, papers and records
4 together with the filing cases and equipment procured and used
5 in the administration of this act shall become a part of the
6 permanent records of the Office of Adjutant General.

7 (c) Printing.--All printing necessary to carry out this
8 provisions of this act shall be done by the Department of
9 General Services upon requisition of the Adjutant General.

10 (d) Staff.--The Adjutant General may employ the necessary
11 staff help and fix their salaries and pay for postage and other
12 expenses incurred in the administration of this act. In all
13 appointments under this act, preference shall, so far as
14 practicable, be given to veterans, as defined in this act.

15 (e) Administration of oath.--Employees of the Department of
16 Military Affairs of the Commonwealth, whose specific duty is to
17 aid and assist veterans and their widows, children and
18 dependents in the prosecution of claims before the Veterans'
19 Administration or other branch of the Federal Government, are
20 hereby authorized and empowered to administer oaths and
21 affirmations in all matters pertaining to and concerning such
22 claims.

23 Section 12. Penalty for fees for assisting veterans.

24 Any person who charges or collects, or attempts to charge or
25 collect, either directly or indirectly, any fee or other
26 compensation for assisting a veteran in obtaining any of the
27 benefits to which he or she is entitled under the provisions of
28 this act shall be guilty of a misdemeanor, and shall, upon
29 conviction, be sentenced to pay a fine of not more than \$2,500
30 or to imprisonment for not more than one year, or both.

1 Section 13. Penalty for false or fraudulent statements.

2 A person who knowingly makes any false or fraudulent
3 statement of a material fact in any application, certificate or
4 document made under this act, or of any regulation made by the
5 Adjutant General in administering this act, commits a
6 misdemeanor, and shall, upon conviction, be sentenced to pay a
7 fine of not more than \$1,000 or to imprisonment for not more
8 than five years, or both.

9 Section 14. Appropriation.

10 For the purpose of paying for the compensation to eligible
11 veterans, staff services, postage and other necessary expenses
12 incurred by the Adjutant General in the administration of this
13 act, the sum of , or as much thereof as may be necessary,
14 is specifically appropriated to the Department of Military
15 Affairs.

16 Section 15. Effective date.

17 This act shall take effect immediately.