

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 472 Session of
1999

INTRODUCED BY ZUG, MARSICO, BROWNE, BEBKO-JONES, BELARDI,
BENNINGHOFF, DeLUCA, FORCIER, FREEMAN, GEIST, HARHAI, HERMAN,
S. MILLER, ORIE, PESCI, ROBINSON, SEYFERT, STABACK,
E. Z. TAYLOR, J. TAYLOR, TRELLO, TRUE, WILLIAMS AND
WOJNAROSKI, FEBRUARY 9, 1999

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 9, 1999

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled
2 "An act relating to counties of the third, fourth, fifth,
3 sixth, seventh and eighth classes; amending, revising,
4 consolidating and changing the laws relating thereto,"
5 further providing for definitions, for payment, for grave
6 markers, for Memorial Day appropriations and for flags to
7 decorate graves.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1908 of the act of August 9, 1955
11 (P.L.323, No.130), known as The County Code, amended January 31,
12 1956 (P.L.976, No.303), is amended to read:

13 Section 1908. Definitions.--(a) The term deceased service
14 person, as used in this subsection, shall mean and include:

15 (1) Any deceased person who, at the time of his or her
16 death, was serving [(]_whether or not in a combat zone[)_] in
17 the Army, Navy, Air Force, Marine Corps, Coast Guard or group
18 which provided military-related service to the United States of
19 America and which has been granted veteran status by the

1 Secretary of Defense, or any women's organization officially
2 connected therewith, during any war or armed conflict in which
3 the United States has been, is now or shall hereafter be
4 engaged, or who, at the time of his or her death, was serving in
5 a zone where a campaign or state or condition of war or armed
6 conflict then existed, in which the United States was, is or
7 shall be a participant. The existence of a campaign or state or
8 condition of war or armed conflict, and the participation of the
9 United States therein, as well as the fact that the deceased
10 person served in a zone where such campaign or state or
11 condition of war or armed conflict existed, shall, in each case,
12 be established by the records of the Department of Defense of
13 the Federal Government; or

14 (2) Any deceased person, who had so served at any time
15 during his or her life, and whose separation from such service
16 was honorable, whether by discharge or otherwise, or who at the
17 time of his or her death was continuing in such service after
18 the cessation of the war, armed conflict, campaign or state or
19 condition of war during or in which he or she served; or

20 (3) Any deceased person who was in active service in the
21 militia of the State of Pennsylvania under and in pursuance of
22 any proclamation issued by the Governor during the Civil War,
23 who was not duly mustered into the service of the United States,
24 but was honorably discharged or relieved from such service.

25 (b) The term "legal residence" as used in this subsection,
26 shall be construed as synonymous with "domicile" and is hereby
27 defined as actual residence, coupled with intention that it
28 shall be permanent, or a residence presently fixed with no
29 definite intention of changing it, or of returning to a former
30 residence at some future period. Legal residence is to be

1 determined by abode of person and his or her intention to
2 abandon his or her former domicile and establish a new one. The
3 legal residence of a deceased service person shall be prima
4 facia in the county where he or she made his or her abode at the
5 time of his or her death.

6 Section 2. Section 1909 of the act, amended November 5, 1971
7 (P.L.510, No.120), is amended to read:

8 Section 1909. Funeral Expenses of Deceased Service

9 Persons.--(a) Any county is hereby authorized and directed to
10 contribute the sum of seventy-five dollars (\$75) and may
11 contribute an additional sum of twenty-five dollars (\$25)
12 towards the funeral expenses of each deceased service person in
13 the cases enumerated below, where in each case application
14 therefor is made within one year after the date of his or her
15 death. In the case of any deceased service person who died while
16 in the service, application need not be made within one year
17 after the date of his or her death, but may be made at any time
18 thereafter.

19 (b) Payments shall be made under the following
20 circumstances:

21 (1) Where the deceased service person at the time of his or
22 her death had his or her legal residence in the county, whether
23 or not he or she died in the county, and whether or not he or
24 she was buried in the county. It is hereby declared to be the
25 intent of the General Assembly that every deceased service
26 person having a legal residence in this Commonwealth at the time
27 of his or her death shall be entitled to the benefits of this
28 section, regardless of where he or she may have died or where he
29 or she may be buried, and that the liability therefor shall be
30 on the county, where the deceased service person shall have had

1 his or her legal residence at the time of his or her death.

2 (2) Where the deceased service person died and was buried in
3 the county, but at the time of his of her death did not have
4 legal residence within this Commonwealth, if the county
5 commissioners of the county where he or she died are notified in
6 writing by any organization of veterans that the body is
7 unclaimed by relatives or friends, and upon investigation shall
8 find such condition to exist.

9 (3) Where a deceased service person has died while a member
10 of [the Pennsylvania Soldiers' and Sailors'] a State Veterans
11 Home [at Erie, Pennsylvania,] and such home incurs all funeral
12 expenses and buries the soldier in a cemetery in the [City of
13 Erie, Pennsylvania] municipality in which such home is situated,
14 or [the] such home furnishes clothing, casket and shipping
15 case[,] and ships the body to the county from which he was
16 admitted to the home, the county from which he was admitted
17 shall reimburse and pay to the [Pennsylvania Soldiers' and
18 Sailors'] State Veterans Home the amount of seventy-five dollars
19 (\$75) or so much thereof as was actually expended by the home.

20 Section 3. Section 1911 of the act, amended Dec. 21, 1973
21 (P.L.423, No.147) and October 4, 1978 (P.L.1012, No.218), is
22 amended to read:

23 Section 1911. Payment.--(a) It shall be the duty of the
24 county to cause a voucher check to be drawn upon the treasury of
25 their county in the sum of seventy-five dollars (\$75), or one
26 hundred dollars (\$100) if the additional sum of twenty-five
27 dollars (\$25) is authorized, for each body buried in accordance
28 with the provisions of this subdivision, to be paid out of the
29 funds of the county, and such checks shall be made payable to
30 the applicant or applicants if the application shows that the

1 funeral expenses have been paid, otherwise to the undertaker
2 performing the services with notice to the applicant.

3 (b) Application for such contribution shall be made by the
4 personal representative of such deceased service person or
5 deceased service person's spouse, if there be such personal
6 representative, and if no such personal representative has
7 qualified then by any next of kin, individual, or veterans'
8 organization, who or which assumes responsibility for the cost
9 of burial of the body. The application shall be sustained by
10 affidavit as to the facts.

11 (c) The application shall be on forms prescribed by the
12 Department of [Military] Veterans Affairs and shall set forth
13 whether or not the funeral expenses have been paid. The
14 application shall have attached thereto a certified copy of the
15 death certificate and a certification by the undertaker, who had
16 charge of the burial of the body, and to the effect that the
17 undertaker did render such service.

18 Section 4. Section 1913(e) and (f) of the act, amended July
19 25, 1975 (P.L.95, No.48), are amended to read:

20 Section 1913. Markers for Graves; Headstones.--* * *

21 (e) No officer, trustee, association, corporation or person
22 in control of any cemetery, or a public burying ground, shall
23 have the right to question the composition of such bronze
24 markers, or to require that any of them be chemically analyzed
25 before being placed in the cemetery, or under any circumstances
26 to refuse to permit the erection thereof in the cemetery, or
27 public burying ground, or to charge for making the foundations
28 for the same more than is charged for making similar foundations
29 of the same proportion. Any person who violates any of the
30 provisions of this subsection shall, upon conviction thereof in

1 a summary proceeding, be sentenced to pay a fine of not less
2 than [ten dollars (\$10) nor more than] one hundred dollars
3 (\$100) nor more than one thousand dollars (\$1,000) for each
4 offense.

5 (f) The county commissioners of each county are hereby
6 authorized and directed to place a marker upon the grave of each
7 deceased service person, who at the time of his or her death had
8 his or her legal residence in the county, whether or not he or
9 she died in the county, and whether or not he or she was buried
10 in the county, and upon the grave of each deceased service
11 person buried in the county, who at the time of his or her death
12 did not have a legal residence within this Commonwealth. When
13 such deceased service person shall have been [a] an eligible
14 veteran of any war or campaign for which the Government of the
15 United States issued discharge buttons or service markers, the
16 markers designated for their graves shall include a facsimile of
17 said discharge button or service marker. When such markers are
18 upright flag holders they shall consist of cast bronze or any
19 other weather resistant material. When such deceased service
20 person shall have been a veteran of the Korean Conflict, the
21 markers designated for their graves shall include a circular
22 emblem with the words "Korea, U.S., 1950-1953" in the border
23 thereof, and shall incorporate the insignia of the Army, Navy,
24 Marine Corps, Air Force, and Coast Guard, in the form approved
25 by the State Veterans' Commission.

26 * * *

27 Section 5. Section 1921 of the act, amended June 7, 1961
28 (P.L.255, No.150) and October 4, 1978 (P.L.964, No.190), is
29 amended to read:

30 Section 1921. Appropriations to Veterans' Organizations for

1 Expenses of Memorial Day; Veterans' Day and Independence Day.--
2 (a) The board of commissioners may appropriate, annually, to
3 each camp of the United Spanish War Veterans, and to each post
4 of the American Legion, and to each post of the Veterans of
5 Foreign Wars, and to each post of the Veterans of World War I of
6 the U. S. A., Inc., and to each post of the American War
7 Veterans of World War II (AMVETS), and to each post of the
8 Society of the Twenty-eighth Division, AEF, Incorporated, and to
9 each post of the Italian American War Veterans of the United
10 States, Incorporated, and to each detachment of the Marine Corps
11 League, and to each Naval Association, and to each post of the
12 Grand Army of the Republic, and to each post of the Disabled
13 American Veterans of the World War, and to each organization of
14 American Gold Star Mothers, and to each organization of ex-
15 service persons incorporated under the act of April twenty-nine,
16 one thousand eight hundred seventy-four (Pamphlet Laws 73), and
17 the supplements thereto, in the county, any sum budgeted to aid
18 in defraying the expenses of Memorial Day[,] and Veterans' Day
19 [and Independence Day].

20 (b) Where the Grand Army of the Republic has ceased to exist
21 or to function, such appropriation may be made to the Sons of
22 Union Veterans of the Civil War or, in the absence of such
23 order, to a duly constituted organization which conducts the
24 decorating of graves of Union Veterans of the Civil War.

25 (c) Such payments shall be made to defray actual expenses
26 only. Before any payment is made, the organization receiving the
27 same shall submit verified accounts of their expenditures.

28 Section 6. Section 1922 of the act, amended June 12, 1986
29 (P.L.253, No.66), is amended to read:

30 Section 1922. Flags to Decorate Graves.--(a) It shall be

1 the duty of the county commissioners to provide flags on each
2 Memorial Day with which to decorate the graves of all deceased
3 service persons and the graves of all other deceased persons who
4 served in the Army, Navy, Air Force, Marine Corps, Coast Guard,
5 National Guard or Reserve Forces or in any women's organization
6 officially connected therewith, and whose separation from such
7 service was honorable, whether by discharge or otherwise, buried
8 within the county. The flags to be used for such purposes shall
9 be of one standard size, colorfast and American made, and shall
10 be purchased at the expense of the county from moneys in the
11 county treasury.

12 (b) Such flags shall be furnished to the various veterans'
13 organizations in such numbers as they shall require for their
14 respective communities.

15 (b.1) Such flags shall be placed by the last business day
16 before Memorial Day and shall not be removed before the first
17 business day after Veterans' Day.

18 (c) The moneys expended by any county under the provisions
19 of this section shall be in addition to moneys appropriated by
20 counties for Memorial Day purposes.

21 (d) The authorities in charge of any cemetery are authorized
22 to remove and replace such flags when the same become unsightly
23 or weatherworn at any time not before the first working day
24 after Independence Day of each year. The County Director of
25 Veterans Affairs shall be notified when flags are removed at any
26 time during the period from Memorial Day to Veterans' Day.

27 (e) Any authority or person in charge of any cemetery who
28 shall remove or cause the removal of the flags prior to the
29 first working day after Independence Day shall be guilty of a
30 summary offense and, upon conviction thereof, shall be sentenced

1 to pay a fine in the amount of three hundred dollars (\$300) and,
2 upon failure to pay such fine, to undergo imprisonment not to
3 exceed ninety days.

4 (f) Any person who violates any of the provisions of this
5 section shall, upon conviction thereof in a summary proceeding,
6 be sentenced to pay a fine of not less than one hundred dollars
7 (\$100) nor more than one thousand dollars (\$1,000) for each
8 offense.

9 Section 7. This act shall take effect in 60 days.