HOUSE DOCKET, NO. FILED ON: 1/13/2009

**HOUSE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Kathi-Anne Reinstein**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to veterans agents and veterans benefits.

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PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| Kathi-Anne Reinstein | 16th Suffolk |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3717 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to veterans agents and veterans benefits.

 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

 SECTION l. Section 1 of chapter 115 of the General Laws, as

appearing in the 2004 Official Edition, is hereby amended by

striking out, in lines 52 through 57, the definition of “Veterans’

agent” or “Part-time veterans’ agent” and inserting in place

thereof the following:—

“Full-time Veterans’ Service officer” shall mean a veteran, as

defined in clause Forty-third of section 7 of chapter 4, appointed

under section 3 of this chapter to disburse benefits to a city, town

or district, and who is a resident of the Commonwealth, and

trained and certified by the department of veterans’ services in

accordance with regulations published pursuant to this chapter and

who works the regular hours full-time employees in the city, town

or district wherein he is employed but not less than thirty-five

hours per week performing the duties of the veterans’ service

officer.

“Part-time Veterans’ Service officer” shall mean a veteran, as

defined in clause Forty-third of section 7 of chapter 4, appointed

under section 3 of this chapter to disburse benefits, and who is a

resident of the Commonwealth, and is trained and certified by the

department of veterans’ services in accordance with regulations

published pursuant to this chapter and who works such hours as

are necessary to carry out his responsibilities under this chapter

during those regular hours the town hall and the office of the

department of veterans’ services are open in the city or town

where he is employed.

SECTION 2. Section 2 of chapter 115 of the General Laws, as

appearing the 2000 Official Edition, is hereby amended by

striking out in line 1, the word “agents” and inserting in place

thereof the words:— service officers.

SECTION 3. Said section 2 of chapter 115 of the General

Laws, as so appearing, is hereby further amended by striking the

third paragraph and inserting in place thereof the following:—

Any person aggrieved by a decision of the commissioner’s

operations’ division, or by the failure of a city, town or district to

render adequate veterans’ benefits or to approve or reject an application

for veterans’ benefits within three days of receiving such

application, or aggrieved by the withdrawal of such benefits, shall

have the right to appeal to the commissioner’s department for an

administrative hearing. The right to a hearing shall be exercised

by filing a written appeal with the department within 21 calendar

days of receipt of notice of said decision, action or failure to act of

which the party is aggrieved. The hearing shall be conducted in

accordance with the provisions of chapter 30A. Any person

aggrieved by such an administrative decision, shall have a right to

appeal within ten days of receipt of written notice, to the division

of administrative law appeals established within the executive

office of administration and finance pursuant to section four H of

chapter seven, hereinafter in this section referred to as “the division”.

A hearing on such appeal held pursuant to this paragraph

shall be conducted as an adjudicatory proceeding under chapter

30A. The division shall issue its decision within ninety days after

the day of the filing of the appeal, except that when an aggrieved

person appeals the rejection of his application for veterans’ benefits

or the failure to act on said application or the failure of a city

or town to render assistance to meet an emergency or hardship situation,

the division shall render and issue its decision within

forty-five days after the date of filing of said appeal. The decision

of the division shall be subject to judicial review in accordance

with the provisions of chapter 30A. The time for commencing

such an action for judicial review shall run from the receipt of

notice of the decision of the division. In such an action for judicial

review, the record shall consist of (a) the entire proceedings

before the division of administrative law appeals or (b) such portions

thereof as the commissioner and the parties may stipulate, or

(c) a statement of the case agreed to by the commissioner and the

parties.

SECTION 4. Said section 2 of said chapter 115, as so

appearing, is hereby further amended by deleting the fourth paragraph

and inserting in place thereof the following:

Upon the written request of any mayor of a city or the

selectmen of a town, or upon the written request of a veterans’

service officer or director of veterans’ services, or based upon an

allegation made by any five veterans or dependents, or based upon

any independent finding by the department that warrants an investigation,

the commissioner shall investigate any matter relating to

the administration therein of the provisions of this chapter and the

expenses of such investigation shall be certified by him to the

state treasurer who shall collect the same as an additional tax upon

such city, town or district.

SECTION 5. Said section 2 of said chapter 115, as so

appearing, is hereby further amended by striking out in lines 71

and 78, the word “agent” and “agents”, respectively, and inserting

in place thereof the words:— service officer.

SECTION 6. Section 2A of chapter 115, as appearing in the

2000 Official Edition, is hereby amended in striking out said

section and inserting in place thereof the following:—

If the department’s administrative hearing officer decides a

controversy between an applicant and a veterans’ service officer

relative to the validity or amount of a claim for veterans’ benefits,

as provided in section two, in favor of the applicant, said veterans’

service officer shall, forthwith, make payment to the applicant in

accordance with said decision notwithstanding any appeal there from

by the veterans’ service officer. If the division of administrative

law appeals sustains the appeal of said veterans’ service

officer as to the validity of such claim, payment to the applicant

shall thereupon cease and all amounts paid to the applicant shall

be reimbursed by the commonwealth in the manner provided in

section six. If the division of administrative law appeals sustains

the appeal of said veterans’ service officer as to the amount of

such claim, payment to the applicant of any amount in excess of

the amount approved by the division of administrative law appeals

shall thereupon cease and all amounts paid to the applicant in

excess of the amount so approved shall be reimbursed by the commonwealth

in the manner provided by said section six.

The decision of the department’s administrative hearing officer,

in accordance with the provisions of said section two, may be

enforced by the superior court on a petition in equity.

SECTION 7. Section 3 of said chapter 115, as appearing in the

2000 Official Edition, is hereby amended by deleting the first

paragraph and inserting in place thereof the following:—

The mayor of each city, except Boston, and the selectmen of

each town, shall appoint a veterans’ service officer to act for him

or them in the disbursement of veterans’ benefits by such city or

town; provided, however, that in each town having a part-time

veterans’ service officer the town clerk shall receive applications

and assist applicants for veterans’ benefits, and shall submit said

applications to the veterans’ services officer. Two or more contiguous

towns may, by vote of the selectmen, and subject to the

approval of the commissioner, appoint one full-time veterans

service officer and such additional staff as necessary, and may

apportion the payment of compensation among such towns. Two

or more non-contiguous towns, may, subject to approval of the

commissioner, appoint one full-time veterans service officer and

such additional staff as necessary, and may apportion the payment

of compensation among such towns.

The appointment of a veterans’ service officer shall not create a

civil service position. Any person who is appointed to the position

of veterans’ service officer and certified by the Massachusetts

Department of Veterans’ Services as a trained veterans’ service

officer, and who has held such position for not less than three

years, shall not be involuntarily separated and shall have the same

rights and protection granted to any veteran under section 9A of

chapter 30 of the General Laws, notwithstanding that his or her

prior appointments were for a fixed term. Any local charter or bylaw

contrary to these provisions and contrary to chapter 115 as it

exists prior to the effective date of the enactment of this law, shall

govern.

SECTION 8. Said section 3 of said chapter 115, as so

appearing, is hereby further amended by striking out in lines 10,

14, 18, 20, 22, the word “agent” and inserting in place thereof the

words:— service officer.

SECTION 9. Section 4 of said chapter 115, as appearing in the

2000 Official Edition, is hereby amended by striking out in lines

10, and 15 the word “agent” and inserting in place thereof the

words:— service officer.

SECTION 10. Section 5 of said chapter 115, as appearing in the

2000 Official Edition, is hereby amended by striking out the first

paragraph and inserting in place thereof the following:—

Veterans’ benefits shall be paid to a veteran or dependent by the

city or town wherein he resides.

SECTION 11. Said section 5 of said chapter 115, as so

appearing, is hereby further amended by striking out in lines 29,

57, 60, 69, and 85, the word “agent” and inserting in place thereof

the words:— service officer.

SECTION 12. Said section 5 of chapter 115, as so appearing, is

hereby further amended by striking out in line 44, the word “idleness”

and inserting in place thereof the word:— unemployment.

SECTION 13. Said section 5 of chapter 115, as so appearing, is

further amended by striking out in line 44, the words “continuous

vicious habits” and inserting in place thereof the words:—

unwholesome habits.

SECTION 14. Said section 5 of chapter 115, as so appearing, is

hereby further amended by striking out in line 103, the word

“budget” and inserting in place thereof the following words:—

schedule of benefits.

SECTION 15. Section 5A of chapter 115, as appearing in the

2000 Official Edition, is hereby amended by striking out in lines

5, 25, 42, and 48 the word “agent” and inserting in place thereof

the words:— service officer.

SECTION 16. Section 6 of chapter 115, as appearing in the

2000 Official Edition, is hereby amended by striking out in line

13, the word “agent” and inserting in place thereof the words:—

service officer.

SECTION 17. Section 7 of chapter 115, as appearing in the

2000 Official Edition, is hereby amended by striking out in line 2,

the word “agent” and inserting in place thereof the words:—

service officer.

SECTION 18. Section 10 of chapter 115, as appearing in the

2000 Official Edition, is hereby amended by striking out in line 16

the word “Two” and inserting in place thereof the following:—

Subject to the commissioner’s approval, two.

SECTION 19. Section 15 of chapter 115, as so appearing, is

hereby amended by striking out in lines 1 and 2 the words

“department of corporation and taxation” and inserting in place

thereof the words:— department of revenue.