

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Kathi-Anne Reinstein

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.

PETITION OF:

NAME: Kathi-Anne Reinstein	DISTRICT/ADDRESS: 16th Suffolk
-------------------------------	-----------------------------------

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

The Commonwealth of Massachusetts

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:

1 SECTION I. Section 1 of chapter 115 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 striking out, in lines 52 through 57, the definition of “Veterans’
4 agent” or “Part-time veterans’ agent” and inserting in place
5 thereof the following:—
6 “Full-time Veterans’ Service officer” shall mean a veteran, as
7 defined in clause Forty-third of section 7 of chapter 4, appointed
8 under section 3 of this chapter to disburse benefits to a city, town
9 or district, and who is a resident of the Commonwealth, and
10 trained and certified by the department of veterans’ services in
11 accordance with regulations published pursuant to this chapter and
12 who works the regular hours full-time employees in the city, town
13 or district wherein he is employed but not less than thirty-five
14 hours per week performing the duties of the veterans’ service

15 officer.
16 “Part-time Veterans’ Service officer” shall mean a veteran, as
17 defined in clause Forty-third of section 7 of chapter 4, appointed
18 under section 3 of this chapter to disburse benefits, and who is a
19 resident of the Commonwealth, and is trained and certified by the
20 department of veterans’ services in accordance with regulations
21 published pursuant to this chapter and who works such hours as
22 are necessary to carry out his responsibilities under this chapter
23 during those regular hours the town hall and the office of the
24 department of veterans’ services are open in the city or town
25 where he is employed.

26

27 SECTION 2. Section 2 of chapter 115 of the General Laws, as
28 appearing the 2000 Official Edition, is hereby amended by
29 striking out in line 1, the word “agents” and inserting in place
30 thereof the words:— service officers.

31

32 SECTION 3. Said section 2 of chapter 115 of the General
33 Laws, as so appearing, is hereby further amended by striking the
34 third paragraph and inserting in place thereof the following:—
35 Any person aggrieved by a decision of the commissioner’s
36 operations’ division, or by the failure of a city, town or district to
37 render adequate veterans’ benefits or to approve or reject an application
38 for veterans’ benefits within three days of receiving such
39 application, or aggrieved by the withdrawal of such benefits, shall
40 have the right to appeal to the commissioner’s department for an
41 administrative hearing. The right to a hearing shall be exercised

42 by filing a written appeal with the department within 21 calendar
43 days of receipt of notice of said decision, action or failure to act of
44 which the party is aggrieved. The hearing shall be conducted in
45 accordance with the provisions of chapter 30A. Any person
46 aggrieved by such an administrative decision, shall have a right to
47 appeal within ten days of receipt of written notice, to the division
48 of administrative law appeals established within the executive
49 office of administration and finance pursuant to section four H of
50 chapter seven, hereinafter in this section referred to as "the division".
51 A hearing on such appeal held pursuant to this paragraph
52 shall be conducted as an adjudicatory proceeding under chapter
53 30A. The division shall issue its decision within ninety days after
54 the day of the filing of the appeal, except that when an aggrieved
55
56 person appeals the rejection of his application for veterans' benefits
57 or the failure to act on said application or the failure of a city
58 or town to render assistance to meet an emergency or hardship situation,
59 the division shall render and issue its decision within
60 forty-five days after the date of filing of said appeal. The decision
61 of the division shall be subject to judicial review in accordance
62 with the provisions of chapter 30A. The time for commencing
63 such an action for judicial review shall run from the receipt of
64 notice of the decision of the division. In such an action for judicial
65 review, the record shall consist of (a) the entire proceedings
66 before the division of administrative law appeals or (b) such portions
67 thereof as the commissioner and the parties may stipulate, or
68 (c) a statement of the case agreed to by the commissioner and the

69 parties.

70

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

72 appearing, is hereby further amended by deleting the fourth paragraph

73 and inserting in place thereof the following:

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

75 selectmen of a town, or upon the written request of a veterans'

76 service officer or director of veterans' services, or based upon an

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

78 any independent finding by the department that warrants an investigation,

79 the commissioner shall investigate any matter relating to

80 the administration therein of the provisions of this chapter and the

81 expenses of such investigation shall be certified by him to the

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

83 such city, town or district.

84

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

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

87 and 78, the word "agent" and "agents", respectively, and inserting

88 in place thereof the words:— service officer.

89

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

91 2000 Official Edition, is hereby amended in striking out said

92 section and inserting in place thereof the following:—

93 If the department's administrative hearing officer decides a

94 controversy between an applicant and a veterans' service officer

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

96 as provided in section two, in favor of the applicant, said veterans'
97 service officer shall, forthwith, make payment to the applicant in
98 accordance with said decision notwithstanding any appeal there from
99 by the veterans' service officer. If the division of administrative
100 law appeals sustains the appeal of said veterans' service
101 officer as to the validity of such claim, payment to the applicant
102 shall thereupon cease and all amounts paid to the applicant shall
103 be reimbursed by the commonwealth in the manner provided in
104 section six. If the division of administrative law appeals sustains
105 the appeal of said veterans' service officer as to the amount of
106 such claim, payment to the applicant of any amount in excess of
107 the amount approved by the division of administrative law appeals
108 shall thereupon cease and all amounts paid to the applicant in
109 excess of the amount so approved shall be reimbursed by the commonwealth
110 in the manner provided by said section six.

111 The decision of the department's administrative hearing officer,
112 in accordance with the provisions of said section two, may be
113 enforced by the superior court on a petition in equity.

114

115 SECTION 7. Section 3 of said chapter 115, as appearing in the
116 2000 Official Edition, is hereby amended by deleting the first
117 paragraph and inserting in place thereof the following:—

118 The mayor of each city, except Boston, and the selectmen of
119 each town, shall appoint a veterans' service officer to act for him
120 or them in the disbursement of veterans' benefits by such city or
121 town; provided, however, that in each town having a part-time
122 veterans' service officer the town clerk shall receive applications

123 and assist applicants for veterans' benefits, and shall submit said
124 applications to the veterans' services officer. Two or more contiguous
125 towns may, by vote of the selectmen, and subject to the
126 approval of the commissioner, appoint one full-time veterans
127 service officer and such additional staff as necessary, and may
128 apportion the payment of compensation among such towns. Two
129 or more non-contiguous towns, may, subject to approval of the
130 commissioner, appoint one full-time veterans service officer and
131 such additional staff as necessary, and may apportion the payment
132 of compensation among such towns.

133 The appointment of a veterans' service officer shall not create a
134 civil service position. Any person who is appointed to the position
135 of veterans' service officer and certified by the Massachusetts
136 Department of Veterans' Services as a trained veterans' service
137 officer, and who has held such position for not less than three
138 years, shall not be involuntarily separated and shall have the same
139 rights and protection granted to any veteran under section 9A of
140 chapter 30 of the General Laws, notwithstanding that his or her
141 prior appointments were for a fixed term. Any local charter or bylaw
142 contrary to these provisions and contrary to chapter 115 as it
143 exists prior to the effective date of the enactment of this law, shall
144 govern.

145

146 SECTION 8. Said section 3 of said chapter 115, as so
147 appearing, is hereby further amended by striking out in lines 10,
148 14, 18, 20, 22, the word "agent" and inserting in place thereof the
149 words:— service officer.

150

151 SECTION 9. Section 4 of said chapter 115, as appearing in the
152 2000 Official Edition, is hereby amended by striking out in lines
153 10, and 15 the word “agent” and inserting in place thereof the
154 words:— service officer.

155

156 SECTION 10. Section 5 of said chapter 115, as appearing in the
157 2000 Official Edition, is hereby amended by striking out the first
158 paragraph and inserting in place thereof the following:—
159 Veterans’ benefits shall be paid to a veteran or dependent by the
160 city or town wherein he resides.

161

162 SECTION 11. Said section 5 of said chapter 115, as so
163 appearing, is hereby further amended by striking out in lines 29,
164 57, 60, 69, and 85, the word “agent” and inserting in place thereof
165 the words:— service officer.

166

167 SECTION 12. Said section 5 of chapter 115, as so appearing, is
168 hereby further amended by striking out in line 44, the word “idleness”
169 and inserting in place thereof the word:— unemployment.

170

171 SECTION 13. Said section 5 of chapter 115, as so appearing, is
172 further amended by striking out in line 44, the words “continuous
173 vicious habits” and inserting in place thereof the words:—
174 unwholesome habits.

175

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

177 hereby further amended by striking out in line 103, the word
178 “budget” and inserting in place thereof the following words:—
179 schedule of benefits.

180

181 SECTION 15. Section 5A of chapter 115, as appearing in the
182 2000 Official Edition, is hereby amended by striking out in lines
183 5, 25, 42, and 48 the word “agent” and inserting in place thereof
184 the words:— service officer.

185

186 SECTION 16. Section 6 of chapter 115, as appearing in the
187 2000 Official Edition, is hereby amended by striking out in line
188 13, the word “agent” and inserting in place thereof the words:—
189 service officer.

190

191 SECTION 17. Section 7 of chapter 115, as appearing in the
192 2000 Official Edition, is hereby amended by striking out in line 2,
193 the word “agent” and inserting in place thereof the words:—
194 service officer.

195

196 SECTION 18. Section 10 of chapter 115, as appearing in the
197 2000 Official Edition, is hereby amended by striking out in line 16
198 the word “Two” and inserting in place thereof the following:—
199 Subject to the commissioner’s approval, two.

200

201 SECTION 19. Section 15 of chapter 115, as so appearing, is
202 hereby amended by striking out in lines 1 and 2 the words
203 “department of corporation and taxation” and inserting in place

204 thereof the words:— department of revenue.