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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 399

AN ACT TO AMEND THE DELAWARE CODE RELATING TO THE CREATION OF A DEPARTMENT OF
VETERANS' AFFAIRS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

- 1 Section 1. Amend Title 29 of the Delaware Code by inserting a new Chapter 88 as shown by underline as follows:
- 2 CHAPTER 88. DEPARTMENT OF VETERANS' AFFAIRS
- 3 § 8801. Establishment of Department of Veterans' Affairs; definitions.
- 4 (a) A Department of Veterans' Affairs is established. The Department of Veterans' Affairs has the powers, duties,
5 and functions set forth in this chapter.
- 6 (b) As used in this chapter:
- 7 (1) "Department" means the Department of Veterans' Affairs.
- 8 (2) "Secretary" means the Secretary of Veterans' Affairs.
- 9 § 8802. Secretary; appointment.
- 10 (a) The administrator and head of the Department is the Secretary of Veterans' Affairs, who must be a veteran
11 qualified by training and experience to perform the duties of the office, and preference shall be given to a resident of this
12 State provided that such person is acceptable and equally qualified. The Secretary is appointed by the Governor, with the
13 advice and consent of the Senate, and serves at the pleasure of the Governor. The Secretary shall be paid an annual salary as
14 set forth in the annual Budget Appropriation Bill.
- 15 (b) In the event of death, resignation, temporary incapacity, or removal of the Secretary and prior to the
16 appointment of a successor, the Governor may appoint a member of the Department to serve as Acting Secretary. The
17 Secretary may, during an absence from the State, appoint a member of the Department to serve as Acting Secretary during
18 such absence. In either case the Acting Secretary has all the powers and shall perform all the duties and functions of the
19 Secretary during such absence or incapacity or until a successor is duly qualified and appointed.
- 20 § 8802. Powers, duties, and functions of the Secretary.

21 The Secretary has the following powers, duties, and functions:

22 (1) To supervise, direct, and account for the administration and operation of the Department, its divisions,
23 subdivisions, offices, functions, and employees.

24 (2) To hire such additional personnel as may be necessary for the administration and operation of the
25 Department within such limitations as may be imposed by law.

26 (3) To establish, consolidate, or abolish such divisions and offices within the Department or transfer or
27 combine the powers, duties, and functions of the divisions and offices within the Department as the Secretary, with the
28 written approval of the Governor, may deem necessary, provided that all powers, duties, and functions required by law
29 shall be provided for and maintained.

30 (4) To make and enter into any and all contracts, agreements, or stipulations, and to retain, employ, and
31 contract for the services of private and public consultants, research, and technical and other services and facilities,
32 whenever the same is deemed by the Secretary necessary or desirable in the performance of the functions of the
33 Department and whenever funds are available for such purpose. All necessary legal services must be provided pursuant
34 to Chapter 25 of this title.

35 (5) To delegate any of the Secretary's powers, duties, or functions to a director of a division, except the power
36 to remove employees of the Department or to fix their compensation.

37 (6) To establish and to promulgate such rules and regulations governing the administration and operation of
38 the Department as are deemed necessary by the Secretary and which are consistent with the laws of this State.

39 (7) To maintain such facilities throughout the State as may be required for the effective and efficient operation
40 of the Department.

41 (8) To adopt an official seal or seals for the Department.

42 § 8803. Duties of the Secretary in consultation with the Commission.

43 (a) The Secretary shall, in consultation with the Delaware Commission of Veterans' Affairs, do all of the
44 following:

45 (1) Oversee the administration of the Delaware State Veterans' Home and have the authority to promulgate
46 rules, regulations, and policy as necessary for the operation of a veterans' home.

47 (2) To operate and administer a Delaware Veterans' Memorial Cemetery in the State and promulgate such
48 rules and regulations governing the operation of a cemetery as necessary.

49 (3) Maintain a repository for all veterans' "Statement of Service" or similar documentary verification of active
50 armed service.

51 (4) Administer the Delaware Veterans Trust Fund, which will provide financial assistance or grants to
52 veterans with a minimum discharge status of general discharge under honorable conditions to cover costs associated
53 with medical and dental needs; medical transportation; homelessness support; home repairs and safety modifications;
54 household utilities; and educational or retraining programs.

55 (5) Represent the State in concert with other states' veterans' agencies and the U.S. Veterans' Administration
56 on matters of mutual interest and concern.

57 (6) Coordinate with and advise all departments and agencies of the State on all matters pertaining to
58 education, training, employment, medical, and financial benefit programs for veterans, their dependents, and their
59 survivors.

60 (b) The Department and the Secretary shall augment, not replace nor infringe upon, the functions of the service
61 officers or representatives of veterans' organizations; provided, however, the Commission may recommend and the
62 Department may appoint a service officer in each county, such service officer to be accountable and responsible to the
63 Secretary.

64 Section 2. Amend Chapters 87 and 88, Title 29 of the Delaware Code by transferring §§ 8720 through 8725 of
65 Chapter 87 of Title 29, to Chapter 88 of Title 29, and then by making deletions as shown by strike through and insertions as
66 shown by underline as follows:

67 § ~~8720~~; 8811. Delaware Commission of Veterans' Affairs — Established; composition; powers.

68 (a) There is ~~hereby~~ established the Delaware Commission of Veterans' Affairs, hereafter referred to as the
69 "Commission."

70 (b) The Commission ~~shall be~~ is composed of 15 Commissioners all of whom ~~shall be~~ are appointed by the
71 Governor for terms of 4 years, and shall be veterans who are residents of the State of Delaware and citizens of the United
72 States.

73 (1) Ten Commissioners shall be representatives of statewide veteran organizations that are chartered by
74 Congress or authorized under federal law. Where a Commissioner represents a veteran organization, that organization
75 must, within 60 days prior to the expiration of a Commissioner's term or within 30 days following a vacancy, submit to
76 the Office of the Governor a letter of recommendation which shall include at least 3 nominees and their application
77 packet. Commissioners who are appointed to represent a statewide veterans organization shall, during the course of
78 their term remain members in good standing of the nominating organization. The following veteran organizations shall
79 be represented on the Commission:

80 a. American Legion.

- 81 b. American Veterans.
- 82 c. Air Force Sergeants Associations.
- 83 d. Disabled American Veterans.
- 84 e. Korean War Veterans or National Association of Black Veterans. Until such time as any current
- 85 Korean War Veterans representative serving as Commissioner as of August 9, 2023, has completed a current full
- 86 term or otherwise resigned the commission, that Commissioner shall retain the appointment and seat on the
- 87 Commission. At the completion of that term or upon resignation of the Commission, the Korean War Veteran
- 88 Commissioner seat shall be filled by a representative of the National Association of Black Veterans.
- 89 f. Marine Corps League.
- 90 g. Military Officers Association of America.
- 91 h. Military Order of the Purple Heart.
- 92 i. Veterans of Foreign Wars.
- 93 j. Vietnam Veterans of America.

94 (2) Five Commissioners shall be at-large Commissioners, who may also be a member of any veteran
95 organization or may be a veteran who has applied directly to the Office of the Governor.

96 (c) For purposes of this section, a “veteran” is any person who has served on active duty in the U.S. Armed Forces,
97 including the National Guard or the reserves, and who was discharged under other than dishonorable conditions.

98 § 8721. 8812. Delaware Commission of Veterans’ Affairs — Duties and responsibilities.

99 (a) [Repealed.]

100 (b) (1) ~~The Commission shall hire, through the State Merit System employment process, and employ an Executive~~
101 ~~Director, a clerical assistant, and other personnel necessary to perform the duties prescribed by the Commission. All~~
102 ~~employees of the Commission, including the Executive Director, must be veterans as defined in § 8720(c) of this title.~~

103 (2) ~~The Executive Director is authorized to use the designation “Delaware Office of Veterans’ Services” when~~
104 ~~promoting, performing, or furthering the work of the Commission.~~

105 (3) ~~The Executive Director and staff shall report to the Secretary of State on all administrative matters and shall~~
106 ~~report to the Commission on all substantive matters.~~

107 (c) ~~The Commission shall have the power of oversight in the administration of the Delaware State Veterans’ Home~~
108 ~~and shall have the authority to promulgate such rules, regulations and policy as is necessary to the operation of a veterans’~~
109 ~~home provided, however, such rules, regulations and policy are not inconsistent with the other provisions of this chapter.~~

110 (d) The Commission shall have the power to operate and/or administer a Delaware Veterans' Memorial Cemetery
111 in the State and shall have the authority to promulgate such rules and regulations governing the operation of a cemetery as it
112 deems necessary; provided, however, such rules and regulations are not inconsistent with the provisions of this chapter.

113 (e) ~~The Commission shall establish a repository for all veterans' "Statement of Service" or similar documentary~~
114 ~~verification of active armed service.~~

115 (f) ~~The Commission shall establish and administer the "Delaware Veterans Trust Fund" which will provide~~
116 ~~financial assistance or grants to veterans with a minimum discharge of general discharge under honorable conditions to~~
117 ~~cover costs associated with medical and dental needs; medical transportation; homelessness support; home repairs and~~
118 ~~safety modifications; household utilities; and educational or retraining programs.~~

119 (g) ~~The Commission shall represent the State in concert with other states' veterans' agencies and the U.S.~~
120 ~~Veterans' Administration on matters of mutual interest and concern.~~

121 (h) ~~The Commission shall coordinate with and advise all departments and agencies of the State on all matters~~
122 ~~pertaining to education, training, employment, medical and financial benefit programs for veterans, their dependents and~~
123 ~~survivors.~~

124 (b) The Commission shall serve in an advisory capacity to the Secretary on all matters relevant to veterans in this
125 State and specifically with respect to those duties set forth under § 8803 of this title.

126 (i) (c) The Commission shall may initiate, review, and/or sponsor state legislation pertaining to veterans.

127 (j) ~~The Commission and/or its Executive Director shall augment, not replace nor infringe upon, the functions of~~
128 ~~the service officers (representatives) of veterans' organizations; provided, however, the Commission may appoint a service~~
129 ~~officer in each county, such service officer to be accountable and responsible to the Commission.~~

130 (k) (d) The Commission shall submit to the ~~Governor~~ Secretary, the Governor, and to the General Assembly an
131 annual report of the Commission's activities and recommendations.

132 § ~~8722.~~ 8813. Delaware Commission of Veterans' Affairs — Authority.

133 ~~The Commission is hereby authorized to develop and promulgate bylaws, rules and regulations not inconsistent~~
134 ~~with the law, which are necessary for the enforcement and implementation of §§ 8720, 8721, 8722, 8723, 8724 and 8725~~
135 ~~of this title and all applicable federal rules and regulations. [Repealed.]~~

136 § ~~8723.~~ 8814. Delaware Commission of Veterans' Affairs — Organization and operation.

137 (a) Any veterans' organization as defined in § ~~8720(b)~~ 8811(b) of this title may petition the Governor to remove
138 from the Commission a member which said organization recommended, provided the reasons for said removal are clearly
139 stated in said petition.

140 (b) In the event any Commissioner fails to attend 3 successive scheduled meetings without just cause such failure
141 shall be sufficient grounds for the representative of the particular veterans' organization to be removed by the Governor.

142 (c) Prospective members of the Commission shall be recommended by the respective veterans' organizations and
143 appointed by the Governor as vacancies occur.

144 (d) The names of prospective members of the Commission shall be submitted to the Governor by letter from the
145 senior official of each respective statewide veterans' organization.

146 (e) The members of the Commission shall elect 1 of their members to serve as Chairperson and 1 as Vice-
147 Chairperson who shall not serve more than 2 consecutive terms. Such elections shall be held annually in September.

148 (f) The Chairperson and Vice-Chairperson shall serve as voting members of the Commission.

149 (g) ~~The Executive Director shall attend all meetings of the Commission, keep a full and true record of its~~
150 ~~proceedings, preserve at its general office all its books, documents and papers, and perform such other duties as the~~
151 ~~Commission may prescribe.~~ The Department shall provide clerical and staff support to the Commission.

152 (h) The Commission shall hold monthly meetings at such time and location as prescribed by the Chairperson.
153 Special meetings may be called by the Chair or a majority of the Commission membership.

154 (i) A quorum shall consist of a simple majority of the Commission members.

155 (j) Members of the Commission shall serve without compensation except that they may be reimbursed for
156 reasonable and necessary travel expenses incident to their duties as members of the Commission to the extent that funds are
157 available and in accordance with state law.

158 (k) The Commission's executive offices shall be located in Dover, Delaware.

159 § 8724. 8815. Delaware Commission of Veterans' Affairs — Funding.

160 Annually, the Commission shall submit a proposed budget to the Department of State Veterans' Affairs for review
161 and approval by that Department. The Department of State Veterans' Affairs shall then recommend to the General
162 Assembly that the Commission's budget be included as a line item within said Department's funding.

163 § 8725. 8816. Delaware Commission of Veterans' Affairs — Relationship to other state agencies.

164 (a) ~~Unless otherwise indicated, the duties, responsibilities and authority set forth in §§ 8721 and 8723 of this title~~
165 ~~are reserved specifically to the Commission. [Repealed.]~~

166 (b) The Commission may request the advice, ~~opinion~~ opinion, or assistance of other appropriate state agencies as
167 necessary to properly discharge its duties and responsibilities.

168 (c) The Department of State Veterans' Affairs shall provide reasonable office and meeting facilities and other
169 logistic support as requested by the Commission.

170 (d) The Department of ~~State~~ Veterans' Affairs shall maintain an overview of the Commission's operation in order
171 to insure proper use of, and accountability for, state funds appropriated for that purpose.

172 (e) The General Assembly hereby directs the Delaware Commission on Veterans Affairs to return/replace all
173 memorials and plaques purchased/donated by veteran's family members to their original location within the cemetery or to
174 a site agreeable to the veteran's family members. The General Assembly further directs that, after July 1, 2003, no plaque
175 or memorial will be removed or relocated for any purpose without the approval of the Co-chairs of the Joint Legislative
176 Committee on the Capital Improvement Program. Existing memorial works are historical, cultural and aesthetic resources.

177 Section 3. Amend § 1202, Title 20 of the Delaware Code by making deletions as shown by strike through and
178 insertions as shown by underline as follows:

179 § 1202. Supervision by Delaware Commission of Veterans Affairs; powers and duties.

180 The establishment, operation and maintenance of the Delaware Veterans Memorial Cemetery shall be under the
181 supervision of the Delaware Commission of Veterans Affairs which shall have the following powers and duties:

182 (1) Select an appropriate site for the Cemetery, pursuant to § 1203 of this title;

183 (2) Acquire, by transfer of title from another state agency, or by purchase, grant, devise or contract, title to such
184 real property as shall be suitable and necessary for the establishment of the Cemetery;

185 (3) Apply for, receive, accept and expend any money, materials or other aid granted or otherwise provided by
186 local, state or federal governments or by any source, public or private, in accordance with the terms thereof, for the
187 establishment, operation or maintenance of the Cemetery;

188 (4) Appoint and employ such persons as shall be needed for the proper operation and maintenance of the
189 Cemetery;

190 (5) Establish criteria for eligibility for burial in the Cemetery, and set fees for the burial of family members,
191 pursuant to § 1204 of this title;

192 (6) Promulgate rules, following public hearing, governing the administration and operation of the Cemetery;

193 (7) Prepare an annual report on the operation of the Cemetery which shall be presented to the ~~Governor~~ Governor,
194 the Secretary of Veterans' Affairs, and to the General Assembly; and

195 (8) Perform all other powers and functions necessary or appropriate to carry out the purposes and policies of this
196 chapter.

197 Section 4. Amend § 2139R, Title 21 of the Delaware Code by making deletions as shown by strike through and
198 insertions as shown by underline as follows:

199 § 2139R. Special license plates honoring Delaware veterans.

200 (d) The funds derived by the State from that portion of the 1-time fee of \$20 that is not defined as an
201 administrative fee pursuant to subsection (c) of this section shall be deposited by the Division of Motor Vehicles with the
202 State Treasurer and shall be specifically set aside and deposited with the ~~Delaware Commission~~ Department of Veterans
203 Affairs for its deposit in the Veterans Trust Fund.

204 (e) All registration plates issued pursuant to this section shall be of the colors and design as determined by the
205 Delaware Commission of Veterans Affairs. The license plate may also include words, a slogan or an emblem honoring
206 Delaware veterans. The Commission may at its discretion drop the wording “The First State” and substitute in lieu thereof
207 “Honoring Our Veterans”. The Division of Motor Vehicles shall have the power to refuse any design which it believes
208 would cause a public safety enforcement problem.

209 Section 5. Amend § 9605, Title 9 of the Delaware Code by making deletions as shown by strike through and
210 insertions as shown by underline as follows:

211 § 9605. Recordation of instruments.

212 (j) The county recorders of deeds shall not record military service discharge documents. The county recorders of
213 deeds shall transfer all recorded military service discharge documents to the ~~Delaware Commission~~ Department of Veterans
214 Affairs, the State’s Repository pursuant to § 8721 of Title 29. The ~~Delaware Commission~~ Department of Veterans Affairs
215 shall maintain all certificates of release or discharge from active military service or similar discharge documents as defined.

216 Section 6. Amend Chapter 39, Title 12 of the Delaware Code by making deletions as shown by strike through and
217 insertions as shown by underline as follows:

218 § 3981. Office established; appointment.

219 (a) There is established an Office of the Public Guardian, with a Public Guardian who shall serve as follows:

220 (3) The VA fiduciary of last resort for U.S. Department of Veterans Affairs benefits.

221 § 3982. Definitions.

222 For the purposes of this chapter:

223 (7) “VA fiduciary” means a person appointed by the U.S. Department of Veterans Affairs (VA) to receive VA
224 benefits for an individual who is unable to manage the individual’s VA benefits.

225 Section 7. Amend § 2140L, Title 21 of the Delaware Code by making deletions as shown by strike through and
226 insertions as shown by underline as follows:

227 § 2140L. Special license plates for Combat Infantry Badge holders.

228 (g) All registration plates issued pursuant to this section shall be the colors and design as determined by the
229 Department in conjunction with representatives from the Commission of Veterans Affairs ~~Office of Veterans Services.~~ and

230 the Department of Veterans' Affairs. The Division of Motor Vehicles shall have the power to refuse any design which it
231 believes would cause a public safety enforcement problem.

232 Section 8. Amend § 2140C, Title 21 of the Delaware Code by making deletions as shown by strike through and
233 insertions as shown by underline as follows:

234 § 2140C. Special license plates honoring women's military service.

235 (d) The Division of Motor Vehicles shall deposit with the State Treasurer the funds derived by the State from that
236 portion of the 1-time fee of \$20 that is not defined as an administrative fee under subsection (c) of this section. The
237 deposited funds must be specifically set aside and deposited with the ~~Delaware Commission~~ Department of Veterans
238 Affairs for its deposit in the Veterans Trust Fund.

239 Section 9. This Act takes effect 180 days after its enactment into law.

240 Section 10. As of the effective date of this Act, all current employees of the Commission of Veterans' Affairs shall
241 become employees of the Department of Veterans' Affairs, and shall maintain their then-current salary, seniority, and
242 benefits.

243 Section 11. As of the effective date of this Act, the Department of Veterans' Affairs shall assume all contracts,
244 deeds, debts, and other assets and liabilities of the Commission of Veterans' Affairs.

SYNOPSIS

This Act creates a new state-level Department of Veterans' Affairs, headed by a cabinet-level Secretary appointed by the Governor with the advice and consent of the Senate. The Department will take over most of the duties currently handled by the Commission on Veterans' Affairs and its staff. The Commission will continue in its current form, but under the Department of Veterans' Affairs rather than the Department of State, and it will continue to advise on the duties of the Department and make recommendations regarding the welfare of veterans in the State. The Department will assume the assets and liabilities of the Commission and current staff of the Commission will become staff of the Department.