

HOUSE No. 3717

By Ms. Reinstein of Revere, petition of Kathi-Anne Reinstein and Jennifer M. Callahan relative to veterans’ agents and veterans’ benefits. Veterans and Federal Affairs.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

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 1. 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’
1 agent” or “Part-time veterans’ agent” and inserting in place thereof
2 the following:—

3 “Full-time Veterans’ Service officer” shall mean a veteran, as
4 defined in clause Forty-third of Section 7 of Chapter 4, appointed
5 under Section 3 of this chapter to disburse benefits to a city, town or
6 district, and who is a resident of the Commonwealth, and trained and
7 certified by the department of veterans’ services in accordance with
8 regulations published pursuant to this chapter and who works the
9 regular hours full-time employees in the city, town or district
10 wherein he is employed but not less than thirty-five hours per week
11 performing the duties of the veterans’ service officer.

12 “Part-time Veterans’ Service officer” shall mean a veteran, as
13 defined in clause Forty-third of Section 7 of Chapter 4, appointed
14 under Section 3 of this chapter to disburse benefits, and who is a res-
15 ident of the Commonwealth, and is trained and certified by the
16 department of veterans’ services in accordance with regulations pub-
17 lished pursuant to this chapter and who works such hours as are nec-
18 essary to carry out his responsibilities under this chapter during
19 those regular hours the town hall and the office of the department of
20 veterans’ services are open in the city or town where he is employed.

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

1 SECTION 3. Said Section 2 of Chapter 115 of the General Laws,
2 as so appearing, is hereby further amended by striking the third para-
3 graph and inserting in place thereof the following:—

4 Any person aggrieved by a decision of the commissioner’s opera-
5 tions’ division, or by the failure of a city, town or district to render
6 adequate veterans’ benefits or to approve or reject an application for
7 veterans’ benefits within three days of receiving such application, or
8 aggrieved by the withdrawal of such benefits, shall have the right to
9 appeal to the commissioner’s department for an administrative
10 hearing. The right to a hearing shall be exercised by filing a written
11 appeal with the department within 21 calendar days of receipt of
12 notice of said decision, action or failure to act of which the party is
13 aggrieved. The hearing shall be conducted in accordance with the
14 provisions of Chapter 30A. Any person aggrieved by such an admin-
15 istrative decision, shall have a right to appeal within ten days of
16 receipt of written notice, to the division of administrative law
17 appeals established within the executive office of administration and
18 finance pursuant to section four H of chapter seven, hereinafter in
19 this section referred to as “the division”. A hearing on such appeal
20 held pursuant to this paragraph shall be conducted as an adjudicatory
21 proceeding under Chapter 30A. The division shall issue its decision
22 within ninety days after the day of the filing of the appeal, except
23 that when an aggrieved person appeals the rejection of his applica-
24 tion for veterans’ benefits or the failure to act on said application or
25 the failure of a city or town to render assistance to meet an emer-
26 gency or hardship situation, the division shall render and issue its
27 decision within forty-five days after the date of filing of said appeal.
28 The decision of the division shall be subject to judicial review in
29 accordance with the provisions of Chapter 30A. The time for com-
30 mencing such an action for judicial review shall run from the receipt
31 of notice of the decision of the division. In such an action for judi-
32 cial review, the record shall consist of (a) the entire proceedings
33 before the division of administrative law appeals or (b) such portions

34 thereof as the commissioner and the parties may stipulate, or (c) a
35 statement of the case agreed to by the commissioner and the parties.

1 SECTION 4. Said Section 2 of said Chapter 115, as so appearing,
2 is hereby further amended by deleting the fourth paragraph and
3 inserting in place thereof the following:—

4 Upon the written request of any mayor of a city or the selectmen
5 of a town, or upon the written request of a veterans' service officer
6 or director of veterans' services, or based upon an allegation made
7 by any five veterans or dependents, or based upon any independent
8 finding by the department that warrants an investigation, the com-
9 missioner shall investigate any matter relating to the administration
10 therein of the provisions of this chapter and the expenses of such
11 investigation shall be certified by him to the state treasurer who shall
12 collect the same as an additional tax upon such city, town or district.

1 SECTION 5. Said Section 2 of said Chapter 115, as so appearing,
2 is hereby further amended by striking out in lines 71 and 78, the
3 word "agent" and "agents", respectively, and inserting in place
4 thereof the words:— service officer.

1 SECTION 6. Section 2A of Chapter 115, as appearing in the 2000
2 Official Edition, is hereby amended in striking out said section and
3 inserting in place thereof the following:—

4 If the department's administrative hearing officer decides a con-
5 troversy between an applicant and a veterans' service officer relative
6 to the validity or amount of a claim for veterans' benefits, as pro-
7 vided in section two, in favor of the applicant, said veterans' service
8 officer shall, forthwith, make payment to the applicant in accordance
9 with said decision notwithstanding any appeal there from by the vet-
10 erans' service officer. If the division of administrative law appeals
11 sustains the appeal of said veterans' service officer as to the validity
12 of such claim, payment to the applicant shall thereupon cease and all
13 amounts paid to the applicant shall be reimbursed by the Common-
14 wealth in the manner provided in section six. If the division of
15 administrative law appeals sustains the appeal of said veterans'
16 service officer as to the amount of such claim, payment to the appli-
17 cant of any amount in excess of the amount approved by the division
18 of administrative law appeals shall thereupon cease and all amounts

19 paid to the applicant in excess of the amount so approved shall be
20 reimbursed by the Commonwealth in the manner provided by said
21 section six.

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

1 SECTION 7. Section 3 of said Chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by deleting the first para-
3 graph and inserting in place thereof the following:—

4 The mayor of each city, except Boston, and the selectmen of each
5 town, shall appoint a veterans' service officer to act for him or them
6 in the disbursement of veterans' benefits by such city or town; pro-
7 vided, however, that in each town having a part-time veterans'
8 service officer the town clerk shall receive applications and assist
9 applicants for veterans' benefits, and shall submit said applications
10 to the veterans' services officer. Two or more contiguous towns may,
11 by vote of the selectmen, and subject to the approval of the commis-
12 sioner, appoint one full-time veterans service officer and such addi-
13 tional staff as necessary, and may apportion the payment of
14 compensation among such towns. Two or more non-contiguous
15 towns, may, subject to approval of the commissioner, appoint one
16 full-time veterans service officer and such additional staff as neces-
17 sary, and may apportion the payment of compensation among such
18 towns.

19 The appointment of a veterans' service officer shall not create a
20 civil service position. Any person who is appointed to the position of
21 veterans' service officer and certified by the Massachusetts Depart-
22 ment of Veterans' Services as a trained veterans' service officer, and
23 who has held such position for not less than three years, shall not be
24 involuntarily separated and shall have the same rights and protection
25 granted to any veteran under Section 9A of Chapter 30 of the
26 General Laws, notwithstanding that his or her prior appointments
27 were for a fixed term. Any local charter or bylaw contrary to these
28 provisions and contrary to Chapter 115 as it exists prior to the effec-
29 tive date of the enactment of this law, shall govern.

1 SECTION 8. Said Section 3 of said Chapter 115, as so appearing,
2 is hereby further amended by striking out in lines 10, 14, 18, 20, 22,

3 the word “agent” and inserting in place thereof the words:— service
4 officer.

1 SECTION 9. Section 4 of said Chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in lines 10
3 and 15 the word “agent” and inserting in place thereof the words:—
4 service officer.

1 SECTION 10. Section 5 of said Chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out the first
3 paragraph and inserting in place thereof the following:—
4 Veterans’ benefits shall be paid to a veteran or dependent by the
5 city or town wherein he resides.

1 SECTION 11. Said Section 5 of said Chapter 115, as so
2 appearing, is hereby further amended by striking out in lines 29, 57,
3 60, 69, and 85, the word “agent” and inserting in place thereof the
4 words:— service officer.

1 SECTION 12. Said Section 5 of Chapter 115, as so appearing, is
2 hereby further amended by striking out in line 44, the word “idle-
3 ness” and inserting in place thereof the word:— unemployment.

1 SECTION 13. Said Section 5 of Chapter 115, as so appearing, is
2 further amended by striking out in line 44, the words “continuous
3 vicious habits” and inserting in place thereof the words:— unwhole-
4 some habits.

1 SECTION 14. Said Section 5 of Chapter 115, as so appearing, is
2 hereby further amended by striking out in line 103, the word
3 “budget” and inserting in place thereof the following words:—
4 schedule of benefits.

1 SECTION 15. Section 5A of Chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in lines 5,
3 25, 42, and 48 the word “agent” and inserting in place thereof the
4 words:— service officer.

1 SECTION 16. Section 6 of Chapter 115, as appearing in the 2000
2 Official Edition, is hereby amended by striking out in line 13, the
3 word “agent” and inserting in place thereof the words:— service
4 officer.

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

1 SECTION 18. Section 10 of Chapter 115, as appearing in the
2 2000 Official Edition, is hereby amended by striking out in line 16
3 the word “Two” and inserting in place thereof the following:—
4 Subject to the commissioner’s approval, two.

1 SECTION 19. Section 15 of Chapter 115, as so appearing, is
2 hereby amended by striking out in lines 1 and 2 the words “depart-
3 ment of corporation and taxation” and inserting in place thereof the
4 words:— department of revenue.