

No. 1992-106

AN ACT

SB 222

Providing compensation to persons in active service in connection with the Persian Gulf Conflict or their beneficiaries; authorizing the incurring of indebtedness and the issue and sale of bonds by the Commonwealth for the payment of compensation and the design and construction of a memorial to veterans of this Commonwealth, contingent upon electorate approval; creating a special fund in the State Treasury to be known as the Persian Gulf Conflict Veterans' Compensation Bond Fund; designating the War Veterans' Memorial Fountain; imposing powers and duties on the Department of General Services; and making appropriations.

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

Section 1. Short title.

This act shall be known and may be cited as the Persian Gulf Conflict Veterans' Compensation and Bond Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Active service.” For a member of a component of the armed forces of the United States, the time served on active duty for which the member has received or is eligible to receive the Southwest Asia Service Medal for service

related to the Persian Gulf Conflict Theater; for a member of the Pennsylvania National Guard or a reserve component of the armed forces of the United States, time served on active duty for the support of operations in the Persian Gulf Conflict Theater whether or not that service was in the theater. The term includes time spent in hospitals as a result of service-connected wounds, diseases or injuries sustained on active service. Proof of such service shall be the official military records of the United States or such other evidence as is deemed sufficient by the Adjutant General. The term does not include time served on active duty for annual training or schooling, except for training and schooling in preparation for active duty in the Persian Gulf Conflict Theater.

“Fund.” The Persian Gulf Conflict Veterans’ Compensation Bond Fund.

“Issuing officials.” The Governor, the Auditor General and the State Treasurer.

“Legal resident of this Commonwealth.” A member of the United States Armed Forces, the reserve component of the United States Armed Forces or the Pennsylvania National Guard whose home of record at the time of the Persian Gulf Conflict was this Commonwealth or any specific place in this Commonwealth without regard to the place of enlistment, commission or induction. The proof of such residence shall be the official records of the United States or such other evidence as is deemed sufficient by the Adjutant General.

“Persian Gulf Conflict Theater.” The area defined as the Persian Gulf Conflict Theater of Operations as established by the United States Department of Defense for the awarding of the Southwest Asia Service Medal for the period of time from August 2, 1990, through August 31, 1991.

“Veteran.” A member of a component of the armed forces of the United States who had active service in the Persian Gulf Conflict Theater or a member of the Pennsylvania National Guard or a reserve component of the armed forces who had active service for the support of operations in the Persian Gulf Conflict Theater. The term does not include an individual who was separated from the armed forces under other than honorable conditions, had renounced his United States citizenship or was called to active duty for the purpose of annual training or schooling.

Section 3. Computation of compensation.

(a) Eligibility.—Compensation shall be payable under this act only to each veteran who was a legal resident of this Commonwealth.

(b) Compensation for service in the Persian Gulf.—Compensation shall be payable on the basis of \$75 for the first month of eligibility with a minimum of one day of active service; thereafter, it shall be computed on the basis of \$75 for each month or major fraction thereof.

(c) Compensation on behalf of deceased veteran.—In addition to any other compensation authorized under this section, the compensation on behalf of a veteran who died in active service or as a result of service-connected wounds, diseases or injuries sustained during active service shall be \$4,000.

(d) Compensation of prisoner of war.—In addition to any compensation under the other provisions of this section, the compensation of a veteran who was declared a prisoner of war, regardless of the length of time spent as a prisoner of war, shall, upon return, be \$4,000.

(e) Total amount of compensation.—The compensation provided for active service under subsection (b) shall be not less than \$75 and not more than \$525.

(f) Exclusion from compensation.—Any individual who has received a bonus, gratuity or compensation of a nature similar to that provided for by this act from any other state in the United States is ineligible for compensation. This exclusion does not apply to a similar bonus, gratuity or compensation from the Federal Government.

#### Section 4. Application for compensation.

(a) Application to Adjutant General.—Applications shall be made by a veteran, the facility entitled under section 5(a) or the beneficiaries designated under section 5(b). The Adjutant General shall ascertain the applicants who are veterans and, as to each veteran, the number of months of service for which the veteran is entitled to receive compensation.

(b) Time for filing application.—The Adjutant General shall not accept or consider any application filed after August 31, 1995.

#### Section 5. Persons to whom payments shall be made in case of incompetence or death.

(a) Incompetence.—In a case where the veteran is incompetent, if no guardian has been appointed, payment shall be made for the benefit of the veteran to the person who is entitled to payment under subsection (b) or, in the absence of any such person and if the veteran is in a facility, to the person in charge of the facility to be expended for the clothing and incidental needs of the veteran. No part of the compensation paid to any facility shall be used for the maintenance of the veteran. A statement from the person in charge of the facility in which the veteran resides shall be evidence to determine the competence of the veteran.

(b) Death.—In the case of the death of a veteran, payment shall be made, in the order named, to the:

- (1) surviving spouse, unless the spouse was living separate and apart from the veteran at the time of departure for active service;
- (2) surviving children, share and share alike; or
- (3) surviving parents.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Facility.” Any mental health establishment, hospital, clinic, institution, center, day-care center, base service unit, community mental health center or other organizational unit, or part thereof, which is devoted primarily to the diagnosis, treatment, care, rehabilitation or detention of mentally disabled persons.

“Parents.” Includes persons who, for a period of not less than one year, acted in the capacity of a foster parent to the veteran immediately prior to the veteran having attained 18 years of age.

**Section 6. Applicant to designate beneficiaries.**

Every person making application for compensation shall set forth in the application the names and addresses of all persons who, under this act, would be entitled to receive compensation in the event of the death of the applicant. If the applicant dies before the payment of the compensation, the application shall be deemed to inure to the benefit of the person next entitled to compensation, and payment shall be made to the person upon proof of identity satisfactory to the Adjutant General. If no person designated in this act as being entitled to compensation survives the veteran, the right to the compensation shall cease.

**Section 7. Exemption from attachment, etc.**

No sum payable under this act to a veteran or to any other person under this act shall be subject to attachment, levy or seizure under any legal or equitable process and shall be exempt from all State taxation. No right to compensation under this act shall be assignable, except as otherwise provided in this act, or shall serve as a security for any loan. Any assignment or loan made in violation of this section shall be void. Assignments to any incorporated or unincorporated organization of veterans, any nonprofit corporation formed solely for the purpose of aiding disabled or incapacitated veterans and the State Veterans' Commission shall be valid.

**Section 8. Penalty for charging fees for assisting veterans.**

A person who charges or collects or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting, in any manner, a veteran in obtaining any of the benefits provided under this act commits a misdemeanor of the second degree.

**Section 9. Administration of compensation program.**

The Adjutant General shall administer the compensation program. For that purpose application forms shall be prepared and distributed, applications shall be investigated, and, if satisfied of the proof of an application, compensation shall be approved and payment of compensation shall be made. The Adjutant General shall promulgate rules and regulations to implement, administer and enforce this act. The Adjutant General shall, as soon as practicable after the effective date of this act, prepare and distribute a digest explaining the provisions of this act to assist veterans in filing their applications and shall from time to time prepare and distribute additional or supplementary information as may be found necessary. The Adjutant General shall enlist, as far as possible, the services of veteran organizations in this Commonwealth in the dissemination of the information.

**Section 10. Payment of compensation.**

The compensation payable under this act shall, upon requisition by the Adjutant General, be paid by the State Treasurer from the fund to be created with funds realized from a proposed bond issue. Payments shall be made as soon as possible after funds are available.

**Section 11. Persian Gulf Conflict Veterans' Compensation Bond Fund.**

(a) Purpose of fund.—The Persian Gulf Conflict Veterans' Compensation Bond Fund, which is hereby created in the State Treasury, shall be the source from which all payments are authorized with the approval of the Gov-

error to carry out the purposes of this act. The moneys in the fund shall only be utilized:

(1) For the purpose of providing compensation to veterans in accordance with the provisions of this act.

(2) For payment of the cost of designing and constructing a patriotic monument or memorial in appreciation of veterans of this Commonwealth.

(3) For the administrative costs incurred in any of the purposes in paragraph (1) or (2), including the costs incurred in connection with the issuance of the bonds.

(b) Interfund transfers authorized.—

(1) Whenever the cash balance and the current estimated receipts of the fund shall be insufficient at any time during any State fiscal year to meet promptly the obligations of the Commonwealth from such fund, the State Treasurer is hereby authorized and directed, from time to time during such fiscal year, to transfer from the General Fund to the fund such sums as the Governor directs, but in no case less than the amount necessary to meet promptly the obligations to be paid from the fund nor more than an amount which is the smallest of:

(i) the difference between the amount of debt authorized to be issued under the authority of this act and the aggregate principal amount of bonds and notes issued, not including refunding bonds and replacement notes; and

(ii) the difference between the aggregate principal amount of bonds and notes to be issued during a State fiscal year and the aggregate principal amount of bonds and notes, not including refunding bonds and replacement notes, issued during such State fiscal year.

Any sums so transferred shall be available only for the purposes for which funds are appropriated from the fund. The transfers shall be made under this section upon warrant of the State Treasurer upon requisition of the Governor.

(2) In order to reimburse the General Fund for moneys transferred from such funds under paragraph (1), there shall be transferred to the General Fund from the fund moneys from the proceeds obtained from bonds and notes issued under the authority of this act or from other available funds in such amounts and at such times as the Governor shall direct. The retransfers shall be made upon warrant of the State Treasurer upon requisition of the Governor.

Section 12. Commonwealth indebtedness.

(a) Borrowing authorized.—

(1) If and when the electorate approves a referendum question for the incurring of indebtedness in the amount and for the purposes prescribed in this act, the issuing officials, pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania, are authorized and directed to borrow, on the credit of the Commonwealth, money not exceeding in the aggregate the sum of \$25,000,000, not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be found necessary to carry out the purposes of this act.

(2) As evidence of the indebtedness, general obligation bonds of the Commonwealth shall be issued from time to time to provide moneys necessary to carry out the purposes of this act for such total amounts, in such form, in such denominations and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the issuing officials direct, except that the latest stated maturity date shall not exceed 20 years from the date of the first obligation issued to evidence the debt.

(3) All bonds and notes issued under the authority of this act shall bear facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth and shall be countersigned by a duly authorized officer of a duly authorized loan and transfer agent of the Commonwealth.

(4) All bonds and notes issued in accordance with the provisions of this section shall be direct obligations of the Commonwealth, and the full faith and credit of the Commonwealth is hereby pledged for the payment of the interest thereon, as it becomes due, and the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States.

(5) All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest as the issuing officials may determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(7) The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt so that the bonds of each issue allocated to the programs to be funded from the bond issue shall mature within a period not to exceed the appropriate amortization period for each program as specified by the issuing officials but in no case in excess of 20 years. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements.

(8) The issuing officials are authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of the outstanding debt or providing funds to redeem and retire the outstanding debt with accrued interest, any premium payable thereon and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing official in respect thereto shall be governed by the provisions of this section, insofar as they may be applicable. Refunding

bonds, which are not subject to the aggregate limitation of \$25,000,000 of debt to be issued under this act, may be issued by the issuing officials to refund debt originally issued or to refund bonds previously issued for refunding purposes.

(9) Whenever any action is to be taken or decision made by the Governor, the Auditor General and the State Treasurer acting as issuing officials and the three officers are not able unanimously to agree, the action or decision of the Governor and either the Auditor General or the State Treasurer shall be binding and final.

(b) Sale of bonds.—

(1) Whenever bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on the terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and character of the advertisement and the time of advertising shall be prescribed by the issuing officials. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(2) Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than 98% of the principal amount and accrued interest, as the Governor shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(3) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth.

(4) Until permanent bonds can be prepared, the issuing officials may in their discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

(5) The proceeds realized from the sale of bonds and notes, except refunding bonds and replacement notes, under the provisions of this act shall be paid into the fund. The proceeds shall be paid by the State Treasurer periodically to those Commonwealth officers and Commonwealth agencies authorized to expend them at such times and in such amounts as may be necessary to satisfy the funding needs thereof. The proceeds of the sale of refunding bonds and replacement notes shall be paid to the State Treasurer and applied to the payment of principal, the accrued interest and premium, if any, and cost of redemption of the bonds and notes for which the obligations shall have been issued.

(6) Pending their application for the purposes authorized, moneys held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of the funds shall be paid into the State Treasury to the credit of the fund. The

earnings in excess of bond discounts allowed, expenses paid for the issuance of bonds and notes and interest arbitrage rebates due to the Federal Government shall be transferred annually to the fund. Any interest or investment income shall be applied to assist in the payment of the debt service incurred in connection with this act.

(7) The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the issuing officials.

(8) There is hereby appropriated to the State Treasurer from the fund as much money as may be necessary for all costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this act and the payment of interest arbitrage rebates or proceeds of such bonds and notes.

(c) Temporary financing authorization.—

(1) Pending the issuance of bonds of the Commonwealth as authorized, the issuing officials are hereby authorized, in accordance with the provisions of this act and on the credit of the Commonwealth, to make temporary borrowings not to exceed three years in anticipation of the issue of bonds in order to provide funds in such amounts as may from time to time be deemed advisable prior to the issue of bonds. In order to provide for and in connection with the temporary borrowings, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to enter into any purchase, loan or credit agreement or agreements, or other agreement or agreements with any banks or trust companies or other lending institutions, investment banking firms or persons in the United States having power to enter into the same, which agreements may contain provisions not inconsistent with the provisions of this act as may be authorized by the issuing officials.

(2) All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth which shall be issued from time to time for amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation in the form and in the denominations and subject to terms and conditions of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the issuing officials shall authorize and direct and in accordance with this act. The authorization and direction may provide for the subsequent issuance of replacement notes to refund outstanding notes or replacement notes, which replacement notes shall, upon issuance thereof, evidence the borrowing and may specify other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the issuing officials may determine and direct.

(3) When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to issue, enter into or authorize and direct the State Treasurer to enter into



agreements with any banks, trust companies, investment banking firms or other institutions or persons in the United States having the power to enter the same:

(i) To purchase or underwrite an issue or series of issues or notes.

(ii) To credit, to enter into any purchase, loan or credit agreements, to draw moneys pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(iii) To appoint as issuing and payment agent or agents with respect to notes.

(iv) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the interest on and the principal of such notes. Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by discounting the purchase price of the notes or by payment of a fixed fee or commission at the time of issuance thereof, and all other costs and expenses, including fees for agreements related to the notes, issuing and paying agent costs and costs and expenses of issuance, may be paid from the proceeds of the notes.

(4) When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the State Treasurer shall, at or prior to the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates, or procedures for establishing such rates from time to time, rates of discount, denominations and all other terms and conditions relating to the issuance and shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any moneys available for that purpose pursuant to any purchase, loan or credit agreements established with respect thereto, all subject to the authorization and direction of the issuing officials.

(5) Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as hereinafter authorized. The refunding bonds must be issued and sold not later than a date three years after the date of issuance of the first notes evidencing the borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(6) The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of this act.

(d) Debt retirement.—

(1) All bonds issued under the authority of this act shall be redeemed at maturity, together with all interest due from time to time on the bonds, and these principal and interest payments shall be paid from the Persian Gulf Conflict Veterans' Compensation Bond Sinking Fund, which is hereby created. For the specific purpose of redeeming the bonds at matu-

ity and paying all interest thereon in accordance with the information received from the Governor, the General Assembly shall appropriate moneys to the Persian Gulf Conflict Veterans' Compensation Bond Sinking Fund for the payment of interest on the bonds and notes and the principal thereof at maturity. All moneys paid into the Persian Gulf Conflict Veterans' Compensation Bond Sinking Fund and all of the moneys not necessary to pay accruing interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the Commonwealth.

(2) The State Treasurer, with the approval of the Governor, is authorized at any time to use any of the moneys in the fund not necessary for the purposes of the referendum authorizing the indebtedness necessary to carry out this act, for the purchase and retirement of all or any part of the bonds and notes issued pursuant to the authorization of this act. In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes, and thereafter all payments of interest thereon shall cease. The canceled bonds, notes and coupons, together with any other canceled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two years after cancellation. A certification evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the issuing officials. All canceled bonds, notes and coupons shall be so marked as to make the canceled bonds, notes and coupons nonnegotiable.

(3) The State Treasurer shall determine and report to the Secretary of the Budget by November 1 of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of the obligations, if any, for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every budget submitted to the General Assembly full information relating to the issuance of bonds and notes under the provisions of this act and the status of the Persian Gulf Conflict Veterans' Compensation Bond Sinking Fund of the Commonwealth for the payment of interest on the bonds and notes and the principal thereof at maturity.

(4) The General Assembly shall appropriate an amount equal to the sums as may be necessary to meet repayment obligations for principal and interest for deposit into the Persian Gulf Conflict Veterans' Compensation Bond Sinking Fund.

(e) Expiration.—Authorization to issue bonds and notes, not including refunding bonds and replacement notes, for the purpose of this act shall expire ten years from the effective date of this section.

Section 13. Question.

(a) Submission of question to electorate.—The question of incurring indebtedness of up to \$25,000,000 for the purposes set forth in this act shall be submitted to the electors at the next primary, municipal or general election following enactment of this act.

(b) Certification.—The Secretary of the Commonwealth shall certify the question to the county boards of elections.

(c) Form of question.—The question shall be in substantially the following form:

Do you favor indebtedness by the Commonwealth of up to \$25,000,000 for the payment of compensation for service in the Persian Gulf Conflict, including \$1,500,000 for the cost of designing and constructing a patriotic monument or memorial in appreciation of Pennsylvania's veterans?

(d) Election.—The election shall be conducted in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, except that the time limits for advertisement of notice of the election may be waived as to the question.

(e) Proceeds.—Proceeds of the borrowing shall be used for the payment of compensation for service in or in support of the Persian Gulf Conflict, including \$1,500,000 for the cost of designing and constructing a patriotic monument or memorial in appreciation of veterans of this Commonwealth.

Section 14. Designation of fountain.

(a) Designation.—The fountain in the plaza of the East Wing of the Main Capitol Building in Harrisburg shall, on and after the effective date of this act, be known as the War Veterans' Memorial Fountain.

(b) Monument.—The Department of General Services shall erect an appropriate monument to depict this designation to the general public.

Section 15. Appropriations.

(a) Compensation appropriation.—For the purpose of payment for the compensation to eligible veterans, staff services, postage and other necessary expenses incurred by the Adjutant General in the administration of this compensation program, such sums, or as much thereof as may be necessary, are specifically appropriated to the Adjutant General out of any moneys which have been deposited in the Persian Gulf Conflict Veterans' Compensation Bond Fund.

(b) Veterans' memorial.—For the purpose of designing and constructing a patriotic monument or memorial on the grounds of Indiantown Gap National Cemetery in appreciation of veterans of this Commonwealth as authorized by 51 Pa.C.S. Ch. 19 (relating to Pennsylvania Veterans' Memorial Commission), a sum not to exceed \$1,500,000 is hereby appropriated to the Adjutant General from the fund for transfer at such times and in such amounts as the Adjutant General deems reasonable and appropriate to the Veterans' Memorial Trust Fund.

(c) Continuing appropriations.—The appropriations under subsections (a) and (b) shall be continuing appropriations and shall not lapse.

Section 16. Effective date.

This act shall take effect as follows:

(1) Sections 13(a), (b), (c) and (d) and 14 of this act shall take effect immediately.

(2) The remainder of this act shall take effect upon the certification of the approval by the electorate to incur the indebtedness necessary to carry out the provisions of this act.

APPROVED—The 24th day of November, A. D. 1992.

ROBERT P. CASEY