

ISSUE BRIEF

SENATE POLICY DEVELOPMENT AND RESEARCH OFFICE

PREPARED IN CONJUNCTION WITH THE SENATE REPUBLICAN POLICY COMMITTEE

Military and Guard Personnel Legislation

Those serving in the Pennsylvania National Guard, military reserves, and the active military have answered the call to duty, some with the ultimate sacrifice. In recognition of this service and sacrifice, Senate Republicans have introduced or acted on numerous legislative proposals to support these individuals and their families.

2007-2008 Session

[Act 7 of 2007](#) (Senate Bill 218 - Browne) amended the Local Tax Enabling Act to make a number of changes to the imposition and collection of the Emergency and Municipal Services Tax. Among other provisions, the bill:

- Changed the name of the Emergency and Municipal Services Tax to the Local Services Tax (LST) and required a political subdivision levying the LST to exempt from the tax blind, paraplegic, and disabled veterans and any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year.

The 2007-08 Budget ([Act 8A of 2007](#)) earmarked \$450,000 for a program to improve veterans' outreach and assistance throughout Pennsylvania.

[Senate Bill 87](#) (Tomlinson) would amend Title 62 (Procurement) of the Pennsylvania Consolidated Statutes to provide for contracting with veteran-owned businesses. Among other provisions, the bill would:

- Require each state purchasing agency to have an annual goal of not less than five percent participation by veteran-owned businesses.
- Impose a number of duties upon the Department of General Services designed to facilitate the five percent participation goal, including a duty to:
 - Provide staff to assist veteran-owned businesses in learning how to do business with Commonwealth agencies and develop training programs for veterans;
 - Provide publicity on procurement procedures and issue publications designed to assist veterans;
 - Compile and maintain a list of veteran-owned businesses;
 - Place veteran-owned businesses on solicitation mailing lists;
 - Assure that veteran-owned businesses are solicited on each procurement for which the businesses may be suited;
 - Develop training programs to assist veteran-owned businesses in learning how to do business with Commonwealth agencies; and,
 - Assure that participation by veteran-owned businesses is appropriately factored into the evaluation of proposals for supplies, services or construction when a purchasing agency uses the competitive sealed proposals method under Section 513.

- Require the Department to certify businesses that have been identified as “veteran work force utilization businesses” defined as businesses which develop and implement special processes and procedures for recruiting, retaining, training or developing veteran employees and whose workforce is no less than 10 percent veterans.
- Permit a purchasing agency to reduce bonding requirements and to make special provisions for progress payments to encourage procurement from veteran-owned businesses.
- Authorize the Department to establish business assistance offices throughout the Commonwealth to assist and carry out the provisions of this bill.
- Require each purchasing agency to report annually in writing to the Senate and House Veterans Affairs and Emergency Preparedness Committees concerning the awarding of contracts to veteran-owned businesses during the preceding fiscal year. This legislation passed unanimously in the Senate and has been referred to the House Veterans Affairs and Emergency Preparedness Committee.

[Senate Bill 180](#) (Pippy) would amend Title 51 (Military Affairs) to authorize the Department of Military and Veterans Affairs to arrange for burial details for veterans who are to be interred at the National Cemetery of the Alleghenies. Current law authorizes burial details at the Indiantown Gap National Cemetery. This legislation passed (48-0) in the Senate and is in the House Appropriations Committee.

[Senate Bill 183](#) (Pippy) would amend the Crimes Code to modify the provisions governing the offense of impersonating a public servant to clarify that a person would commit a third degree felony if he or she impersonates a police officer or any other type of law enforcement officer with the intent to induce another person to submit to false official authority. An additional provision would establish that an individual commits a third degree misdemeanor if he or she impersonates a member of the armed forces or veteran with the intent to induce another person to submit to false official authority. This legislation passed unanimously in the Senate and has been referred to the House Judiciary Committee.

[Senate Bill 221](#) (Stack) would amend the Crimes Code to grant members of the United States Armed Forces or the Pennsylvania National Guard on federal active duty a 90-day extension of their license to carry a firearm if they are deployed overseas when the license expires. The extension would begin at the end of the deployment. This legislation passed the Senate (47-0) and has been referred to the House Judiciary Committee.

[Senate Bill 262](#) (Gordner) would amend the Vehicle Code to permit the Department of Transportation to waive the driving skill test for a member of the armed forces or a veteran who applies for a commercial driver’s license and is or was regularly employed in a position in the armed forces requiring operation of a commercial motor vehicle and who has legally operated, for at least two years immediately preceding application for a commercial driver’s license, a vehicle representative of the commercial motor vehicle that the driver applicant expects to operate. This legislation passed the Senate unanimously and has been referred to the House Transportation Committee.

[Senate Bill 778](#) (Armstrong) would create the Long-Term Care Patient Access to Pharmaceuticals Act. The legislation would establish a mechanism whereby patients who are eligible to receive low-cost prescription drugs through the Veterans’ Administration and reside in a long-term care facility would have access to those drugs. A patient would be required to sign a form, developed by the State Board of Pharmacy, authorizing the long-term care facility to administer a drug acquired from a drug source facility outside the long-term care facility (Veterans’ Administration) and dispensed through a pharmacist employed by the long-term care facility or a pharmacy who contracts with the long-term care facility. Patients would be advised that they could be charged a fee for the repackaging, re-labeling and dispensing of such drugs. The fees would not exceed \$20 for up to 90 units per drug; with an additional fee of \$10 for half tablets and for each additional 90 units. Repackaging would be in compliance with policies and procedures of the Food and Drug Administration, the U.S. Pharmacopeia and the long-term care facility. The legislation would also provide civil immunity for those dispensing properly repackaged drugs and long-term care facilities properly administering the drugs from an entity authorized to

dispense the drug. This legislation passed the Senate (49-0) on December 4, 2007 and was referred to the House Health and Human Services Committee.

[Senate Bill 915](#) (Baker) would provide financial assistance to the Veterans Administration accredited service officer programs offered by nationally-chartered veteran service organizations including The American Legion, AMVETS, Veterans of Foreign Wars of the United States, and the Disabled American Veterans. The program would be coordinated by the Pennsylvania Department of Military and Veterans Affairs to enhance the availability of veterans' assistance throughout the state, to measure performance and program outcomes, and to ensure the ongoing monitoring and continual improvement of services to Pennsylvania's veterans' community. This legislation passed the Senate (46-0) and the House (195-0) and was presented to the Governor on December 3, 2007.

[Senate Bill 1033](#) (Regola) would amend Title 51 (Military Affairs) to add a representative of the Military Officers Association of America (MOAA) to the Pennsylvania State Veterans' Commission. This legislation has been referred to the Senate Veterans Affairs and Emergency Preparedness Committee.

[Senate Bill 1047](#) (Waugh) would expand the "Operation Recognition" program by allowing honorably discharged veterans of the Vietnam War to be eligible to receive honorary high school diplomas if they did not graduate from high school because they joined the military. "Operation Recognition" currently provides honorary high school diplomas to honorably discharged World War II and Korean War veterans. This legislation has been referred to the Senate Education Committee.

[Senate Bill 1107](#) (Folmer) would provide that military activation could not be used to justify permanent changes in custody or visitation. The provision would apply to U.S. military personnel and to National Guard service. This legislation has been referred to the Senate Judiciary Committee.

[Senate Bill 1119](#) (Baker) would amend Title 34 (Game) to provide fish and game license and fee exemptions for members of the Pennsylvania National Guard who have recently completed overseas deployments. Current law mandates that members of the Army and Air National Guard must serve 180 days of deployment overseas to qualify for the exemptions. However, most Pennsylvania Air National Guard deployments do not exceed 120 days. This legislation would reduce the required days of deployment from 180 to 120 for the Pennsylvania Air National Guardsmen. This bill has been referred to the Senate Game and Fisheries Committee.

[Senate Bill 1125](#) (Orie) would amend the Crimes Code to create the offense of the unauthorized use of the name, portrait or picture of a deceased soldier. A person who knowingly uses the name, portrait or picture of a deceased soldier for commercial purposes without having obtained prior consent to the use from the soldier, the soldier's spouse, immediate family member, trustee or legally designated representative would commit a first degree misdemeanor. The bill would also add a section to the Judicial Code to establish that a soldier has a right of publicity to control and to choose whether and how his or her name, portrait or picture is used for commercial purposes. Under these provisions, a person would be liable for using the name, portrait or picture of any soldier for commercial purposes without prior consent by the soldier or by the soldier's spouse, immediate family member, trustee or legal representative. A person who uses a soldier's name, portrait or picture without consent is subject to injunctive relief, compensatory and punitive damages, and attorney fees and costs. In calculating damages, any profits from the unauthorized use would be taken into account. These rights and remedies would supplement any other rights and remedies provided by law. Any claim for relief would have to be brought within five years after the unauthorized publication. The soldier's right of publicity would survive the soldier's death. Upon the soldier's death, the soldier's rights and remedies could be enforced by the soldier's legally designated representative, the soldier's spouse, parents, children and grandchildren, in that order. This legislation passed the Senate and was referred to the House Judiciary Committee on December 5, 2007.

[Senate Resolution 159](#) (Baker), which was unanimously adopted by the Senate, recognizes the POW-MIA Pennsylvania Project as a model program for the collection of mitochondrial DNA samples to assist in the location of missing military servicemen abroad.

[Senate Resolution 191](#) (Rhoades) encourages the United States Congress to provide benefits to certain individuals who have served in the United States Merchant Marine including the Army Transport Service and the Naval

Transport Service, during World War II. The resolution was referred to the Senate Veterans Affairs and Emergency Preparedness Committee.

Legislative Budget and Finance Committee Report

In October of 2007, the Legislative Budget and Finance Committee, pursuant to Senate Resolutions 124 and 131 of 2005, released “A Comprehensive Study and Review of Veteran Services in Pennsylvania. The study recommends that:

- A separate, cabinet-level Department of Veterans Affairs be created;
- The new Department establish and enforce standards for appointment of a State or County Veterans’ Service Officer;
- The monthly benefits in the Educational Gratuity, Blind Veterans’ Pension, and Paralyzed Veterans’ Pension programs be increased; and
- The Governor’s Outreach Assistance Center be transferred to the new department.

Senate Bill 1204 (Browne) would create a cabinet-level Department of Veterans Affairs.

2005-2006 Session

[Act 150 of 2006](#) (Senate Bill 1266 - Corman) amended Title 51 (Military Affairs) to further provide for military leaves of absence for Commonwealth employees. Act 62 of 2005 provided an additional 15 days of annual paid leave for Commonwealth employees who are Pennsylvania National Guard and reserve members when they are engaged in training or other military duty under orders by federal or state law. This legislation includes Guard members under these provisions who are ordered involuntarily, voluntarily or under a contingency operations tour of active duty agreement to serve for more than 30 consecutive days and assigned to duties away from their home station under certain sections of federal law. The change would apply retroactively to January 1, 2005 for officers and employees who did not qualify under Act 62 of 2005 and prospectively for all other officers and employees.

[Act 161 of 2006](#) (House Bill 2296 - Semmel) amended Title 51 (Military Affairs) to update current statutory provisions which allow individuals with professional licenses issued by the state to retain their professional license when they are deployed for active military service. The measure expands the licenses and certifications covered by these provisions to include those granted by the Departments of Labor and Industry, Education, Insurance, Banking and the Municipal Police Officers’ Education and Training Commission. The bill also temporarily waives continuing education and in-service training requirements for these individuals while they are deployed. An additional change specifically grants the Pennsylvania Supreme Court the ability to extend the chapter to individuals licensed to practice law in the Commonwealth.

Additionally, the bill further provides for the exemption from the payment of real estate taxes for certain disabled veterans. The bill established a rebuttable presumption that an applicant with an annual income of \$75,000 or less has a need for the exemption. Beginning January 1, 2009, and every two years thereafter, the State Veterans’ Commission is required to adjust the income level for inflation. The measure also requires the Commission to review determinations of need every five years to determine any changes in the economic status of the applicants. Currently, the Commission must undertake this review every two years. *The tax provision in HB2296 was originally introduced by Senator Tomlinson.*

[Act 182 of 2006](#) (Senate Bill 1139 - Browne) amended the Tax Reform Code of 1971 to exclude from the definition of compensation, for the purpose of the personal income tax, any income from the United States Government or the Commonwealth of Pennsylvania for active State duty for emergency within or outside the Commonwealth, including duty ordered pursuant to 35 Pa.C.S. Ch. 76 (relating to Emergency Management Assistance Compact). The act takes effect immediately and applies to taxable years beginning after December 31, 2006.

Prepared by Lena Z. Weyhenmeyer, Associate Policy Director, December 12, 2007.