

# PWVC Legislative Committee Primary Issues for 2025

8 December 2024

## Legislative Committee

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## ***ISSUES TO BE ACTIVELY PURSUED THIS LEGISLATIVE CYCLE*** *(based upon input from the delegates)*

### **Protect Veterans Against Claims Sharks Through State Legislation**

**Issue:** Businesses *not* approved by the VA are offering VA benefits claims services -- and then financially preying upon those veterans without penalty under federal law. Meanwhile, veterans can receive free claims service from VSO service officers; be referred to VA authorized attorneys, if required.

**Rationale:** Specifically, VA penalty legislation has not been reapproved for violators since the expiration of previous legislation for well over two years.

The abuse includes organizations charging veterans for information on veterans benefits and advising veterans on how to submit claims. They may also offer to file a claim and have the veterans sign a contract agreement which charges high fees.

Previous enforcement was weak.

Four states have introduced legislation, but only two have passed legislation criminalizing actions by law firms or other organizations when assisting or filing claims for veterans in a manner not approved by federal law under Title 38. The two states which passed laws providing for enforceable penalties did so by modifying their Consumer Protection Laws.

Therefore, state legislation is particularly required as the Congress has not made a change to prevent law firms charging fees more than VA law and regulation allow; and enforcement by the state on the behalf of veterans as consumers seems needed even if a federal law exists.

### **Increase the Blind and Paralyzed Veterans Pensions**

**Issue:** The Blind Veteran Pension and Paralyzed/Amputee Veteran Pension have not been increased for over two decades – making their real dollar value half of what it was two decades ago. An increase should be given, with a COLA for future years, to assist in keeping up with inflation.

**Rationale:** Last legislative session, three previous bills unexpectedly got nowhere last year; the Administration took no known position on the issue; and a promised House VAEP revised proposal failed to emerge. Previous discussions seem to have settled upon a payment of \$250.00 or more, monthly. Therefore, a new bill must be introduced for the new session in 2025 to move this issue along.

## **Issue a Global War on Terrorism War Bonus**

**Issue:** Pass a war bonus act for those servicemembers who performed active-duty service in an overseas combat zone during the period currently estimated as occurring between 7 October 2001 and 11 September 2022; and for the spouse survivors of those killed in action or POWs during that period.

**Rationale:** Since at least the Spanish American War, Pennsylvania's veterans rendering service in a combat theater have been offered a war bonus, with the exceptions of Operations Urgent Fury and Just Cause.

If receipt of the bonus were connected to the requirement to contact an accredited, veterans service officer to discuss available federal benefits, outreach would be substantially improved in a meaningful, proactive way to the advantage of the veteran and, also, the commonwealth and its taxpayers in saved costs.

The DMVA and its State Veterans' Commission have not actively pursued this issue. However, Senator Mastriano has shown interest in the subject and has proposed a good, comprehensive, working draft late in the last legislative session as SB 1316 to provide the basis for future efforts.

## **Expand the Disabled Veterans Real Estate Tax Exemption**

**Issue:** Press for a state constitutional amendment to expand the Disabled Veterans Real Estate Tax Exemption (RETX) provision by including these changes: (1) delete the war clause, (2) add veterans with a permanent, individual unemployability rating; (3) add un-remarried spouses of servicemembers either killed in the Line of Duty, missing in action (MIA), or made prisoners of war (POW); and (4) the exemption applies even if the veteran is living in a long-term care facility if his dependents are occupying the home.

**Rationale:** The RETX program currently provides for an exemption from the payment of all real estate taxes on the primary residence only for:

- eligible honorably discharged or released veterans who served during war or armed conflict and are deemed 100 percent service-connected disabled (total and permanent disability) and
- any unmarried surviving spouse residing in the commonwealth who demonstrates a financial need.

However, the current constitutional provision has forgotten those who sacrificed the most: their lives.

The DMVA may have taken liberties by including those with individual unemployability which does not require 100% service-connected disability. While understandable, the law needs changed to accommodate.

It is our understanding these changes require a change to the Constitution of Pennsylvania (Article VIII, Section 2(c)) being put forth to the people. It will take two legislative sessions to accomplish.

HB 1227 was introduced in the 2023-2024 House Session, but went nowhere. However, it provides the basis for reintroduction of the need for the amendments above.

## **Properly Maintain the Veterans Transportation Network Funding**

**Issue:** Increase the awareness in state government of the importance of Veterans Transportation Network. Pursue an increase to the DMVA's "Disabled American Veterans Transportation" line-item appropriation.

**Rationale:** This little understood, DAV-VA partnership program provides a major portion of Pennsylvania's VA Veterans Transportation Service. It is particularly critical to those veterans where the VA hospital's advanced services are distant from them, particularly in more rural areas of the state. However, far too many of the vehicles are overaged, over-mileage or unsafe.

The general aging of the veterans population, the Mission and PACT acts and the resulting expansion of VA benefits and service, and the efforts of both Act 66 and county service officers have put increasing pressure on upgrading the fleet.

The DMVA, the Governor and the General Assembly have neglected a standing appropriation line-item which partially helps towards the sizing and management of the fleet. Additionally, a misunderstanding of how the program is managed and dependent on VA decisions exists. This has led significant underfunding of the program. Consequently, the state contribution has not increased in the last two to three decades -- and is now worth about half of its original value in real dollars.

DAV has made strides in improving management of the system. PWVC efforts have led to the VA establishing replacement standards and the hiring of a statewide coordinator. Their program is in its infancy, but will lead to a more statewide approach resource management, to include other options. Meanwhile, at state DAV urging, National DAV's contribution to funding led to a threefold surge of replacement vehicles in 2024 – demonstrating nonprofit alertness to the problem.

In summary, correcting the most immediate issue lies in convincing the state government to help contribute to the funding needed to purchase more replacement vehicles and to pay a fair wage to the patient transport coordinators vital to managing the scheduling of vehicles and volunteer drivers the DAV and other veterans organizations obtain. An appropriation bill needs to be proposed.

## **Make Veterans Justice More Fair**

**Issue:** Improve the management of justice for veterans in the state's unified judicial system by:

- (1) Allowing sentenced veterans to apply for a post-conviction review of their *sentences* if Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI) was incurred while serving their country.
- (2) Adding a requirement that every District Court of Common Pleas takes proactive, proof-positive steps towards identifying all veterans appearing before them; and, then, ensuring screening – and, if needed – a professionally-done, pre-sentencing assessment for PTSD and TBI to be used prior to sentencing.
- (3) Expanding accessibility to Veterans Treatment Courts as a matter of providing equal justice no matter where one lives.
- (4) Supporting medical parole efforts for senior Department of Corrections incarcerated veterans no longer deemed a threat to the community.

**Rationale:** The VA's PTSD assessment protocol did not begin until 1980, and the TBI protocol not until about 2008. Not a few incarcerated veterans have been overlooked for treatment of these conditions while incarcerated or consideration of their effects during sentencing, consequently.

Access to Veterans Treatment Courts when appropriate – a specialty, diversion court of a District Court of Common Pleas -- is still not statewide despite the effort having begun under federal grant funding in 2006.

Those facing felony convictions are in a worse situation. Pre-sentencing investigations (PSI) for the above conditions are not a routine consideration during the trial process, especially in an environment where there is an overwhelming use of plea deals. Lack of funding also affects their use.

These matters have received insufficient attention despite the DMVA's, Administrative Office or the Pennsylvania Courts, and General Assembly's awareness of the subject over the years.

Medical parole is a humane practice and, in addition, saves taxpayer dollars for better uses when one considers the high expense of incarceration. The state's current compassionate release program has failed miserably, according to Rep. Kinsey. Veterans serving lengthy sentences are particularly affected by

current practices. Improvement in the current system for paroling due to severe medical conditions is needed.

HB 231, which addressed the first issue failed. Senate Resolution 196, which will study the second and third issues and more, was passed and its report is due in late 2025. HB 587, which addressed the fourth and last issue, also failed. Reintroduction of HB 587 is not dependent upon SR 196 and can be pursued separately.

## **Reorganize Veterans Affairs**

**Issue:** Any efforts to reorganize the structure and operations of the DMVA which provide better and faster state services to veterans and their families should be supported. This includes reinvestigating the feasibility of creating a Department of Veterans Affairs, or an equivalent, to lend greater focus to this issue.

**Rationale:** The state's veterans affairs system is fragmented and decentralized. The designed system predominantly depends upon predominately upon the efforts of county directors of veterans affairs as its action and outreach officers, supplemented by grant contract veterans service officers (under Act 66 of 2007). They are not part of the DMVA. The introduction of PA VetConnect, if properly staffed and controlled, is a forward step towards coordination.

Otherwise, the DMVA manages the state veterans homes and a few legislatively mandated programs. In addition, a few veteran-specific programs, as a result of federal initiatives, are operated by the Departments of Education, Employment and Agriculture) This adds to the DMVA's burdens in mission accomplishment: lack of management control which PA VetConnect can only partially affect.

The recent pandemic revealed weaknesses in the state veterans home system and forced a reorganization of the "Bureau of Long-Term Care" which has benefitted the 1500 or less veterans under its care, which suggests more homes of high quality are needed.

The DMVA has itself recognized the need to restructure the Bureau of Veterans Programs, Initiatives, Reintegration, and Outreach (PIRO) to concretely improve its performance in the field in addressing issues of concern to veterans. A review of the Deputy Adjutant General position selection requirements is also in order as recent legislation has suggested.

The PIRO's award cycle and authorization protocol for each Act 66 of 2007 grant period needs revision to prevent the delays in funding each fiscal year and the incurred, unnecessary debt/machinations of veterans service organizations resulting.

Methods such as a better system to track the services provided to veterans in the ACT 66 veteran service officer program. The benefit of extending grant funding in 2025 past the end of the state fiscal year will allow for state funding to arrive without organizations borrowing funds to operate.

The veterans community and the National Guard compete for the Department of Veterans and Military Affairs management attention. On balance, National Guard issues receive priority attention – naturally so, for various reasons. This elevates the importance of State Veterans Commission in advising the governor and the Adjutant General, but it needs restricting consideration. The state veterans home reorganization has proven the effectiveness of reform.

Other states have been quicker to realize the importance of a well-organized and staffed veterans affairs agency with a focused mission. The vast majority of states now no longer burden a DMVA with a direct, veterans affairs responsibility. Of the top fifteen states in terms of the size of their veterans populations, the commonwealth continues to fall to the bottom in the VA's direct expenditures per veteran.

Therefore, all efforts to provide better organization and more efficient operations which benefit veterans in Pennsylvania should be supported. Therefore, the PWVC should consider supporting this

Administration's reorganization effort and any legislative efforts to go the extra mile in creating an independent agency entirely focused on veterans and their families as other states have done – bringing the state into the 21<sup>st</sup> Century.

## **Pursue a Joint Resolution in Support of the Major Richard Star Act**

**Issue:** Press for a joint resolution from the Pennsylvania General Assembly to the U.S. Congress to pass the Richard Star Act.

**Rationale:** Many Pennsylvania combat wounded veterans are affected by the concurrent receipt issue of withholding one dollar of earned military retirement pay for every dollar VA compensates the veteran for their combat disability.

In 2004, shortly after the invasion of Iraq, Congress granted concurrent receipt of DoD retirement pay and VA disability service-connected compensation for those with a 50% or greater VA disability rating and with 20 or more years of service. However, those with 40% VA disability and below who are Chapter 61 retirees receive a reduced retirement payment. (A Chapter 61 veteran is one who has been forced to retire from military service before reaching 20 years in service.) It is an unjust cost-saving measure that forces retirees to fund their VA disability with their earned retirement pay.

Nationwide, approximately 52,000 of the 575,000 Chapter 61 veterans living today are affected.

There is strong support in the U.S. Congress for the Richard Star Act legislation, and several bills have been introduced over the bills to address the issue. However, none have been brought to the floor for a vote in either the House or Senate. The Congress has balked over concerns over its cost? The issue needs to be brought to a head and resolved.

The House last legislative session was discussing its own resolution to be sent to the Congress (HR 404), but the action stalled. A joint resolution from all of Pennsylvania's lawmakers would help encourage our congressional members and others to step forth and bring needed legislation to a vote.

## **Expedite Survivor Benefit Processing**

**Issue:** Press the U.S. Department of Veterans affairs to ensure timely delivery of benefits to vulnerable survivors who have an immediate need for supplemental income following the death of a military veteran.

**Rationale:** The Veterans Benefit Administration (VBA) has authority to pay Dependency and Indemnity Compensation (DIC) to a survivor for a veteran's service-connected death under 38 U.S.C. § 1310 and 1311. VBA also has authority to pay DIC to a survivor for a Veteran's non-service connected death if the Veteran had a total service-connected disability for one of the periods prescribed in 38 U.S.C. § 1318.

Assuming it has not been rescinded, FAST Letter 13-04, 22 Mar 2013, provides instructions for expediting decisions for DIC cases. Specifically, it states:

For DIC claims where you already have evidence establishing that the Veteran had a service-connected disability that was continuously rated totally disabling, including a total disability rating based upon individual unemployability, for:

- 10 or more years immediately preceding death, or
- 5 or more years from the date of discharge, or
- 1 or more years immediately preceding death if the Veteran was a former prisoner of war, then

Take immediate action on the claim by referring it to a rating team for a decision without further development regarding the cause of death.

The VA knows or should know the status of the veteran and his dependents and their status for a survivor compensation.

In such cases at the very least, upon notification of the death of the veteran, why cannot the VA automatically process the DIC action needed upon notification of the death of the veteran, rather than the dependent (especially the surviving spouse) having to apply and then waiting months, even a year, before receiving award, although the family has often been dependent on the income?

The same situation applies for those spouses were in receipt of a disability pension, for they are indigent otherwise for the purpose of the award.

There appears a need to press the VBA to address this issue raised by Pennsylvania's DAV, and resolve it, either administratively or through legislation. The DMVA has been approached in State Veterans Commission meetings and the Deputy Adjutant General for Veterans Affairs concurs there is a need to press the issue regarding DIC, but no response through the DMVA or from the VA directly has been received after about a year. The subject needs the attention of the PWVC to escalate a solution to a problem affecting many survivors.