



H.B. 649

127th General Assembly
(As Passed by the General Assembly)

Reps. Hottinger, Bacon, Dolan, Flowers, Jones, R. McGregor, Schlichter, J. Stewart, Adams, Aslanides, Batchelder, Ciafardini, Collier, Daniels, Evans, Gibbs, Goodwin, J. Hagan, Hite, Hughes, Peterson, Reinhard, Schindel, Schneider, Sears, Setzer, Uecker, Watchmann, White, Widener, Zehringer

Sens. Carey, Wagoner, Austria, Buehrer, Cates, Faber, Goodman, Grendell, Harris, Mumper, Padgett, Patton, Schaffer, Schuler, Schuring, Niehaus, Wilson

Vetoed: January 6, 2009

ACT SUMMARY

The Governor vetoed this act, which would have done all of the following:

- Required the Director of Veterans Services to implement and administer a compensation program for persons who served in active duty in the United States Armed Services during the Persian Gulf, Afghanistan, and Iraq conflicts.
- Established eligibility requirements and compensation amounts for those persons and for the spouse, children, or parents of such a person if the person is deceased or determined to be missing in action or a prisoner of war.
- Required the Director of Budget and Management to transfer \$150 million from the Budget Stabilization Fund to the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Fund created in the act (from which fund the compensation is to be paid) and would have authorized the Director of Veterans Services to request an additional transfer of up to \$50 million.
- Required, upon payment of all valid claims under the program, the Director of Veterans Services to submit a final report to the General

Assembly and the transfer of any funds remaining in the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Fund to the Budget Stabilization Fund.

CONTENT AND OPERATION

Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Program

(R.C. 5902.02 and 5902.16)

The act would have authorized the Department of Veterans Services to administer a program that was to provide compensation to veterans of the Persian Gulf, Afghanistan, and Iraq conflicts.

Definitions

For purposes of the act:

"**Afghanistan service**" would have meant military service within Afghanistan during the period between October 7, 2001, and the date determined by the President or Congress of the United States as the end of the involvement of the United States Armed Forces in Afghanistan.

"**Domestic service**" would have meant service within the territorial limits of the 50 states, excluding sea duty.

"**Foreign service**" would have meant service in locations other than the territorial limits of the 50 states, excluding Persian Gulf, Afghanistan, or Iraq service.

"**Iraq service**" would have meant military service within Iraq during the period between March 19, 2003, and the date determined by the President or Congress as the end of the involvement of the United States Armed Forces in Iraq.

"**Persian Gulf service**" would have meant military service within the Persian Gulf theater of operations during the period between August 2, 1990, and March 3, 1991.

"**United States Armed Forces**" would have included members of the Ohio National Guard serving on active duty.

Eligibility for the compensation program

The act would have required the Director of Veterans Services to implement and administer the compensation program. Payments under the

program would have been made to each person who met all of the following requirements:

(1) The person had served in active duty in the United States Armed Forces, except active duty for training only, at any time between August 2, 1990, and March 3, 1991; at any time between October 7, 2001, and the date determined by the President or Congress of the United States as the end of involvement of the United States Armed Forces in Afghanistan; or at any time between March 19, 2003, and the date determined by the President or Congress as the end of the involvement of the United States Armed Forces in Iraq.

(2) The person was an Ohio resident for at least one year immediately preceding the start of active duty service and is currently an Ohio resident.

(3) The person was separated from the United States Armed Forces under honorable conditions, was still serving in active duty service, was retired from active duty service, or remained in the Ohio National Guard after serving on active duty.

Amount of compensation for veterans

A person who met all of the requirements listed above would have been entitled to receive compensation of \$50 for each month of active domestic or foreign service and \$100 for each month of Persian Gulf, Afghanistan, or Iraq service during the compensable periods. A person who was medically discharged or medically retired from service due to combat-related disabilities sustained during Persian Gulf, Afghanistan, or Iraq service could have applied to receive compensation of \$1,000. The maximum amount of cash payable to any person in active domestic or foreign service would have been \$500 and the maximum amount of cash payable to any person in Persian Gulf, Afghanistan, or Iraq service would have been \$1,000, unless the person qualified for a survivor's payment or a payment based on missing in action or prisoner of war status (see below). Compensation for a fraction of a month of service was to be paid on the basis of one-thirtieth of the appropriate monthly amount for each day of service.

Compensation eligibility and amounts for special circumstances

The surviving spouse, surviving child or children, or surviving parent or parents¹ would have been entitled to the same amount of compensation that the

¹ Under the act and for purposes of this analysis, the term "parent" includes a person standing in loco parentis for one year preceding commencement of the child's service in the United States Armed Forces. "In loco parentis" means charged with a parent's rights, duties, and responsibilities (Black's Law Dictionary, 5th Edition).

person who served in the Armed Forces would have received pursuant to the terms described directly above. If the United States Department of Veterans Affairs determined that the person's death was the result of injuries or illness sustained in Persian Gulf, Afghanistan, or Iraq service, the person's survivors would have been entitled to a survivor's payment of \$5,000, regardless of the amount of compensation that the deceased would have been entitled to receive under the act, if living. The survivor's payment was to be made to the surviving spouse. If there was no surviving spouse, the payment was to go to the surviving child or children. And if there were no surviving children, the payment was to go to the surviving parent or parents.

A person designated by the United States Department of Defense as missing in action as a result of honorable service or held in enemy captivity, or the spouse, child, or parent of a person designated as missing in action or held in enemy captivity, would have been entitled to a payment of \$5,000. This payment replaced any other cash benefit payable under the act. While the person was missing or held captive, the payment was to be made to the person's spouse. If there was no spouse, payment was to be made to the person's child or children. If the person did not have children, payment was to go to the person's parent or parents.

Payment of compensation to a spouse, child, or parent of a person designated as missing in action as a result of honorable service or held in enemy captivity, while the person was missing in action or held captive, would not have prevented the missing or captive person--on the person's release or location--from claiming and receiving a bonus of an equal amount.

Denial of compensation

Compensation would not have been paid, as follows:

- (1) To any person who received from another state a bonus or compensation of a similar nature;
- (2) To any person who served less than 90 days in the United States Armed Forces, unless active duty was terminated as a result of injuries or illness sustained during Persian Gulf, Afghanistan, or Iraq service during the compensable period;
- (3) To any person for any time period spent under penal confinement during the compensable period.

Applications for payment of compensation; deadline

All applications for payment of compensation were to be made to the Director according to the following schedule:

(1) For Persian Gulf service, not later than December 31, 2010;

(2) For Afghanistan service, not later than three years after the date determined by the President or Congress of the United States as the end of involvement of the United States Armed Forces in Afghanistan;

(3) For Iraq service, not later than three years after the date determined by the President or Congress as the end of involvement of the United States Armed Forces in Iraq.

Duties of the Director of Veterans Services

The act would have provided the Director of Veterans Services with "complete charge" of making compensation payments and required the Director to adopt rules, including rules regarding the amounts to which beneficiaries are entitled, residency requirements, and any other rules necessary to implement the amendment. These rules were to be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

The Director would have been required to select and appoint legal counsel and employees as are necessary, fix their compensation, and prescribe their duties. All appointees were to serve at the Director's pleasure. When practical, the Director was to employ Persian Gulf, Afghanistan, and Iraq Conflict veterans to fill the positions.

On payment of all valid claims for cash compensation made within the time limitations set forth above, any funds remaining in the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Fund (discussed below) would have been transferred to the Budget Stabilization Fund. At that time, the Director would have been required to make a final report to the General Assembly.

Restrictions regarding rights or claims to compensation

No sale or assignment of any right or claim to compensation under the act would have been valid. No claims of creditors would have been enforceable against rights or claims to or payments of compensation. And no fees could have been charged for services in connection with the prosecution of any right or claim to compensation or the collection of any compensation.

Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Fund

(R.C. 5902.161; Section 3; R.C. 131.43 [not in the act])

The act would have created the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Fund in the state treasury. The Fund would have

consisted of amounts lawfully appropriated, transferred, and credited to the Fund. Within 15 days after the act's effective date, the Director of Budget and Management (OBM) was to have transferred \$150 million in fiscal year 2009 from the Budget Stabilization Fund (BSF) to the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Fund. If the Director of Veterans Services determined that the amount in the Fund was inadequate to provide compensation in accordance with the act's requirements, the Director could have requested, after estimating the amount sufficient to meet those requirements, that the OBM Director transfer the requested amount into the Fund from the BSF. The amount transferred pursuant to such a request, however, could not have exceeded \$50 million because the act limited transfers from the BSF to the Fund to a total of \$200 million and the act already would have transferred \$150 million from the BSF for fiscal year 2009.

The Fund was to be used by the Director of Veterans Services to pay for the Persian Gulf, Afghanistan, and Iraq Conflicts Compensation Program. Investment earnings of the Fund were to be credited to the Fund.

Effective date

(Section 5)

The act's provisions were not to be subject to the referendum because they were, or were related to, an appropriation for current expenses of the state government and state institutions as contemplated in Article II, Section 1d, Ohio Constitution. Therefore, the act was to have taken immediate effect.

HISTORY

ACTION	DATE
Introduced	12-02-08
Reported, H. Finance & Appropriations	12-09-08
Passed House (54-42)	12-16-08
Reported, S. Finance & Financial Institutions	12-17-08
Passed Senate (23-8)	12-18-08
Vetoed by Governor	01-06-09