



COUNTY ADVISORY BULLETIN

CAB

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COMPREHENSIVE VETERANS SERVICE LAW

INTRODUCTION

On April 22, 1994 Governor George Voinovich signed Am. Sub. HB 448 which became effective on July 22, 1994. HB 448 is a comprehensive revision of Chapter 5901 of the Ohio Revised Code, the veterans service law. The final version represented the work of a Joint Committee on Veterans Affairs in the 119th Ohio General Assembly which established a Veterans Committee consisting of representatives of veterans organizations. This special committee met in late 1992 and early 1993 to develop and write legislation which was to become HB 448.

Once HB 448 was introduced by Representative Mark Malone (D-South Point) in 1993, CCAO continued to meet with veterans groups to try to reconcile major differences which existed over budgetary procedures, payment for training and the breadth of the proposed oversight of county veterans service commissions by the state Governor's Office of Veterans Affairs. In the end, all of these issues were compromised so that VSC's are treated like every other county general fund agency in the budget, training is provided within the VSC budget rather than paid by the county over and above the VSC budget, and the GOVA may develop guidelines to make county procedures more uniform without the authority to dictate the expenditure of county funds.

Am. Sub. HB 448 deals with appointments to veteran services commissions, the budgeting process, placing veterans services employees in the classified service, duties of VSC's, eligibility requirements, burial procedures and amounts, and the authority of the Governor's Office of Veterans Affairs. County commissioners are urged to work with their veterans service commissions to implement these changes effectively and cooperatively.

This CAB should be inserted after the CCAO Information TAB of the *County Commissioners Handbook* for future reference.

VETERANS SERVICES IN THE COUNTY BUDGET

Section 5901.11, prior to enactment of HB 448 set forth a procedure which required the VSC to submit an itemized tax budget in May pursuant to ORC 5705.28, which the board of commissioners had the authority to review and revise. In negotiations surrounding HB 448, veterans organizations repeatedly stated that they wanted VSC's to be treated like other county general fund agencies in the county budget process. They felt that the word "revise" allowed the county commissioners to arbitrarily and unilaterally throw out the entire VSC budget and totally restructure it with no input from the VSC. Veterans groups wished to parallel the process for other county offices, where the commissioners appropriate dollars to the itemized accounts set forth in the budget based on a negotiated process. The new language in section 5901.11 of HB 448 does just that as follows:

1. The VSC is required to submit an itemized budget pursuant to ORC 5705.28 (tax budget) to the board of county commissioners on or before the last Monday of May.
2. The VSC may, prior to October 1, make a written request to the board of commissioners for a hearing before the board to discuss the VSC's budget request for the ensuing year.
3. The commissioners must provide for such a hearing at a regular or special meeting to be held no later than 14 days prior to the commissioners' adoption of a permanent appropriation measure pursuant to ORC 5705.38. Such a permanent appropriation measure must be adopted no later than March 31.
4. After reviewing the VSC budget, the board of commissioners must appropriate funds to the commission pursuant to Title III, Section 5705.05 and Sections 5705.38 to 5705.41 of the Revised Code.
5. The board of commissioners is required to make the necessary levy, not to exceed five-tenths of a mill to raise the amount the board of commissioners approve for appropriation to the VSC.

In effect, the above procedure parallels the process for all county general fund offices, except that the VSC has a stated right to a hearing on its budget request, where other agencies do not. This procedure for a hearing on the VSC budget request was modeled on the process afforded courts in ORC 307.01, 2101.11 and 2151.01.

The discretion of the board of county commissioners is well established in the procedure as follows:

1. The format and classification of the itemized budget to be submitted by the VSC pursuant to ORC 5705.28 is determined by the board of county commissioners. ORC 5705.28(C) requires that each department or commission submit "an estimate of contemplated revenue and expenditures for the ensuing fiscal year, in such form as prescribed by the taxing authority of the subdivision." The taxing authority of the county is the board of commissioners.

2. The board of commissioners is required to appropriate dollars to the VSC pursuant to ORC 5705.38 to 5705.41. ORC 5705.38 requires the taxing authority of each subdivision to pass an appropriation measure setting forth separately the amounts appropriated for each office, department and division and within each, the amount appropriated for personal services. ORC 5705.40 clearly gives the authority to transfer monies between line items in an appropriation solely to the taxing authority which made the original appropriation. Attorney General Opinions 66-170 and 94-007 clearly hold that the board of county commissioners, as the county taxing authority, has the discretion to determine the original amounts of line item appropriations and to increase, decrease or transfer between line items.

3. ORC 5901.11 requires the board of commissioners to levy a tax, not to exceed five-tenths of a mill to raise the amount that the board approves. In *State ex rel Veterans Service Office v. Pickaway County Board of Commissioners*, (61 OS 3d 461) the court found that the levy referenced in ORC 5901.11 is not a separate levy, but part of the county's inside millage, the general operating levy, imposed under ORC 5705.05. New language in ORC 5901.11 references the commissioners appropriating dollars pursuant to ORC 5705.05. This affirms that the VSC appropriation is to be made from the general operating levy of the county. The commissioners have the discretion under ORC 5705.05 to appropriate the proceeds of the general operating levy as they see fit. Prior to 1988, the language in 5901.11 required the commissioners to levy the amount (up to five-tenths mill) which was certified as necessary by the VSC. In 1988 in HB 636, this language was changed to require the commissioners to levy the amount approved by the board of commissioners. This language has not been changed in HB 448. Therefore, the amount to be appropriated from the general operating levy to the VSC is still at the discretion of the commissioners.

As with all other county general fund offices, the board of commissioners determines the line item format of budget submission pursuant to ORC 5705.28(C), appropriates the amount it deems necessary by line item, pursuant to 5705.38, and may increase, decrease or transfer funds pursuant to ORC 5705.40. In the case of a VSC, the commissioners must provide a hearing on the budget request if requested, and must levy up to five-tenths of a mill as part of the general operating levy pursuant to ORC 5705.05 to fund the amount which the board of commissioners decide to appropriate.

APPOINTMENT/MEMBERSHIP OF VETERANS SERVICE COMMISSION

HB 448 did not change the number of members on a VSC (5) or the appointing authority (common pleas judge). However, appointees must not only be a member of certain veterans organizations, but recommended by these organizations. Those organizations to be represented are: American Legion, Veterans of Foreign Wars, Disabled American Veterans, AMVETS, and Order of the Purple Heart or Viet Nam Veterans of America. If no post exists in the county, other Congressionally chartered organizations may make recommendations. Beginning in the year 2000, these terms will become staggered per ORC 5901.01.

DUTIES OF VETERANS SERVICE COMMISSION (ORC 5901.03)

The VSC's duties include, but are not limited to:

1. Employing such staff as are necessary to carry out the VSC's duties and fixing their compensation.
2. Establishing policies and procedures for administration of the VSC and veterans service office.
3. Establishing policies and procedures for issuing assistance.
4. Developing a budget and submitting it to the county commissioners for approval.
5. Establishing programs of outreach and coordination with other agencies.
6. Promoting, monitoring and providing funding for ongoing education and training for veterans service commissions and staff.
7. Making reports to the organizations represented by the VSC.
8. Establishing regularly scheduled transportation for veterans to and from Veterans Administration medical centers whose districts the county is within, through contractual agreements or other arrangements determined by the VSC to be most cost effective.
9. Participating in appropriate memorial and commemorative activities.

EXECUTIVE DIRECTOR OF VETERANS SERVICE COMMISSION (ORC 5901.06)

The law says that a VSC may employ an executive director who must be a veteran and who is to serve in the unclassified service. A veterans service officer may also serve as executive director.

EMPLOYEES OF THE VSC IN THE CLASSIFIED SERVICE (ORC 5901.07)

All employees of the VSC other than the executive director are employed in the classified service, but are exempt from civil service testing. Such an employee must be a veteran, except that he or she may be a spouse, child or parents of a veteran if no qualified veteran is available. Being in the classified service, these employees are subject to all the procedures and protections in Chapter 124 of the Ohio Revised Code, e.g. right to appeal a suspension or dismissal to the State Personal Board of Review.

ELIGIBILITY FOR FINANCIAL ASSISTANCE (ORC 5901.08)

Eligibility for financial assistance is limited to a veteran, an active duty member of the U.S.

Armed Forces or the spouse, surviving spouse, dependent parent, minor child or ward of a veteran or active member of the U.S. Armed Forces. The applicant is still required to provide a full statement of household income and resources. The law now makes such statement a public record, except for medical records. The law requires the VSC to adopt and implement rules to grant immediate assistance to those entitled to it. Any warrant not called for in 60 days is to be paid into the VSC unclaimed assistance fund. No disposition is provided for these funds.

RESIDENCY REQUIREMENT FOR ASSISTANCE

HB 448 changes the residency requirement for services from one year in the state and six months in the county to three months in the county in which application is made (ORC 5901.08).

BURIALS

ORC 5901.25 removes the requirement for the county commissioners to appoint a committee of two persons in each township to contract for burial of indigent veterans and makes the VSC directly responsible for such burials. The limit on the amount to be contributed by the county to such a burial is increased in ORC 5901.26 from \$500 to \$1,000.

GOVERNOR'S OFFICE OF VETERANS AFFAIRS (ORC 5902.01)

HB 448 renames the state Division of Soldiers Claims and Veterans' Affairs to the Governor's Office of Veterans Affairs (GOVA). The Governor is required to appoint, with the advice and consent of the Senate, an honorably discharged or honorably separated veteran of the U.S. Armed Forces as a chief executive assistant to be known as the Director of the Governor's Office of Veteran Affairs.

DUTIES OF THE GOVA

1. Furnishing VSC's with copies of state laws, rules and legislation relating to VSC's.
2. Assisting veterans and the general public to obtain records pertaining to veterans.
3. Promulgating rules under ORC 119 regarding minimum qualifications for hiring, certifying and accrediting county veterans service offices.
4. Promulgating rules under ORC 119 for the education, training, certification and duties of veterans service commissions.
5. Developing and monitoring programs and agreements enhancing employment and training for veterans.
6. Developing and monitoring programs and agreements to enable VSC's to address

homelessness, indigency and other veteran related problems.

7. Developing and monitoring programs and agreements to enable state agencies to coordinate services to veterans.

8. Establishing and providing statistical reporting formats for VSC's.

9. Publishing annually and updating a list of county veterans service offices and commissioners and national and state service officers and veterans organizations.

10. Publishing by April 1 of each odd numbered year a directory of Ohio laws dealing with veterans and distributing them to VSCs.

11. Establishing a Veterans Advisory Board to advise and assist the GOVA in its duties. The board consists of representatives of veterans organizations, veterans service commissioners, veterans service officers and one representative of the County Commissioners' Association of Ohio. The board may review and revise rules proposed by the GOVA.

12. Promulgating, with the advice and assistance of the Veterans Advisory Board, policy and procedural guidelines which VSC's must adhere to in developing local VSC procedures.

LIMITATION ON GOVERNOR'S OFFICE OF VETERANS AFFAIRS AUTHORITY OVER COUNTIES

HB 448 prohibits the GOVA from promulgating any guidelines or rules regulating the purposes, scope, duration or amounts of financial assistance provided by veterans service commissions. In other words, the GOVA may develop guidelines for VSC's on applications, record keeping, reporting and other procedures, but has no authority to dictate how a county spends its local tax dollars for financial assistance to veterans.

PRACTICAL CONSIDERATIONS

Giving good service to all veterans, indeed all citizens of a county, depends on good open communication between the board of county commissioners and the veterans service commission. The changes in HB 448 clarify many duties and procedures of VSC's. They provide a more formal procedure for developing and approving the budget of the veterans service commission, which will require working together as commissioners work with other county general fund agencies. The act gives the state the authority to develop guidelines to bring more uniformity into the operation and procedures of veterans service commissions without dictating how counties spend local tax dollars. These changes can work to the betterment of the county, its citizens, and especially its veterans, if local officials work together to solve the necessary problems. CCAO, the associations representing veterans service commissions and officers and the Governor's Office of Veterans Affairs are continuing to work together to keep communication open and to keep

each other informed on issues of common interest. This CAB was prepared by CCAO Assistant Director Jerry Collamore.