

HOUSE No. 4310

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 4295, a Bill to ensure the rights of veterans and servicemembers (House, No 4310). November 4, 2009.

AN ACT TO ENSURE THE RIGHTS OF VETERANS AND SERVICEMEMBERS .

FOR THE COMMITTEE OF:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO ENSURE THE RIGHTS OF VETERANS AND SERVICEMEMBERS .

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to provide benefits to certain veterans and servicemembers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 40N of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the definition of “State office of minority and women business assistance” the following definition:-

“Veteran-owned business”, any contracting or sub-contracting business, or businesses that supply contractors or sub-contractors which are beneficially owned by one or more disabled veterans as follows:

(i) the business must be at least 51 per cent owned by a disabled veteran or veterans; in the case of a corporation having one or more class of stockholders, the ownership must be met as to each class of stock;

(ii) the disabled veteran owner or owners shall demonstrate that they have dominant control over management;

(iii) the business has not been established solely for the purpose of taking advantage of any special program which has been developed to assist veteran-owned businesses;

(iv) in the case of a joint venture between a disabled veteran-owned business meeting the requirements of clauses (i) and (iii), inclusive, and a non-veteran-owned business, the joint venture should be found to be a disabled veteran-owned business if the disabled veteran-owned business meeting the requirements of said clauses (i) and (iii), inclusive, shall have more than one-half control over management of the project bid and shall have the right to receive more than one-half of the profits deriving from that project.

SECTION 2. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the words “minority-owned”, in lines 77, 78, 80, 156 and 159, each time it appears, the following words:- , veteran-owned.

SECTION 3. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the words “minority-owned business”, in lines 82 and 124, each time it appears, the following words:- , veteran-owned business.

SECTION 4. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the words “minority-owned businesses”, in lines 84, 89, 92, 94, 101 and 102, 110, 112, 119 and 125 through 126, inclusive, each time it appears, the following words:- , veteran-owned businesses.

SECTION 5. Said section 40N of said chapter 7, as so appearing, is hereby further amended by inserting after the words “minority owned business”, in line 155, the following words:- , veteran owned business.

SECTION 6. Said section 40N of said chapter 7, as so appearing, is hereby further amended by adding the following subsection:-

(k) The department of veterans’ services shall assist the commissioner and the director of SOMWBA in defining “disabled” for the purposes of this section and validating the disabled-veteran status of all disabled veteran-owners to be placed in the directory of certified veteran-owned businesses under subsection (c).

SECTION 7. Section 44 of chapter 23A of the General Laws, as so appearing, is hereby amended by inserting after the words “minority-owned”, in lines 84, 87, 137 and 140 and 141, each time it appears, the following words:- , veteran-owned.

SECTION 8. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by inserting after the words “minority-owned business”, in lines 89 and 136, each time it appears, the following words:- , veteran-owned business.

SECTION 9. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by inserting after the words “minority-owned businesses”, in lines 91, 110, 115 and 121 and 122, each time it appears, the following words:- , veteran-owned businesses.

SECTION 10. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by inserting after the word “project”, in line 99, the following words:- , “veteran-owned business”.

SECTION 11. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out the word “both”, in line 120, and inserting in place thereof the following words:- veteran-owned businesses.

SECTION 12. Chapter 33 of the General Laws, as so appearing, is hereby amended by inserting after section 67 the following section:-

Section 67A. There shall be a Massachusetts medal of liberty which shall be awarded to the next of kin of service men and women killed in action. The adjutant general and two field grade officers of the armed forces of the commonwealth detailed by the commander-in-chief shall constitute a commission to make recommendations to the commander-in-chief for the awarding of the medal of liberty.

SECTION 13. Section 4 of chapter 51 of the General Laws, as so appearing, is hereby amended by inserting after the word “general”, in line 48, the following words:- , the secretary of the department of veteran services and local veterans’ service officers.

SECTION 14. Subsection (a) of section 91B of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words, “subsections (b) and (c),” and inserting in place thereof the following words:- subsections (b), (c), and (d),.

SECTION 15. Said section 91B of said chapter 54, as so appearing, is hereby further amended by adding the following subsection:-

(d) To a voter qualified under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. section 1973ff-2, the ballot may be delivered electronically by facsimile, e-mail or secure website. The secretary of state may promulgate rules and regulations necessary for the implementation of this section.

SECTION 16. Section 95 of said chapter 54, as so appearing, is hereby amended by striking out, in line 39, the word “tenth” and inserting in place thereof the following word:- twentieth.

SECTION 17. Section 99 of said chapter 54, as so appearing, is hereby amended by striking out, in line 6, the word “ten”, and inserting in place thereof the following number:- 20.

SECTION 18. Notwithstanding any general or special law to the contrary, the board of trustees of the Home of the Brave, Inc., a 501(c)(3) non-profit corporation, in sections 19 through 24, inclusive, referred to as the corporation, may construct, purchase and operate public homes for veterans. Such homes shall be considered “state veterans’ homes”. The construction, purchase and operation of state veterans’ homes shall be funded from available federal, state and private funds. The primary purpose of such state veterans’ homes is to provide support and care for honorably discharged veterans who served in the Armed Forces of the United States for no less than 180 days.

SECTION 19. Notwithstanding any general or special law to the contrary, the corporation shall have, but shall not be limited to, the following powers:-

(a) to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under sections 18 through 24, inclusive;

(b) to acquire, in the name of the corporation, real or personal property of any interest therein, including rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease or otherwise;

(c) to hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage interest owned by the corporation or in its control, custody or possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired;

(d) to procure insurance against any loss in connection with its property and other assets in amounts and from insurers that it deems desirable;

(e) to receive, on behalf of the commonwealth, bequests and donations that may be made to improve the general comfort and welfare of the members of the state veterans’ homes or for the betterment of the state veterans’ homes;

(f) to apply for, and receive, any grants-in-aid for which the corporation shall be eligible;

(g) to borrow funds, make and issue bonds and negotiate notes and other evidences of indebtedness or obligations for prudent and reasonable capital, operational and maintenance purposes on behalf of the state veterans’ homes; provided that the corporation may secure payments of all or part of the obligations by pledge of part of the revenues or assets of the corporation that are available for pledge and that may be lawfully pledged or by mortgage of part, or all, of any property owned by the corporation; provided that the corporation may do all lawful things necessary and incidental to these powers; and provided that the corporation may

borrow money from the federal government and its agencies, from state agencies and from any other source; and

(h) to take other actions necessary or convenient to exercise the powers granted or reasonably implied in this section.

SECTION 20. The corporation shall appoint an administrator who shall be an honorably discharged veteran who shall administer the state veterans' homes in accordance with the rules, guidelines and general policies established by the board of trustees of the corporation. The administrator shall serve for an indefinite term, but may be removed for cause by the board of trustees. The administrator's salary shall be set by the board. The administrator shall hire the necessary employees to operate the state veterans' homes; provided, that said employees shall not be considered employees of the commonwealth.

SECTION 21. Notwithstanding any general or special law to the contrary, veterans desiring admission to the state veterans' homes shall apply on forms prescribed by the administrator. Admission shall be granted only to veterans who were residents of the commonwealth at time of entry into the armed forces or at the time of application for admission and to the spouses, widows or widowers of eligible veterans; provided that suitable facilities are available. Parents of armed services members who are killed in action or die as a consequence of wounds received in battle are also eligible, as so called "Gold Star" parents, for admission. Admission shall only be granted when the provisions of the rules governing private payment, Medicare and Medicaid eligibility to entitled persons are met; provided, however, that suitable facilities are available. Each veteran admitted shall pay the state veterans' home in which he resides, as determined by the board, the share of his maintenance costs that he can afford.

SECTION 22. Notwithstanding any general or special law to the contrary, all unrestricted funds received by the corporation after the effective date of this act, including federal Veterans' Administration stipend funds, shall be held in a permanent fund to be used as needed by the administrator for the support and maintenance of the state homes. A percentage of these funds approved by the board of trustees must be placed in reserve for capital improvement expenditures. Upon construction or purchase, the corporation shall operate the state homes as self-liquidating projects until all of the bonds issued pursuant to subsection (g) of section 19 are retired. The corporation shall retain as direct income revenue any stipend funds it may receive from the federal Veterans' Administration for the state veterans' homes eligible resident population.

SECTION 23. The corporation shall report annually to the governor, the house and senate committees on ways and means and the joint committee on veterans and federal affairs on or before November 11. The report shall contain statistics of all veterans who resided in the state veterans' homes during the year and such other matters as the corporation deems pertinent.

SECTION 24. The corporation's fiscal year shall be the same as the commonwealth's. The corporation shall adopt rules for the administration of the state veterans' homes. The corporation is subject to the provisions of chapter 180 of the General Laws.

SECTION 25. Notwithstanding any other general or special law to the contrary, veterans who reside in the commonwealth and are honorably discharged from the armed services may be exempted from apprenticeship, school and other requirements to acquire a permit or license to perform work in an area requiring a license. Individual state licensing boards shall promulgate rules and regulations to award veterans' exemptions from requirements or credits towards licensure for all related military experience and schooling in the area in which the veteran seeks to be licensed. The rules and regulations shall include, but not be limited to, accepting all or a portion of a veteran's military training and work experience in lieu of apprenticeship requirements.

SECTION 26. Notwithstanding any general or special law to the contrary, a resident of the commonwealth who is sent overseas as a member of the United States Armed Forces and is eligible to receive benefits pursuant to the welcome home bill, so-called, established pursuant to section 16 of chapter 130 of the acts of 2005, may receive said benefits each time he is deployed; provided that an eligible resident shall receive the full bonus allowed by said section 16 of said chapter 130 upon return of his first deployment and may receive 50 per cent of the bonus on each subsequent deployment; provided, however, that appropriated funding is available and the state treasurer certifies that the relevant account has sufficient funds to maintain such an initiative. The state treasurer shall annually provide a status report on the account to the secretary of the executive office of veterans' services, the secretary of the executive office of administration and finance, the house and senate committees on ways and means and the joint committee on veterans and federal affairs.