

Date of Hearing: June 28, 2011

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS
Paul J. Cook, Chair
SB 10 (Evans) – As Amended: April 25, 2011

SUBJECT: Military and veterans: Veterans' Home Allied Council.

SUMMARY: This bill would provide for the establishment of a Veterans' Home Allied Council for each veterans home. Each home's Allied Council would represent veterans who reside in that home in matters before the Legislature provided certain specified requirements, are met. Specifically, this bill:

1. Allows respective Allied Councils for California's veterans homes to represent their homes before the legislature.
2. Requires any representation before the legislature by a council to be approved by a majority of the council's voting members.
3. Prohibits any council representation on behalf of candidates or campaigns.
4. Requires any actions before the legislature to be in accord with the council's "constitution, bylaws, and policies and procedures."
5. Performs code cleanup of Military and Veterans Code (MVC) section 1050.

EXISTING LAW:

1. MVC Code section 1050 establishes the Veterans' Home Allied Council and establishes the council as an advisory body to the administrator of the home. The section is not current in that it does not recognize the existence of veterans homes built since it was chaptered nor does it provide for homes contemplated to be built in the future.
2. MVC section 1050 reads as follows:
"The Veterans' Home Allied Council, which is established pursuant to the constitution of the Allied Council, Veterans' Home of California, and which is composed of members of the home, is hereby recognized as an established advisory body to the administrator."
3. California Constitution, Article II, section 12:
"No amendment to the Constitution, and no statute proposed to the electors by the Legislature that... identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect."
4. California Constitution, Article XVI, section 3:
"No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any ...institution not under the exclusive management and control of the State as a State institution..."

FISCAL EFFECT: Unknown. Keyed fiscal, but according to the Senate Committee on Veterans Affairs, Senate Rule 28.8 states that if a fiscal bill does not reach the suspense threshold (\$25,000) then it is to be returned to the 2nd reading file; that is what occurred in this case.

COMMENTS: According to the Author, "The California Department of Veterans Affairs (CDVA) is interpreting the [Military and Veterans] code to read that the Allied Council is "only an advisory body" and cannot represent veterans' interests directly to the Legislature. The Allied Council has been advised by the Home administrator that it may not represent veterans' issues directly before the legislature. Veterans feel that better communication with CDVA is possible and necessary and that in order to negotiate on their behalf, the Allied Council must have clear authority to speak for Home members."

According to the CDVA, this bill is constitutionally flawed in two respects. First, the CDVA contends that the bill if enacted would violate Article II, Section 12 of the California Constitution. As set forth above, that Article states, "No amendment to the Constitution, and no statute proposed to the electors by the Legislature that... identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect." In summary, the CDVA argues that the Allied Council, as a private entity, would be performing a private function when addressing the Legislature and would be assigned specific powers and duties, thus violating the Constitution. In addition, the CDVA asserts that the use of public funds to support the Allied Council's political activity is prohibited by the Article XVI, section 3 of the California Constitution, as the political activities of the Allied Council are not managed or controlled by the State.

The bill substantially alters the role of the Councils. Conceived as internal advisory bodies to the Administrator of each Home on issues concerning the operation of that Home, the Councils will now be direct advocates to the Legislature. When all the currently planned homes are complete, there could be 8 Allied Councils, one at each Home.

PREVIOUS VETO: AB 2156, with substantially the same language, passed both houses of the legislature but was the subject of a veto last session. In his veto message of AB 2156, Governor Schwarzenegger said, "I am returning Assembly Bill 2156 without my signature. This bill is unnecessary. There are numerous advocacy organizations that represent the interests of California veterans. In addition, if a resident at a state veteran's home wishes to voice their concerns to the Legislature, they are currently free to do so."

REGISTERED SUPPORT / OPPOSITION:

Support

Veterans' Home Allied Council, Yountville (Source)
American Legion

Opposition

California State Commanders Veterans Council (Except for AMVETS)
Dr. Terry M. Saigh, CPA

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