



Communicator

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The COMMUNICATOR is the official publication of the California Association of County Veterans Service Officers (CACVSO). Opinions expressed are those of contributing writers and do not necessarily reflect opinions or policies of CACVSO officers, members, or the editorial staff. The newsletter reserves the right to edit, amend, or reject any contribution submitted for publication.

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President's Message

(Solano CVSO Ted Puntillo, President)

Summer is almost over and your organization is moving forward quickly. Some of things we are doing to improve our lives and working conditions have been talked about for many years and are now going to happen.

First, we did hire former San Diego CVSO Tom Splitgerber as our new Executive Director. He will represent us to the powers that be in meetings and do some of things that we, as working CVSO's do not have time to do. His first task along with our consultant, Jack Kirwan, is to create and submit a staffing and salary survey to all CVSO's to help us negotiate with our leadership when it comes to salaries and how many vet reps you have to serve your veteran population. This survey's results should be available at the conference in Santa Rosa. Tom is also working to get us sponsors for the NACVSO conference that will be in San Diego in June 2017. As the host state we are supposed to have a hospitality room and a President's Reception. Tom has been tasked with the goal of getting enough sponsors so that we will not have to spend one cent on this event. We will see how successful he is. If you have any ideas regarding sponsors, let Tom or me know.

Your executive board is also negotiating with an insurance company to cover our organization and its officers from lawsuits and liabilities. We should have a report on this at the next conference.

We also had an excellent result from the subvention submissions this year. We only had 2 counties that were more than a week late in its submissions. I will be working with them closely next December to make sure that they get their paperwork on the agenda and to the board prior to the due date. As we all know, the agenda process can take weeks depending on the board's schedule.

I have emailed the resolution we use in Solano to designate the CAO to sign the subvention document when it is due. Instead of an agenda item, I simply get the CAO's signature and it only takes one day at most. I will get this resolution to anyone who wants to avoid the agenda process to get signatures.

Also we need prayers for our great CVSO from Riverside, Grant Gautsche who is having some health issues and we hope will be back on the saddle by the fall conference.

Have a great rest of the summer.

Ted

This Month's Featured County

Fresno County, officially the **County of Fresno**, is a county located in the U.S. state of California. As of the 2010 census, the population was 930,450. The county seat is Fresno, the fifth-largest city in California. Fresno County comprises the Fresno, CA Metropolitan Statistical Area, which is included in the Fresno-Madera, CA Combined Statistical Area. It is located in the Central Valley, south of Stockton and north of Bakersfield.



TIME & PLACE COMMITTEE

(Kern County—CVSO Dick Taylor, Chair)

Dates & Locations of Upcoming Conferences



October 2—7, 2016

*Flamingo Conference Resort & Spa
Santa Rosa, CA*



February 27—March 3, 2017

Holiday Inn, Sacramento CA



June 11—16, 2017

*Town & Country Resort & Convention Ctr.
San Diego, CA*

NewsLetter DEADLINE

***Last Thursday of the Month
Unless Notified Otherwise!***

OUT OF THE NORM—ISSUE # 213

(A feature of the Education Committee by Mr. Norm Gillett, CACVSO Training Consultant)

Lately I have again had several folks asking me about the Federal Tort Claims Act (FTCA, 28 US Code 1346(b)): what it is, how does it effect a veteran's compensation or pension, what is the CVSO's role, how does it fit with benefits under 38 US Code 1151, etc., etc. I gave a brief description of this law a couple of years ago, but here (again) is a quick and dirty explanation of how this law works and how it compares with 38 USC 1151.

The FTCA is not a veterans' benefits issue; it is a malpractice lawsuit against the government. As everyone should remember from their civics class in school, under the doctrine of sovereign immunity the government cannot be sued unless the government agrees to be sued. The FTCA is the law that permits a person to sue the government for monetary damages based on loss of or damage to personal or real property; or for personal injury or wrongful death resulting from the wrongful or negligent action (or failure to act) by a Federal employee or agency, acting within the scope of their employment or charge, and in a Federally-owned and -controlled facility. The wrongful action must have occurred under circumstances where, if the United States were a private person, it would be liable to the claimant. Further, the findings as to negligence or other wrongdoing must be in accord with the state law in the state where the act or omission occurred. These provisions apply to any Federal facility; however, for the purposes of this discussion, let's assume that the wrongful injury occurred in a VA medical facility.

The United States may not be sued for the actions of an independent contractor, who was hired or contracted to provide a service for the agency. Also, the United States is not liable if the Federal employee committing the injurious act was acting outside of the scope of his or her normal duties or responsibilities.

There is a statute of limitations for initiating an FTCA claim—the initial claim must be filed within two years from the date the claim accrues. Generally, that is two years from the date the injury occurred; however, sometimes the injury is hidden or may not be immediately apparent—in that case, the time limit is considered to be two years from the date the injury is discovered, or could have been discovered by a reasonable person. The claim is initiated by filing an “administrative claim”, that is, a signed Standard Form 95 or the written equivalent, with the agency responsible (in our discussion, VA; specifically, the VA Regional Counsel having jurisdiction over the facility where the injury is claimed to have occurred). The SF-95 must give sufficient detail for the agency to be able to investigate the allegations of the claim; further, the claimant must satisfactorily document the alleged facts. Finally, the claimant must state the full amount of monetary damages being claimed—this is considered to be the upper limit for the damages being sought, and the claimant can only later increase the amount being sought under the most unusual circumstances.

Once a claim has been filed, the agency (VA) has six months to investigate the allegations and determine a response. The agency may accept the allegations and the claimant's demands, or it may reject the demands and deny the claim, or it may propose a compromise settlement for some amount less than originally demanded. If the agency agrees to the full demand, or if the claimant agrees to accept the compromise offer, the claim is settled. If the agency denies the claim or the claimant rejects the compromise offer, the claimant then has six months to file a formal lawsuit in the U.S. District Court having jurisdiction over either the area where the claimant lives or the area where the claim arose. It sometimes happens that the agency will neither deny nor offer to settle the claim within the specified six-month period. In that event the claimant may, but is not required to, “deem” the claim to have been denied and proceed to file suit in the U.S. District Court.

If and when the case goes to the District Court, the U.S. Attorney General's office will defend for the United States. The U.S. Attorney assigned to the case may again offer to settle or to negotiate a compromise agreement. If the case proceeds to trial, it will be a bench trial; that is, it will be heard by a judge, only—no jury. In all other respects, the suit will now be similar to any other malpractice or personal injury or wrongful death lawsuit. To repeat: a claim under FTCA is *not* a veterans' benefits issue, and the CVSO should not become involved.

More to come next month...

LEGISLATIVE ADVOCATE REPORT

(By Pete Conaty and Dana Nichol, Legislative Advocates)

CACVSO Communicator
Legislative Article
September 2016

2015-16 LEGISLATIVE SESSION ENDS, BILLS ON GOVERNOR'S DESK

The 2015-16 California Legislative Session ended on August 31st. Legislation that was passed during the last weeks of the legislative session are now on the Governor's desk awaiting a signature or veto. The Governor has until September 30 to take such action.

AB 2085 AUTHOR: Irwin [D]
 TITLE: Military and Veterans
 DISPOSITION: To Governor

 SUMMARY:

 Creates the Office of Military Legal Assistance within the Military Department to assist current service members who require legal assistance by providing access to educational and informational resources and providing referral services to available legal assistance programs, including reduced fee services, pro bono services, and self-help services. Authorizes the areas of legal services assistance the Office may provide.

Position: Support

AB 2254 AUTHOR: Achadjian [R]
 TITLE: Armories: Homeless Shelter
 DISPOSITION: To Governor

 SUMMARY:

 Revises the list of armories to be made available for providing temporary shelter to homeless persons to include the Atascadero armory in San Luis Obispo County.

Position: Watch

AB 2273 AUTHOR: Irwin [D]
 TITLE: Military Law: Suicide
 DISPOSITION: To Governor

 SUMMARY:

 Prohibits a member of the active militia, including the National Guard, from being prosecuted for a military crime based on an attempt to kill himself or herself. Requires the Adjutant General to ensure that any member of the active militia that attempts to kill himself or herself is referred to the Behavioral Health Liaison Program to receive assistance, counseling, or referral to other appropriate available services.

Position: Support

LEGISLATIVE REPORT continued on Page 4

AB 2562 AUTHOR: Veterans Affairs Cmt
 TITLE: Military Service: Benefits
 DISPOSITION: To Governor
 SUMMARY:

Relates to military service benefits. Deletes references to the date a reservist is called to active duty, both the definition of a reservist and payment deferral provisions, thereby making benefits available to any reservist who otherwise meets the definition.

Position: Watch

AB 2636 AUTHOR: Linder [R]
 TITLE: Marriage and Birth Certificates: Electronic Application
 DISPOSITION: To Governor
 SUMMARY:

Provides if a request for a certified copy of a birth, death, or marriage record is made electronically, an official may accept electronic acknowledgment verifying applicant identity using a remote identity proofing process. Requires a notarized statement of identify if the applicant's identity cannot be established electronically. Authorizes the State Department of Public Health to implement electronic verification through an all county letter from the State Registrar without taking regulatory action.

Position: Support

SB 294 AUTHOR: Pan [D]
 TITLE: Public Employment: Military Service: Credit
 DISPOSITION: To Governor
 SUMMARY:

Requires the Board of Administration of the Public Employees' Retirement System to provide a form to be used by a member to receive credit for his or her military service with employer paid employee and employer contributions. Requires employers to inform the member his or her rights to receive credit within certain number of days of the member's return to state service by utilizing that form. Requires employer to provide letters or electronic communications to all employees informing them of those rights.

Position: Support

SB 543 AUTHOR: Wolk [D]
 TITLE: Veterans: Veteran's Home of California
 DISPOSITION: To Governor
 SUMMARY:

Amends existing law that establishes Veteran's Home of California in Barstow, Chula Vista, Lancaster, Ventura and Yountville. Provides for an administrator for each home or home site. Provides funding for designing and constructing veterans' homes. Requires each home to establish a Morale, Welfare, and Recreation Operating Fund to administer quality of life activities for the general welfare of residents. Provides for funding.

Position: Support

SB 866 AUTHOR: Roth [D]
 TITLE: Veterans Housing
 DISPOSITION: To Governor
 SUMMARY:

Authorizes a housing developer or service provider that provides housing or services pursuant to the Veterans Housing and Homeless Prevention Bond Act of 2014, to provide housing or services to veterans and their children in women-only facilities in limited instances.

Position: Support

SB 905 AUTHOR: Bates [R]
 TITLE: Alcoholic Beverage Control: Club Licenses
 DISPOSITION: To Governor
 SUMMARY:

Defines a club for purposes of the qualification for a on premises liquor license for members of a club and their guests. Includes a nonprofit umbrella organization established to provide a central meeting location, and services for veterans, including those on active duty, and that owns or leases, operates, and maintains a facility for these purposes. Requires the organization to serve a minimum number of veteran organizations.

Position: Support

SB 1012 AUTHOR: Nguyen [R]
 TITLE: Flags: Purchase
 DISPOSITION: To Governor
 SUMMARY:

Requires any Flag of the United State or the Flag of the State purchased by the State or any local government agency be made in the United States.

Position: Support

SB 1059 AUTHOR: Monning [D]

 TITLE: Postsecondary Education: Title 38 Awards
 DISPOSITION: To Governor
 SUMMARY:

Relates to the State Approving Agency for Veterans Education. Includes as a qualifying institution for federal Title 38 awards, an institution that has been accredited by the Committee of Bar Examiners, if the institution complies with specified disclosure and compliance requirements.

Position: Support

SB 1180 AUTHOR: Jackson [D]

 TITLE: Public School Employees: Military Veterans

 DISPOSITION: To Governor

 SUMMARY:

 Requires that a certificated or classified employee who is a military veteran with a specified military service-connected disability rating be entitled to a specified number of days leave of absence with pay for the purpose of undergoing disability-related medical treatment.

 Position: Support

SB 1227 AUTHOR: Lara [D]

 TITLE: California Conservation Corps

 DISPOSITION: To Governor

 SUMMARY:

 Requires the California Conservation Corps to collaborate with the Department of Veterans Affairs and the Employment Development Department to assist any corps member who is a veteran of the United States Armed Forces, in obtaining employment after participating in the corps program. Provides that such collaboration efforts shall include providing access to veterans supportive services and workforce services.

 Position: Support

SB 1314 AUTHOR: Block [D]

 TITLE: Cal Grant Program: Scholarship: Community College

 DISPOSITION: To Governor

 SUMMARY:

 Provides that community college students participating in specified baccalaureate degree programs who also satisfy specified eligibility requirements shall receive awards for upper division coursework fee. Extends awards under the Middle Class Scholarship Program to community college students enrolled in upper division coursework of a baccalaureate degree program. Requires the Office of the Chancellor of the California Community Colleges to provide any financial data necessary for award determination.

 Position: Support

SB 1455 AUTHOR: Block [D]

 TITLE: Pupil Enrollment: Military Dependents

 DISPOSITION: To Governor

 SUMMARY:

 Provides that a pupil complies with a school district's residency requirements for school attendance in a school district if he or she is a pupil whose parent is transferred or is pending transfer to a military installation within the boundaries of the district while on active military duty pursuant to an official documentation. Requires a school district to accept applications by electronic means for enrollment and course registration for those pupils.

 Position: Watch

SB 1458

AUTHOR: Bates [R]

TITLE: Property Taxation: Exemptions: Disabled Veterans

DISPOSITION: To Governor

SUMMARY:

Amends an existing property tax law which provides a disabled veteran's property tax exemption for the principal place of residence of a veteran or a veteran's spouse. Expands that definition of veteran to include a person who has been discharged in other than dishonorable conditions from service under certain conditions and who has been determined to be eligible for federal veterans' health and medical benefits. Provides time periods regarding the disabled veterans' exemption.

Position: Support

VA



**U.S. Department
of Veterans Affairs**

VA Awards \$7.8 Million in Adaptive Sport Grants to Aid Disabled Veterans

Grants promote rehabilitation, health and wellness and community reintegration

WASHINGTON – Secretary of Veterans Affairs Robert A. McDonald today announced the awarding of up to \$7.8 million in grants for adaptive sports programs for disabled Veterans and disabled Servicemembers of the Armed Forces. The grant recipients may use these funds for planning, developing, managing and implementing these adaptive sports programs.

The Department of Veterans Affairs is awarding the grants to national governing bodies, which prepare high-level athletes for Paralympic competition; Veterans service organizations; city and regional municipalities; and other community groups to provide a wide range of adaptive sports opportunities for eligible Veterans and Servicemembers. The grants will support activities ranging from rowing, cycling, skiing, equestrian sports and Tai Chi.

“We are honored to partner with so many organizations across the country to provide adaptive sports programs where our Veterans live,” said Secretary McDonald. “Adaptive sports gives freedom to those who have fought for our freedom, and empowers Veterans to believe in themselves and to let go of what others may see as limitations.”

VA will distribute the [grants](#) to 90 national, regional and community programs serving all 50 states, the District of Columbia and Puerto Rico. Approximately 10,000 Veterans and Servicemembers are expected to benefit. Authorities for certain adaptive sports programs and grant programs expire on September 30, 2016 without reauthorization action by Congress.

Information about the awardees and details of the program may be found at www.va.gov/adaptivesports.

VA Proposes Rule to Consider Certain Diseases Associated with Exposure to Contaminants in the Water Supply at Camp Lejeune

WASHINGTON – The Department of Veterans Affairs (VA) has published proposed regulations to establish presumptions for the service connection of eight diseases affecting military members exposed to contaminants in the water supply at Camp Lejeune, N.C.

The presumptive illnesses apply to active duty, reserve and National Guard members who served for no less than 30 days at Camp Lejeune between August 1, 1953 and December 31, 1987, and are diagnosed with the following conditions:

- adult leukemia
- aplastic anemia and other myelodysplastic syndromes
- bladder cancer
- kidney cancer
- liver cancer
- multiple myeloma
- non-Hodgkin's lymphoma
- Parkinson's disease

"We have a responsibility to take care of those who have served our Nation and have been exposed to harm as a result of that service," said Secretary of Veterans Affairs Robert A. McDonald. "Establishing a presumption for service at Camp Lejeune will make it easier for those Veterans to receive the care and benefits they deserve."

Environmental health experts on VA's Technical Workgroup conducted comprehensive reviews of scientific evidence, which included analysis and research done by the Department of Health and Human Service's Agency for Toxic Substances and Disease Registry (ATSDR), Environmental Protection Agency, the International Agency for Research on Cancer, the National Toxicology Program, and the National Academies of Science.

Military members with records of service showing no less than 30 days of service, either concurrent or cumulative, at Camp Lejeune during the contamination period can already be granted Veteran status for medical benefits, following passage of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012.

In the early 1980s, volatile organic compounds, trichloroethylene (TCE), a metal degreaser, and perchloroethylene, a dry cleaning agent (PCE), as well as benzene, and vinyl chloride were discovered in two on-base water supply systems at Camp Lejeune. These systems served the housing, administrative, and recreational facilities, as well as the base hospital. The contaminated wells supplying the water systems were shut down in February 1985.

VA acknowledges that current science establishes a link between exposure to certain chemicals found in the water supply at Camp Lejeune and later development of one of the proposed presumptive conditions. However, VA experts agree that there is no scientific underpinning to support a specific minimum exposure level for any of the conditions. Therefore, VA welcomes comments on the 30-day minimum exposure requirement and will consider other practical alternatives when drafting the final rule. VA also notes that the proposed 30-day requirement serves to establish eligibility for service connection on a presumptive basis; nothing in this proposed regulation prohibits consideration of service connection on a non-presumptive basis. The 30-day public comment period on the proposed rule is open until Oct.10, 2016.

DATES OF INTEREST

AUGUST 2016

29 International Day Against Nuclear Tests

SEPTEMBER 2016

- 11 Patriot Day
- 13 Nat. Grandparents Day
- 17 Constitution & Citizenship Day
- 18 Nat. POW/MIA Recognition Day
- 25 Native American's Day
- 27 Gold Star Mother's Day



Freedom isn't Free



Support Our Troops

