

STATE OF NEW YORK

7388

2021-2022 Regular Sessions

IN ASSEMBLY

May 6, 2021

Introduced by M. of A. BARRETT, HUNTER -- (at request of the Division of Veterans Services) -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the real property tax law, the executive law, the education law, the public health law, the civil service law, and the public officers law, in relation to conforming the definition of a veteran serving in the Vietnam war era to newly enacted federal law (H.R. 7105) for veterans who served in-country in the Republic of Vietnam from between February 28, 1961 and April 30, 1975, to any active duty service in the Republic of Vietnam that occurred between November 1, 1955 and April 30, 1975

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision 1 of section 458-a of the real property tax law, as amended by chapter 179 of the laws of 2006, is amended to read as follows:

(a) "Period of war" means the Spanish-American war; the Mexican border period; World War I; World War II; the hostilities, known as the Korean war, which commenced June twenty-seventh, nineteen hundred fifty and terminated on January thirty-first, nineteen hundred fifty-five; the hostilities, known as the Vietnam war, which commenced ~~[February twenty-eighth, nineteen hundred sixty-one]~~ November first, nineteen hundred fifty-five and terminated on May seventh, nineteen hundred seventy-five; and the hostilities, known as the Persian Gulf conflict, which commenced August second, nineteen hundred ninety.

§ 2. Clause 7 of subparagraph (v) of paragraph a of subdivision 1 of section 364 of the executive law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(7) in the Vietnam conflict from the ~~[twenty-eighth day of February, nineteen hundred sixty-one]~~ first day of November, nineteen hundred fifty-five to the seventh day of May, nineteen hundred seventy-five;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

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§ 3. Paragraph (d) of subdivision 1 of section 668 of the education law, as amended by chapter 261 of the laws of 1995, is amended to read as follows:

(d) [~~December twenty-second, nineteen hundred sixty-one~~] November first, nineteen hundred fifty-five to May seventh, nineteen hundred seventy-five.

§ 4. Subdivision 1 of section 668-c of the education law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

1. Eligible students. Awards shall be made to Vietnam veterans' resident children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions. For the purpose of this section, "Vietnam veteran" shall mean a person who served in Indochina at any time from the [~~twenty-second day of December, nineteen hundred sixty-one~~] first day of November, nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five and (a) was honorably discharged from the armed forces of the United States, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from the armed forces of the United States, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from the armed forces of the United States; "born with Spina Bifida" shall mean a diagnosis at birth of such disease inclusive of all forms, manifestations, complications and associated medical conditions thereof, but shall not include Spina Bifida Occulta. Such diagnosis shall be in accordance with the provisions of the federal Spina Bifida program and shall be documented by the United States Administration of Veterans' Affairs.

§ 5. Paragraph a of subdivision 1 of section 669-a of the education law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

a. "Vietnam veteran" means (i) a person who is a resident of this state, (ii) who served in the armed forces of the United States in Indochina at any time from the [~~twenty-eighth day of February, nineteen hundred sixty-one~~] first day of November, nineteen hundred fifty-five, to and including the seventh day of May, nineteen hundred seventy-five, and (iii) who was either discharged therefrom under honorable conditions, including but not limited to honorable discharge, discharge under honorable conditions, or general discharge, or has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 6. Paragraph (f) of subdivision 1 of section 2632 of the public health law, as amended by chapter 414 of the laws of 2015, is amended to read as follows:

(f) Viet Nam conflict between [~~February twenty-eighth, nineteen hundred sixty-one~~] November first, nineteen hundred fifty-five and May seventh, nineteen hundred seventy-five, both inclusive; or

§ 7. Subparagraph 4 of paragraph (c) of subdivision 1 of section 85 of the civil service law, as amended by chapter 179 of the laws of 2006, is amended to read as follows:

(4) Hostilities participated in by the military forces of the United States, from the [~~twenty-eighth day of February, nineteen hundred~~

1 ~~sixty-one~~] first day of November, nineteen hundred fifty-five to the
2 seventh day of May, nineteen hundred seventy-five.

3 § 8. Section 63 of the public officers law, as amended by chapter 490
4 of the laws of 2019, is amended to read as follows:

5 § 63. Leave of absence for veterans on Memorial day and Veterans' day.
6 It shall be the duty of the head of every public department and of every
7 court of the state of New York, of every superintendent or foreman on
8 the public works of said state, of the county officers of the several
9 counties of said state, of the town officers of the various towns in
10 this state, of the fire district officers of the various fire districts
11 in this state, and of the head of every department, bureau and office in
12 the government of the various cities and villages in this state, and the
13 officers of any public benefit corporation or any public authority of
14 this state, or of any public benefit corporation or public authority of
15 any county or subdivision of this state, to give leave of absence with
16 pay for twenty-four hours on the day prescribed by law as a public holi-
17 day for the observance of Memorial day and on the eleventh day of Novem-
18 ber, known as Veterans' day, to every person in the service of the
19 state, the county, the town, the fire district, the city or village, the
20 public benefit corporation or public authority of this state, or any
21 public benefit corporation or public authority of any county or subdivi-
22 sion of this state, as the case may be, (i) who served on active duty in
23 the armed forces of the United States during world war I or world war
24 II, or who was employed by the War Shipping Administration or Office of
25 Defense Transportation or their agents as a merchant seaman documented
26 by the United States Coast Guard or Department of Commerce, or as a
27 civil servant employed by the United States Army Transport Service
28 (later redesignated as the United States Army Transportation Corps,
29 Water Division) or the Naval Transportation Service; and who served
30 satisfactorily as a crew member during the period of armed conflict,
31 December seventh, nineteen hundred forty-one, to August fifteenth, nine-
32 teen hundred forty-five, aboard merchant vessels in oceangoing, i.e.,
33 foreign, intercoastal, or coastwise service as such terms are defined
34 under federal law (46 USCA 10301 & 10501) and further to include "near
35 foreign" voyages between the United States and Canada, Mexico, or the
36 West Indies via ocean routes, or public vessels in oceangoing service or
37 foreign waters and who has received a Certificate of Release or
38 Discharge from Active Duty and a discharge certificate, or an Honorable
39 Service Certificate/Report of Casualty, from the Department of Defense,
40 or who served as a United States civilian employed by the American Field
41 Service and served overseas under United States Armies and United States
42 Army Groups in world war II during the period of armed conflict, Decem-
43 ber seventh, nineteen hundred forty-one through May eighth, nineteen
44 hundred forty-five, and who (a) was discharged or released therefrom
45 under honorable conditions, or (b) has a qualifying condition, as
46 defined in section three hundred fifty of the executive law, and has
47 received a discharge other than bad conduct or dishonorable from such
48 service, or (c) is a discharged LGBT veteran, as defined in section
49 three hundred fifty of the executive law, and has received a discharge
50 other than bad conduct or dishonorable from such service or who served
51 as a United States civilian Flight Crew and Aviation Ground Support
52 Employee of Pan American World Airways or one of its subsidiaries or its
53 affiliates and served overseas as a result of Pan American's contract
54 with Air Transport Command or Naval Air Transport Service during the
55 period of armed conflict, December fourteenth, nineteen hundred forty-
56 one through August fourteenth, nineteen hundred forty-five, and who (d)

1 was discharged or released therefrom under honorable conditions, or (e)
2 has a qualifying condition, as defined in section three hundred fifty of
3 the executive law, and has received a discharge other than bad conduct
4 or dishonorable from such service, or (f) is a discharged LGBT veteran,
5 as defined in section three hundred fifty of the executive law, and has
6 received a discharge other than bad conduct or dishonorable from such
7 service or during the period of the Korean conflict at any time between
8 the dates of June twenty-seventh, nineteen hundred fifty and January
9 thirty-first, nineteen hundred fifty-five, or during the period of the
10 Vietnam conflict from the twenty-eighth day of February, nineteen
11 hundred sixty-one to the seventh day of May, nineteen hundred seventy-
12 five, or (ii) who served on active duty in the armed forces of the
13 United States and who was a recipient of the armed forces expeditionary
14 medal, navy expeditionary medal or marine corps expeditionary medal for
15 participation in operations in Lebanon from June first, nineteen hundred
16 eighty-three to December first, nineteen hundred eighty-seven, in Grena-
17 da from October twenty-third, nineteen hundred eighty-three to November
18 twenty-first, nineteen hundred eighty-three, or in Panama from December
19 twentieth, nineteen hundred eighty-nine to January thirty-first, nine-
20 teen hundred ninety, or (iii) who served in the armed forces of a
21 foreign country allied with the United States during world war I or
22 world war II, or during the period of the Korean conflict at any time
23 between June twenty-seventh, nineteen hundred fifty and January thirty-
24 first, nineteen hundred fifty-five, or during the period of the Vietnam
25 conflict from the ~~[twenty-eighth day of February, nineteen hundred~~
26 ~~sixty-one]~~ first day of November, nineteen hundred fifty-five to the
27 seventh day of May, nineteen hundred seventy-five, or during the period
28 of the Persian Gulf conflict from the second day of August, nineteen
29 hundred ninety to the end of such conflict, or who served on active duty
30 in the army or navy or marine corps or air force or coast guard of the
31 United States, and who (a) was honorably discharged or separated from
32 such service under honorable conditions, or (b) has a qualifying condi-
33 tion, as defined in section three hundred fifty of the executive law,
34 and has received a discharge other than bad conduct or dishonorable from
35 such service, or (c) is a discharged LGBT veteran, as defined in section
36 three hundred fifty of the executive law, and has received a discharge
37 other than bad conduct or dishonorable from such service except where
38 such action would endanger the public safety or the safety or health of
39 persons cared for by the state, in which event such persons shall be
40 entitled to leave of absence with pay on another day in lieu thereof.
41 All such persons who are compensated on a per diem, hourly, semi-monthly
42 or monthly basis, with or without maintenance, shall also be entitled to
43 leave of absence with pay under the provisions of this section and no
44 deduction in vacation allowance or budgetary allowable number of working
45 days shall be made in lieu thereof. A refusal to give such leave of
46 absence to one entitled thereto shall be neglect of duty.

47 § 9. This act shall take effect immediately.