

# TITLE 33

## PRIVILEGES AND BENEFITS OF VETERANS AND SERVICE PERSONNEL

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### Chapter 406

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#### Director of Veterans' Affairs

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**BENEFITS FOR VETERANS AND SERVICE PERSONNEL**

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**POWERS AND DUTIES OF DIRECTOR**

**406.010 Definitions.** As used in this chapter "director" means Director of Veterans' Affairs.

**406.020 Director of Veterans' Affairs; appointment; confirmation.** The office of Director of Veterans' Affairs is created and shall be filled by appointment of the Governor subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Such appointment shall not be made without the written approval of the Advisory Committee provided for in ORS 406.210. The director shall be a war veteran, chosen on the basis of executive and administrative ability. [Amended by 1973 c 792 §14]

**406.030 Director to supervise administration of veterans' laws.** (1) The director, in the performance of the duties of the director, shall organize and coordinate the administration of all present and future federal and state laws pertaining to war veterans and their dependents in this state. For such purpose the director may establish such units or divisions as in the opinion of the director will enhance the efficiency of the administration and promote the welfare of war veterans and their dependents. Any unit or division so established shall be directly responsible to the director and shall be under the supervision of the director.

(2) The director, with the advice of the committee, shall promulgate such rules and adopt such forms as the director deems necessary and expedient to carry out the provisions of ORS chapter 407 and ORS 88.710 to 88.740, 174.105, 273.382 to 273.386, 406.010 to 406.090, 406.210 to 406.340, 406.410, 406.420 and 408.010 to 408.090. [Amended by 1971 c.221 §1; 1985 c 790 §4]

**406.040 General powers and duties of director.** The powers, authority and duties relating exclusively to war veterans' affairs now or hereafter imposed by law upon any officer or agency of this state, are hereby also granted to and imposed upon the director. Subject to ORS 406.090, the director shall be responsible for and shall supervise the administration of all such laws. The director may employ such personnel as may be necessary to carry into effect the purposes of this chapter and may prescribe the duties and responsibilities of all such employees.

**406.050 Additional powers and duties of director.** In addition to other powers and duties, the director is authorized:

(1) To cooperate with officers and agencies of the United States in all matters affecting veterans' welfare.

(2) To accept grants, donations and gifts on behalf of this state for veterans' welfare,

from any person, corporation, government or governmental agency, made for the benefit of a former member of the armed forces of this or any other country. Grants, donations and gifts so received shall be deposited with the State Treasurer and credited to a special fund expendable for the purposes specified in the grant, donation or gift, if any. If no special limitation upon the expenditure thereof is specified as a condition of the grant, donation or gift, it shall be credited to the fund expendable for administration of ORS 406.010 to 406.070, 406.090, 406.210, 406.220 and 406.340.

(3) To act as agent or attorney in fact for any war veteran and the dependents or beneficiaries of any war veteran relating to rights under any federal or state law.

(4) To be custodian of all the records and files of the selective service system in Oregon that may be turned over to this state by the United States or any department, bureau or agency thereof; and to adopt and promulgate, subject to the approval of the Advisory Committee mentioned in ORS 406.210, such rules and regulations as may be necessary for the preservation of such records and the proper use thereof in keeping with their confidential nature.

(5) To act without bond as conservator of the estate of a beneficiary of the Veterans Administration when the director determines no other suitable person will so act.

(6) On behalf of the State of Oregon to extend such assistance as the director shall determine to be reasonably required to any war veteran and to the dependents of any such war veteran, in the prosecution of any claim or claims before the Veterans Administration of the United States, or any other federal or state agency, the securing of employment or relief and any other benefits to which they might be entitled. The director may adopt rules and regulations with respect to all matters of administration to carry into effect the purposes of this section.

(7) To require and collect such reasonable service charges as the director deems necessary and expedient to carry out a duty, or to exercise a power or authority, conferred on the director by law. [Amended by 1965 c.374 §1; 1967 c.172 §1; 1973 c.823 §127, 1987 c.425 §5]

**406.060 Use of services and facilities of other state agencies.** The director may utilize the services and facilities of any state agency in the course of administration of any law of this state enacted for the benefit and welfare of war veterans and their dependents. All such agencies shall cooperate fully with the director in that regard and furnish such services and facilities when called upon by the director to do so. Neither the author-

ity nor the duties referred to in this section shall be so exercised or performed as to impair the efficient administration of the laws applicable to any state agency.

**406.070 Director to qualify and furnish bond; reimbursement for expenses; location of office.** The director shall qualify in like manner as other heads of state departments, and furnish a fidelity bond in an amount to be fixed by the Governor. The director shall be reimbursed for necessary expenses incurred in the performance of the duties as are other state officers. The director shall maintain the main office of the director at the state capital. [Amended by 1967 c.2 §3]

**406.080** [Amended by 1967 c.211 §9, 1987 c.652 §1; repealed by 1987 c.658 §3]

**406.085 Revolving account for director when acting as conservator or personal representative of the estate of veteran.** The Conservatorship Revolving Account is created, separate and distinct from the General Fund, to provide for disbursement of funds for the beneficiary. Funds may also be disbursed from the Conservatorship Revolving Account to the Conservatorship Services Account in compensation for claims arising under ORS 406.100. The Conservatorship Revolving Account shall consist of all money received by the director as conservator or personal representative herein. Disbursement from the account shall be made by the director, and the Secretary of State shall post audit all the disbursements. Interest earned by the account shall be credited to the account. [1965 c.374 §2; 1973 c.823 §128; 1987 c.425 §6; 1989 c.932 §3; 1989 c.966 §44]

**406.090 Sections not affected by parts of this chapter.** The administration of ORS 273.035 to 273.051, 273.071, 273.161 to 273.175 and 408.710 to 408.750 shall in no way be affected by ORS 406.010 to 406.070, 406.210, 406.220 and 406.340, and such laws are excepted from the operation thereof. The director shall cooperate with the person or agency responsible for the administration of such laws, and shall render such reasonable assistance in that regard as may be requested by any such person or agency. [Amended by 1967 c.421 §201; 1967 c.616 §§28, 28a]

**406.100 Claims against estate by director when acting as conservator.** If the director is appointed as a conservator under ORS 406.050 or a personal representative under ORS 113.085, the director shall have a claim against the estate of the protected person or the decedent, as the case may be, for all of the following:

(1) Reasonable expenses incurred by the director in the execution or administration of the estate.

(2) After the appointment of the director as conservator, compensation for ordinary services in an amount not to exceed five percent of income to the estate, and reasonable compensation for unusual services as set forth by rule by the director.

(3) After the appointment of the director as personal representative, compensation as provided in ORS 116.173.

(4) With prior approval by the court having probate jurisdiction over the estate, fees charged to the director by the Attorney General for advice or assistance in the performance of the director's duties as conservator or personal representative of the estate. [1987 c.425 §3]

**406.110 Waiver of claims.** The director may waive all or any portion of a claim arising under ORS 406.100 if the director finds that payment of the claim, or a portion thereof, would pose a hardship to the person from whose estate the claim is payable, or would deplete the estate. [1987 c.425 §4]

**406.120 Conservatorship Services Account; sources; use.** (1) The Conservatorship Services Account is established as a separate account within the Oregon War Veterans' Fund. The Conservatorship Services Account shall consist of all moneys received by the director as payment of claims arising under ORS 406.100.

(2) The moneys in the Conservatorship Services Account are continuously appropriated to the director for payment of expenses incurred while serving as conservator under ORS 406.050 or personal representative under ORS 406.085.

(3) Moneys in the Conservatorship Services Account shall be held and set aside separately from the other moneys in the Oregon War Veterans' Fund, but such account may be accounted for as part of the Oregon War Veterans' Fund. [1989 c.932 §2]

**406.130 Veterans' Services Account; uses.** There hereby is established in the General Fund of the State Treasury an account to be known as the Veterans' Services Account. Moneys in the Veterans' Services Account are continuously appropriated to the Director of Veterans' Affairs and shall be used by the director for grants and services supplied to veterans by the director under ORS chapters 406 and 408, and for expenses of administration of such grants and services. [1987 c.658 §2]

#### ADVISORY COMMITTEE

**406.210 Appointment and term of members; vacancies.** (1) The Governor shall designate and appoint nine persons, all

of whom are war veterans as defined by the laws of this state, who shall constitute the Advisory Committee and who shall act in an advisory capacity to the director concerning all matters upon which the director requests counsel. The term of each committee member shall be for four years.

(2) The representation on the committee provided for in this section shall be maintained by the Governor in making appointments to fill vacancies. A vacancy occurring in the office of any member of the Advisory Committee previously recommended for appointment by the executive committee of the Oregon department of the Military Order of the Purple Heart, the Disabled American Veterans, the Veterans of Foreign Wars, the American Legion or the Veterans of World War I of the U.S.A. shall be filled by appointment of some person recommended by the executive committee of such organization in this state if the recommendation is received by the Governor within 15 days after the vacancy occurs.

(3) In addition to the other requirements of this section, at least one member of the Advisory Committee shall be a veteran of the Korean conflict and at least three members shall be veterans of the Vietnam conflict. [Amended by 1959 c.675 §1; 1975 c.603 §1; 1982 s.s.1 c.11 §8]

**406.220 Meetings and reports.** The Advisory Committee shall meet within this state at least once each three months. At each such meeting the director shall report upon all matters concerning the administration of the office of the director, and shall request the advice and counsel of the committee on matters concerning the policy thereof. Each August the Advisory Committee shall report to the Governor on all matters which it deems pertinent concerning the administration of the office of the director during the preceding year, and concerning any specific matters previously requested by the Governor, and on the administration of ORS 406.010 to 406.070, 406.090 and 406.340. [Amended by 1957 c.25 §1]

**406.230 Compensation and expenses of members.** Each member of the Advisory Committee is entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1969 c.314 §33]

### RELATIONS WITH VETERAN ORGANIZATIONS

**406.310 Director authorized to aid veteran organizations.** From funds available to the office of the director for this purpose, the director, with the approval of the Advisory Committee, is authorized to aid war veterans' organizations that have been accredited by the Veterans' Administration

of the United States and counties of the state, in connection with their respective programs of service to war veterans.

**406.320 Qualification of veteran organization for state aid.** Organizations desiring to apply for benefits under ORS 406.310 shall submit to the director statements of their expenditures incurred in conducting their rehabilitation programs, in acting under power of attorney for veterans in connection with claims for benefits, in assisting veterans in prosecutions of their claims and in solution of problems arising out of previous military service. However, a veterans' organization does not qualify for benefits under ORS 406.310 unless it has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding.

**406.330 Power to establish regulations for aid program.** The director, with the consent and approval of the Advisory Committee, may adopt such procedural rules and regulations as the director deems advisable in making distribution of funds under ORS 406.310. The director shall also establish a general and uniform policy to be followed by the various organizations and counties in carrying out the work to which the state contributes aid under ORS 406.310. In establishing such policy the director shall give primary consideration to the rehabilitation of the greatest possible number of war veterans in Oregon. To that end the director shall eliminate, insofar as possible, a duplication of effort and inefficient expenditure of money.

**406.340 Director authorized to accept voluntary services.** In performance of the duties of the director's office, the director may accept services voluntarily tendered by any person or organization, and may cooperate with the established service agencies and officers of any organization for the benefit and welfare of all war veterans in this state and their dependents or beneficiaries. Insofar as practicable and consistent with the faithful performance of the director's duties, the director shall avoid duplicating the efforts of voluntary service agencies and officers.

### ATTORNEY SERVICES FOR VETERANS

**406.410 Director authority to contract with attorneys for legal services; types of services allowed; expense.** (1) The Director of Veterans' Affairs, on behalf of this state, may, with the agreement of the Attorney General, contract with attorneys for the provision by the attorneys of services as counsel for war veteran residents of Oregon in the preparation, presentation and prose-

cution of claims under laws administered by the United States Veterans Administration.

(2) Legal services shall be provided under a contract only for claims arising from or relating to:

(a) The status of the war veteran as a prisoner of war under circumstances described in ORS 805.110 (2);

(b) Damages suffered by the war veteran due to exposure to causative agents, as defined in ORS 408.305 (4) while serving on active duty;

(c) Damages suffered by the war veteran as a consequence of exposure to radiation during testing of nuclear weapons; or

(d) Service by the war veteran in any combat zone while the Armed Forces of the United States were engaged in armed conflict with military forces of another nation.

(3) Insofar as possible, the expense of services provided under a contract authorized by this section shall be paid by the state to an attorney from funds available to the Department of Veterans' Affairs.

(4) Attorneys who are parties to a contract authorized by this section shall be active members of the Oregon State Bar.

(5) A contract authorized by this section may allow law students enrolled in an accredited law school in this state, while under the supervision of a member of the Oregon State Bar, to participate in the preparation, presentation and prosecution of claims described in this section. [1985 c.790 §1]

**406.420 Cooperative program with veterans organizations.** The Director of Veterans' Affairs and county service officers appointed under ORS 408.410 shall institute a cooperative program with veterans organizations in this state to refer war veterans to appropriate state and federal agencies for the purpose of filing claims described in ORS 406.410 (2) and obtaining legal counsel and representation for such claims. [1985 c.790 §2]

**406.430 Annual report required.** The Director of Veterans' Affairs shall submit a report each year to the Legislative Assembly or to the Emergency Board, as appropriate, concerning the programs instituted under ORS 406.030 and 406.410 to 406.430. The report shall be submitted not later than March 1 in each year. [1985 c.790 §3]