

Special Report

Division of Veterans Affairs

**Improvements Should be Made in the
Division of Veterans Affairs Funding Process
for Placement of Veterans' Grave Markers**



**January 2003
PE02-37-269**

JOINT COMMITTEE ON GOVERNMENT OPERATIONS

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John Sylvia
Director

January 6, 2003

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
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The Honorable Vicki V. Douglas
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

We are transmitting a Special Report of the Division of Veterans Affairs, which will be presented to the Joint Committee on Government Operations on Monday, January 6, 2003. The issue covered herein is "Improvements Should be Made in the Division of Veterans Affairs Funding Process for Placement of Veterans' Grave Markers."

We transmitted a draft copy of the report to the Division of Veterans Affairs on December 23, 2002. The Division opted not to have an Exit Conference. We received the agency response on January 2, 2003.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

Issue 1: Improvements Should be Made in the Division of Veterans' Affairs Funding Process for Placement of Veterans' Grave Markers.

The West Virginia Code provides that a percentage of lottery funds will be designated for the Division of Veterans' Affairs to pay for the placement of veterans' grave markers in West Virginia perpetual cemeteries. These funds are in turn deposited into a special revenue account for the Division. The Division has not disbursed money from this fund, but instead has been using another fund appropriated for the same purpose. As of December 3, 2002, the combined funds have a balance of **\$129,983** with an additional \$20,000 to be appropriated this fiscal year. The Division only averages \$12,017 annually in marker placement expenses. **Thus, the Legislative Auditor considers the funding of veteran grave markers to be over funded.**

The Legislative Auditor also found that the Division has not adequately promulgated legislative rules regarding the process of paying for marker placement, as required by West Virginia Code §29-22A-10(9). The rules **do not** address the manner in which funds are to be spent. Most notably is the lack of a maximum the Division will pay the cemeteries to set the marker. The Division pays whatever the cemetery charges, which gives the impression that the Division is an open checkbook and that cemeteries can charge any rate. **The Legislative Auditor recommends that the Division promulgate rules which fulfill the requirements of the Code, and to include: a maximum limit the Division will pay for marker placement; the process of applying for the markers; and, the specifics on the eligibility of an individual.**

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider several options of reappropriating funds intended for the use of paying for the placement of veterans' grave markers:*

 i. *Require the Division of Veterans' Affairs to only use the John F. "Jack" Bennett Fund for veterans' grave markers. With a current balance of \$80,000 and \$20,000 annual revenue from video lottery, the Division will be well funded to pay for the setting of the markers. The*

\$49,983 in the general fund could be reappropriated.

i Same as above, but discontinue the annual revenue from the video lottery. Assuming the average expenditures for the markers remains \$12,017, the iJohn F. eJacki Bennett Fundi will last for over 8 years. After these monies are near depletion, then the Legislature could appropriate funds, as needed.

i Reappropriate the \$49,983 in activity number 817 into the iJohn F. eJacki Bennett Fundi. The Legislature could decide whether or not to continue the revenues from video lottery.

i Reappropriate some of the monies in both funds to benefit other needs of veterans and the Division. The annual revenue from the video lottery will more than pay for the annual expenses of paying for the grave markers.

2. The Legislative Auditor recommends that the Division of Veterans Affairs should promulgate legislative rules fulfilling the mandate of West Virginia Code β 29-22A-10 (9). Rules should include the specifics of what the Division will pay for, the maximum the Division will pay, the process of applying for payment of placement of a marker, and specifics of an applicants qualifications for receiving free placement.

Review Objective, Scope and Methodology

This review of the Division of Veterans Affairs was conducted in accordance with the West Virginia Sunset Law, Chapter 4, Article 2, Section 5 of the West Virginia Code.

Objective

The objective of this review is to evaluate the expenditures and revenue appropriations of the John F. Bennett Fund.

Scope

The scope of this review includes budget documents during fiscal years 1999-2002. This report also includes analysis of West Virginia Code.

Methodology

Information compiled in this report has been acquired from interviews with staff of the Division, information provided by the Division, and a review of the Division's budget documents. Every aspect of this review complied with **Generally Accepted Government Auditing Standards (GAGAS)**.

Improvements Should be Made in the Division of Veterans Affairs Funding Process for Placement of Veterans' Grave Markers.

The West Virginia Code provides that a percentage of lottery funds will be designated for the Division of Veterans Affairs to pay for the placement of veterans' grave markers in West Virginia perpetual cemeteries. These funds are in turn deposited into a special revenue account for the Division. The Division has not disbursed money from this fund, but instead has been using another fund appropriated for the same purpose. As of December 3, 2002, the combined funds have a balance of \$129,983 with an additional \$20,000 to be appropriated this fiscal year. The Division averages only \$12,017 annually in marker placement expenses. Thus, the Legislative Auditor considers the funding for placement of veterans' grave markers to be excessive. In addition, the Legislative Auditor finds that the Division has not adequately promulgated legislative rules regarding the process of paying for marker placement, as required by Code.

Over Funded Grave Marker Appropriations

West Virginia Code §29-22A-10 (9) states that:

...not more than twenty thousand dollars of the one percent of net terminal income... shall be deposited into a special revenue fund in the state treasury, to be known as the "John F. Bennett Fund." The moneys in this fund shall be expended by the division of veterans affairs to provide for the placement of markers for the graves of veterans in perpetual cemeteries in this state.

The Division has received \$20,000 per year from video lottery funds for fiscal years 1999 - 2002, which is deposited into the "John F. Bennett Fund." The Division has never expended money from this fund, which as of December 3, 2002 has a cash balance of \$80,000 with an additional \$20,000 in transfer from the Treasurers Office. Instead, Division staff stated that they have been paying for veterans' markers from monies appropriated in the Veterans Affairs general fund designated for veterans' monuments. According to current staff, the former director wanted to deplete monies from the general fund before using monies from the "John F. Bennett Fund."

In 1999, the Veterans Affairs general fund was originally appropriated \$100,000 for the use of veterans' monuments. The unspent monies have been reappropriated each fiscal year in the budget bill, including FY 2003. The current cash balance of the appropriated amount as of December 3, 2002 is \$49,983. Expenditures from the fund are shown in the following table.

Fiscal Year	Expenditures	Balance at End of FY
1999	\$13,593	\$86,407
2000	\$20,492	\$65,915
2001	\$7,795	\$58,120
2002	\$6,190	\$51,930
2003 As of Dec. 3	\$1,947	\$49,983

Source: Legislative Auditor - Budget Division

With these two funds, the Division currently has \$129,983 with an additional \$20,000 in the process of transfer to spend on grave markers, not including additional lottery proceeds that will continue to be provided. Considering that the average annual expenditure from the fund is \$12,017 despite annual proceeds of \$20,000, **the Legislative Auditor has determined that the veterans' grave marker program may be over funded.** While the importance of this program is recognized, Division staff has stated that:

The Division only paid for two markers last month (November 2002), and applications come sporadically.

Assuming the average annual expenditure stays the same, the current balance of the combined funds will last for another 12 years, not including added revenues. In addition, the yearly proceeds provided by video lottery are more than covering the average yearly expenses to pay for the grave markers. With budget cuts in state government looming, the Legislative Auditor presents the following options as recommendations to the Legislature:

- i Require the Division of Veterans Affairs to use only the iJohn

F. ëJackí Bennett Fundí for veteransí grave markers. With a current balance of \$80,000 and \$20,000 annual revenue from video lottery, the Division will be adequately funded to pay for the setting of markers. The \$49,983 in the general fund could be reappropriated.

- ï Same as above, but discontinue the annual revenue from the video lottery. Assuming the average expenditures for the markers remains \$12,017, the ìJohn F. ëJackí Bennett Fundí will last for over 8 years. When these monies are near depletion, the Legislature could then appropriate funds, as needed.
- ï Reappropriate the \$49,983 in activity number 817 into the ìJohn F. ëJackí Bennett Fundí. The Legislature could then decide whether or not to continue the revenues from video lottery.
- ï Reappropriate some of the monies in both funds to benefit other needs of veterans and the Division. The annual revenue from the video lottery will more than pay for the annual expenses of placing the grave markers.

Lack of Adequate Legislative Rules

The Division is required by West Virginia Code ß29-22A-10 (9) to promulgate legislative rules regarding the Division paying for the placement of veteransí grave markers. The Code states that the Division shall promulgate rules...

...specifying the manner in which the funds are spent, determine the ability of the surviving spouse to pay for the placement of the marker, and setting forth the standards to be used to determine the priority in which the veterans grave markers will be placed in the event that there are not sufficient funds to complete the placement of veterans grave markers in any one year, or all.

While the Division did file legislative rules in 1998, the rules as shown in (Appendix B) are vague and lack one of the requirements. Specifically, the rules **do not** address the manner in which funds are to be spent. It is unclear whether the Division is permitted to pay for double and/or colored markers.

Most notably is the lack of a maximum the Division will pay the cemeteries for marker placement. Since this service has been offered, data provided to the Legislative Auditor shows that the Division has paid from \$75 to \$742 for the marker's granite foundation. The average marker cost was \$254. This wide range is evidence that the Division should promulgate rules with a maximum limit the Division will pay cemeteries. The Division currently pays whatever the cemetery charges to set the marker. The lack of such rules gives the impression that the Division is an open checkbook and that cemeteries can charge any rate. While a maximum limit does permit cemeteries who previously charged lower rates for placing markers to raise their rates, rules setting a maximum will prevent cemeteries from overcharging.

The current rules also do not include a discussion of the application process, and while a definition of "indigent widow/next of kin" is included, there is no mention of how applicants prove their income. **The Legislative Auditor recommends that the Division promulgate rules which fulfill the requirements of the Code, and include: a maximum limit the Division will pay for marker placement, a process of applying for the markers and specifics on the eligibility of an individual.**

Conclusion

The Division of Veterans Affairs has been paying for the placement of grave markers in perpetual cemeteries in the state of West Virginia. Funds are to be used from the "John F. & Jack Bennett Fund" which is revenue received from video lottery receipts. The Division has instead been using monies from the Division's general revenue fund which has also been appropriated for the placement of grave markers. As of December 3, 2002, the balance of both combined funds is \$129,983, with an additional \$20,000 in transfer. With annual lottery revenues of \$20,000 and expenses averaging \$12,017, the Legislative Auditor considers the grave marker program to be over funded, and offers several suggestions for reappropriation of the monies. The Legislative Auditor also finds that legislative rules need to be promulgated detailing the processes of applying for and paying for the grave markers. The Division should also set in the rules a maximum they will pay cemeteries for marker placement.

Recommendations

1. *The Legislative Auditor recommends that the Legislature consider several options of reappropriating funds intended for the use of paying for the placement of veterans' grave markers:*
 - i. *Require the Division of Veterans Affairs to use only the "John F. "Jack Bennett Fund" for veterans grave markers. With a current balance of \$80,000 and \$20,000 annual revenue from video lottery, the Division will be adequately funded to pay for the setting of the markers. The \$49,983 in the general fund could be reappropriated.*
 - i. *Same as above, but discontinue the annual revenue from the video lottery. Assuming the average expenditures for the markers remains \$12,017, the "John F. "Jack Bennett Fund" will last for over 8 years. When these monies are near depletion, the Legislature could then appropriate funds, as needed.*
 - i. *Reappropriate the \$49,983 in activity number 817 into the "John F. "Jack Bennett Fund". The Legislature could then decide whether or not to continue the revenues from video lottery.*
 - i. *Reappropriate some of the monies in both funds to benefit other needs of veterans and the Division. The annual revenue from the video lottery will more than pay for the annual expenses of placing the grave markers.*
2. *The Legislative Auditor recommends that the Division of Veterans Affairs promulgate legislative rules fulfilling the mandates of West Virginia Code §29-22A-10 (9). Rules should include the specifics of what the Division will pay for, the maximum the Division will pay, the process of applying for payment of placement of a marker, and specifics of an applicant's qualifications for receiving free placement.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
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John Sylvia
Director

December 23, 2002

Larry A. Linch, Director
Division of Veterans Affairs
1321 Plaza East, Suite 101
Charleston, WV 25301-3661

Dear Mr. Linch:

This is to transmit a draft copy of the Special Report of the Division of Veterans Affairs. This report is scheduled to be presented at the Sunday, January 5, 2003 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. If you would like to schedule an exit conference to discuss any concerns you may have with the report between December 26, 2002 and January 2, 2003, please notify us. We need your written response by noon on January 2, 2002 in order for it to be included in the final report. If your agency intends on distributing additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, January 2 to make arrangements.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B Title 86 Legislative Rule

CSR 86-04.WPD Page 1

[Header A: 86CSR4

]
TITLE 86
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF VETERANS AFFAIRS

SERIES 4
VA HEADSTONES OR MARKERS

§86-4-1. General.

- 1.1. Scope. -- To establish guidelines for the administration of funds by H.B. 4169.
- 1.2. Authority. -- W. Va. Code §9A-1-1.
- 1.3. Filing Date -- March 26, 1998.
- 1.4. Effective Date. -- March 26, 1998.

§86-4-2. Definitions.

2.1. "Indigent Widow/Next of Kin" means survivor responsible for setting US Department of **Veterans Affairs** furnished headstone or marker and whose income is within the US federal poverty levels.

2.2. "Designated Agency" means an agency, department, division or office of state or local government, or a program supported by state funds, which is designated to provide financial assistance.

2.3. "Agency Application Form" means form prepared by the WV Division of **Veterans Affairs** for use in determining eligibility for said funds.

2.4. "Applicant" means a person who submits an application for financial assistance in setting of US Department of **Veterans Affairs** grave marker.

§86-4-3. Priority in Setting Markers.

The director of **veterans affairs** shall determine the grave markers that have been in storage at the state's perpetual care cemeteries for the longest period of time and ensure those markers are installed on a priority basis as funding permits.

Appendix C Agency Response

BOB WISE
GOVERNOR

JOE MARTIN
SECT. MILITARY AFFAIRS & PUBLIC SAFETY

VETERANS' COUNCIL
ROBERT E. VASS, SR.
RICHARD HOMAN
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PAUL ROTENBERRY
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CHIEF VETERANS AFFAIRS OFFICER

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Mr. John Sylvia
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Building 1, Room W-314
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R E C E I V E D
JAN 02 2002

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Dear Mr. Sylvia:

This is the response of the Division of Veterans Affairs to your Special Report of the Division of Veteran Affairs for the Joint Committee on Government Operations.

The Division agrees the appearance of over funding exists, in reference to monies allocated to the Division by the Legislature for the placement of Veterans grave markers.

The Division would like to bring to your attention that all studies show a significant number of WWII Veterans, who reside in WV, passing away during the past several years. Statistics from the U. S. Department of Veteran Affairs Benefit & Service Center state, between the years 2000 and 2002 there were approximately 2000 WV veterans who were in the VA system who have died. These numbers do not reflect Veterans, who are not in the VA network, who have passed away during this same time frame.

These statistics illustrate, there should be numerous requests to the Division of Veterans Affairs for assistance from widows and families of deceased Veterans.

This not being the case, as reflected in table 1, there must be another reason or reasons why the Division is not receiving substantial numbers of requests for assistance.

In attempting to determine what those reasons are, we have found the following:

1. Information about this program has not been distributed to the veterans' service organizations or to the citizens of this State in a consistent and continuous manner.
2. The poverty level of cutoff for assistance may be too low. (The Division will be recommending a change in new Legislative Rules to increase the cutoff level.)
3. An ongoing confrontation between the WV Cemetery Association and the WV Veterans Coalition over the cost of setting a Veterans grave marker may be discouraging applicants from applying, until this issue is resolved.

The Division of Veterans Affairs respectfully requests the funding for the setting of Veterans grave markers remain in place at least until, the Division has new Legislative Rules approved and implemented.

The Division shall also conduct thorough and continuous information campaigns on the eligibility and availability of funding for the setting of Veterans grave markers for indigent widows.

In reference to promulgating Legislative Rules, the Division of Veteran Affairs agrees with the finding, with one exception. The Division is directed by the Legislature to pay for the placement of Veteran grave markers for indigent widows and families and the Legislature has provided the funding to do so. However it appears there is no authority within the code, giving the Division authority to establish prices to be paid to Cemeteries for this service. The Division can place a maximum price it will pay for this service in the Legislative Rules; if the cemetery rejects this price, the Division has no recourse. The Division would then find itself in noncompliance with the mandate of the Legislature to provide this service to our Veterans and their families.

Thank you for the opportunity to comment on your findings.

Respectfully submitted,



Larry A. Lynch
Director