

Calendar No. 1058

88TH CONGRESS }
2d. Session

SENATE }

REPORT
No. 1115

VETERANS' BURIAL ALLOWANCES

JUNE 25, 1964.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3941]

The Committee on Finance, to whom was referred the bill (H.R. 3941) to amend section 902 of title 38, United States Code, to eliminate the offset against burial allowances paid by the Veterans' Administration for amounts paid by burial associations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

The bill amends the law relating to the payment of the \$250 veterans' burial allowance, to delete the language which requires that amounts paid by burial associations toward burial and funeral expenses be deducted prior to payment of the allowance. In lieu of this provision of the law, which appears to discriminate against burial allowances, there would be substituted a uniform prohibition of payment of a claim for burial allowances when the allowance would revert to the funds of a public or private organization, or would discharge such an organization's obligation without payment.

The committee believes this bill would resolve a problem which has periodically arisen for many years and would affirmatively express in the law itself the sound principle that payments by burial associations, as well as any other public or private organization, should be treated the same as the proceeds on an insurance policy, and not be used as an offset against the burial allowance, unless the circumstances of the payment are such that the burial allowance would merely result in a windfall to the association.

There will be no additional cost to the Government as a result of the enactment of this legislation.

DEPARTMENTAL REPORT

The favorable report of the Veterans' Administration follows:

NOVEMBER 19, 1963.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report by the Veterans' Administration, the following comments are furnished on H.R. 3941, 88th Congress, as passed by the House of Representatives on October 7, 1963.

H.R. 3941 would clarify the language of section 902 of title 38, United States Code (authorizing burial allowances, not to exceed \$250, toward the funeral and burial expenses of certain deceased veterans). Specifically, the bill would delete from subsection (b) of that section all references to the offsetting of payments by burial associations against the statutory allowance. It would substitute a uniform prohibition against paying the burial allowance when the allowance will revert to the funds of a public or private organization or would discharge such organization's obligation without payment.

The net effect of these changes is to eliminate the appearance of discrimination against one specific type of organization (i.e., burial associations) and express in the law itself the sound principle, which has long applied, concerning funds which would revert to, or discharge the obligation of, all organizations having comparable activities.

For the purpose of section 902, a "burial association" is deemed by the Veterans' Administration to be an organization which issues policies or contracts upon payment of stipulated premiums, assessments or dues, the purpose of which is to provide burial and funeral service through the furnishing of merchandise or services or a cash payment to the undertaker or to some other person.

If the burial association furnishes services or merchandise, or pays the person providing burial and funeral services (as is usually the case), the present law does not allow reimbursement unless the policy or contract does not cover the entire cost of burial, funeral, and transportation. In such a case, the law permits us to consider payment, within the limits of the statutory burial allowance, of the difference between the total expense incurred and the amount payable under the policy or contract. However, a cash contribution by the burial association to any person other than the one providing burial and funeral services does not affect the allowance otherwise payable.

The limiting language with respect to burial associations was contained in an amendment made by Public Law 866, 76th Congress, approved October 17, 1949. That act at the same time eliminated "lodge, union, fraternal organization, society or beneficial organization, insurance company" from the list of sources of contributions to be considered in determining whether any part of the allowance should be paid. It appears from the legislative history that the reason for this particular amendment was "so that burial allowance will be paid in certain cases notwithstanding the fact that there has been a contribution [i.e., to the widow or other beneficiary] by a lodge, union, or insurance company. The existing law has produced unfair results in that it is usually the veteran of moderate means who purchases burial

insurance of this type, whereas the veterans of larger means may leave a substantial estate and yet the burial allowance would be paid for the veteran in better circumstances. This amendment will remove such inequality" (Rept. 1814, Committee on World War Veterans' Legislation, 76th Cong., 3d sess.).

In enacting these amendments Congress saw fit to distinguish between certain organizations whose burial benefit plans generally provide for a designated individual beneficiary and those burial associations whose contracts or policies require payment of benefits directly to an undertaker. While the legislative history does not discuss the reason for this distinction, it is probable that Congress sought to avoid the possibility that payment of the allowance would benefit the association rather than the family of the veteran. This situation is conceivable where the burial association is identified with, or closely associated with, the undertaking establishment. Having received full consideration for its contractual obligation in the dividends or assessments collected before the veteran's death, the association should not be permitted to receive a windfall through payment to it of the burial allowance.

With the above principle in mind and in the light of the Administrator's discretionary authority, our administrative regulations were amended in 1942 to bar any payment of the burial allowance if it would revert to the funds of a lodge, union, fraternal organization, beneficial association, etc. (now Veterans' Administration Regulation 2604(A)). Moreover, if such a lodge or union makes payment of all the expenses directly to the undertaker the widow or other survivor may not be paid the allowance as such person did not bear the expenses. Thus, there is today no discrimination against burial associations in favor of lodges, unions, and similar organizations, although the existence of specific statutory references to "burial associations" in the law (which would be deleted by this bill) tend to obscure this fact.

The inclusion of an express prohibition in section 902(b) of title 38 against payment to a public or private association, including a burial association, when such allowance would revert to the funds of the association or discharge the organization's obligation without payment will avoid any inference that the Congress intends by enacting this bill to disturb this sound and longstanding principle.

In view of the foregoing, we believe that the clarification in the law proposed by H.R. 3941 would be desirable and recommend that the bill be given favorable consideration by your committee.

We were advised by the Bureau of the Budget with respect to a similar report to the House Committee on Veterans' Affairs, on H.R. 3941, that there was no objection from the standpoint of the administration's program to the presentation of the report to that committee.

Sincerely,

J. S. GLEASON, Jr., *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 902, TITLE 38, UNITED STATES CODE

§ 902. Funeral expenses

(a) Where a veteran dies who—

- (1) was a veteran of any war;
- (2) had been discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or
- (3) was in receipt of, or but for the receipt of retirement pay would have been entitled to, disability compensation;

the Administrator, in his discretion having due regard to the circumstances in each case, may pay a sum not exceeding \$250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of his death, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran[, or a burial association]. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred, and the amount paid by any or all of the foregoing[, The Administrator shall not deny or reduce the amount of the burial allowance otherwise payable because of a cash contribution made by a burial association to any person other than the person rendering burial and funeral services.], or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

