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AB-778 Fees: military service records. (2015-2016)

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Assembly Bill No. 778

CHAPTER 84

An act to amend Section 6107 of the Government Code, relating to fees.

[Approved by Governor July 14, 2015. Filed with Secretary of State July 14, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 778, Maienschein. Fees: military service records.

Existing law prohibits a public entity from demanding a fee or compensation for, among other things, a certified copy of specified military records, and of public records to be used in a claim related to veterans' benefits, as specified, provided to the person who is the subject of the record, a family member or legal representative of that person, a county office that provides veterans' benefits services, or a federal official upon written request.

This bill would permit a county recorder to furnish a certified copy of these specified military records in response to a written, faxed, or digitized image of a request accompanied by a legible notarized statement that the requester is the person who is the subject of the record, a family member or legal representative of that person, a county office that provides veterans' benefits services, or a federal official, as specified. The bill would also permit an official to furnish a certified copy of these records to a requester in person upon taking a sworn statement, as provided.

By placing new duties on local officials and by expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6107 of the Government Code is amended to read:

6107. (a) A public entity, including the state, a county, city, or other political subdivision, or any officer or employee thereof, including notaries public, shall not demand or receive any fee or compensation for doing any of the following:

(1) Recording, indexing, or issuing certified copies of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States.

(2) Furnishing a certified copy of, or searching for, any public record that is to be used in an application or claim for a pension, allotment, allowance, compensation, insurance (including automatic insurance), or any other benefits under any act of Congress for service in the Armed Forces of the United States or under any law of this state relating to veterans' benefits.

(3) Furnishing a certified copy of, or searching for, any public record that is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration.

(4) Rendering any other service in connection with an application or claim referred to in paragraph (2) or (3).

(b) A certified copy of any record referred to in subdivision (a) may be made available only to one of the following:

(1) The person who is the subject of the record upon presentation of proper photo identification.

(2) A family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record.

(3) A county office that provides veterans' benefits services upon written request of that office.

(4) A United States official upon written request of that official. A public officer or employee is liable on his or her official bond for failure or refusal to render the services.

(c) (1) If the county recorder receives a written, faxed, or digitized image of a request for a certified copy of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States referred to in paragraph (1) of subdivision (a) that is accompanied by a notarized statement sworn under penalty of perjury, or a faxed copy or digitized image of a notarized statement sworn under penalty of perjury, that the requester meets one of the descriptions in subdivision (b), the county recorder may furnish a certified copy to the requester pursuant to this section.

(2) A faxed or digitized image of the notarized statement accompanying a faxed or digitized image of a request received pursuant to this subdivision for a certified copy of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States shall be legible. If the notary's seal is not photographically reproducible, or does not show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment, the county recorder shall not provide the certified copy. If a request for a certified copy of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person pursuant to subdivision (b), and that official may then furnish a certified copy to the applicant.

(3) For purposes of this subdivision, "digitized image" of a request means an image of an original paper request for a certified copy of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.