

112TH CONGRESS  
1ST SESSION

# H. R. 1484

To amend title 38, United States Code, to improve the appeals process of the Department of Veterans Affairs and to establish a commission to study judicial review of the determination of veterans' benefits.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2011

Mr. FILNER introduced the following bill; which was referred to the  
Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to improve the appeals process of the Department of Veterans Affairs and to establish a commission to study judicial review of the determination of veterans' benefits.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Veterans Appeals Im-  
5 provement Act of 2011".

1 **SEC. 2. WAIVER OF REGIONAL OFFICE JURISDICTION OVER**  
2 **INCORPORATION OF SUPPLEMENTAL EVI-**  
3 **DENCE INTO PREVIOUSLY SUBMITTED**  
4 **CLAIMS.**

5 (a) **WAIVER.**—Section 7104 of title 38, United States  
6 Code, is amended by adding at the end the following new  
7 subsection:

8 “(f) If a claimant submits new evidence in support  
9 of a case for which a substantive appeal has been filed,  
10 such evidence shall be submitted to the Board directly and  
11 not to a regional office of the Department, unless the  
12 claimant requests that the evidence be reviewed by the re-  
13 gional office before being submitted to the Board.”.

14 (b) **EFFECTIVE DATE.**—Subsection (f) of section  
15 7104 of title 38, United States Code, as added by sub-  
16 section (a) of this section, shall apply with respect to evi-  
17 dence submitted on or after the date that is 90 days after  
18 the date of the enactment of this Act.

19 **SEC. 3. COMMISSION TO STUDY JUDICIAL REVIEW OF THE**  
20 **DETERMINATION OF VETERANS’ BENEFITS.**

21 (a) **ESTABLISHMENT.**—There is established a com-  
22 mission to be known as the “Veterans Judicial Review  
23 Commission” (in this section referred to as the “Commis-  
24 sion”).

25 (b) **DUTIES.**—The Commission shall—

1           (1) evaluate the administrative and judicial ap-  
2           pellate review processes of veterans' and survivors'  
3           benefits determinations; and

4           (2) make specific recommendations and offer  
5           solutions to improve the accuracy, fairness, trans-  
6           parency, predictability, timeliness, and finality of  
7           such appellate review processes, including a rec-  
8           ommendation as to whether the Court of Appeals for  
9           Veterans Claims should have the authority to hear  
10          class action or associational standing cases.

11         (c) MEMBERSHIP.—

12           (1) IN GENERAL.—The Commission shall be  
13          composed of 13 members appointed as follows:

14                 (A) Two individuals appointed by the  
15                 Speaker of the House of Representatives.

16                 (B) Two individuals appointed jointly by  
17                 the President of the Senate and the President  
18                 pro tempore.

19                 (C) Two individuals appointed by the mi-  
20                 nority leader of the House of Representatives.

21                 (D) Two individuals appointed by the mi-  
22                 nority leader of the Senate.

23                 (E) Four individuals appointed by the  
24                 President.

1           (F) One individual appointed by the Presi-  
2           dent, by and with the advice and consent of the  
3           Senate, who shall serve as chairperson.

4           (2) QUALIFICATIONS.—Individuals appointed  
5           under paragraph (1) shall—

6           (A) be specially qualified to serve on the  
7           Commission by virtue of their expert education,  
8           training, or experience associated with veterans’  
9           benefits, judicial review, constitutional law, or  
10          other areas of expertise pertinent to the duties  
11          of the Commission; and

12          (B) include individuals who—

13                  (i) are current or retired members of  
14                  the judiciary;

15                  (ii) are members of the legal or aca-  
16                  demic community; or

17                  (iii) represent—

18                                  (I) veterans service organizations;

19                                  (II) legal service organizations;

20                                  or

21                                  (III) other affected entities.

22          (3) TERMS.—Each member shall be appointed  
23          for the life of the Commission.

1           (4) VACANCY.—A vacancy in the Commission  
2 shall be filled in the manner in which the original  
3 appointment was made.

4           (d) MEETINGS.—

5           (1) IN GENERAL.—The Commission shall meet  
6 at the call of the Chairperson or a majority of its  
7 members.

8           (2) QUORUM.—A majority of the Commission  
9 shall constitute a quorum but a lesser number may  
10 hold hearings.

11          (e) PAY.—

12          (1) RATES OF PAY.—Except as provided in  
13 paragraph (2), members shall serve without pay.

14          (2) TRAVEL EXPENSE.—Each member shall re-  
15 ceive travel expenses, including per diem in lieu of  
16 subsistence, in accordance with applicable provisions  
17 under subchapter I of chapter 57 of title 5, United  
18 States Code.

19          (f) STAFF.—

20          (1) DIRECTOR.—The Commission shall have a  
21 director who shall be appointed by the Chairperson.

22          (2) STAFF.—Subject to rules prescribed by the  
23 Commission, the Chairperson may appoint additional  
24 personnel as the Chairperson considers appropriate.

1           (3) APPLICABILITY OF CERTAIN CIVIL SERVICE  
2 LAWS.—The director and staff of the Commission  
3 shall be appointed subject to the provisions of title  
4 5, United States Code, governing appointments in  
5 the competitive service, and shall be paid in accord-  
6 ance with the provisions of chapter 51 and sub-  
7 chapter III of chapter 53 of that title relating to  
8 classification and General Schedule pay rates.

9           (4) EXPERTS AND CONSULTANTS.—Subject to  
10 rules prescribed by the Commission, the Chairperson  
11 may procure temporary and intermittent services  
12 under section 3109(b) of title 5, United States Code.

13           (5) STAFF TO FEDERAL AGENCIES.—Upon re-  
14 quest of the Chairperson, the head of any Federal  
15 department or agency may detail, on a reimbursable  
16 basis, any of the personnel of that department or  
17 agency to the Commission to assist it in carrying out  
18 its duties under this section.

19 (g) POWERS OF COMMISSION.—

20           (1) HEARINGS AND SESSIONS.—The Commis-  
21 sion may, for the purpose of carrying out this Act,  
22 hold hearings, sit and act at times and places, take  
23 testimony, and receive evidence as the Commission  
24 considers appropriate. The Commission may admin-

1       ister oaths or affirmations to witnesses appearing  
2       before it.

3               (2) POWERS OF MEMBERS AND AGENTS.—Any  
4       member or agent of the Commission may, if author-  
5       ized by the Commission, take any action which the  
6       Commission is authorized to take by this section.

7               (3) OBTAINING OFFICIAL DATA.—The Commis-  
8       sion may secure directly from any department or  
9       agency of the United States information necessary  
10      to enable it to carry out this Act. Upon request of  
11      the Chairperson of the Commission, the head of that  
12      department or agency shall furnish that information  
13      to the Commission.

14              (4) MAILS.—The Commission may use the  
15      United States mails in the same manner and under  
16      the same conditions as other departments and agen-  
17      cies of the United States.

18              (5) ADMINISTRATIVE SUPPORT SERVICES.—  
19      Upon the request of the Commission, the Adminis-  
20      trator of General Services shall provide to the Com-  
21      mission, on a reimbursable basis, the administrative  
22      support services necessary for the Commission to  
23      carry out its responsibilities under this Act.

24              (h) REPORTS.—

1           (1) INTERIM REPORT.—Not later than July 1,  
2           2012, the Commission shall submit to Congress an  
3           interim report of the evaluation and recommenda-  
4           tions made under subsection (b).

5           (2) FINAL REPORT.—Not later than December  
6           31, 2012, the Commission shall submit to Congress  
7           a final report on the activities of the Commission,  
8           including—

9                   (A) specific recommendations and solutions  
10                  proposed by the Commission under subsection  
11                  (b), including a recommendation as to whether  
12                  the Court of Appeals for Veterans Claims  
13                  should have the authority to hear class action  
14                  or associational standing cases;

15                   (B) relevant background and statistical in-  
16                  formation associated with such recommenda-  
17                  tions and solutions; and

18                   (C) other information the Commission de-  
19                  termines appropriate.

20           (i) TERMINATION.—The Commission shall terminate  
21           on the date that is two years after the date on which the  
22           Commission submits the final report pursuant to section  
23           (h)(2).

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