



WASHINGTON UPDATE

Recent news regarding legislation and regulatory actions affecting veterans and people with disabilities.

Written and produced by Paralyzed Veterans of America - Government Relations Department

October 18, 2018

Volume 24, Number 10

*****REGISTER FOR AIR TRAVEL WEBINAR*****

On October 29th at 3:00 pm ET, PVA will hold a webinar on the air travel experience of passengers with disabilities. This webinar will discuss the rights and responsibilities of passengers with disabilities under the Air Carrier Access Act and recent efforts to improve the law. To register, please visit: https://zoom.us/webinar/register/3915386817440/WN_ldg_v3KcTzSS6jiOE7_oBQ.

VETERANS BENEFITS/SOCIAL SECURITY COLA ANNOUNCED

The Social Security Administration (SSA) announced on October 11th that Social Security benefits will receive a 2.8 percent cost-of-living adjustment (COLA) increase starting in 2019. This is the biggest increase in benefits since 2012. SSA's COLA serves as a baseline for other federal benefit increases that must be authorized annually. Specifically, Congress passed legislation in September authorizing a parallel increase in veterans' disability compensation and military retirement benefits that was signed into law by the President on October 9th.

PRESIDENT SIGNS FAA REAUTHORIZATION ADDRESSING TRAVELERS WITH DISABILITIES

On October 5th, the President signed into law the Federal Aviation Administration (FAA) Reauthorization Act of 2018. PVA played an instrumental role in the inclusion of several disability-related provisions, many of which are similar to those found in the Air Carrier Access Amendments Act (H.R. 5004/S. 1318).

The legislation includes an entire subsection devoted to improving the air travel experience of passengers with disabilities. Specific provisions in the bill include:

- A study of airport accessibility and airline training policies, including any best practices that go beyond the requirements of current civil rights laws.
- A determination of whether in-cabin wheelchair restraint systems to allow passengers to fly while seated in their wheelchairs are feasible.

Paralyzed Veterans of America

Government Relations Department

801 18th Street, NW · Washington, DC 20006
(800) 424-8200 · (800) 795-4327 · www.pva.org

WASHINGTON UPDATE

October 18, 2018

Volume 24, Number 10

- A requirement for the Department of Transportation (DOT) to work with stakeholders to develop an airline passengers with disabilities bill of rights.
- An increase in the civil penalties that may be assessed by DOT for violations of the Air Carrier Access Act that result in injury to a passenger with a disability or damage to a passenger's wheelchair or other mobility aid.
- A requirement for DOT to establish an advisory council on the air travel needs of passengers with disabilities. This committee will advise the Secretary of Transportation on air travel issues impacting people with disabilities. In addition, the Advisory Committee will be responsible for reviewing regulations governing ticketing, pre-flight seating assignments, and stowage of assistive devices.
- A review of the regulations ensuring assistance for passengers with disabilities, including a requirement that airline personnel and contractors who are providing personal assistance to passengers receive, as deemed appropriate, hands-on training about the proper use of aisle chairs or other relevant equipment.
- A requirement for DOT to move forward in implementing reporting by large domestic airlines on the number of wheelchairs and scooters enplaned and subsequently damaged.

The legislation also includes provisions aimed at modernizing the Transportation Security Agency (TSA). One of those provisions requires a revision of the training for Transportation Security Officers on screening people with disabilities. TSA must work in consultation with disability and veterans organizations to revise their training requirements. TSA also has enhanced reporting requirements on issues such as the wait times for same gendered assistance to complete the screening process for passengers with disabilities.

PVA has already begun to work with DOT to ensure that the provisions outlined in the FAA Reauthorization are implemented in a timely and effective manner. In a release following final passage of the bill, PVA National President David Zurfluh stated, "We applaud the bipartisan passage of this bill. This is truly a move in the right direction and we will continue to support efforts to prohibit discrimination based on disability in air travel, whether that's on Capitol Hill or in the courts."

FRIENDS OF VA MEDICAL CARE AND HEALTH RESEARCH

On September 26th, PVA celebrated 30 years of advocacy with the Friends of VA Medical Care and Health Research (FOVA) at a Capitol Hill reception. The coalition is comprised of more than 80 national academic, medical, and scientific societies; voluntary health and patient advocacy groups; and veteran-focused associations. FOVA works in concert with the *Independent Budget* to advocate for high-quality veterans health care.

WASHINGTON UPDATE

October 18, 2018

Volume 24, Number 10

PVA, a member of the FOVA executive committee, joined with other veterans service organizations and scientific and academic communities to celebrate FOVA and highlight the contributions made to VA research. Emceeding the event was PVA's Associate Executive Director of Government Relations, Heather Ansley. Speakers at the event included House Veterans' Affairs Committee Chairman Phil Roe, MD (R-TN); House Military Construction, Veterans Affairs, and Related Agencies Committee (MilCon-VA) Ranking Member Debbie Wasserman Schultz (D-FL); Carolyn Clancy, MD, deputy undersecretary for discovery, education, and affiliate networks at the Veterans Health Administration; and Rachel Ramoni, DMD, ScD, chief research and development officer at VA.

Of particular note, Dr. Ramoni lauded the fiscal year (FY) 2019 MilCon-VA spending package, which was signed by President Trump on September 21st, for including a 7.9 percent increase for the VA research program compared to FY 2018. Increases in research funding are essential to VA being able to properly tackle the health care challenges of today.

OFCCP SOLICITS COMMENTS ON DISABILITY, VETERANS INFORMATION COLLECTION; ANNOUNCES DISABILITY INCLUSION AWARD

The Office of Federal Contract Compliance Programs (OFCCP) is seeking public comment on the value of information that the office collects to ensure that federal contractors are complying with VEVRAA (Vietnam Era Veterans Readjustment Assistance Act), Section 503, and Executive Order (EO) 11246 (pertaining to women and minorities). VEVRAA requires certain federal contractors to conduct outreach to, recruit, and hire veterans from various targeted groups, including those with service-connected disabilities. Section 503 of the Rehabilitation Act similarly calls for federal contractors to do the same for people with disabilities. OFCCP is asking whether it should renew collection of information related to the enforcement of these laws and will be accepting comments until November 13th. PVA supports collection of this information to further the goal of increasing employment for veterans with disabilities. The Federal Register notice can be found at <https://www.regulations.gov/document?D=OFCCP-2018-0001-0001>.

OFCCP has also announced plans to create an Excellence in Disability Inclusion Award Program - <https://www.regulations.gov/document?D=OFCCP-2018-0002-0001> - and is seeking input on the criteria it should submit to the Office of Management and Budget for this program. Among the proposed criteria for eligibility for the award are the following: federal contractors would have to have a current affirmative action program for Section 503, VEVRAA, and EO 11246; have no unresolved violations of these provisions; and have no adverse decisions by a court, Administrative Review Board, or Administrative Law Judge related to these laws and executive order, as well as the Americans with Disabilities Act, within the past three years.

WASHINGTON UPDATE

October 18, 2018

Volume 24, Number 10

Comments on the criteria are due by December 4th.

DOT ISSUES VOLUNTARY GUIDELINES FOR AUTOMATED VEHICLES

On October 4th, U.S. Secretary of Transportation Elaine L. Chao hosted a special event to introduce *Preparing for the Future of Transportation: Automated Vehicles 3.0*.

The U.S. Department of Transportation (DOT) is taking active steps to prepare for the future by engaging with new technologies to ensure safety without hampering innovation. With the release of *Automated Driving Systems 2.0: a Vision for Safety* in September 2017, DOT provided voluntary guidance to industry, as well as technical assistance and best practices to the states, on a path forward for the integration of automated driving systems. DOT also bolstered its engagement with the automotive industry, technology companies, and other key transportation stakeholders and innovators to continue to develop a framework that facilitates the safe integration of this technology into our transportation systems.

In March 2018, Secretary Chao hosted the Automated Vehicle Summit to present the Department's six automation principles and discuss automation issues with the public and private sector transportation stakeholders across every mode. The six principles state that DOT will prioritize safety, remain technology neutral, modernize regulations, encourage a consistent regulatory and operational environment, prepare proactively for automation, and protect and enhance the freedoms enjoyed by Americans.

Preparing for the Future of Transportation: Automated Vehicles 3.0 is the next step in what DOT lauds as the development of a flexible, responsible approach to a framework for multimodal automation. Automation has the potential to improve our quality of life and enhance the mobility and independence of millions of Americans especially older Americans and people with disabilities. PVA is working with stakeholders to ensure that automated vehicles are accessible to and usable by people with disabilities.

SUBMISSION OF APPEALS REFORM REGULATORY COMMENTS

On October 9th, PVA submitted comments to VA in response to proposed regulations implementing the Veterans Appeals Improvement and Modernization Act.

The comments focused on the following concerns: communication and notices provided by VA, lack of clarity about how VA will define the record and timing around the rules, and lastly, interaction between VA and accredited representatives. The last concern is of particular importance since we want to ensure our service officers are timely informed so they can, in turn, timely advise our clients.

WASHINGTON UPDATE

October 18, 2018

Volume 24, Number 10

PVA's concern with VA's interaction with representatives is warranted. Currently, if a veteran gets a letter or an email from VA, the representative should also receive a notice. This practice is inconsistent, however, and often means the representative must search the Veterans Benefits Management System for whether a client has received notice of a decision. This is not a notice to representatives, but a scavenger hunt that impairs PVA's ability to effectively advise our clients.

PVA has always agreed that the appeals system needs to be improved; however, we do not agree with all the changes that VA has proposed. Furthermore, PVA has concerns with VA's implementation of the Appeals Modernization Act and whether or not it will have a positive effect on veterans' claims.

PVA COMMENTS ON HUD FAIR HOUSING RULE

On October 11th, PVA submitted comments in response to an Advance Notice of Proposed Rulemaking (ANPRM) concerning the Department of Housing and Urban Development's (HUD) Affirmatively Furthering Fair Housing (AFFH) regulations. HUD is considering significant changes to the requirements that communities receiving federal funds must follow to ensure that their housing policies comply with the Fair Housing Act. The Fair Housing Act, and its 1988 amendments, prohibit discrimination in housing on the basis of race, religion, gender, disability, and families with children.

PVA strongly supported HUD's existing 2015 AFFH regulation and urged HUD not to revoke or rewrite it. In responding to questions that HUD posed about the AFFH rule in the ANPRM, PVA pointed to several aspects of the 2015 regulations that were significant improvements over previous rules including requirements for much more robust community engagement, an appropriately balanced approach to the use of data, and for giving jurisdictions sufficient flexibility to set goals and take concrete steps to address fair housing problems and for holding them accountable for implementing those steps.

PVA cautioned that weakening the rule would result in millions of families and individuals facing unnecessary discrimination and urged HUD to use its resources to ensure effective implementation, oversight, and enforcement of the existing regulation.

SERVICE-DISABLED VETERAN OWNED SMALL BUSINESS LEGISLATION PROPOSED

PVA has recently expressed support for two measures aimed at improving state level contracting opportunities for Service-Disabled Veteran Owned Small Businesses (SDVOSBs). Congressman Blaine Luetkemeyer (R-MO) recently introduced H.R. 6603, the Service Disabled Veteran Infrastructure Investment Parity Act, to correct an unfortunate omission under the

WASHINGTON UPDATE

October 18, 2018

Volume 24, Number 10

current highway bill, the FAST Act. This bill would allow SDVOSBs to receive contracting priorities for transportation funding under the FAST Act.

In 1999, Congress passed the Veterans Entrepreneurship and Small Business Development Act. This bill established a government-wide contracting goal for businesses owned by veterans with service-connected disabilities. Under the FAST Act, federal dollars are distributed to the states in order to fund roads and bridges but many of these states do not have the same contracting goals as the federal government. Congress set a goal that 10 percent of dollars allocated for infrastructure projects should be extended to certain small businesses known as Disadvantaged Business Enterprises, or DBEs. While this program has been in existence for decades, it does not take into account the needs of small businesses run by service-connected disabled veterans in awarding infrastructure contracts.

Because of this, many SDVOSBs do not receive the contracting preference they would receive under federal contracting rules. H.R. 6603 would amend the FAST Act to include SDVOSBs in an already existing 10% contracting carve out that includes women and socially or economically disadvantaged small businesses.

Meanwhile, Senator Gary Peters (D-MI) and Senator John Cornyn (R-TX) are also preparing to introduce similar legislation to address this issue that will take a slightly different approach. Their bill would create a new contracting target goal for SDVOSBs under the FAST Act. Their bill would grant service-connected disabled veterans access to contracting goals for infrastructure projects by creating a 5 percent goal for SDVOSBs, in addition to the 10 percent DBE contracting goal program.