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49-1702, subparagraph 8, and the Treasurer of State should pay these warrants upon their presentment to him for payment, as authorized by the Acts of 1859, Ch. 138, Sec. 7; Burns' Indiana Statutes (1951 Repl.), Section 49-1809.

OFFICIAL OPINION NO. 10

May 2, 1955

Mr. Curtis E. Rardin
Auditor of the State of Indiana
238 State House
Indianapolis, Indiana

Dear Mr. Rardin:

This is in reply to your letters of March 21, 24, and 31, 1955, in regard to House Enrolled Act No. 11 which provides for the Korean Bonus. For the purpose of the avoidance of repetition in the citations of authority, *et cetera*, I am taking the liberty of consolidating your four requests into one Official Opinion.

Your four inquiries are as follows:

"Inquiry #1. H. B. #11, 1955 Session.

"Under date of March 11th, 1955, as of the Governor's signature, House Enrolled Act #11, in Section 5, 'Provides for the processing and payment of World War II claims presented to the Auditor of State prior to the effective date of this Act.'

"The Bonus Division respectfully requests a decision as to whether the World War II claims herein described are to be paid prior to the Korean claims, or whether they shall be paid after the completion of the paying of the Korean Bonus."

"Inquiry #2. H. B. #11, 1955 Session.

"The Administrator of the Indiana Bonus respectfully requests your decision as to the meaning of Section 2, Sub-section (F), of H. B. #11.

"1. Does this mean the 10% service connected disability, determined by the United States Veterans Ad-

ministration, or the Armed Forces Retirement Board, be determined as a Korean service connected disability?

"2. And does it mean the effective date be construed as of the date of the signing of the Bill, date March 11, 1955?"

"Inquiry #3. H. B. #11, 1955 Session.

"Section 3, H. B. #11, Korean Bonus Act states, 'That the Veterans of the Korean Theater as provided in this Act shall be paid according to the terms, conditions and provisions of the Acts of 1949, Chapter 277; provided that all claims under the terms of this act shall be filed with the Auditor of State on or before June 30, 1956; * * *'

"Does this mean all rules and regulations used in processing and paying the Acts of 1949, Chapter 277, be used in processing and paying the Korean Bonus Act H. B. #11, unless otherwise provided in H. B. #11 or in some specific manner they cannot be possibly applied because of specific different terms or conditions where the two conditions are not congruent?"

"Inquiry #4. H. B. #11, 1955 Session.

"Section 2. (C) The last paragraph sets out that the Korean Bonus be divided into three classes:

- (1) First Class; Identified as Next-of-Kin
- (2) Second Class; Identified as Disability
- (3) Third Class; Identified as all other claims included in this Act not otherwise provided for in the first two classes.

"It further states that the Bonus be paid in classes as authorized by the Auditor of State as he finds the monies in the Bonus Fund sufficient to pay said claims.

"Since the Auditor of State is authorized to pay any and all classes, the monies being available, the Bonus Division submits the question as follows:

"Is it sanctioned that the procedure of paying Korean Bonus claims be in the sequence of applying, if and as they are adjudicated?"

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Your first inquiry deals with the question as to whether or not World War II Bonus claims authorized under House Enrolled Act No. 11, which became Chapter 249 of the Acts of 1955, are to be paid prior to the Korean claims or after the completion of the Korean claims. I respectfully call your attention to Acts of 1955, Ch. 249, Sec. 5, which provides:

“SEC. 5. All money remaining in the World War II Bonus Fund after the payment of claims as provided by this act shall be retained in such fund: Provided, That the auditor of state shall process and allow all World War II Bonus claims presented to him prior to the effective date of this act, in the manner provided by law, and time limitation provisions for presentation of such claims are hereby repealed. The authority of the auditor of state to accept claims for World War II Bonus for processing of claims is hereby revoked.”

Under the World War II Bonus Act, as originally enacted, a bonus was to be paid only to World War II veterans, or their next-of-kin, who had made application to the proper authority on or before January 1, 1951. [See Acts of 1949, Ch. 277, Sec. 5, as found in Burns' Indiana Statutes (1951 Repl.), Section 59-1405.] However, numerous applications for a bonus were received subsequent to January 1, 1951, and the time for filing applications was thereafter extended until April 30, 1951. [See Acts of 1951 (Spec. Sess.), Ch. 4, Sec. 1, as found in Burns' Indiana Statutes (1951 Repl.), Section 59-1405.] Again, many applications for veterans' bonuses were received subsequent to the final date allowed for filing such applications, and in 1953 the Legislature again extended the time for filing applications and veterans were allowed to file applications for a bonus at any time on or before June 30, 1953. [See Acts of 1953, Ch. 213, Sec. 1, as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Section 59-1405.]

In view of this legislative history and the events recited above, I think the Legislature, in enacting Acts of 1955, Ch. 249, Sec. 5, *supra*, intended to ratify and validate World War II veterans' bonus applications filed between June 30, 1953 and March 11, 1955, which is the effective date of the Acts of 1955, Ch. 249, *supra*.

These claims would then be paid under and pursuant to the provisions of the Acts of 1949, Ch. 277, as amended, *supra*, and I believe that, construing the various applicable statutes in *pari materia*, the Auditor is authorized to process and allow bonus claims filed between June 30, 1953 and March 11, 1955 as soon as possible and without regard to any time limitations imposed upon the payment of Korean veterans' bonus claims by the Acts of 1955, Ch. 249, *supra*.

Your second inquiry has to do with the interpretation of Acts of 1955, Ch. 249, Sec. 2 (f), which provides:

“(f) A bonus of six hundred dollars [\$600.00] shall be paid from the World War II Bonus Fund to any member of the armed forces, or to any member of the armed forces who has been separated or discharged from the armed forces under honorable conditions, who was on active duty with such armed forces for any period between June 27, 1950 and January 1, 1955 and who has a service-connected disability of at least ten per cent, as determined by the United States Veterans Administration: Provided, That such member had, at the time of his or her enlistment, induction or call to active duty, been a resident of the State of Indiana for at least one year immediately prior thereto: Provided further, That no other bonus shall be paid to such member under the provisions of this act.”

Your attention is respectfully called to the title of said Act which provides:

“AN ACT to provide for the payment of a bonus from the World War II Bonus Fund to members of the armed forces of the United States who were on active duty with such armed forces in the Korean Theater, to members of the armed forces, who were on active duty in the armed forces at any time between the period beginning June 27, 1950 and ending January 1, 1955 and who have a service-connected disability, and to the next of kin of any member of the armed forces of the United States who served in such armed forces at any time between the period beginning June 27, 1950 and ending January 1, 1955 and who died while in or as a

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result of active duty in the armed forces; to provide for the processing and payment of World War II Bonus claims presented to the auditor of state prior to the effective date of this act; to provide for the disposition of any balance remaining in the World War II Bonus Fund; and to provide penalties.”

Since both the title of the Act and Sec. 2 (f) thereof specifically distinguish veterans who served in the Korean Theater from veterans who have a service-connected disability, I think the clear intent of the Legislature was to provide for the payment of a bonus in the amount of six hundred dollars (\$600.00) to any veteran qualifying under Sec. 2 (f), *supra*, regardless of whether such service-connected disability was received in the Korean Theater or elsewhere. Under Sec. 2 (f), *supra*, this disability clearly must be determined by the United States Veterans' Administration. You are also correct in thinking that the effective date of the Act is March 11, 1955; however, in my opinion only veterans who, at the time they make application for a bonus, have a service-connected disability of at least ten per cent (10%) or more as determined by the United States Veterans' Administration, may qualify under Acts of 1955, Ch. 249, Section 2 (f), *supra*.

Your inquiry No. 3 concerns the question as to whether or not rules and regulations used in processing and paying the Acts of 1949, Ch. 277 may be used in processing and paying the bonus claims arising by virtue of House Enrolled Act No. 11. Rules and regulations duly authorized and promulgated according to law have the force and effect of law in the jurisdiction in which they operate. Acts of 1955, Ch. 249, *supra*, contains no authority for the adoption and promulgation of rules and regulations. It is therefore my opinion that the Acts of 1955, Ch. 249, Sec. 3, which states that veterans of the Korean Theater should be paid according to terms, provisions and conditions of the Acts of 1949, Ch. 277 authorizes the use of the rules and regulations adopted pursuant to the Acts of 1949, Ch. 277 in processing and paying bonus claims arising under the Acts of 1955, Ch. 249, *supra*.

Your fourth inquiry is as to whether or not Korean Bonus claims should be paid in the sequence of applying or if they

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are to be paid in classes. The Acts of 1955, Ch. 249, Sec. 2 (c) provides:

“The commission is hereby authorized to direct the payment of such claims and fix the date upon which payment of such claims shall begin, but no such direction or order shall be made by the auditor of state until it shall find that the monies in the World War II Bonus Fund are sufficient to pay in full all claims, allowed or to be allowed as herein later provided in the first class. After all claims in the first class have been satisfied, the auditor of state may authorize payment to second class and fix the date upon which payment of such claims shall begin, but no such direction or order shall be made by the auditor of state until he shall find that the monies in the World War II Bonus Fund are sufficient to pay in full all claims, allowed or to be allowed as herein later provided in the second class. After satisfaction of all claims falling within the first and second classes and upon finding sufficient monies in the World War II Bonus Fund to pay in full all claims in the third class, the auditor of state is authorized to direct payment of such claims and fix the date upon which payment of such claims shall begin.”

It is my opinion that regardless of the fact that sufficient moneys are available at the present time to pay all claims that the language of the statute must be followed and the claims must be paid in classes on such dates as are to be determined by the Auditor of State, provided however that claims of the second and third classes may not be paid until after June 30, 1956.