

MEMBERS:

SENATOR RICHARD ROTH
(D-RIVERSIDE)
CHAIRMAN
SENATOR JIM NIELSEN
(R-TEHAMA)
VICE-CHAIR

SENATOR BILL DODD
(D-NAPA)

SENATOR BEN HUESO
(D-SAN DIEGO)

SENATOR JANET NGUYEN
(R-GARDEN GROVE)

SENATOR SCOTT WILK
(R-SANTA CLARITA)

California Legislature

Senate Committee on Veterans Affairs

RICHARD ROTH
CHAIRMAN



STAFF DIRECTOR:
WADE COOPER TEASDALE

COMMITTEE ASSISTANT:
CINDY BALDWIN

STATE CAPITOL
SACRAMENTO, CA 95814-4900
(916) 651-1503

Annual Report on Oversight Activities for 2018

In 2018, the Senate Committee on Veterans Affairs (VA Committee) engaged in the following oversight activities:

SOUTHERN CALIFORNIA VETERANS CEMETERY

Background:

Recognizing that the national cemetery system leaves certain areas inadequately served, the federal government in 1978 established the VA State Cemetery Grants Program (now called the Veterans Cemetery Grants Program) to assist states, territories and tribal governments in providing gravesites in areas where the National Cemetery Administration (NCA) cannot fully satisfy Veterans' burial needs.

The federal government will reimburse up to 100% of the cost of establishing, expanding, or improving state veterans' cemeteries, including the acquisition of initial operating equipment, if the state agrees to cover the administrative and oversight costs. These administrative and oversight costs are offset eventually through federal veterans burial benefits. The USDVA will not pay off-site costs, land purchase costs, demolition costs, or any State agency employee costs, such as those DGS may charge.

California has three operational state veterans cemeteries:

- Yountville Veterans Home Cemetery (collocated with the State Veterans Home campus.)
- Northern California Veterans Cemetery (located in Igo, 8 miles SW of Redding.)
- California Central Coast Veterans Cemetery (located on former Fort Ord near Monterey.)

All three are managed by the Veterans Services Division of the California Department of Veterans Affairs (CalVet). CalVet determines eligibility for burial in a state veterans

cemetery in accordance with USDVA requirements used for burial in national veterans cemeteries. In general, eligibility is established if a veteran died on active duty, or served on active duty (other than for training) and was discharged under conditions other than dishonorable.

In the early 2000s, support began growing for a state veterans cemetery in Orange County. Supporters opined that, although the National Cemetery in Riverside is a beautiful resting place for veterans, due to its distance from Orange County, regional geography, limited driving routes, and the population density of the region, the needs of Orange County veterans, veterans from other southern California coastal areas, and veterans' families are not met by the National Cemetery in Riverside.

In 2014 the Legislature enacted Assembly Bill 1453 (Quirk-Silva, Chapter 646, Statutes of 2014), which requires CalVet, in voluntary cooperation with local government entities in Orange County, to design, develop, construct, and equip a state-owned and state-operated Southern California Veterans Cemetery (SCVC) to be located at the site of the former Marine Corps Air Station El Toro, on 125 acres known as the Amended and Restated Development Agreement (ARDA) Site in the Great Park in the City of Irvine. The bill also provided eligibility criteria, designated review authorities, and established supportive funding mechanisms.

On March 11, 2014, the Irvine City Council adopted Resolution No. 14-27, which, in part, supported the passage of AB 1453 and expressed the City Council's strong interest in providing land to develop a State Veterans Cemetery. The City Council also established an Ad Hoc State Veterans Cemetery Committee to consider this matter.

Since then the City of Irvine has taken numerous steps to identify, approve and authorize specific tracts of land within the Great Park area. On behalf of the State, CalVet and the Department of General Services (DGS) have worked with the City and the federal USDVA to secure approval and funding. However, the local process has been delayed as Irvine-area factions, which favor different land tracts, have engaged competitively in various policy-making forums.

On April 10, 2010, the Committee on Veterans Affairs conducted an oversight hearing to help the Senate gauge overall progress in fulfilling the AB 1453 mandate. The Committee received testimony from the following technical witnesses:

- Mike Magee, Assistant Deputy Secretary, Veterans Services Division, CalVet:
 - Provided legal, policy and historical background on the federal and state veterans cemetery programs.
- Dave Gerard, Chief, Facilities and Business Division, CalVet:

- Addressed USDVA's program requirements, grant program cycle, state share, recoverable costs, property commitment, and transfer timing.
- John Spangler, Deputy Secretary, Legislation and Government Relations, CalVet:
 - Discussed the origins, directives and effects of the AB 1453 legislation
- Nik Karlsson, Acting Chief, Project Management and Development Branch, Real Estate Services Division, DGS:
 - Discussed project timelines, project status, and next steps.

DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM (DVBE)

Background: In 1989, the Legislature enacted the DVBE program to address the special needs of disabled veterans seeking rehabilitation and training through private-sector entrepreneurship. The program allows certified DVBE businesses to receive a preference when competing for contracts with state agencies and departments. Existing law requires each state agency, in awarding contracts throughout the year, to take all practical actions necessary to meet or exceed an annual 3% DVBE participation goal.

In 2013, the Veterans Affairs Committee successfully requested that the Joint Legislative Audit Committee (JLAC) approve an audit of the DVBE program. In February 2014 the California State Auditor released Report 2013-115, which primarily examined the following entities:

- Department of General Services (DGS) in its role as the program's administering agency.
- The Department of Veterans Affairs (CalVet), which has responsibilities for outreach, promotion, advocacy, and advice.
- A representative subset of five awarding departments: DGS, Department of Transportation (Caltrans), Department of Corrections and Rehabilitation (CDCR), Department of State Hospitals, and Department of Water Resources

That audit identified a number of serious deficiencies and offered corrective recommendations – three to the Legislature and six to the audited departments. Two of the more serious problems identified were the following:

- That 83 percent of all direct contract awards to DVBE firms were concentrated in the hands of just 30 DVBEs. (Deeper analysis by the VA Committee staff revealed that the concentration was even higher. Thirty percent of all direct awards went to the six highest-earning DVBE firms.)

- The audit also identified the existence of a massive “data hole” in subcontractor payment data due to the failure of awarding departments to collect and maintain prime contractor payments to DVBE subcontractors, as required under existing law.

The State Auditor’s web site notes that the report’s recommendations to all audited departments report that the recommendations have been “fully implemented,” but the Auditor cannot tell the Legislature how effectively the implementations have been.

In light of the seriousness of the original program deficiencies and considering that five years have elapsed since the first audit, in May 2018, the Veterans Affairs Committee requested that JLAC authorize a follow-on audit, and JLAC approved the request. As of November 15, 2018, the State Auditor’s web site indicates that the audit is “Work in Progress,” which indicates the audit process is underway.

Upon conclusion of the confidential audit process, the State Auditor will publish Report 2018-114, most likely within the first half of 2019, to provide independently developed and verified information related to the DVBE program. The audit’s scope will include, but not be limited to, the following activities, as requested by the Veterans Affairs Committee:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.
2. Determine whether conditions identified in State Auditor Report 2013-115 *Disabled Veteran Business Enterprise Program: Meaningful Performance Standards and Better Guidance by the California Departments of General Services and Veterans Affairs Would Strengthen the Program* (Report 2013-115) persist at the California Department of Veterans Affairs (CalVet), the Department of General Services (General Services), the California Department of Transportation (Caltrans), and the Department of Corrections and Rehabilitation (Corrections), and determine whether similar conditions exist at two additional entities, by performing audit procedures similar to those used to address the scope and objectives for Report 2013-115.
3. Obtain updated data on the DVBE program and report the same demographic information on the program as in Report 2013-115. In addition, to the extent possible, report on the following:
 - a. The percentage of certified DVBEs that bid on state contracts in fiscal year 2017–18.
 - b. The percentage of certified DVBEs that won state contracts in fiscal year 2017–18.
 - c. The total value of contracts awarded to certified DVBEs in fiscal year 2017–18.
 - d. The portion of contracts used to achieve the goals of the DVBE program that come from prime contractors and from subcontractors in fiscal year 2017–18.
 - e. If each of the top 30 DVBEs is certified also as a small business or microbusiness.

- f. The three-year average gross revenue for each of the top 30 DVBEs.
 - g. The number of employees for each of the top 30 DVBEs.
 - h. The statistical distribution of disability ratings for all DVBEs and for the top 30 DVBEs.
 - i. The statistical distribution of DVBE ownership percentages for all DVBEs, the top 30 DVBEs, prime contractors, and subcontractors.
4. Determine whether DVBE contracts go to a small number of DVBE certified contractors, as noted in Report 2013-115. Determine what actions General Services, CalVet, or participating departments may take to correct this condition.
 5. Evaluate the effectiveness of General Services' process for handling complaints and allegations of fraud or waste in the program, and for protecting whistleblowers. Also, review the types and resolutions of complaints that General Services receives.
 6. Determine whether departments obtain sufficient assurance regarding the amounts paid to DVBE subcontractors, as noted in Report 2013-115. Determine what actions General Services, CalVet, or participating departments may take to monitor and correct this condition.
 7. Identify and evaluate the actions General Services took subsequent to Report 2013-115 to correct or prevent issues identified in that audit at departments other than the five reviewed in Report 2013-115.
 8. Evaluate the effectiveness of actions taken by General Services, CalVet, Caltrans, and Corrections in response to recommendations from Report 2013-115.
 9. Determine whether the program addresses the special needs of specific populations of veterans.
 10. Determine whether CalVet has sufficient resources to accomplish statutory responsibilities, especially regarding program outreach and development, and whether the distribution of funding and workload between General Services and CalVet is effective to accomplish program goals.
 11. Review and assess any other issues that are significant to the audit.