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THIRD READING

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Bill No: AB 240  
Author: Irwin (D), et al.  
Amended: 6/30/20 in Senate  
Vote: 21

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SENATE VETERANS AFFAIRS COMMITTEE: 7-0, 6/11/19  
AYES: Archuleta, Grove, Hurtado, Nielsen, Roth, Umberg, Wilk

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/9/19  
AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Glazer, Hill,  
Hueso, Jones, Nielsen, Portantino, Rubio, Wiener  
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/2/19 (Consent) - See last page for vote

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**SUBJECT:** Veterans' homes: lease of property

**SOURCE:** Author

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**DIGEST:** This bill limits the term of a lease of real property at a California Department of Veterans Affairs (CalVet) Veterans' Home to five years, except under specified conditions; and requires that any use of property by a third party at a Veterans' Home meet specified criteria.

*Senate Floor Amendments of 6/30/20* remove the section defining terms, which keep them as currently defined in Military and Veterans Code §1010.

*Senate Floor Amendments of 5/26/20* remove the authorization for the Director of the Department of General Services (DGS), with the consent of the Secretary, to enter into leases of any real property held by the department for a home, and not needed for any immediate purpose of the home, with any party for the development of housing, including affordable or mixed-income housing.

*Senate Floor Amendments of 9/3/19* remove references to “long-term care facility.”

**ANALYSIS:**

Existing law:

- 1) Establishes the Veterans’ Home of California system for the operation of Veterans’ Homes at various sites throughout the state.
- 2) Sets forth the duties of the CalVet regarding the administration and regulation of Veterans’ Homes.
- 3) Authorizes the Director of DGS to lease or let any real property held by the department for a home, as specified, to any entity or person upon terms and conditions determined to be in the best interests of the home.
- 4) Authorizes the Director of DGS, as specified, to let for any period of time any real property or interest in real property which belongs to the state, when the director deems the letting serves a beneficial public purpose limited to the development of housing, including emergency shelters, or park and recreation facilities

This bill:

- 1) Prohibits a lease of a real property held by CalVet for a home from exceeding a term of five years, unless:
  - a) The lessee is a town, city, county, or city and county, or a political subdivision thereof, where the home is located.
  - b) The lessee is a nonprofit organization that provides services exclusively for veterans of the Armed Forces of the United States and their families.
  - c) The contract for the lease with CalVet or DGS was executed before January 1, 2021.
- 2) Authorizes a lease that was executed before January 1, 2021, to be renegotiated, however, any terms regarding the duration of the renewal of the contract shall not be extended.
- 3) Provides that a lease contract with any other party may be granted for a term greater than five years only with the approval of the Legislature.

- 4) Requires that any use, other than an easement, of real property held by CalVet for a home by a person or entity, as specified, must meet all of the following, as determined by the secretary:
  - a) Provide substantial and direct benefits to the home and its members.
  - b) Be appropriate and compatible with the nature of the home.
  - c) Compensate CalVet in an amount that approximates fair market value, taking into consideration the value of the benefit provided to the home's members and the investment by the lessee in the property development of the home.
  - d) That where the use contemplated carries a reasonable risk of injury or loss to the state, the home, or the members of the home, the use is appropriately insured by the lessee to cover those risks and to insure home residents, the department, and the State against liability.
- 5) Requires that any use, other than an easement, of real property held by CalVet for a home by a person or entity, as specified, be governed by a written agreement between CalVet or DGS and the person or entity using the real property, as specified.
- 6) States that the act is not intended to override or interfere with Section 14671.2 of the Government Code.

## **Background**

CalVet oversees eight veterans' homes across the state. The homes provide rehabilitative, residential and medical services to the veterans who reside there. Any veteran who is disabled or over 55 years of age and a resident of California is eligible to apply for admission to the homes. Each home provides different levels of care, including skilled nursing care and memory care. The homes also range in size. The Lancaster home can house 60 residents on a 20 acre site while the largest home, the Yountville home (Yountville) in Napa County, can house up to 1,000 residents on a site that covers several hundred acres.

DGS has general authority to lease state owned real property, including veterans' home properties, with the consent of the agency responsible for the property. DGS has specific authority to lease veterans' home property as long as the property is not needed for any direct or immediate purpose and the terms and conditions of the lease are in the best interests of the home.

In January 2019, the California State Auditor released an audit of CalVet and DGS subtitled "The Departments' Mismanagement of the Veterans Home Properties

Has Not Served the Veterans' Best Interests and Has Been Detrimental to the State.” The Auditor recommended to the legislature that “to prevent future leases of veterans home property that obligate the property to third parties for unnecessarily extended periods of time, the Legislature should amend state law to clarify that leases of veterans home property may not exceed five years unless a statutory exception applies.”

The Yountville home has entered into long-term arrangements with the County of Napa and the Town of Yountville that involve mutual provision of services, investment of public funds and operation of facilities that do provide benefits to the home and its members. Specifically, the Town of Yountville has made an investment of more than \$2 million in the update and maintenance of the pool as part of a long-term arrangement with the home that has now been rendered void because the contract was executed without the approval of DGS. In negotiation over a new lease, the Town has balked at the imposition of the five-year limit, stating that its investment and the operating deficit of the pool does not make sense for them to take on with such short terms.

Some lessees hold leases that will not expire for decades. Additionally, their terms are extremely unfavorable to the state, as the auditor has detailed. CalVet is attempting to renegotiate some of these leases, but the lessees have virtually no incentive to agree to remuneration terms more favorable to the state at the same time that they are also required to cut decades from their existing arrangements. These leases, of the museum and the golf course, for example, also involve substantial investment by the leasing parties to develop the properties they are now using. This bill will clarify the law with regard to the five-year limit, but also provide flexibility to CalVet to restructure some of its least favorable, longest-term contracts.

[NOTE: See the Senate Veterans Affairs Committee analysis for detailed background of this bill.]

## **Comments**

According to the author, “The property upon which the Yountville Veterans Home now stands was deeded under the state under clear terms: ‘...the support, maintenance and well-being of aged and infirm United States ex-soldiers, sailors and Marines.’ And yet repeated audits of the Yountville Home have found that it is almost inexorably put to uses that not only have nothing to do with veterans, but run counter to the interests of the home and the people who live there. By resolving the ambiguity in current law about lease terms, while also providing flexibility under specific conditions, this bill provides a better foundation for ensuring the

homes are chiefly operated for the benefit of their members, as well as the communities to which these homes belong, without compromising the interests of California veterans or the well-being of the home's members.”

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:** (Verified 6/26/20)

AMVETS-Department of California  
California Association of County Veterans Service Officers  
Military Officers Association of America

**OPPOSITION:** (Verified 6/26/20)

None received

**ASSEMBLY FLOOR:** 76-0, 5/2/19

**AYES:** Aguiar-Curry, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Muratsuchi, Nazarian, Obernolte, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

**NO VOTE RECORDED:** Arambula, Grayson, Mullin, Quirk

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\*\*\*\* END \*\*\*\*