

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: February 12, 2016

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Sharon M. Tso *KEK for* Chief Legislative Analyst
Council File No: 15-0002-S110
Assignment No. 15-11-0900

SUBJECT: Resolution (Koretz – Bonin – O’Farrell) to SUPPORT the Restore Honor to Service Members Act, HR 3068 (Pocan) and S1766 (Schatz).

CLA RECOMMENDATION:

Adopt Resolution (Koretz – Bonin – O’Farrell) to include in the City’s 2015-2016 Federal Legislative Program, SUPPORT for the Restore Honor to Service Members Act, H.R. 3068 (Pocan) and S1766 (Schatz), which simplifies and streamlines the administrative process to allow veterans who received less than honorable discharges solely because of their sexual orientation to clear their military record and become eligible for all benefits and veterans’ services to which they should be entitled.

SUMMARY

The Resolution (Koretz – Bonin – O’Farrell), introduced November 13, 2015, resolves to support H.R. 3068 and the identical companion bill S1766, which directs the Secretary of Defense to review the discharge characterization of former members of the Armed Forces who were discharged by reason of the sexual orientation of the member. The legislation also creates the “Restore Honor to Service Member Act,” which would simplify and streamline the administrative process to allow veterans who received less than honorable discharges solely because of their sexual orientation to clear their military record and become eligible for all benefits and veterans’ services to which they are entitled.

The Resolution states that more than 100,000 American veterans who served in the military from World War II to military operations in Afghanistan received less than honorable discharges from the military because of their sexual orientation. Less than honorable discharges resulted in loss of benefits such as healthcare and tuition assistance through the GI bill.

The City of Los Angeles has a history of supporting legislation upholding the rights of all individuals and eliminating all forms of discrimination, including sexual orientation, and these two federal legislative proposals are consistent with Council policy. Therefore, the Resolution

requests that the City support S1766 and H.R. 3068 in the 2015-2016 Federal Legislative Program to establish the Restore Honor to Service Members Act.

BACKGROUND


Specifically, S1766 and H.R. 3068 seek to direct the Secretary of Defense to review the discharge characterization of former members of the Armed Forces who were discharged because of the sexual orientation of the member, and for other purposes. The bill proposes to create the Restore Honor to Service Members Act. The Act would create a process for the appropriate discharge board of the Armed Forces to review the discharge characterization of the covered member upon request, and if the characterization is dishonorable because of sexual orientation, may change it to honorable. The legislation outlines specific criteria to change the discharge. It requires that the original discharge must be based on the "Don't Ask Don't Tell Act," (DADT) or a similar policy in place prior to the enactment of DADT. In addition, the characterization can be changed if, with respect to the original discharge, there were no aggravating circumstances, such as misconduct that would have independently led to a dishonorable discharge. Service members, or their representatives, requesting a review shall be required to provide specific documents of the member's record, or an affidavit certifying that the member does not have the documents requested.

Once a request for review has been made, the appropriate discharge board shall review all relevant laws, records of oral testimony previously taken, service records or other relevant information regarding the original discharge characterization of the member. The appropriate discharge board also has the authority to change the characterization if the review so determines. Service members are allowed to pursue the appropriate discharge board's regular appeal process if the change in discharge characterization is denied.

Once the characterization is changed, the Act states the member shall be treated without regard to the original discharge characterization of the member. In addition, it fully establishes the benefits provided by the Federal Government to an individual because of service in the Armed Forces. Also, the Act states the Secretary of Defense shall reinstate all recognitions and honors of a covered member whose discharge characterization was changed to honorable.

BILL STATUS

08/13/15	H.R. 3068 Referred to the Subcommittee on Military Personnel.
07/15/15	S1766 Read twice and referred to the Committee on Armed Services.


Blayne Sutton-Wills
Analyst

Attachment: 1. Resolution
SMT:BSW:bsw

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, more than 100,000 American veterans who served in the military during World War II, Korea, Vietnam, the Gulf War, Iraq, and Afghanistan received less than honorable discharge from the military because of their sexual orientation, often resulting in a loss of benefits to which they should have been entitled, such as veterans' health care and GI bill tuition assistance; and

WHEREAS, in 2011, Congress and the President repealed the "Don't Ask, Don't Tell" policy to eliminate this institutionalized discrimination and allow all members of the military to serve their country freely and openly, regardless of their sexual orientation; and

WHEREAS, despite the change in policy, estimates are that nearly 114,000 LGBT service members who were discharged over the years under prior policies continue to suffer from tarnished military records, often preventing them from receiving the veterans' benefits they rightfully earned; and

WHEREAS, on July 15, 2015, Senator Brian Schatz and Congressman Mark Pocan introduced companion measures S1766 and HR3068, respectively, proposing the enactment of the "Restore Honor to Service Members Act"; and

WHEREAS, if enacted, the Restore Honor to Service Members Act would streamline the process through which veterans who were unduly discharged solely because of their sexual orientation can have their military record corrected to reflect an honorable discharge, thereby becoming eligible for any veterans' benefits they are due; and

WHEREAS, on numerous occasions, the City of Los Angeles has gone on record in strong support of the legislation and policies that uphold the rights of all individuals and eliminate all forms of discrimination, including sexual orientation, and these two federal measures are consistent with Council Policy.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 Federal Legislative Program SUPPORT for the "Restore Honor to Service Members Act," HR 3068 (Pocan) and S1766 (Schatz), which would simplify and streamline the administrative process to allow veterans who received less-than-honorable discharges solely because of their sexual orientation to clear their military record and become eligible for all benefits and veterans' services to which they should be entitled.

PRESENTED BY: Paul Karetz
PAUL KORETZ
Councilmember, 5th District

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SECONDED BY: [Signature]
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