Research Memorandum No. 420

ISSUES CONFRONTING THE 1984 GENERAL ASSEMBLY

A Supplement

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MEMORANDUM

TO: Members of the General Assembly

FROM: Vic Hellard, Jr. VH

RE: Supplement to Issues Confronting the 1984 General Assembly

DATE: December 5, 1984

This collection of briefs, prepared by members of the Legislative Research Commission staff, is a supplement to Issues Confronting the 1984 General Assembly, which you received in July. The analyses contained herein are the results of the efforts of staff assignees of the Interim Joint Committees on Banking and Insurance, Business Organizations and Professions, Education, Health and Welfare, and State Government.

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LOAN PRODUCTION OFFICES

Prepared by Greg Freedman

Issue

Should legislation be enacted to regulate loan production offices?

Background

A loan production office (LPO) is a bank office located at a place other than the main or branch office at which bank employees solicit and originate loans for final approval at the main or branch office.

The operation of LPO's in Kentucky became an issues over the past year when a Louisville bank opened nine LPO's across the state. These nine offices differ from most LPO's in that they are storefront offices and solicit consumer loans. Generally, LPO's are located in office buildings and solicit large commercial loans. The small loan industry has expressed concern that the Louisville bank is using the LPO's to compete with small loan companies and that the LPO's are actually branch banks. The Department of Banking and Securities must approve a small loan company, whereas an LPO can begin operating without state approval wherever it chooses.

The legislature is confronted with two questions. First, whether the storefront LPO's are operating as LPO's or as bank branches in violation of Kentucky's branching laws. Second, whether legislation should be enacted to regulate LPO's operating in Kentucky.

Discussion

The U.S. Supreme Court has held, in First National Bank in Plant City, Florida v. Dickinson, 90 S. Ct. 337 (1969), that the federal definition of branch bank is controlling and must be followed by the states. That definition, as stated in 12 U.S.C.A. 36(f), provides that a branch is an office "at which deposits are received, or checks paid, or money lent." The Comptroller of the Currency and the Federal Reserve Board have each issued their interpretations on whether LPO's are branches. The Comptroller, at 12 C.F.R. 7.7380, has declared LPO's are not branches if the loans are approved and made at the main or branch office. This ruling applies only to national banks. The Federal Reserve Board has issued a similar ruling for its state member banks. The Board has declared that "money is not lent at an LPO if the loans are approved and funds disbursed solely at the main office or a branch of the bank."

The Comptroller's ruling was challenged in Independent Bankers Association of America v. Heimann, 627 F. 2d 486 (1980). In that case the U.S. Court of Appeals overruled the district court which had held that the Comptroller was incorrect in declaring that LPO's are not branches. The U.S. Court of Appeals dismissed the case because the Independent Bankers had waited twelve

years after issuance of the ruling to sue and that was too long.

In a statement presented by the Department of Banking and Securities to the Interim Joint Committee on Banking and Insurance on September 15, 1983, the Department concluded that the "operation of loan production offices in Kentucky is not prohibited by statute and appears to be legal." In response to the Committee's inquiry about disbursement of funds at an LPO, the Department issued four procedures to be adopted by any state-chartered bank desiring to operate an LPO in Kentucky.

1. Transfer funds within the bank from an existing account controlled by the bank to an account of the borrower.

2. Electronically transfer funds from the bank to the account of the borrower in the borrower's bank.

3. Issue checks from the bank and mail the checks to the payees.

4. Issue a negotiable check by electronic means from the bank to the loan production office for distribution to the payee.

The Louisville bank operating storefront LPO's has been signing and disbursing checks at its LPO's. That procedure seems to make the LPO a branch bank, under the federal definition and rulings of the Comptroller and the Federal Reserve Board. According to the Department of Banking and Securities, the bank has agreed to adopt procedure No. 4 (above). When the Subcommittee on Banks and Industrial Loans visited the Lexington LPO of the Louisville bank on October 14, 1983, however, checks were still being issued at the LPO. The subcommittee was told on that date that the bank was in the process of implementing procedure No. 4. It would appear, however, that a court could rule that funds are disbursed at the LPO under that procedure and that the LPO is a branch bank. In First National Bank in Plant City, Florida v. Dickinson, supra, the U.S. Supreme Court held that an armored truck and a stationary receptacle, both of which received deposits, were branch banks under the federal definition. The bank argued that a contract provided that the deposits are not received until physically delivered to a bank teller. The court rejected that argument and held, at page 345, that

> Here, penetrating the form of the contracts to the underlying substance of the transaction, we are satisfied that at the time a customer delivers a sum of money either to the armored truck or the stationary receptacle, the bank has, for all purposes contemplated by Congress in Sec. 36(f), received a deposit.

An attorney who provides legal services for the Conference of State Bank Supervisors has expressed serious reservations whether procedure No. 4, in light of First National Bank, would prevent an LPO from being held to be a branch bank. It is arguable whether procedure No. 4 results in disbursement of funds at the main office or the LPO. It seems clear, however, that the issue of whether an LPO is operating as a branch bank is an issue which must ultimately be resolved in the courts.

A number of states have statutes on LPO's. Kentucky does not. There are legislative alternatives, however, that the Kentucky General Assembly may want to consider to regulate the operations of LPO's in Kentucky.

One alternative is to prohibit state banks from operating LPO's in Ken

tucky. Oklahoma has taken such a course. In Oklahoma ex rel. State Banking Board v. American National Bank and Trust Co., No. 78-0304-E (W.D. Okla., July 28, 1978), the district court held that since state banks were prohibited under Oklahoma law from operating LPO's, national banks could not operate LPO's which disburse funds, because that would place state banks at a competitive disadvantage.

A second alternative is to prohibit out of state banks from establishing LPO's in Kentucky. Florida has a statute of this sort. There is a question, however, whether such a law is constitutional.

A third alternative is to enact legislation similar to Georgia statutes 7-1-730 to 7-1-734. Those statutes require LPO's to register annually with the state banking department and permit the department to examine LPO's. The registration includes seven items of information and a fee is required. It enables the state department of banking to know the number of LPO's in the state and their locations. The purpose of the examination is to determine whether the LPO is acting in compliance with state laws.

OVERLAPPING RACING DATES

Prepared by Michael Greer

Issue

Should the Kentucky State Racing Commission permit extended racing dates for Churchill Downs which overlap with thoroughbred racing at Ellis Park and harness racing at Louisville Downs?

Background

Thoroughbred and harness racing dates are granted to tracks each year by the Kentucky State Racing Commission and the Kentucky Harness Racing Commission, respectively. Dates are granted as part of the process of licensing tracks to conduct race meets. Applications for thoroughbred licenses and dates are required to be filed with the State Racing Commission by September 1 of the preceding year. Although the statutory deadline for issuing dates is March 31, they are generally acted on in November to give tracks sufficient notice. Applications for harness licenses and dates are due by November 1 of the preceding year and must be approved by February 1.

Due to its relatively small population, Kentucky is not considered a major racing market and thoroughbred racing dates have traditionally been assigned so that no two tracks are operating at the same time. Harness racing and thoroughbred racing have been conducted concurrently, but harness dates have traditionally been coordinated so that harness racing and thoroughbred racing are not in direct competition in the same market area. The equilibrium which had developed over the years was threatened in November, 1982, when the State Racing Commission approved Churchill Downs' application for extended summer racing dates. The approval allowed Churchill to continue racing in July and August, 1983, at the same time Ellis Park, a thoroughbred track in Henderson, was conducting its regular meet and Louisville Downs was conducting harness racing in Louisville.

Churchill's request for extended summer dates was the result of mounting pressures within the racing industry. Two thoroughbred racing circuits have evolved in Kentucky over the years. One circuit limits itself to racing in Kentucky, moving from track to track as the meets progress. Another circuit, generally referred to as the major circuit and comprised primarily of larger stables with higher quality horses, operates interstate and essentially follows the sun and big purses. The major circuit begins in Florida in the winter, moves to Kentucky in the spring (some via Louisiana and Arkansas), and on to New York or the Chicago area for the summer. In the fall, it returns to the south via the same route.

Racing dates have been on the increase in most major racing states in recent years, with meets lasting longer in the south and beginning earlier in the north. A number of tracks are requiring that horses be on the premises at the beginning of the meet in order to get stall space. The effect has been to put major circuit stables in a squeeze. Many have been forced to leave Churchill Downs soon after the Derby, and there has been great concern that a

continuation of this trend may ultimately force stables to bypass Churchill Downs and Keeneland altogether.

In response to the problem, a group called Summertime Racing was formed to lease Churchill Downs for a summer race meet. The group was comprised primarily of horsemen who preferred to remain in Kentucky to race during the summer but realized that major circuit racing would be needed. Although Churchill Downs was not receptive to the leasing proposal, it recognized the need and support for summer racing. So in August, 1982, Churchill submitted an application for 1983 dates which contained a request for expanded summer racing.

Churchill's request met strong opposition from Ellis Park and Louisville Downs, both of which would be running in competition with Churchill. Due to the amount of controversy generated by the request, the State Racing Commission agreed to hold hearings. A hearing officer was appointed and five full days' testimony was heard at the University of Kentucky School of Law (October 18-22, 1982). After reviewing seven volumes of testimony and exhibits, the hearing officer issued a report in which he recommended that the extended dates be approved. The recommendation was subsequently adopted by the Commission.

Question arose during the hearings regarding the State Racing Commission's authority to grant overlapping dates. Counsel for Ellis Park noted that KRS 230.300 states that the Commission may grant dates if it finds that, among other criteria, there is "absence of conflict with other race meetings in time and patronage area." He argued that the conflict in the overlapping dates should disqualify the request. The hearing officer maintained in his report that the statutory language was not intended to ensure an absolute freedom of conflict but rather that there would be no significant or material conflict, and that to be disqualifying any conflict must be a conflict in both time and patronage area.

The key issue in the hearings, however, was the economic impact the extended dates would have on the other two tracks. To assess the impact, Churchill Downs commissioned a noted racing consultant to prepare an impact analysis. His findings were presented in a written report and oral testimony during the hearings. His analysis concluded that: (1) There would be little or no impact on Louisville Downs, based on an analysis of data from other markets where thoroughbred and harness racing were conducted concurrently. It was his contention that the two types of racing appealed to different groups, resulting in minimal overlap in markets. (2) There would be some adverse impact on Ellis Park, but it would be minimal and would not jeopardize the track's financial condition. He estimated that on a worst case basis, Ellis would suffer a 14% decline in attendance, which, because of the 3% tax credit, would not result in a financial loss.

Churchill's economic impact analysis was disputed in testimony presented by Ellis Park and Louisville Downs. An economics professor who was asked to review the report testified that he had problems not only with the findings but the methodology used in preparing the report. His own impact analysis showed that attendance at Ellis Park would decline by 25% on days when both tracks were running, and 20% over the course of the overlap. He also testified, as did other witnesses, that thoroughbred and harness markets are not separate and discrete and that Churchill Downs racing would have a significant effect on Louisville Downs, although no specific projections were given.

Actual results from the 1983 overlap would appear closer to coinciding with the assessment presented by Ellis Park and Louisville Downs. The following chart compares attendance and pari-mutuel handle for the overlap period, June 30 through September 5, 1983, with the same period in 1982.

At Ellis Park, attendance declined 17.5% from the preceding year and the pari-mutuel handle was down 19.2%. Louisville Downs registered a 12% decline in attendance and a 24.3% drop in pari-mutuel handle. Even the results from Churchill Downs were somewhat disappointing. The daily average handle for the overlap was $671,512, but a daily average of approximately $800,000 was needed for the track to break even.

Some analysts attribute a portion of the decline to the weather. The summer of 1983 was one of the hottest on record for Kentucky, with the months of July and August showing 50 days out of 62 with a high temperature above 90°F. For 17 of those days, the high temperature exceeded 95°F. Whatever impact the weather had, it would be greater on Ellis Park, since Louisville Downs races at night and has an enclosed, air-conditioned grandstand.

Despite the discouraging figures from the 1983 overlap, Churchill Downs again requested extended summer dates for 1984. The State Racing Commission has scheduled a brief hearing on the request for Tuesday, November 22, 1983, and a meeting to take action on the request for the following Tuesday.

OVERLAPPING DATES COMPARISON

		ATTENDANCE			PARI-MUTUEL HANDLE		
		1982	1983	% Dif.	1982	1983	% Dif.
RCHILL DOWNS (49 days)	Tot.	--	272,060	--	--	$32,904,109	--
	Dai. Avr.	--	5,562	--	--	$ 671,512	--
[S PARK days)	Tot.	303,244	250,140	-15.5%	$34,436,723	$27,836,659	-19.2%
	Dai. Avr.	5,140	4,240		$ 583,673	$ 471,808	
ISVILLE DOWNS 58 days)	Tot.	164,952	145,089	-12%	$13,160,759	$ 9,968,477	-24.3%
	Dai. Avr.	2,844	2,502		$ 226,910	$ 171,870	

Discussion

During the course of the interim, the Subcommittee on Racing of the Interim Joint Committee on Business Organizations and Professions heard testimony and monitored the issue as it developed. Prior to the Commission's approval of the 1983 overlap, the Subcommittee adopted a resolution, based on the testimony it had heard, asking the Commission not to approve the overlap until further study could be conducted on its impact. After reviewing the results of the 1983 overlap, the Subcommittee adopted a second resolution, asking that racing dates for 1984 be granted only through June, so that the issue of overlapping dates could be addressed by the 1984 General Assembly.

EDUCATIONAL IMPROVEMENT

Prepared by Herbert Franklin

Issue

Should the General Assembly take advantage of the current national interest in the quality of public education to gather support for improvement of Kentucky's system of public education?

Background

Our educational system is presently under attack. Being attacked is not new for those in the educational arena, but never before have they had to endure a bombardment of criticism so organized and intense as that of today. The current wave of criticism, which is of national proportions, gained momentum with the release of "A Nation at Risk: The Imperative for Educational Reform," a report of the National Commission on Excellence in Education. The report, praised by some and decried by others, has generated subsequent reports, findings and recommendations from task force groups, organizations and individuals. Political leaders at the local, state and national levels have freely expressed their feelings and positions on the issues. The news media, with instant and continuous reporting, has succeeded in awakening the nation and forcing it to deal with many issues affecting education.

President Reagan's stance on educational issues and his call for educational reform did much to spur those in the political arena to action on the issues. Mississippi held an "education" special session weeks before its regular 1983 session and approved a series of reforms proposed by Governor William Winters. Governor Lamar Alexander of Tennessee proposed a controversial program with a "master teacher" approach to improving public school education. The Senate Education Committee in Florida sent the "RAISE" bill (Raise Achievement in Secondary Education) to the floor, proposing several changes in secondary education programs. Kentucky's Interim Joint Committee on Education has adopted a Ten-point Plan for Educational Improvement. The committee studied ten areas of critical concern and developed recommendations believed to be necessary first steps in achieving excellence in the public school system.

Discussion

Members of the business community and the general public are now joining educators, politicians and the news media in calling for educational reforms. They are looking to the legislature for direction.

The General Assembly, in considering this issue, must consider the following questions:

1. Will the reforms being called for create the system needed to educate today's youth?

2. Can the state afford the cost of the educational reforms needed to correct the identified needs of our educational system?

3. Are the various publics willing to make the commitment necessary to undertake the kinds of educational reform being called for?

A BILL OF RIGHTS FOR THE DEVELOPMENTALLY DISABLED

Prepared by Nancy Gall-Clayton

Issue

Should Kentucky enact legislation to guarantee the availability of individualized services to persons with developmental disabilities?

Background

There are 50,684 disabled persons in Kentucky, according to estimates contained in "Kentucky Developmental Disabilities State Plan, 1984-86." A "disabled" person is one with long-term physical or developmental impairments which substantially limit the person's ability to function in major life activities, such as self-care and expressive language.

Kentucky presently provides services to less than 3% of the 46,324 disabled persons who do not live in institutions. In contrast, 80% of the 2,800 disabled persons in nursing homes are eligible for Medicaid and 62% of the 1,560 disabled living in facilities for persons with mental retardation and developmental disabilities are in state-operated or state-owned facilities. For Fiscal Year 1983, the state spent $4.6 million for the non-institutional group, an estimated $23.5 million for those in nursing homes, $26.2 million for those in state-operated and state-owned facilities, and $9.6 million in Medicaid for persons in private facilities for persons with mental retardation.

In the past few years, sharp criticism has been directed at the bias toward institutional treatment and funding for other populations, including the chronically mentally ill and the elderly. In response, community-based care and in-home services have been developed and expanded for these groups. Now, growing numbers of disabled persons are asking that programs be provided to serve them in non-institutional settings too. They claim that, with an adequate support system in place, fewer persons would need institutional care and many disabled persons could be more independent.

Some disabled persons and their families, however, are hesitant to endorse a program to prevent or delay institutionalization. They fear that those fragile disabled persons who can survive only in an institution may be forgotten as fallout of the movement to serve disabled persons outside institutions.

Discussion

Legislation has been prefiled for introduction during the Regular Session of the 1984 General Assembly which has been referred to as a "Bill of Rights" for the developmentally disabled. The prefiled bill defines persons with developmental disabilities as they are defined in the federal Developmental Disabilities Assistance and Bill of Rights Act. This definition includes per-

sons with a long-term developmental or physical impairment which is manifested before the person attains the age of 22. The disability must be likely to continue indefinitely, require active treatment and services of long-term duration and result in substantial functional limitations in at least three specified areas of major life activity.

Proponents of the legislation say it will require that services be designed to fit the needs of the individual. Presently, they say, clients must adapt their needs to fit whatever services are available. The bill, known during the Interim as 84 BR 286, requires the Cabinet for Human Resources and the Education and Humanities Cabinet to jointly develop and implement a statewide plan to serve persons with developmental disabilities.

Among the rights which would be guaranteed to members of the target population are the opportunity to reside in the least restrictive, individually appropriate environment, the right to participate in the development of an individualized service plan and the right to not be placed in an intermediate care or skilled care nursing facility or in a mental health facility in the absence of documented medical need. Persons inappropriately removed from an institution would have the right to return to the same or any closer appropriate state institution. At this time, no price tag has been attached to the bill.

Testimony on 84 BR 286 at the October 19, 1983, meeting of the Interim Joint Committee on Health and Welfare suggested that members of the disabled community are not yet in complete agreement about how new legislation should serve them. As they reach consensus, legislators too will have to decide how they think Kentucky should serve persons with developmental disabilities.

LIVING WILLS

Prepared by Katherine Andrews

Issue

Should the 1984 General Assembly enact Living Will legislation which would enable an adult to make a written declaration directing the withholding or withdrawal of life-prolonging procedures in the event of a terminal condition?

Background

Questions about the medical and legal implications of death and dying have been studied by state and national policy-making bodies. On the national level, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, in a report entitled "Deciding to Forego Life-Sustaining Treatment," recognized the fundamental right of the individual to refuse life-sustaining treatment. The commission postulated that if health care institutions do not take individual automony into account, modern medicine may become an adversary where the terminally ill are concerned. The provision of "respectful, responsive and competent care" for dying patients who choose to forego life-sustaining therapy was recommended.

On the state level, legislative bodies have considered various issues relating to end-of-life decisions over the past ten years. In general, the focus has been on the appropriate applications of medical technology and the clarification of the rights of the terminally ill. In Kentucky, the specific focus during the past four sessions of the General Assembly has been to consider bills relating to the definition of death and to the procedures for discontinuance of extraordinary life-support measures for the terminally ill.

Why have death and dying issues generated such activity? The reasons have to do with technology, economics and dignity.

As medical technology has become more sophisticated and more capable of prolonging life, the ironic possibility has emerged that life-support systems may only serve to prolong an inevitable death. Regarding the question of dignity, many patients fear the painful and undignified process of dying more than death itself. Those involved with the terminally ill have recognized that they may derive more benefits from comfort than from treatment. On the economic side, rising health care costs and the "high cost of dying" are a significant problem for families as well as public and private third-party payors.

Decisions to prolong the dying process have traditionally been made by the medical profession. More recently patients and their families have demanded a greater degree of participation in treatment decisions. In addition, concerns about liability have made physicians increasingly cautious when rendering decisions to "pull the plug."

The development and enactment of living will legislation is one response

to society's need to establish and protect the individual's right to a dignified death and to free health care professionals from liability for recognizing that right.

Discussion

To date, sixteen states have enacted living will legislation. The pioneering law was the California Natural Death Act of 1976. In 1978, a Model Bill, the "Medical Treatment Decision Act," was drafted at the Yale Law School, in a Legislative Services Project sponsored by the Society for the Right to Die. Subsequent laws resembled the model law, whose key provisions include:

1. The means for adults to establish in advance that they do not want "heroic" but futile measures to prolong the dying process.

2. The granting of immunity from liability to the physician who acts in accordance with the declaration.

3. That the declaration is either binding on the physician or important evidence of the patient's wishes.

In Kentucky, legislation could be introduced during the 1984 General Assembly which would recognize the right of competent adults to make a written statement giving instructions to physician and family about withholding or withdrawing life-prolonging procedures in the event of a terminal condition, thus allowing death to occur naturally.

VETERAN RECOGNITION

Prepared by Bill VanArsdall

Issue

How can Kentucky honor its Vietnam veterans and demonstrate that their sacrifice is appreciated?

Background

American service personnel who fought in the Vietnam war were cheated of the homecoming welcome traditionally afforded to veterans. Although they had served honorably and sacrificed heavily, many Vietnam veterans found that they were ignored, harassed, or treated with suspicion upon returning to this country. The members of the Subcommittee to Study Problems of Vietnam Veterans in Kentucky agreed that these soldiers deserve to be honored more fully than they have been.

Discussion

The veterans of every United States war in the twentieth century have been granted a financial bonus by the Commonwealth of Kentucky, except for those who served in Vietnam. The subcommittee voted to prefiled 84 BR 362, which would pay a bonus, up to a maximum of $500, to every Kentucky veteran who served in the armed forces of the United States between August 6, 1964, and May 7, 1975. Veterans would receive $25 for every month served outside the United States and $15 for every month served inside the United States between those dates. If a veteran's entire service during this period was within the borders of the United States, the maximum bonus would be $300. Certain beneficiaries of veterans would also be eligible.

The subcommittee studied other methods of honoring Kentucky's veterans and ensuring that history treats them fairly. There was a great deal of support for a permanent memorial to be dedicated and maintained by the Commonwealth. A bill designating Frankfort as the site of such a memorial and allowing for funding by private sources, as well as by the state, was prefiled. An existing Vietnam memorial near Dixie Highway in Shively was visited, and the subcommittee collected information on its history and current legal status.

General William Westmoreland, former Commander of the U.S. Military Assistance Command in Vietnam, visited Frankfort to discuss the advantages of a museum commemorating the activities of the 187th Infantry Regiment, based in Fort Campbell, Kentucky. This group served in World War II, Korea and Vietnam. General Westmoreland expressed his belief that such a museum would preserve disappearing artifacts of the Vietnam war in addition to promoting tourism and economic development in the region.

EDUCATIONAL OPPORTUNITIES FOR VIETNAM VETERANS

Prepared by Bill VanArsdall

Issue

How can we guarantee that educational opportunities remain open to Vietnam veterans?

Background

Kentucky offers educational assistance to the dependents of war veterans but provides no such aid to the veterans themselves.

One Kentucky statute purports to grant free scholarships to veterans of declared wars, but as it is currently interpreted it is of no use to any veteran. KRS 164.480 states that every Kentucky resident who served in a war declared on or after April 6, 1917, is "entitled to a free scholarship in any state higher educational institution that he chooses for a period required for the completion of the course of study selected by him....Provided, however, that if the federal government provides for the education of veterans of any of the wars herein referred to, then this section shall not apply to such veterans."

In the opinion of the Attorney General, this section does not apply to the veterans of any combat situation since World War II, the most recent "declared war." Nor can it even be used by World War II veterans, since they were offered federal educational benefits under the GI bill. In fact, no veterans are currently entitled to take advantage of KRS 164.480 (OAG 83-439).

Discussion

As federal educational benefits dwindle and as the sacrifice made by Vietnam veterans becomes more widely appreciated, the General Assembly may want to improve the educational opportunities available to Kentucky's veterans. KRS 164.480 could be amended to increase the number of veterans to whom it applies. Benefits could be extended to veterans of "federally recognized hostilities," rather than limited to those of "declared wars." This change would assure coverage for the veterans of the Korean war and the Vietnam war.

In addition, the statute could be made to apply to any Kentucky veteran who has become ineligible for federal aid. As the law is now interpreted, any veteran who has ever qualified for federal educational assistance is disqualified from receiving state aid. By amending KRS 164.480 to offer educational assistance whenever federal aid has been exhausted, the General Assembly could significantly increase the educational opportunities available to Kentucky's veterans.

AGENT ORANGE

Prepared by Bill VanArsdall

Issue

Should Kentucky establish a program to aid the families of veterans exposed to Agent Orange in Vietnam?

Background

One concern of Vietnam veterans is the possible harmful effect of exposure to Agent Orange and other defoliants employed by the U.S. military during the Vietnam war. The federal government has been accused of delaying research into the effects of these chemicals, and many veterans feel that too little federal help is available for a wide range of symptoms.

A number of states have adopted programs offering advice and treatment to veterans who suspect they have been exposed to dioxin (present in Agent Orange). In Kentucky, the University of Louisville Child Evaluation Center has proposed a program offering evaluation and treatment for the families of Vietnam veterans. The program would offer counseling and education, and it would encourage health officials dealing with these veterans to recognize the special problems associated with dioxin exposure. The University of Kentucky would be asked to assist in guaranteeing that this aid is available to the families of veterans throughout the state. A bill containing this proposal has been prefiled by the Subcommittee to Study Problems of Vietnam Veterans in Kentucky.

MILITARY RETIREMENT CREDIT

Prepared by Bill VanArsdall

Issue

Should there be a change in the system allowing state employees to purchase military retirement credit?

Background

State employees may currently count some of the time they have spent in military service toward the retirement credit they receive for serving in their state jobs. To do so, an employee must purchase 35% of the credit; the state will pay the remaining 65%.

Since this program was enacted, it has suffered from a lack of funding and from inequitable distribution. The Subcommittee to Study Problems of Vietnam Veterans in Kentucky voted to prefile 84 BR 500, which is similar to a bill approved by the 1980 General Assembly and vetoed by the Governor. This law would end the purchase of military retirement credit after 1989. Before that date, the program would be treated as a "necessary governmental expense," not requiring a new appropriation each time the General Assembly meets. A state employee's share would be payable through installments and payroll deductions.

The Kentucky Retirement System has recommended an alternative to the present system. If state employees would pay for 50% of their military retirement credit, rather than the present 35%, the retirement system could reportedly pay the remaining 50% out of its own funds, without the need for a separate appropriation from the General Assembly.