

MILITARY VETERANS ASSISTANCE ACT EXPANSION

Overview

SB 3646 (Sen. Porfirio, D-Burbank) would amend the Military Veterans Assistance Act in several significant respects. The proposal expands the structure under which veterans assistance services may be delivered, broadens eligibility for assistance, creates new enforcement mechanisms, and increases oversight and compliance requirements.

While some provisions apply primarily to counties that do not currently operate a Veterans Assistance Commission (VAC), many of the most consequential changes apply statewide. Counties with existing VACs are not exempt from expanded eligibility, arbitration procedures, litigation exposure, or enhanced reporting and oversight requirements.

This *Policy Brief* outlines the major provisions of the bill and analyzes the potential fiscal, legal, and governance implications for counties.

Creation of Jurisdictional Veterans Assistance Commissions (JVACs)

The legislation authorizes the formation of Jurisdictional Veterans Assistance Commissions (JVACs) in counties that did not have a VAC prior to January 1, 2026, where the judicial circuit includes multiple counties. Veteran service organizations within those judicial circuits may come together to create a JVAC, which would operate as the VAC for that circuit. The bill also establishes procedures for selecting a superintendent and delegates.

Counties that currently operate a VAC are not required to dissolve or merge into a JVAC structure. Their existing governance model may remain intact. However, counties located within multi-county judicial circuits could experience indirect effects if neighboring counties form a JVAC. Differences in structure, funding mechanisms, and administrative processes across counties within the same judicial circuit may create coordination challenges or policy inconsistencies.

For counties that do not currently operate a VAC, the creation of a JVAC introduces questions regarding funding responsibility, cost-sharing formulas, and administrative oversight among participating counties. The bill does not clearly establish how financial obligations would be apportioned across circuit counties, which may require intergovernmental agreements or additional clarification.

Taxation Authority

The provision authorizes the county board of counties other than Cook County that participate in a Jurisdictional Veterans Assistance Commission (JVAC) to levy an annual property tax of up to 0.03% of assessed value to fund assistance for military veterans and their families under the Military Veterans Assistance Act. Revenue generated from this levy must be deposited into the county treasury of the county in which the JVAC is headquartered, even if the JVAC serves multiple participating counties.

The levying of up to 0.03% of assessed value taxing authority is a permissive grant of authority to county boards and matches existing law for single county VACs. The underlying law still mandates the levy of an amount equal to 0.02% of assessed value to fund the VAC. Both funding provisions would apply to VACs and JVACs outside of Cook County.

Expanded Eligibility for Veterans Assistance

The legislation expands eligibility for assistance to include veterans who served in the armed forces of the United States and did not receive a bad conduct or dishonorable discharge or equivalent discharge.

This provision applies statewide, including to counties that already operate a VAC. As a result, counties should anticipate a potential increase in the eligible veteran population. Expanded eligibility may lead to higher caseloads, increased general assistance expenditures, and additional administrative demands. The bill does not identify a dedicated state funding source to offset this expansion, raising the possibility of increased county fiscal exposure.

Arbitration of Assistance Disputes

The bill provides that if a county board fails or refuses to provide the funding recommended by a veterans service organization, VAC, or JVAC, the VAC or JVAC may request that all parties enter into an arbitration agreement.

The arbitration provision applies to counties regardless of whether they operate an existing VAC.

This represents a structural change in dispute resolution. Historically, counties have exercised discretion in making assistance determinations. Under this proposal, disputed decisions may proceed to arbitration, potentially increasing administrative burdens and legal costs. Counties may need to revise internal review procedures, strengthen documentation practices, and consult with legal counsel before denying recommended assistance.

It should be noted that the arbitration is not mandatory, however, the refusal of the county board to participate could result in the county being sued by the VAC or JVAC. Additionally, the legislation includes a new provision allowing for a civil cause of action against counties when a veteran does not receive a benefit award for lack of funding sought by the VAC or JVAC.

Of further concern is the provision that the Attorney General plays a "gatekeeper" role in the new arbitration process. Arbitrators are **legally required to confer** with the Veterans Assistance Provost, acting for the Attorney General, before issuing any award. When a State's Attorney renders an opinion on certain sections of the Act (Sections 2, 8, 9, or 10), **they must first confer** with the Office of the Attorney General.

These requirements only foster the perception of a constitutional office being used to improperly influence a process intended to resolve a dispute between a county board and an agency of the county that under current law is rightly subject to oversight by the county board.

Here is how the arbitration process is structured:

Consent Required for Arbitration

The bill states that if a county board refuses to provide recommended funds, the veteran service organization or commission "may request that all parties involved enter into an arbitration agreement.

For the arbitration to proceed, both parties must agree to it. If the county refuses to participate in arbitration, they do not escape the dispute; rather, the process moves to a more formal legal stage.

The "Alternative" to Refusal: Mandamus

If a county board refuses to enter into arbitration, the bill grants the Commission the power to immediately apply to the circuit court for a writ of mandamus. This option is part of existing law but would now be triggered after the arbitration process was refused.

If the court finds the commission's request was "just and necessary," the court shall grant the sums requested.

If the dispute goes to court because arbitration was refused, the court may order the county to pay the commission's attorney's fees and interest at a rate of 1% per month backdated to the initial request if the VAC prevails. This penalty only works in one direction. The county board bears the risk of the penalty while the VAC does not. This asymmetry suggests that the attorney fees and interest provision is intended to pressure county boards into submitting to an arbitration award or not challenging the VAC in court.

Civil Cause of Action Against Counties

A new provision proposed within the legislation permits any individual eligible for assistance under the Act to bring a civil action against the county for failure or refusal to provide such assistance.

This provision significantly increases potential legal exposure for counties. In addition to arbitration proceedings, counties could face direct litigation, including legal defense costs and potential court-ordered compliance. Risk management policies, insurance coverage, and internal procedural safeguards may need to be reassessed if the bill is enacted.

Counties with established VACs are not exempt from this provision; it applies statewide.

Restrictions on Funding and Organizational Structure

The bill prohibits the disbursement or transfer of VAC or JVAC funding to any not-for-profit corporation or similar entity. It also prohibits a VAC or JVAC from establishing or operating a not-for-profit corporation with a substantially similar name. This is to prevent "relegating the responsibilities" of the Commission to an outside entity. The legislation permits VACs and JVACs to receive gifts or donations in furtherance of veterans' interests and contains provisions relating to employee benefits.

Counties that utilize nonprofit-affiliated structures or cooperative service arrangements may need to review their current models to ensure compliance. These provisions appear designed to promote transparency and prevent circumvention of statutory oversight requirements, but they may limit flexibility in service delivery.

Training, Reporting, and Oversight Requirements

The legislation imposes additional compliance requirements, including annual voting reporting obligations and mandatory training for VAC and JVAC delegates and alternates. It also includes audit provisions and establishes a Veterans Assistance Provost within the Office of the Attorney General.

VAC delegates must complete Open Meetings Act training within 90 days and the Attorney General's new electronic training within 30 days or lose their voting rights.

The creation of a Veterans Assistance Provost formalizes state-level oversight and enforcement authority. Counties should anticipate increased scrutiny, potential compliance inquiries, and expanded audit exposure.

If a Veterans Assistance Commission (VAC) or Jurisdictional Veterans Assistance Commission (JVAC) fails to timely submit or publish required audits and reports to the Veterans Assistance Provost, acting on behalf of the Attorney General, the superintendent or interim superintendent may be fined up to \$50 for each month, or portion thereof, that the required audit or report is not submitted or published as mandated under the Military Veterans Assistance Act.

The State's Attorney of the county in which the VAC or JVAC is located, or the Attorney General, may seek a court order through mandamus to compel payment of the fine. Any fines collected must be paid to the county where the VAC or JVAC is located and deposited into that county's general corporate fund.

Administrative staff may need to dedicate additional time to reporting, recordkeeping, and training requirements.

These compliance and oversight provisions apply broadly and are not limited to counties without existing VACs.

Fiscal and Operational Considerations

The combined effect of expanded eligibility, arbitration procedures, civil litigation authority, and enhanced oversight will increase costs for counties. Potential cost drivers include higher assistance caseloads, administrative time associated with dispute resolution, legal defense expenses, training mandates, and audit compliance obligations.

The legislation **requires** counties to fund VAC offices, furnishings, supplies and services from the county's general fund. None of the revenue generated from the designated property tax levy can be used for these purposes. This will result in the county having to increase other taxes and fees, cut other public services, or a combination of both.

Counties should evaluate the extent to which implementation will create unfunded mandate concerns and consider modeling potential fiscal impacts based on local veteran populations and current assistance expenditures.

Limitations on County Board Authority

The bill includes a provision prohibiting counties or their policies from controlling VAC operations, despite counties retaining their obligation to fund the VACs.

County Boards are also mandated to pay a warrant presented to them by a VAC superintendent.

Legal Precedent: The Sangamon County Decision and SB 3646

The proposed amendments in SB 3646 appear to be a legislative response to the October 2025 Sangamon County Circuit Court ruling, which significantly curtailed the autonomous spending authority of Veterans Assistance Commissions (VACs). The ruling affirmed the right of county boards to exercise fiscal oversight, a principle that this bill seeks to limit through new statutory mandates and punitive legal measures.

Mandating a Funding "Floor"

The Ruling: The Sangamon County Court rejected the theory that the Military Veterans Assistance Act (MVAA) creates an automatic "floor" for funding, ruling that counties are not required to provide the maximum statutory rate unless the VAC proves the request is "just and necessary."

SB 3646 Response: The bill explicitly defines the "minimum amount to be appropriated" as 0.02% (or 0.03% if voter-authorized) of the assessed value, effectively stripping the county board of the discretion to negotiate a lower budget based on actual demonstrated need.

Deterring Oversight through Financial Penalties

The Ruling: The court held that the County Board has the legal authority to determine if VAC expenditures are reasonable and compliant with county financial rules.

SB 3646 Response: If a county board denies a funding request to exercise this oversight, it now faces mandatory 1% monthly interest penalties and must pay the VAC's attorney's fees if the VAC prevails in a mandamus action. These measures increase the "cost of defense" for counties attempting to maintain fiscal control.

Circumventing Local Courts via Arbitration

The Ruling: Sangamon County successfully litigated its dispute in a traditional circuit court setting where the VAC bore the burden of proving its budget was "just and necessary."

SB 3646 Response: The bill introduces a new arbitration mechanism. By allowing a VAC to request arbitration, with the involvement of a state-appointed Veterans Assistance Provost, the bill weaponizes the litigation penalties by creating a procedural hurdle that forces counties into a state-influenced process. If a county board refuses to participate, it is not merely choosing a different venue; it is triggering a "refusal" that may prejudice a court to conclude that the board is acting in bad faith, making the award of attorney's fees and 1% monthly interest far more likely.

Asserting Operational Independence

The Ruling: The court ruled that VACs must "adopt and adapt" county policies regarding ethics, procurement, and personnel and cannot modify them to the point of ineffectiveness.

SB 3646 Response: While the bill keeps the "adopt and adapt" language, it adds a new shield stating that "nothing in this subsection shall be construed to permit a county or its policies to control a Veteran Assistance Commission's operations." This language appears specifically designed to prevent the type of county-led policy enforcement upheld in the Sangamon decision.

The following table compares provisions from the Sangamon County ruling to proposals within SB 3646 that attempt to circumvent the Court's interpretation of the statute.

Feature	Sangamon County Ruling (2025)	SB 3646 Proposed Mandates
Budgetary Oversight	The County Board retains ultimate legal authority to determine if VAC requests for funds are "just, reasonable, and necessary."	County Boards are mandated to pay a warrant presented by a superintendent ; refusal to pay triggers arbitration or mandamus.
Funding Source	The court did not restrict the use of the VAC tax levy for administrative costs if deemed "just and necessary".	Prohibits using the VAC tax levy or State funds for offices, furnishings, or supplies; these must come from the County General Fund.
Office Location	The court held that VACs must comply with county budgeting and procurement laws regarding physical space.	Grants the Commission "final discretion" in selecting an office facility ; the county must provide the office and all furnishings.
Policy Control	Ruled that VACs must "adopt and adapt" county policies (procurement/personnel) and cannot make them ineffective.	Explicitly states "nothing... shall be construed to permit a county or its policies to control a Veteran Assistance Commission's operations."
Administrative Services	County-provided services (HR/Payroll) were subject to standard intergovernmental coordination and oversight.	Mandates the county provide human resources, payroll support, IT services, equipment, and liability insurance at no cost to the VAC.
Legal Risk of Refusal	The burden of proof was on the VAC to show necessity; the county faced no statutory penalty for a good-faith denial.	Triggers mandatory 1% monthly interest and payment of the VAC's attorney's fees if the county's denial is overturned in court.

Conclusion

The proposed amendments to the Military Veterans Assistance Act represent a significant shift in the administration and enforcement of veterans assistance at the county level. Although counties with existing VACs are not required to transition to a JVAC structure, they remain subject to expanded eligibility standards, arbitration requirements, civil litigation exposure, and increased oversight.

Per ISACo's analysis, the following provisions would be problematic for counties:

- Establishment of a civil cause of action.
- Inclusion of mandatory arbitration.
- Unfunded mandate risk with costs tied to litigation and eligibility expansion.
- Attorney General oversight.
- Collateral tax increases and/or reductions in other public services.

