



Senate Fiscal Agency
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**BILL ANALYSIS**

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Senate Bill 175 (as introduced 2-12-13)
Sponsor: Senator John Pappageorge
Committee: Veterans, Military Affairs and Homeland Security

Date Completed: 5-14-13

CONTENT

The bill would amend the Michigan Military Act to do the following:

- **Revise the criteria for service as Adjutant General, by requiring a minimum rank and allowing service until designated for retirement for an active Army or Air Force officer of like grade (rather than until age 64).**
- **Provide for the Adjutant General and Assistant Adjutants General to receive retirement pay equal to what an officer of like grade and total longevity would receive (rather than receiving retirement benefits as a qualified participant under the State Employees Retirement Act).**
- **Include oversight of veterans' or related State facilities in the Adjutant General's responsibility to oversee armories and other military facilities.**
- **Grant the Adjutant General, rather than the State Military Board, authority regarding armories, other facilities, training areas, and other real property.**
- **Expand the Governor's authority to order members of the organized militia into active State service and to order members of the unorganized militia into the defense force.**
- **Expand the Governor's authority to enter into agreements with the governors of other states to authorize the use of the military forces of this State.**
- **Transfer from the Governor to the Adjutant General the authority to organize and arrange units of the military establishment.**
- **Include "special duty" in various provisions authorizing the services of the organized militia.**

The bill also would repeal sections of the Act creating and governing the five-member State Military Board; and would repeal a section limiting the tenure of the senior line officer serving in the grade of major general to four years, except when the National Guard is in the service of the United States.

Adjutant General

The Office of the Adjutant General, with the rank of major general in the National Guard, is created in the Act. The Adjutant General is the commanding general of the State's military establishment (the organized militia of the State, including the employees and equipment assigned or necessary to carry out the provisions of the Act). Under the direction of the Governor, the Adjutant General is charged with the responsibility for the command, administration, logistics, training, and fiscal direction of the military establishment.

The Governor must appoint the Adjutant General from among qualified federally recognized officers of the National Guard. The Adjutant General must have served as an officer of field or general grade in the State military establishment for at least five years before appointment. The bill also would require the Adjutant General to have Federal recognition in the rank of colonel or higher, and be capable of being federally recognized to the rank of brigadier general, before appointment.

The Adjutant General serves at the pleasure of the Governor and, unless sooner relieved, may serve until the age of 64. The bill would delete that age restriction. The bill specifies that the Adjutant General would serve at the pleasure of the Governor and, unless sooner relieved, would serve until designated for retirement for an active Army or Air Force officer of like grade.

Adjutant General & Assistants Retirement

Under the Act, beginning January 1, 2011, the Adjutant General and the Assistant Adjutants General who began employment on or after that date, when relieved under honorable circumstances must receive retirement benefits as a qualified participant under the State Employees Retirement Act. Retirement benefits begin on the date of retirement or honorable relief from duty. (Before that date, these personnel were provided retirement pay equal to the retirement pay that an officer of like grade and total longevity would receive as indicated under Federal regulations and upon retirement. Retirement pay did not depend on how long the person served as Adjutant General or Assistant Adjutant General. The State cost for that retirement pay was net of any Federal pension payments.)

The bill would delete the provision for retirement benefits under the State Employees Retirement Act. Under the bill, when relieved or retired under honorable circumstances, the Adjutant General and the Assistant Adjutants General would have to be placed on the retired list of the National Guard. The Adjutant General and the Assistant Adjutants General would receive retirement pay equal to the retirement pay that an officer of like grade and total longevity would receive as indicated in appropriate Federal regulations when they were retired or honorably relieved. Their retirement pay would start on the date of retirement or honorable relief from duty. As under current law, retirement would require at least 20 years' active service with the National Guard and/or State defense force.

The bill specifies that any retirement pay received from the Federal government for military service would have to be deducted when the amount to be received from the State was computed. The deduction would start on the first day of the month the officer became eligible for Federal retirement. Once established, the amount of the deduction could not be changed. The deduction, however, could not deprive a retired officer from receiving a total of State and Federal pay equal to that authorized to officers of like grade and total longevity who were retired from the active Federal Armed Forces.

Adjutant General Responsibilities

The Act requires the Adjutant General to plan, negotiate, and contract with the Federal government for the maintenance, remodeling, additions to, and construction of armories and other military facilities within Michigan. The bill would include other veterans or related State facilities in that provision.

The Adjutant General must request civilian positions and personnel of the military establishment, as he or she considers necessary, to be included in the classified State civil service. The bill would include positions in the "state senior service".

The Act provides for the creation of an armory board of control for each armory of the State military establishment, with the duty of operating and maintaining the armory. The bill

instead would authorize the Adjutant General to designate an armory manager for each armory to carry out the duty of operating and maintaining the armory.

The State Military Board may receive funds and gifts of property from various sources to aid in providing, erecting, or improving armories or other facilities, or training areas and other surrounding land for the use of the State military establishment. The bill instead would authorize the Adjutant General to receive funds and gifts for those purposes. The bill would give the Adjutant General various responsibilities that the Act currently gives to the State Military Board regarding real property. These responsibilities include condemning property; disposing of facilities; giving the State Treasurer direction in spending money in the Michigan National Guard Construction Fund for the purpose of acquiring facilities and training land and building new facilities; and holding title to the Camp Grayling Military Reservation.

Gubernatorial Authority

The Governor is the commander-in-chief of the organized militia and may order to active State service any members of the organized militia in case of riot, tumult, breach of the peace, or resistance of process, or for service in aid of civil authority, whether State or Federal, or in time of public danger, disaster, crisis, catastrophe, or other public emergency within Michigan. The bill would refer to "actual or imminent" public danger, disaster, crisis, catastrophe or other public emergency. It also would authorize the Governor to order any members of the organized militia into active State service to respond to acts or threats of terrorism or to safeguard military or other vital resources of the State or the United States.

The Governor also may order into the defense force any members of the unorganized militia in case of riot, tumult, breach of the peace, or resistance of process, or for service in aid of civil authority, or in time of public danger, disaster, crisis, catastrophe, or other public emergency within Michigan. The bill would refer to "actual or imminent" public danger, disaster, crisis, catastrophe, or other public emergency.

(Under the Act, the "organized militia" of the State constitutes the Armed Forces of the State and consists of the Army National Guard, the Air National Guard, and the defense force when actually in existence as provided under the Act. The unorganized militia consists of all other able-bodied citizens of the State and all other able-bodied citizens who are residents of the State who have declared their intention to become citizens of the United States, who are 17 or older and not more than 60, and are subject to State military duty as provided in the Act.

As used in the Act, a reference to the Michigan defense force means the Michigan volunteer defense force. The Governor may activate within the military establishment a number of units to be known as the Michigan volunteer defense force, as the Governor considers necessary for adequate emergency assistance to the State. When activated, the defense force must perform missions determined by the Department of Military and Veterans Affairs in cooperation with the State Police and the State emergency preparedness plan.)

The Governor may enter into an agreement with the governors of one or more other states authorizing the military forces of this State, in time of invasion, rebellion, public disaster, or catastrophe, or to assist a state or local law enforcement agency, at its request, in enforcing a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance. The bill also would authorize such an agreement as necessary to comply with reciprocal agreements for emergency assistance to other states under the Interstate Emergency Management Assistance Compact.

The Act authorizes the Governor to organize, disband, arrange, transfer, convert, alter, consolidate, or attach units of the military establishment. Under the bill, the Governor could

direct the Adjutant General to take those actions. Currently, the transfer of personnel to and within units must be carried out by order of the Governor. Under the bill, those actions would have to be done by order of the Adjutant General.

The bill would include "special duty" in various provisions governing the services of the organized militia. The Act defines "special duty" as military service in support of the full-time operation of the State military establishment for a period of not less than one day if ordered by competent authority.

MCL 32.505 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would reverse the retirement changes made under Public Act 255 of 2010, which eliminated defined benefit retirement provisions for the Adjutant General and Assistant Adjutants General hired after January 1, 2011, and placed those appointees into the State's 401k defined contribution plan. At the time, the fiscal statement for Public Act 255 of 2010 (enacted House Bill 6270) identified savings from closing the defined benefit system of at least \$1.5 million per year, once the system is entirely closed and no previously eligible retirees are drawing benefits, 30 to 40 years in the future. Therefore, reinstating the defined benefit retirement plan for the Adjutant General and Assistant Adjutants General as provided in Senate Bill 175 would result in annual costs of at least \$1.5 million, as identified in FY 2010-11.

The Senate Fiscal Agency is awaiting further cost information from the Administration related to prefunding retiree health care benefits and the impact on retiree health care costs that could be part of the fiscal impact related to this legislation. The Agency also is waiting on updated cost information related to the pension component of the bill. As information becomes available, this fiscal statement will be updated.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.