

LEGISLATIVE BILL 983

Approved by the Governor April 16, 1974

Introduced by Miscellaneous Subjects Committee, Waldron, 42, Chmn.; Cavanaugh, 9; Luedtke, 28; Carpenter, 48; Murphy, 17; Mahoney, 5; F. Lewis, 45

AN ACT to amend sections 55-106, 55-117, 55-120, 55-121, 55-125, and 55-159, Revised Statutes Supplement, 1972, relating to the militia; to change membership exemptions; to provide for active service; to harmonize with other legislation; to provide for positions, qualifications, and salaries; to provide for workmen's compensation benefits; to provide for an enlistment or reenlistment bonus; to provide for recruitment and strength maintenance activities; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 55-106, Revised Statutes Supplement, 1972, be amended to read as follows:

55-106. All able-bodied citizens and able-bodied persons of foreign birth who have been admitted for permanent residence, who are more than seventeen and less than sixty years of age, and who are residents of this state, shall constitute the militia, subject to the following exemptions: (1) Persons exempt by the laws of the United States; ~~(2) persons exempt by the laws of this state;~~ ~~(3)~~ (2) members of any regularly organized fire or police department of any city or village and retired firemen who have served their full term in any fire company; but no member of the active militia shall be relieved from duty because of his joining any such fire company or department; ~~(4)~~ (3) judges, justices, and clerks of courts of record; registers of deeds; sheriffs; ministers of the gospel; ~~practicing--physicians;~~ ~~superintendents;~~ officers and assistants of hospitals, prisons, and jails; ~~conductors and engineers of railways;~~ and ~~(5)~~ (4) idiots, lunatics, paupers, vagabonds, confirmed ~~drunkards~~ alcoholics, persons addicted to the use of narcotic drugs, and persons convicted of ~~infamous crimes~~ treason and sedition. All such exempted persons, except those enumerated in subdivisions (1) and ~~(5)~~ (4) of this section, shall be available for military duty in case of war, insurrection, invasion, ~~disaster~~, or imminent danger thereof.

Sec. 2. That section 55-117, Revised Statutes Supplement, 1972, be amended to read as follows:

55-117. The Nebraska National Guard shall be liable at all times to be ordered into active service, and shall be first called out by the Governor on all occasions for military service within the state, in time of war, invasions, riot, rebellion, insurrection, disaster, or reasonable apprehension thereof, or upon the requisition of the President of the United States. In case the National Guard is insufficient in number or is not available, the Governor may by proclamation order the enrollment for active service of such additional portion of the militia as he may deem necessary to meet the emergency or to comply with the requisition of the President of the United States, designating the same by draft, if a sufficient number shall not volunteer, and may organize the same in the manner herein provided for organizing the Nebraska National Guard. When so ordered out for service, the militia shall be subject to the same regulations and render the same service as required of the Nebraska National Guard, and receive the same compensation as that prescribed at the time of said service for the army of the United States. In any situation where the National Guard is ordered to duty for any of the purposes listed in this section it shall be the duty, the responsibility, and the obligation of the Governor through the Adjutant General to exercise such control as he deems essential for the purpose of quelling any riot, rebellion or insurrection, and for such purposes any local police authorities shall be subject to his control and direction.

Sec. 3. That section 55-120, Revised Statutes Supplement, 1972, be amended to read as follows:

55-120. The ~~Adjutant---General's---department~~ Military Department shall consist of the Adjutant General, in ~~a grade not below brigadier~~ the grade of major general, and one deputy adjutant general, with a grade not less than ~~lieutenant colonel~~, one assistant adjutant general or chief of staff for Army National Guard affairs and one assistant adjutant general or chief of staff for Air National Guard affairs, each ~~whose grade will not exceed that of the Adjutant General in the grade of brigadier general~~; and one assistant director for civil defense affairs; and such other personnel as may be necessary to comply with such tables of organization as are or may hereafter be prescribed for this state by the laws or regulations of the United States.

Sec. 4. That section 55-121, Revised Statutes Supplement, 1972, be amended to read as follows:

55-121. The Adjutant General shall be appointed by the Governor from the commissioned officers of the National Guard of this state. Such Adjutant General shall have been a commissioned officer of the field or line in active service in the National Guard of this state for at least seven years, and shall have attained at least the grade of lieutenant colonel. He shall hold his office as provided in section 55-136. He shall receive for his services ~~the such salary sur--of--ten thousand-dollars-per-annum as the Governor shall direct,~~ payable monthly; ~~and such additional sums, as directed by the Governor, within the limits available for additional assigned duties or services, from federal or other income sources of the department; Provided, that the--total--pay of this section such salary shall not exceed the annual pay and allowances of regular military officers of equal rank; on March 3, 1969; and provided further, that when funds made available by the federal government are in excess of the amount payable as directed by the Governor, the excess shall be used to reduce the amount required to be paid by the state.~~

Sec. 5. That section 55-125, Revised Statutes Supplement, 1972, be amended to read as follows:

55-125. The Adjutant General shall have a deputy adjutant general or chief of staff of the Military Department in a grade of not less than lieutenant colonel, as provided in section ~~55-120~~ 55-130, who shall be appointed by ~~the Governor upon the--recommendation--of~~ the Adjutant General. No person shall be eligible for such appointment unless he shall have had at least four years commissioned service in the Nebraska National Guard and shall have attained at least the grade of lieutenant colonel prior to his appointment as deputy adjutant general or chief of staff. ~~Upon--the--recommendation--of the Adjutant General and appointment--and--commission--by the Governor,--the~~ The Adjutant General shall have appoint an officer with a grade of not less than major who may act as United States property and fiscal officer; an assistant United States property and fiscal officer, with the grade of not less than captain, which officers shall be appointed from among the officers of the Nebraska National Guard and shall have been commissioned officers in the Nebraska National Guard for a period of at least four years and shall have attained the grade of at least captain and first lieutenant, respectively. The Adjutant General shall appoint all additional officers, clerks and caretakers as may be required.

Sec. 6. That section 55-159, Revised Statutes Supplement, 1972, be amended to read as follows:

55-159. A member of the military forces of the State of Nebraska who incurs a personal injury which is caused by accident or occupational disease while in the active service of this state ordered by competent authority, which injury arises out of and in the course of his or her employment in active service, shall be entitled to workmen's compensation benefits in accordance with the definitions and terms of Chapter 48, article 1. If such member incurs death under the same conditions, the dependents of the deceased, if any, shall be entitled to workmen's compensation benefits as provided in Chapter 48, article 1. ~~in any~~ Any dispute arising under the provisions of this section, ~~the procedure~~ shall be resolved under the provisions of established by Chapter 48, article 1. No workmen's compensation benefits shall be paid under this section in any case where to the extent that the same is payable any benefits for injury or death are paid or payable under the provisions of any federal law or regulation Title 32, United States Code.

Sec. 7. The State of Nebraska shall pay to each individual who enlists or reenlists in the Nebraska National Guard the sum of one hundred dollars for each year of the term of enlistment or reenlistment. Only one such payment shall be made to any individual, and such individual payment shall not exceed six hundred dollars. Such payment shall not be made until after an individual has satisfactorily completed any active duty training required by law. The Adjutant General shall administer the provisions of this section.

Sec. 8. Recruiting and strength maintenance activities of the Military Department may include, but shall not be limited to, (1) provision to members of the National Guard of suitable awards, honorariums, or other proper recognition for successful recruiting efforts, (2) provision for the financial support of official National Guard functions, the purpose of which is to provide information in regard to and create interest in the National Guard among potential recruits and their families, (3) the preparation and dissemination of informational material in regard to the National Guard, and (4) advertising in public media for recruiting purposes, and all necessary expenses in connection therewith. The Adjutant General shall supervise the expenditure of such funds for the purposes enumerated.

Sec. 9. That original sections 55-106, 55-117, 55-120, 55-121, 55-125, and 55-159, Revised Statutes Supplement, 1972, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after

LB983

its passage and approval, according to law.