

LEGISLATIVE BILL 963

Approved by the Governor March 31, 2004

Introduced by Vrtiska, 1; Aguilar, 35

AN ACT relating to the Military Code; to amend sections 55-121, 55-125, 55-126, and 55-157, Reissue Revised Statutes of Nebraska; to provide and change powers and duties of the Adjutant General; to provide for health insurance reimbursement as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 55-121, Reissue Revised Statutes of Nebraska, is amended to read:

55-121. The Adjutant General shall be appointed by the Governor from the active or retired commissioned officers of the National Guard of this state. Such Adjutant General shall be or have been a commissioned officer of the field or line in active service who has actively served in the National Guard of this state for at least seven five years, and shall have attained at least the grade of lieutenant colonel, and shall be able to become eligible for promotion to general officer. If a retired officer is appointed, he or she shall not have been retired for more than two years at the time he or she is considered for appointment. He or she shall hold his or her office as provided in section 55-136. He or she shall receive for his or her services such salary as the Governor shall direct, payable monthly, except + PROVIDED, that such salary shall not exceed the annual pay and allowances of regular military officers of equal rank. If + 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. Due to the interrelated nature of the Adjutant General's state and federal duties, the Adjutant General shall not be required to take paid or unpaid leave or leaves of absence to perform his or her federal duties, whether or not under federal orders. The Adjutant General shall continue to receive his or her salary during all such periods. The Adjutant General shall only be required to take leave or leaves of absence during those times when he or she is absent and performing neither his or her state nor federal duties as Adjutant General. This section shall not apply if the Adjutant General is called to active duty of the United States under 10 U.S.C.

Sec. 2. Section 55-125, Reissue Revised Statutes of Nebraska, is amended to read:

55-125. The Adjutant General ~~shall have may appoint~~ a deputy adjutant general, ~~a ex~~ chief of staff of the Military Department, ~~in a or a deputy director.~~ The officer shall hold the grade of not less than colonel, as provided in section 55-120. ~~+ who shall be appointed by the Adjutant General.~~ No person shall be eligible for such appointment and service unless he or she is an active member of the Nebraska National Guard. He or she shall have had at least four years of commissioned service in the Nebraska National Guard immediately prior to appointment and shall have attained at least the grade of lieutenant colonel prior to his or her appointment as deputy adjutant general, ~~ex~~ chief of staff of the Military Department, or deputy director. The Adjutant General shall appoint an officer with a grade of not less than major who may act as United States property and fiscal officer. The Adjutant General may also appoint ~~+ an assistant United States property and fiscal officer,~~ with the grade of not less than captain. ~~These + which~~ officers shall be appointed from among the active 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 immediately prior to appointment. The Adjutant General shall appoint all additional officers, clerks, and caretakers as may be required.

Sec. 3. Section 55-126, Reissue Revised Statutes of Nebraska, is amended to read:

55-126. The deputy adjutant general, chief of staff of the Military Department, or deputy director shall aid the Adjutant General by the performance of such duties as may be assigned by the Adjutant General. In case of absence or inability of the Adjutant General, the deputy adjutant general, chief of staff of the Military Department, or deputy director shall perform all or such portion of the duties of the Adjutant General as the latter may expressly delegate to him or her. If a deputy adjutant general,

chief of staff of the Military Department, or deputy director has not been appointed, the Adjutant General may delegate the authority to perform the duties of the Adjutant General to any active officer of the Nebraska military who shall hold at least the rank of colonel. The deputy adjutant general, chief of staff of the Military Department, or deputy director shall be bonded under the blanket surety bond required by section 11-201. The deputy adjutant general, chief of staff of the Military Department, or deputy director shall receive such salary as the Adjutant General shall direct, payable monthly. Such salary shall not exceed the annual pay and allowances of regular military officers of equal rank, except that when funds made available by the federal government are in excess of the amount payable as directed by the Adjutant General, the excess shall be used to reduce the amount required to be paid by the State of Nebraska.

Sec. 4. Section 55-157, Reissue Revised Statutes of Nebraska, is amended to read:

55-157. (1) When an active or retired officer or enlisted person of the National Guard is ordered to active service of the state by the Governor or Adjutant General, he or she shall receive compensation as provided in this ~~section~~ subsection. For service during a disaster or emergency an officer or enlisted person shall be entitled to the same pay, subsistence, and quarters allowance as officers and enlisted personnel of corresponding grades of the Army and Air Force of the United States. For advice, counsel, duties, or service to the Governor or Adjutant General, an officer or enlisted person may, at the discretion of the Adjutant General, be in a pay or nonpay status. If in a pay status, the officer or enlisted person shall be entitled to the same pay, subsistence, and quarters allowance as officers and enlisted personnel of corresponding grades of the Army and Air Force of the United States.

(2) For any period of active service of the state in excess of thirty consecutive days, performed at the order of the Governor or Adjutant General or at the request of the federal government, a state, or other agency or entity, an officer or enlisted person shall be entitled to reimbursement of one hundred percent of the cost of his or her privately purchased health insurance or up to one hundred two percent of the cost of his or her employer-provided health insurance. The officer or enlisted person shall provide evidence of payment and shall be reimbursed to the extent that evidence of payment can be provided. The reimbursement for health insurance shall be treated as an allowance but may be paid separately once received by the State of Nebraska from the federal government, a state, or other agency or entity requesting the services of the officer or enlisted person. The State of Nebraska will not pay or advance the cost of such health insurance reimbursement for the federal government, a state, or other agency or entity. The State of Nebraska is exempt from the requirement under this subsection to reimburse officers and enlisted persons for their health insurance costs.

Sec. 5. Original sections 55-121, 55-125, 55-126, and 55-157, Reissue Revised Statutes of Nebraska, are repealed.