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No. 242

S.P. 78

In Senate, February 5, 2013

An Act To Improve the Military Bureau Laws

Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TUTTLE of York.

Cosponsored by Representative BEAULIEU of Auburn and

Senator: MASON of Androscoggin, Representative: LUCHINI of Ellsworth.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 37-B MRSA §3, sub-§1, ¶D,** as amended by PL 2011, c. 112, §1, is
3 further amended to read:

4 D. Have the following powers and duties.

5 (1) The Adjutant General shall administer the department subordinate only to the
6 Governor.

7 (2) The Adjutant General shall establish methods of administration consistent
8 with the law necessary for the efficient operation of the department.

9 (3) The Adjutant General may prepare a budget for the department.

10 (4) The Adjutant General may transfer personnel from one bureau to another
11 within the department.

12 (5) The Adjutant General shall supervise the preparation of all state
13 informational reports required by the federal military establishment.

14 (6) The Adjutant General shall keep an accurate account of expenses incurred
15 and, in accordance with Title 5, sections 43 to 46, make a full report to the
16 Governor as to the condition of the military forces, and as to all business
17 transactions of the Military Bureau, including detailed statements of expenditures
18 for military purposes.

19 (7) The Adjutant General is responsible for the custody, care and repair of all
20 military property belonging to or issued to the State for the military forces and
21 shall dispose of military property belonging to the State that is unserviceable.
22 The Adjutant General shall account for and deposit the proceeds from that
23 disposal with the Treasurer of State who shall credit them to the Construction and
24 Capital Repair Account of the Military Bureau.

25 (8) The Adjutant General may sell for cash to officers of the state military forces,
26 for their official use, and to organizations of the state military forces, any military
27 or naval property that is the property of the State. The Adjutant General shall,
28 with an annual report, render to the Governor an accurate account of the sales and
29 deposit the proceeds of the sales with the Treasurer of State who shall credit them
30 to the General Fund.

31 (9) The Adjutant General shall represent the state military forces for the purpose
32 of establishing the relationship between the federal military establishment and the
33 various state military staff departments.

34 (10) The Adjutant General shall accept, receive and administer federal funds for
35 and on behalf of the State that are available for military purposes or that would
36 further the intent and specific purposes of this chapter and chapter 3.

37 (11) The Adjutant General shall acquire, construct, operate and maintain military
38 facilities necessary to comply with this Title and Title 32 of the United States
39 Code and shall operate and maintain facilities now within or hereafter coming
40 within the jurisdiction of the Military Bureau.

- 1 (12) The Adjutant General may adopt rules pertaining to compliance with state
2 and federal contracting requirements, subject to Title 5, chapter 375. Those rules
3 must provide for approval of contracts by the appropriate state agency.
- 4 (13) The Adjutant General shall allocate and supervise any funds made available
5 by the Legislature to the Civil Air Patrol.
- 6 (14) The Adjutant General shall report at the beginning of each biennium to the
7 joint standing committee of the Legislature having jurisdiction over veterans'
8 affairs on any recommended changes or modifications to the laws governing
9 veterans' affairs, particularly as those changes or modifications relate to changes
10 in federal veterans' laws.
- 11 (15) The Adjutant General may receive personal property from the United States
12 Department of Defense that the Secretary of Defense has determined is suitable
13 for use by agencies in law enforcement activities, including counter-drug
14 activities, and in excess of the needs of the Department of Defense pursuant to
15 United States Code, Section 2576a, and transfer ownership of that personal
16 property to state, county and municipal law enforcement agencies
17 notwithstanding any other provision of law. The Adjutant General may receive
18 excess personal property from the United States Department of Defense for use
19 by the department, notwithstanding any other provision of law.
- 20 (16) The Adjutant General may establish a science, mathematics and technology
21 education improvement program for schoolchildren known as the STARBASE
22 Program. The Adjutant General may accept financial assistance and in-kind
23 assistance, advances, grants, gifts, contributions and other forms of financial
24 assistance from the Federal Government or other public body or from other
25 sources, public or private, to implement the STARBASE Program. The Adjutant
26 General may employ a director and other employees, permanent or temporary, to
27 operate the STARBASE Program.
- 28 (17) The Adjutant General shall establish a system, to be administered by the
29 Director of the Bureau of Maine Veterans' Services, to express formally
30 condolence and appreciation to the closest surviving family members of members
31 of the United States Armed Forces who, since September 11, 2001, are killed in
32 action or die as a consequence of injuries that result in the award of a Purple
33 Heart medal. In accordance with the existing criteria of the department for the
34 awarding of gold star medals, this system must provide for the Adjutant General
35 to issue up to 3 gold star medals to family members who reside in the State, one
36 to the spouse of the deceased service member and one to the parents of the
37 service member. If the parents of the service member are divorced, the Adjutant
38 General may issue one medal to each parent. If the service member has no
39 surviving spouse or parents or if they live outside of the State, the Adjutant
40 General may issue a gold star medal to the service member's next of kin, as
41 reported to the department, who resides in the State.
- 42 (18) The Adjutant General may establish a National Guard Youth Challenge
43 Program consistent with 32 United States Code, Section 509 (1990). The
44 Adjutant General may accept financial assistance from the Federal Government
45 or other public body or from other sources, public and private, to implement the

1 National Guard Youth Challenge Program. The Adjutant General may employ a
2 director and other employees, permanent or temporary, to operate the program.

3 (19) The Adjutant General may execute cooperative agreements and other
4 arrangements necessary to operate the department.

5 (20) The Adjutant General shall act as the Governor's homeland security advisor.

6 **Sec. 2. 37-B MRSA §4**, as amended by PL 1997, c. 643, Pt. Q, §5, is repealed and
7 the following enacted in its place:

8 **§4. Directors of bureaus**

9 **1. Bureau of Maine Veterans' Services.** The Director of the Bureau of Maine
10 Veterans' Services is appointed by the commissioner and serves at the pleasure of the
11 commissioner.

12 **2. Maine Emergency Management Agency.** The Director of the Maine Emergency
13 Management Agency is appointed by the Governor upon the recommendation of the
14 commissioner, reports administratively to the commissioner and serves at the pleasure of
15 the Governor.

16 The Director of the Bureau of Maine Veterans' Services and the Director of the
17 Maine Emergency Management Agency shall perform civilian duties as assigned by the
18 commissioner or Governor.

19 **Sec. 3. 37-B MRSA §112**, as amended by PL 2001, c. 662, §19, is further
20 amended to read:

21 **§112. Joint Force Headquarters**

22 The Adjutant General shall organize a staff to be called ~~a State Area Command,~~
23 ~~STARC~~ the Joint Force Headquarters. It shall command, control and supervise Army and
24 Air National Guard units employed in support of civil authorities in the protection of life,
25 property and preservation of peace, order and public safety under competent orders of
26 state authorities. In the event of mobilization of some or all Army and Air National Guard
27 units by the President of the United States, it shall assist the State in organizing and
28 training a militia, if required, perform command and control functions in support of civil
29 authorities, as directed, and prepare to reconstitute the Army National Guard and Air
30 National Guard when units are relieved from federal service. It must be commanded by a
31 federally recognized officer who may be the Adjutant General or an Assistant Adjutant
32 General.

33 **Sec. 4. 37-B MRSA §399**, as amended by PL 2003, c. 646, §13, is repealed and
34 the following enacted in its place:

35 **§399. Revenue**

36 Revenue generated by the authority must first be used to support the operation of the
37 authority, including segregation of money for future capital repairs. At the close of the

1 fiscal year, unreserved retained earnings as identified by the State Controller may be
2 transferred at any time prior to the closing of the books to:

3 **1. Capital repairs; tuition assistance.** An account established within the Military
4 Bureau to be used for capital repairs and maintenance of state military facilities and
5 Maine National Guard tuition assistance;

6 **2. Official representation funds.** An account established within the Military
7 Bureau to be used for official representation funds, in an amount not to exceed \$10,000
8 annually;

9 **3. Unfunded priorities.** An account established within the Military Bureau to be
10 used for the Adjutant General's unfunded priorities, in an amount not to exceed \$10,000
11 annually; and

12 **4. Maine National Guard Foundation Fund.** An account established within the
13 Military Bureau to be used for the Maine National Guard Foundation Fund or its
14 successor fund, in an amount not to exceed \$10,000 annually.

15 **Sec. 5. 37-B MRSA §415-A, sub-§1, ¶C,** as enacted by PL 2001, c. 662, §48, is
16 amended to read:

17 ~~C. A general officer commander~~ An officer with the rank of colonel in the chain of
18 command of an individual being considered for nonjudicial punishment may impose
19 one or more of the following punishments:

- 20 (1) Forfeiture of up to 5 days' pay;
- 21 (2) Up to 16 hours of extra duties;
- 22 (3) Prohibition of promotion of up to one year; or
- 23 (4) Reduction of one grade for enlisted members.

24 **Sec. 6. 37-B MRSA §461** is enacted to read:

25 **§461. Sexual assault**

26 **1. Prohibition; sexual assault.** Any person subject to this Code who commits an
27 offense prohibited under Title 17-A, chapter 11 is guilty of that offense under this Code.

28 **2. Punishment.** Any person found guilty of an offense prohibited under Title 17-A,
29 chapter 11 must be punished as a court-martial may direct.

30 **SUMMARY**

31 This bill makes the following changes to the laws.

32 1. It specifies that the Adjutant General may execute cooperative agreements and
33 other arrangements necessary to operate the Department of Defense, Veterans and
34 Emergency Management and provides that the Adjutant General serves as the Governor's
35 homeland security advisor.

1 2. Under current law, the Director of the Maine Emergency Management Agency is
2 appointed by, and serves at the pleasure of, the Commissioner of Defense, Veterans and
3 Emergency Management. This bill instead provides that the Director of the Maine
4 Emergency Management Agency is appointed by the Governor upon the recommendation
5 of the commissioner, reports administratively to the commissioner and serves at the
6 pleasure of the Governor.

7 3. It renames the State Area Command as the Joint Force Headquarters and includes
8 a reference to Air National Guard units.

9 4. It repeals and replaces the section of law that determines the disposition of
10 revenue generated by the Maine Military Authority to additionally authorize the transfer
11 of unreserved retained earnings, in the amount of \$10,000 annually, to each of 3 accounts
12 that may be established within the Military Bureau to be used for official representation
13 funds, for unfunded priorities identified by the Adjutant General and for the Maine
14 National Guard Foundation Fund.

15 5. Under current law, a general officer commander may impose a certain level of
16 disciplinary punishment. The bill instead specifies that this level of disciplinary
17 punishment may be imposed by a colonel in the chain of command of the individual
18 being punished.

19 6. It provides that any person subject to the Maine Code of Military Justice who
20 commits an offense under the Maine Criminal Code's chapter governing sexual assaults is
21 also guilty of violating the Maine Code of Military Justice.