

LEGISLATIVE BILL 806

Approved by the Governor April 10, 2014

Introduced by Avery, 28.

FOR AN ACT relating to the Military Code; to amend sections 55-120, 55-125, and 55-126, Reissue Revised Statutes of Nebraska; to eliminate the position of the chief of staff of the Military Department; to change delegation of duties by the Adjutant General; to provide a salary and leave exception for the deputy adjutant general; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 55-120, Reissue Revised Statutes of Nebraska, is amended to read:

55-120 The Military Department shall consist of the Adjutant General in the minimum grade of lieutenant colonel, one deputy adjutant general, ~~chief of staff of the Military Department,~~ with a minimum grade of colonel, or a civilian deputy director, with a minimum grade of colonel, one assistant director for Nebraska Emergency Management Agency affairs, and such other officers and enlisted personnel in the number and grade as prescribed by the United States Department of the Army and Department of the Air Force personnel documents provided to the National Guard or as otherwise authorized.

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

55-125 (1) The Adjutant General shall appoint a deputy adjutant general, ~~a chief of staff of the Military Department,~~ or a civilian deputy director. ~~The An officer appointed as a deputy adjutant general shall hold the minimum grade of colonel as provided in section 55-120. No person shall be eligible for such appointment and service as the deputy adjutant general unless he or she is an active member of the Nebraska National Guard. He or she~~ The deputy adjutant general 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 and be eligible for promotion to colonel prior to his or her appointment as deputy adjutant general. ~~chief of staff of the Military Department, or deputy director.~~

(2) The chief of the National Guard Bureau shall appoint a United States property and fiscal officer. The officer shall hold the minimum grade of colonel. The Governor shall nominate one or more officers for the position of United States property and fiscal officer after consultation with the Adjutant General. All nominees shall have attained at least the grade of lieutenant colonel and be eligible for promotion to colonel prior to his or her nomination. The United States property and fiscal officer may appoint, with the approval of the Adjutant General, one or more assistant United States property and fiscal officers, each with the minimum grade of captain. The United States property and fiscal officer and each assistant United States property and fiscal officer 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 immediately prior to appointment.

(3) 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 civilian 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 civilian 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 the Adjutant General has appointed a civilian deputy director the Adjutant General may, in the event of the Adjutant General's absence, delegate the authority to perform the military duties of the Adjutant General to any active officer of the Nebraska National Guard who shall hold the minimum grade of colonel. In the case of absence of both the Adjutant General and the deputy adjutant general, ~~chief of staff of the Military Department,~~ or civilian deputy director, the Adjutant General may delegate the authority to perform the military duties of the Adjutant General to any active officer of the Nebraska military National Guard who shall hold ~~at least the rank~~ minimum grade of colonel and the Adjutant General may delegate the authority to perform state duties to any member of his or her

appointed executive staff. The deputy adjutant general, chief of staff of the Military Department, or civilian deputy director shall be bonded or insured as required by section 11-201. The deputy adjutant general, chief of staff of the Military Department, or civilian deputy director shall receive such salary as the Adjutant General shall direct, payable biweekly. Such salary for the deputy adjutant general shall not exceed the annual pay and allowances of regular military officers of equal rank and time in service, 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. Except when called or ordered to active duty of the United States under 10 U.S.C. in support of missions authorized by the President of the United States or Secretary of Defense, the deputy adjutant general shall not be required to take either paid or unpaid leave, or a leave of absence or a reduction in salary, when performing his or her federal duties whether or not under federal orders.

Sec. 4. Original sections 55-120, 55-125, and 55-126, Reissue Revised Statutes of Nebraska, are repealed.