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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 8, 2024
Subject: Bill Brief for SB 292

Senate Bill 292 updates statutes related to the Kansas army and air national guard, provides for the appointment of a state judge advocate and provides for the adjustment of death and disability benefits.

New Section 1 provides that: (1) The adjutant general, with the approval of the governor, shall appoint an officer of the state military forces as state judge advocate, with the rank of colonel; (2) the adjutant general may appoint as many assistants to the state judge advocate as the adjutant general considers necessary and the appointees shall be designated assistant state judge advocates; (3) all appointees shall meet the definition of judge advocate in K.S.A. 48-2101; and (4) the adjutant general, with the approval of the governor, may promote a state judge advocate to the rank of brigadier general if the state judge advocate has served 20 years or more of combined service in the Kansas national guard and the United States military forces and held the rank of colonel for at least 10 years.

K.S.A. 48-2101(20), part of the Kansas code of military justice, provides that “‘judge advocate’ means: (a) An officer of the judge advocate general’s corps of the army or the navy or of the state military forces; (b) an officer of the air force or the marine corps who is designated as a judge advocate; or (c) an officer of the coast guard who is designated as a law specialist.”

New Section 2 provides that the benefits amounts specifically identified in K.S.A. 48-267 and 48-269 (Sections 16 and 17 of the bill) shall be adjusted by the military disability board, as defined in K.S.A. 48-261 (Section 15), to commence on July 1, 2024, and each July 1 thereafter by a percentage equal to the percentage increase from the previous calendar year in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor.

Section 3 amends K.S.A. 48-101, updating the statute related to persons subject to military duty who are divided into three classes: the “Kansas army and air national guard”; “the militia”; and the “Kansas military reserve.”

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Section 4 amends K.S.A. 48-202, updating the statute related to staff officers of the Kansas national guard who shall continue to hold their positions until they have reached 64 years of age, unless retired prior to that time by reason of resignation, disability, or for cause. The amendment removes language requiring cause “to be determined by a court-martial legally convened for that purpose.”

Section 5 amends K.S.A. 48-204, updating the statute related to the powers and duties of the adjutant general.

Section 6 amends K.S.A. 48-205 to authorize the adjutant general to assign the number of assistant adjutants general from the ground forces and air forces of this state who are authorized by national guard bureau rules and regulations. The assistant adjutants general shall, if they qualify therefor, hold military rank as may be authorized and approved for the positions by the national guard bureau of the United States. The assistant adjutants general, at the time of their appointment, shall have served at least five years as commissioned officers in the Kansas army or air national guard, shall serve at the pleasure of the adjutant general, and shall perform such duties as are assigned by the adjutant general. The adjutant general shall designate one assistant adjutant general as the senior assistant adjutant general who, during any period when the adjutant general is absent, unable or by express direction of the adjutant general, shall perform the duties of the adjutant general as acting adjutant general.

Section 7 amends K.S.A. 48-206 related to the duties of the finance and disbursing officer. The bill provides that there shall be a United States property and disbursing officer appointed or assigned as may be provided in federal regulations. The officer shall: (1) Be provided with adequate office facilities in Topeka or at the site of the principal military warehouses or training grounds for the national guard at the discretion of the adjutant general to best serve the needs of the organized militia; (2) secure, receive, disburse, issue and account for all United States funds, arms, uniforms, equipment and supplies as requested by the governor for use by the organized militia; (3) maintain complete and accurate records, in the manner prescribed by federal regulations, of all funds and property granted or loaned to the state for use by the organized militia, and such records shall constitute the official records of the federally owned military property for which the state shall be responsible to the United States; (4) perform such additional duties and exercise such powers and authority as may be vested in such officer by federal regulations, or as may be assigned by the adjutant general; and (5) be provided assistants and clerical, stenographic, shop, technical and warehouse personnel as may be necessary to properly discharge such officer’s duties. Personnel and other employees of the property and disbursing officer shall receive salaries as the adjutant general determines, except that state funds shall be used for salaries or other expenses of the office of the office of the United States property and disbursing officer only when federal funds are not available.

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Section 8 amends K.S.A. 48-209, updating the statute related to terms of officers of the Kansas army and air national guard who shall continue to hold their positions until they have reached 64 years of age, unless the officer was terminated according to federal law.

Section 9 amends K.S.A. 48-211, related to discharge or retirement for disability and exemption from jury duty. Current law is updated to continue to exempt all members of the Kansas army and air national guard from jury duty during annual training, during the time the member is ordered by the governor to perform active state service under K.S.A. 48-238 or 48-241, and during the time the member is ordered to perform active state service under K.S.A. 48-242.

Section 10 amends K.S.A. 48-214, the statute that establishes the Kansas military board, to change a reference to the state judge advocate instead of the judge advocate general.

Section 11 amends K.S.A. 48-216 to update the uniform and equipment requirements for the Kansas national guard.

Section 12 amends K.S.A. 48-242, updating the statute related to calls for aid made by a sheriff or mayor.

Section 13 amends K.S.A. 48-243, which provides that the commanding officer of a military organization ordered into active service shall faithfully perform the duties required and such officer shall not hinder or prevent the civil authorities in a faithful performance of their duties, nor shall any officer or enlisted person neglect or refuse to obey the orders of the commanding officer issued in line of duty. The bill strikes a provision relating to trial by court martial and penalties for violation of this section.

Section 14 amends K.S.A. 48-252c, updating language related to applications to grant military personnel or state national guardsmen to direct or regulate traffic upon the streets, roads and highways within the state.

Section 15 amends K.S.A. 48-261, which relates to death and disability benefits for members of the Kansas national guard or Kansas state guard. The statute also creates the military disability board that determines the percentage of total disability and award compensation for disability or death in accordance with the provisions of K.S.A. 48-261 through 48-271. The bill adds language specifying that the board shall meet at least annually and that members of the board shall be compensated and permitted allowances in accordance with K.S.A. 75-3201.

Section 16 amends K.S.A. 48-267, the statute that defines the monthly benefit for any member who is entitled to benefits for a permanent disability covered by K.S.A. 48-261 through 48-271. The bill increases the monthly benefit for total or 100% disability from \$120 plus 12.5% “of the monthly basic pay of the grade or rank held by the member at the time entitlement under this act accrued” to \$850 plus

12.5% “of the monthly basic pay that the member would be entitled to receive under K.S.A. 48-225” if such member were called to active duty by the governor.

Section 17 amends K.S.A. 48-269, the statute that defines the death benefit under K.S.A. 48-261 through 48-271. The bill maintains current law that the member’s estate shall be paid the amount of actual funeral expenses of the deceased but increases the maximum amount for such expenses from \$500 to \$3,500. The bill also increases the monthly benefit for the member’s surviving spouse from \$120 plus 12.5% “of the monthly basic pay of the grade or rank held by the member at the time entitlement under this act accrued” to \$850 plus 12.5% “of the monthly basic pay that the member would be entitled to receive under K.S.A. 48-225” if such member were called to active duty by the governor. In addition, the bill increases the amount of compensation in subsection (c) that the surviving child or children under 18 years of age, or under 21 years of age and unmarried and still in school, are entitled to receive if a member’s surviving spouse remarries, which also increases the amount in subsection (d) that such children receive if the member was not married.

Section 18 amends K.S.A. 48-301, the statute that empowers and directs the Kansas military board to provide armories for the use of the Kansas army or air national guard, to strike a provision requiring such armories to be opened for meetings and functions of the Grand Army of the Republic, the Spanish-American War Veterans and their auxiliary organizations.

Section 19 amends K.S.A. 48-509, the statute that disqualifies certain persons from service in the state guard, to change language from a person “who is not a citizen of the United States” to a person “who is not qualified for commissioning or enlistment as established by part II, title 10 of the United States code.”

Section 20 amends K.S.A. 48-516, the statute containing the schedule of pay for members of the Kansas state guard who are actually present and participate in regular weekly drills, to provide that members shall receive “appropriate compensation as established by policy, guidance or regulation” rather than an amount specified in the statute.

As indicated in the bill title and in Section 21, the bill also repeals K.S.A. 48-103, 48-219, 48-221, 48-222, 48-223, 48-228, 48-237 and 48-252.

The bill would take effect from and after publication in the statute book, July 1, 2024.