

House Engrossed

emergency; military affairs; national guard

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2223

AN ACT

AMENDING SECTIONS 26-101, 26-102, 26-153, 26-156, 26-175, 26-179, 26-180
AND 26-181, ARIZONA REVISED STATUTES; RELATING TO THE NATIONAL GUARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-101, Arizona Revised Statutes, is amended to
3 read:

4 26-101. Department of emergency and military affairs;
5 organization; adjutant general; qualifications

6 A. The department of emergency and military affairs is established
7 consisting of ~~a~~ THE division of emergency management and other divisions
8 or offices as determined by the adjutant general pursuant to section
9 26-102, subsection C, paragraph 8.

10 B. The department ~~shall consist~~ CONSISTS of the adjutant general
11 and such other officers, warrant officers, enlisted personnel and
12 employees as deemed necessary.

13 C. The department shall be administered and controlled by the
14 governor as commander-in-chief. The adjutant general shall be the
15 director of the department.

16 D. The adjutant general shall be appointed by the governor pursuant
17 to section 38-211 and shall serve at the pleasure of the governor. The
18 person appointed shall be a citizen of the United States, HAVE SERVED TWO
19 OF THE FIVE YEARS IMMEDIATELY PRECEDING APPOINTMENT IN THE NATIONAL GUARD
20 IN THE STATE OR TERRITORY WHERE THE PERSON IS AN ASSIGNED MEMBER and
21 establish ~~their~~ domicile in Arizona for residency purposes within ninety
22 days ~~of~~ AFTER appointment. IN APPOINTING THE ADJUTANT GENERAL, THE
23 GOVERNOR MAY GIVE PREFERENCE TO A PERSON WHO HAS SERVED IN THE NATIONAL
24 GUARD OF THIS STATE. At the time of the appointment, the person appointed
25 shall have qualifications required by the United States department of
26 defense for the adjutant general and shall attain federal recognition in a
27 grade ~~not less than~~ OF AT LEAST brigadier general not later than two years
28 after the appointment. Failure to meet these qualifications, failure to
29 retain federal recognition or ~~attainment of~~ FAILURE TO MEET the age
30 provided by federal law relating to state adjutants general shall
31 terminate the appointment.

32 E. The adjutant general shall receive compensation as determined
33 pursuant to section 38-611, and shall devote full time to the office.

34 F. At the time of appointment, the adjutant general shall receive
35 the state rank of major general and, at that time, shall become the
36 ranking officer in the department of emergency and military affairs.

37 Sec. 2. Section 26-102, Arizona Revised Statutes, is amended to
38 read:

39 26-102. Powers and duties of the adjutant general

40 A. The adjutant general shall serve as head of the department AND,
41 SUBJECT TO THE ORDERS OF THE COMMANDER IN CHIEF, COMMAND THE NATIONAL
42 GUARD OF THIS STATE. The governor as commander in chief shall administer
43 and control the national guard, and the adjutant general is responsible to
44 the governor for ~~execution of~~ EXECUTING all orders relating to the
45 militia, ~~organization, activation, reactivation, inactivation and~~
46 ~~allocation of~~ ORGANIZING, ACTIVATING, REACTIVATING, INACTIVATING AND

1 ALLOCATING units, recruiting ~~of~~ personnel, public relations and ~~discipline~~
2 DISCIPLINING and training ~~of~~ the national guard and those members of the
3 militia inducted into the service of this state as provided in this
4 chapter. The adjutant general shall act as military chief of staff to the
5 governor and ~~chief~~ AS THE COMMANDING GENERAL of all branches of the
6 militia. The adjutant general may belong to the national association and
7 other organizations for the betterment of the national guard, subscribe to
8 and obtain periodicals, literature and magazines of such other
9 organizations and pay dues and charges from monies of this state
10 appropriated for that purpose. Except for the authority expressly
11 reserved for the governor, the adjutant general is responsible for
12 emergency management, and all emergency activities are subject to the
13 approval of the adjutant general.

14 B. The adjutant general, as the military chief of staff, shall:

15 1. Act as military advisor to the governor and perform, as the
16 governor prescribes, military duties not otherwise designated by law.

17 2. Adopt methods of administration for the national guard that are
18 not inconsistent with laws and regulations of the United States department
19 of defense or any subdivision of the United States department of defense.

20 3. Supervise and direct the organization, regulation, instruction
21 and other activities of the national guard.

22 4. Attest and record all commissions issued by the governor and
23 maintain a register of all commissioned personnel.

24 5. Keep a record of all orders and regulations pertaining to the
25 national guard and all other writings and papers relating to reports and
26 returns of units comprising the national guard and militia.

27 6. Superintend the preparation of returns, plans and estimates
28 required by this state, by the department of the army, air force or navy
29 and by the United States secretary of defense.

30 7. Control the use of and care for, preserve and maintain all
31 military property belonging to or issued to this state and pay from monies
32 appropriated by the legislature for these purposes the necessary expenses
33 for labor and material incurred in ~~the repair of~~ REPAIRING military
34 property.

35 8. Dispose of unserviceable military property belonging to this
36 state, account for the proceeds and transmit the proceeds to the morale,
37 welfare and recreational fund established by section 26-153.

38 9. Authenticate with the seal of the office of the adjutant general
39 all orders and copies of orders issued by the adjutant general's
40 office. An authenticated copy has the same force and effect as the
41 original.

42 10. Present to the governor before each regular session of the
43 legislature, or as otherwise required, an estimate of the financial
44 requirements for state monies for ~~operation of~~ OPERATING the department
45 and the national guard during the next fiscal year.

- 1 C. The adjutant general, as head of the department, shall:
- 2 1. Be the administrator of the department.
- 3 2. Coordinate the functions of the divisions and offices of the
4 department.
- 5 3. Subject to title 41, chapter 4, article 4 and, as applicable,
6 article 5, appoint, suspend, demote, promote or dismiss employees of the
7 department. The adjutant general may delegate this authority.
- 8 4. Appoint an auditor for the department to conduct periodic
9 financial and compliance audits of each division and office in the
10 department and perform other duties as prescribed by law. At least
11 annually the auditor shall audit accounts that are open for more than
12 twelve months. The auditor shall determine within the department
13 compliance with purchase and bidding procedures prescribed by law.
- 14 5. Adopt, with the approval of the governor, rules necessary for
15 ~~the operation of~~ OPERATING the department and for ~~the organization,~~
16 ~~governance, armament~~ ORGANIZING, GOVERNING, ARMING, equipping, ~~instruction~~
17 INSTRUCTING and ~~compensation of~~ COMPENSATING the national guard and
18 authorized employees. Rules that are adopted for the national guard and
19 authorized employees pursuant to this paragraph shall be in force and
20 effect when approved by the governor.
- 21 6. Establish and administer accounts for federal, state or other
22 monies made available to carry out the functions of the department.
- 23 7. As deemed necessary, appoint to peace officer status members of
24 the Arizona national guard who have been awarded a United States army
25 military occupational specialty as military policeman or a United States
26 air force specialty code as security policeman or who have served as a law
27 enforcement officer in any branch of the United States armed forces or as
28 a special agent of a military criminal investigative organization within
29 the United States department of defense. Before appointment as peace
30 officers, the individuals must successfully complete a course of study ~~to~~
31 ~~be~~ prescribed by the Arizona peace officer standards and training board.
32 Individuals appointed as peace officers pursuant to this paragraph, when
33 performing duties at facilities or on land operated or controlled by or
34 under the jurisdiction of the adjutant general, have all the powers,
35 privileges and immunities of peace officers provided by law. Individuals
36 appointed as peace officers pursuant to this paragraph are not eligible to
37 participate in funding provided by the peace officers' training fund
38 established by section 41-1825 or in the public safety personnel
39 retirement system.
- 40 8. Establish, abolish or reorganize the positions or organizational
41 structure within the department, subject to legislative appropriation, if,
42 in the adjutant general's judgment, the modification would make the
43 operation of the department more efficient, effective or economical.
- 44 9. Establish an educational program for persons who have previously
45 dropped out of high school and who are under twenty years of age but who
46 are not adjudicated delinquent. The educational program shall be

1 designated "project challenge", ~~and the program~~ shall be conducted by the
2 national guard of Arizona in a paramilitary environment. The goal of the
3 educational program is to provide persons who are enrolled in the program
4 with the knowledge and skills necessary to become productive citizens and
5 to obtain a general equivalency diploma. In addition to monies
6 appropriated for the program, the adjutant general may accept and spend
7 monies from any other lawful public or private source.

8 10. Submit to the governor, the president of the senate and the
9 speaker of the house of representatives annually by September 1 a report
10 for the department for the preceding fiscal year ~~including~~ THAT INCLUDES:

11 (a) The strength and condition of the national guard.

12 (b) The business transactions of the department.

13 (c) A detailed statement of expenditures for all military and
14 civilian purposes.

15 (d) The disposition of all military and civilian property on hand or
16 issued.

17 (e) A description of the activity in the camp Navajo fund
18 established by section 26-152.

19 (f) A detailed statement of the national guard postsecondary
20 education reimbursement program pursuant to section 26-181, subsection D.

21 D. The adjutant general, with the approval of the governor, may:

22 1. Enter into contracts with individuals, this state, political
23 subdivisions of this state or the federal government and its agencies ~~for~~
24 ~~the TO~~ purchase, ~~acquisition, rental~~ ACQUIRE, RENT or lease of lands,
25 buildings or military materiel and take title in the name of this state
26 for ~~the establishment~~ ESTABLISHING and ~~maintenance of~~ MAINTAINING
27 armories, subject to legislative appropriation for these purposes.

28 2. Procure and contract for procurement of equipment and its
29 issuance to members of the militia inducted into the service of this
30 state.

31 3. Enter into agreements and plans with the state universities, THE
32 community colleges or any educational institution supported by federal or
33 state monies ~~for promotion of~~ TO PROMOTE the best interests of the
34 national guard and military training of students of the institutions.

35 4. Lease property acquired under this chapter for any public
36 purpose for a period of one year that is renewable.

37 5. Convey for any public purpose in the name of this state
38 easements on real property acquired under this chapter.

39 6. Enter into contracts or agreements with the federal government
40 that are deemed to be in the best interest of this state and the national
41 guard.

42 7. Delegate the powers and duties PRESCRIBED in this section.

43 8. Adopt methods of security for the national guard reservations or
44 facilities that are consistent with the laws, regulations or directives of
45 the United States department of defense or any subdivision of the United
46 States department of defense and the laws of this state.

1 Sec. 3. Section 26-153, Arizona Revised Statutes, is amended to
2 read:

3 26-153. Morale, welfare and recreational fund; sources of
4 monies; exemptions

5 A. The morale, welfare and recreational fund is established as a
6 state fund for morale, welfare and recreational activities and support
7 personnel for the national guard. Support personnel ~~shall be~~ ARE
8 employees of the fund and not of this state. The adjutant general shall
9 administer the fund subject to approval of the governor. Monies shall be
10 deposited, pursuant to sections 35-146 and 35-147, in the fund from the
11 following sources:

12 1. Monies transferred by the director of the department of
13 transportation pursuant to section 28-2415.

14 2. Monies deposited pursuant to section 26-102, subsection B,
15 paragraph 8 or monies generated from recycling activities consistent with
16 federal recycling policies.

17 3. GIFTS, DONATIONS AND CONTRIBUTIONS TO THE DEPARTMENT ACCEPTED BY
18 THE ADJUTANT GENERAL.

19 ~~3.~~ 4. Any other nonappropriated monies received by the national
20 guard from state and federal revenue producing military activities
21 relating to morale, welfare and recreation.

22 B. Monies in the fund are from nonappropriated sources, are not
23 subject to legislative appropriation and are exempt from the provisions of
24 section 35-190 relating to lapsing of appropriations. The adjutant
25 general may establish bank accounts for monies withdrawn from the fund to
26 administer the operations of the morale, welfare and recreational
27 programs.

28 C. On notice from the adjutant general, the state treasurer shall
29 invest and divest monies in the fund as provided by section 35-313, and
30 monies earned from investment shall be credited to the fund.

31 D. Expenditures of monies in the fund are subject to rules adopted
32 by the department of emergency and military affairs and are exempt from
33 the procurement code requirements of title 41, chapter 23.

34 Sec. 4. Section 26-156, Arizona Revised Statutes, is amended to
35 read:

36 26-156. Pay of personnel

37 A. Officers and enlisted personnel of the national guard ~~shall~~
38 ~~while~~ on state ACTIVE duty by order of the governor or adjutant general
39 SHALL receive the same pay and allowance, including longevity pay, as
40 prescribed for respective grades in the armed forces of the United States.
41 PERSONNEL ON STATE ACTIVE DUTY FOR MORE THAN THIRTY CONSECUTIVE DAYS SHALL
42 RECEIVE THE SAME LEAVE ENTITLEMENTS PRESCRIBED FOR THE UNITED STATES ARMED
43 FORCES.

44 B. Service for longevity pay shall include all time served in the
45 national guard of ~~the~~ THIS state ~~prior to June 3, 1916,~~ and ~~all time~~
46 ~~served~~ in the armed forces and national guard of the United States and the

1 organized reserve. In addition, ~~thereto~~ enlisted personnel shall receive
2 a salary recommended by the adjutant general and approved by the governor.

3 Sec. 5. Section 26-175, Arizona Revised Statutes, is amended to
4 read:

5 26-175. Active duty tours for volunteers during peace time

6 A. The adjutant general ~~may, when he deems it~~ IF DEEMED necessary
7 to the accomplishment of a mission of the national guard, MAY call to
8 active duty in peace time to perform special and designated services any
9 officer or enlisted personnel of the national guard who volunteers for
10 such service.

11 B. The officer or enlisted personnel shall receive full pay and
12 allowances, including longevity pay, prescribed for an officer or enlisted
13 personnel of the regular services of the same grade or rank. PERSONNEL ON
14 STATE ACTIVE DUTY FOR MORE THAN THIRTY CONSECUTIVE DAYS SHALL RECEIVE THE
15 SAME LEAVE ENTITLEMENTS PRESCRIBED FOR THE UNITED STATES ARMED FORCES.
16 Such personnel shall be paid from ~~funds~~ MONIES of the state appropriated
17 for such purposes.

18 Sec. 6. Section 26-179, Arizona Revised Statutes, is amended to
19 read:

20 26-179. Tuition and fees reimbursement; eligibility;
21 exemption

22 A. Any qualified national guardsman, SPOUSE OF A NATIONAL
23 GUARDSMAN, LEGAL DEPENDENT OF A NATIONAL GUARDSMAN OR EMPLOYEE OF THE
24 DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS who has completed a semester
25 as a full-time or part-time graduate or undergraduate student at a public
26 or private postsecondary educational institution for which credit toward a
27 degree or diploma is granted or a certificated vocational technical school
28 in this state may apply for a tuition and fees reimbursement. The
29 adjutant general shall annually adopt POLICIES AND procedures to allocate
30 the appropriated monies in a manner consistent with the personnel needs of
31 the Arizona national guard AND THE DEPARTMENT, except that no right to
32 reimbursement exists beyond the amounts appropriated by the legislature.
33 THE APPROPRIATIONS MADE IN THIS SECTION ARE EXEMPT FROM THE PROVISIONS OF
34 SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS, EXCEPT THAT ALL
35 MONIES REMAINING UNEXPENDED OR UNENCUMBERED NINETY DAYS AFTER THE CLOSE OF
36 THAT FISCAL YEAR REVERT TO THE STATE GENERAL FUND.

37 B. To be eligible for tuition and fees reimbursement, a national
38 guardsman shall MEET ALL OF THE FOLLOWING:

39 1. Be a bona fide member of an Arizona army national guard unit or
40 Arizona air national guard unit throughout each semester for which ~~he~~ THE
41 MEMBER applies for such reimbursement.

42 2. Have satisfactorily completed initial active duty service.

43 3. Have satisfactorily performed duty ~~upon~~ ON return from initial
44 active duty training, including a minimum ninety ~~per cent~~ PERCENT
45 attendance on scheduled drill dates and at annual training with ~~his~~ THE
46 MEMBER'S parent unit.

1 4. Maintain an average academic grade of "C" or better for each
2 semester.

3 5. Not be eligible for a certificate of eligibility and benefits
4 under the veterans' readjustment benefits act of 1966 for the same period.

5 C. TO BE ELIGIBLE FOR TUITION AND FEES REIMBURSEMENT, A SPOUSE OR
6 DEPENDENT OF A NATIONAL GUARDSMAN SHALL MEET ALL OF THE FOLLOWING:

7 1. BE THE LEGAL SPOUSE OR LEGAL DEPENDENT OF AN ARIZONA NATIONAL
8 GUARDSMAN WHO MEETS THE CRITERIA UNDER SUBSECTION B, PARAGRAPHS 1, 2 AND 3
9 OF THIS SECTION.

10 2. BE REGISTERED AS THE LEGAL SPOUSE OR LEGAL DEPENDENT OF AN
11 ARIZONA NATIONAL GUARDSMAN IN THE DEFENSE ENROLLMENT ELIGIBILITY REPORTING
12 SYSTEM OR ITS SUCCESSOR SYSTEM.

13 3. MAINTAIN AN AVERAGE ACADEMIC GRADE OF "C" OR BETTER FOR EACH
14 SEMESTER.

15 D. TO BE ELIGIBLE FOR TUITION AND FEES REIMBURSEMENT, AN EMPLOYEE
16 OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS SHALL MEET ALL OF THE
17 FOLLOWING:

18 1. BE A BONA FIDE EMPLOYEE OF THE DEPARTMENT THROUGHOUT EACH
19 SEMESTER FOR WHICH THE MEMBER APPLIES FOR REIMBURSEMENT.

20 2. HAVE A CURRENT JOB PERFORMANCE EVALUATION OF "MEETS
21 EXPECTATIONS" OR ITS EQUIVALENT.

22 3. MAINTAIN AN AVERAGE ACADEMIC GRADE OF "C" OR BETTER FOR EACH
23 SEMESTER.

24 4. MEET THE REQUIREMENTS PRESCRIBED BY THE DEPARTMENT OF
25 ADMINISTRATION FOR TUITION REIMBURSEMENT FOR EDUCATION AND THE POLICIES
26 AND PROCEDURES ADOPTED BY THE ADJUTANT GENERAL, INCLUDING ANY REQUIREMENT
27 TO REMAIN EMPLOYED WITH THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS
28 FOR A DEFINED PERIOD OF TIME OR BE REQUIRED TO RETURN ALL OR A PORTION OF
29 THE AMOUNT OF TUITION AND FEES REIMBURSEMENT RECEIVED.

30 Sec. 7. Section 26-180, Arizona Revised Statutes, is amended to
31 read:

32 26-180. Application for tuition and fees reimbursement; times

33 A. AN application for tuition and fees reimbursement shall be
34 submitted to the office of the adjutant general.

35 B. ~~Within fifteen~~ NOT LATER THAN TWENTY-ONE days after ~~registration~~
36 ~~for~~ THE BEGINNING OF each semester OR TERM, the NATIONAL guardsman, SPOUSE
37 OR DEPENDENT OF THE NATIONAL GUARDSMAN OR EMPLOYEE OF THE DEPARTMENT OF
38 EMERGENCY AND MILITARY AFFAIRS shall submit an application for
39 reimbursement, a certificate of enrollment, ~~AND~~ a notarized statement
40 that the certificate of enrollment and copies of receipts for tuition and
41 fees for ~~such~~ THAT semester are the applicant's.

42 C. Within twenty-five days after completion of the semester, the
43 ~~guardsman~~ APPLICANT shall submit ~~his~~ THE APPLICANT'S official grade
44 reports.

45 D. PURSUANT TO SECTION 26-179, SUBSECTION A, THE ADJUTANT GENERAL
46 SHALL FUND THE TUITION AND FEES REIMBURSEMENT FOR APPLICANTS IN ACCORDANCE

1 WITH THE POLICIES AND PROCEDURES ADOPTED TO SUPPORT THE PERSONNEL NEEDS OF
2 THE ARIZONA NATIONAL GUARD AND THE DEPARTMENT OF EMERGENCY AND MILITARY
3 AFFAIRS IN THE FOLLOWING ORDER:

- 4 1. ELIGIBLE MEMBERS OF THE ARIZONA NATIONAL GUARD.
- 5 2. ELIGIBLE SPOUSES AND DEPENDENTS OF MEMBERS OF THE ARIZONA
6 NATIONAL GUARD.
- 7 3. ELIGIBLE EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY
8 AFFAIRS PURSUANT TO RULES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION FOR
9 TUITION REIMBURSEMENT FOR EDUCATION.

10 Sec. 8. Section 26-181, Arizona Revised Statutes, is amended to
11 read:

12 26-181. Evaluation of applications; payment of tuition and
13 fees reimbursement; report

14 A. ~~Subsequent to submission of~~ AFTER APPLICANTS SUBMIT THEIR grade
15 reports, the adjutant general shall evaluate the applications for TUITION
16 AND FEES reimbursement and ~~make payment to~~ PAY those applicants the
17 adjutant general determines to be eligible.

18 B. Such reimbursement is subject to legislative appropriation and
19 shall not exceed:

20 1. The maximum amount charged for in-state tuition and fees at a
21 state university during that academic year.

22 2. The amount ~~expended~~ SPENT by the ~~national guardsman~~ THE
23 APPLICANT for in-state tuition and fees.

24 C. ~~Such~~ A reimbursement payment shall be made within forty-five
25 days ~~from~~ AFTER the date of receipt of the applicant's grade reports for
26 the semester for which reimbursement is to be paid.

27 D. The adjutant general shall report the following information as
28 provided by section 26-102, subsection C, paragraph 10:

29 1. The total number of national guardsmen ~~that~~ WHO received
30 reimbursement payments pursuant to this section during the preceding
31 fiscal year.

32 2. The number of newly recruited national guardsmen ~~that~~ WHO
33 received reimbursement payments pursuant to this section during the
34 preceding fiscal year.

35 3. THE TOTAL NUMBER OF SPOUSES AND DEPENDENTS OF NATIONAL GUARDSMEN
36 WHO RECEIVED REIMBURSEMENT PAYMENTS PURSUANT TO THIS SECTION DURING THE
37 PRECEDING FISCAL YEAR.

38 4. THE TOTAL NUMBER OF EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND
39 MILITARY AFFAIRS WHO RECEIVED REIMBURSEMENT PAYMENTS PURSUANT TO THIS
40 SECTION DURING THE PRECEDING FISCAL YEAR.

41 ~~3.~~ 5. The total amount of monies ~~expended~~ SPENT by the national
42 guard for reimbursement payments pursuant to this section during the
43 preceding fiscal year.