

BILL SUMMARY
1st Session of the 58th Legislature

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| Bill No.: | HB 2508 |
| Version: | CS |
| Request Number: | 7567 |
| Author: | Rep. Kannady |
| Date: | 3/2/2021 |
| Impact: | Military Department: No impact anticipated |

Research Analysis

The committee substitute to HB 2508 modifies the eligibility criteria for Adjutant General to require an individual to be eligible for a Certificate of Eligibility if not already a general officer. The measure also authorizes the Governor to appoint multiple Assistant Adjutants General after considering the number of such positions recommended by the National Guard Bureau. The Adjutant General may, in writing, delegate specific command or supervisory authority to the Assistant Adjutants General or to general staff officers.

The measure directs the Adjutant General to develop, publish and maintain an enlisted and officer rating scheme for all billets assigned to joint forces headquarters and an organizational chart, to be updated annually, showing the chain of command between the Adjutant General and the major commands of the Oklahoma National Guard.

The measure allows the Governor to order the National Guard on state active duty in the event of an imminent or existing epidemic or pandemic.

The measure also adopts civil law protections established in the federal Servicemembers Civil Relief Act as state law and applies them to state military forces on state active duty or Title 32 active duty.

Any officer or employee of the state or political subdivision who is not a member of the state military force is entitled to military judicial leave from their regular employment when serving as a military trial judge or an appellate military judge. The employing state agency or political subdivision is required to pay full regular pay for the first 30 regular business days the employee is absent. For any time after this, the employer must pay a difference prescribed in the measure. The bill modifies personal liability for military forces to include only forces acting in the line of duty.

The measure directs the Adjutant General to designate a State Judge Advocate from the judge advocates duly commissioned in the state military forces. The senior force component judge advocate of each force component shall oversee certain duties, including:

- Recruitment and accession of new recruits;
- Retention;
- Education and training;
- Career development and progression; and
- Decoration.

These senior force component judge advocates shall also determine the place of duty and frequency of reassignment among the major commands for each judge advocate and paralegal in

their respective force components. The State Judge Advocate shall provide legal counsel to the Adjutant General and, as requested, to the other senior leaders of the state military forces.

The measure allows any officer setting a punishment to mitigate that punishment at any time, so long as the mitigated punishment isn't for a greater period than the original punishment. Any nonjudicial punishment may be appealed to a senior officer designated by the Adjutant General.

The measure prohibits certain military trial judges from reviewing certain trial records if the judge served as an assistant attorney general, district attorney, assistant district attorney, or municipal prosecutor who determined whether to prosecute certain nonmilitary offenses. The measure also provides for the calculation of compensation for military trial judges.

The measure requires military magistrates to be a member of the bar of a federal court or the highest court of a state and certified to be qualified for duty as a military magistrate by the State Judge Advocate.

The following may not be military magistrates:

- The State Judge Advocate or senior force component judge advocates;
- Anyone who has served as an assistant attorney general, district attorney, assistant district attorney, or municipal prosecutor who could determine whether to prosecute certain nonmilitary offenses; or
- Any person in a case in which he or she is the accuser, a witness, or has acted as counsel in the same case.

The measure directs the Adjutant General to promulgate regulations for military trial judges and magistrates conducting these proceedings.

No military magistrates may issue warrants or court orders for contents or records of wire or electronic communications. The measure modifies the definition of a judicial officer to include a military magistrate.

The measure prohibits current state employees of the Oklahoma Military Department and federal technicians from being nominated to serve on the Military Court of Appeals.

Statutory language establishing criminal procedure in district courts shall not apply to court-martial proceedings and where statutory language conflicts within any appellate provisions in the Oklahoma Uniform Code of Military Justice, the conflicting statutory language shall not apply to appellate proceedings arising from court-martial proceedings.

State employees serving as military trial judges or appellate military judges are exempt from the statutory language prohibiting someone from holding an office under the laws of the state or being a deputy of someone holding office and also holding any other office or being a deputy of another office.

The measure classifies members of the state military forces on state active duty or Title 32 active duty as state employees regardless of where their duties as employees are being performed.

The measure also clarifies that the state is not liable for losses or claims resulting from the activities of state military forces on state active duty or Title 32 active duty.

The measure modifies leave of absence procedures to include members of state military forces on state active duty. If the leave of absence exceeds the 30 regularly scheduled work days for which state employees should receive their full regular pay, the employing state agency is required to pay the difference between their full salary pay and their military base pay, and this calculation shall exclude untaxed military allowances and entitlements.

Prepared By: Emily McPherson

Fiscal Analysis

The committee substitute to HB 2508 makes several changes to the structure and organizational procedures of the state military department.

The actual cost implications of the bill are dependent on the number of courts-martial cases that develop over time. This has historically been a low number. No direct impact to state revenues or expenditures is anticipated from passage of the measure.

Prepared By: Clayton Mayfield

Other Considerations

None.