

BILL SUMMARY
1st Session of the 59th Legislature

Bill No.:	HB2382
Version:	FA1
Request Number:	7974
Author:	Rep. Burns
Date:	3/10/2023
Impact:	\$0

Research Analysis

The floor substitute for HB 2382 provides that the joint forces headquarters will be jointly staffed by personnel of the state military forces. The Adjutant General, along with the Governor, will assign officers, enlisted personnel, and civilians as necessary to the joint forces headquarters. The Governor as Commander in Chief of the Militia will have supreme command of the military forces until they are ordered into the actual service of the United States. For individuals in service to Oklahoma, the Governor will have the power to muster out any state force organization, discharge enlisted personnel, and perform other such acts. The Governor must also give permission to other armed military forces to enter the state.

The measure also provides that, beginning Jan. 1, 2027, the appointment of the Adjutant General will be a five year term with a new reappointment process for any additional term. The Adjutant General may be removed with cause by the Governor. The Adjutant General must be a currently serving individual who is not or never has retired from the Oklahoma National Guard and must have at least three years of service with the Oklahoma National Guard. If the Oklahoma National Guard is in active federal service, any person who would have met the requirements within 10 years may be appointed. The Adjutant General will be compensated at the same rate or pay and allowances given to a Major General, whether or not they have achieved this rank. The Adjutant General will have the authority to arm members of the state military forces on military installations and other Military Department-controlled places with weaponry as they deem necessary to provide for the security of facilities and occupants. The Adjutant General is authorized to establish rules allowing the Military Department of Oklahoma to accept donations and bequests to create a scholarship program that benefits member of the Oklahoma National Guard. Oversight of these funds may be delegated to a nonprofit public charity for creating and administering a scholarship endowment fund.

Military Department personnel matters must be preempted and governed by federal law and then managed by the Adjutant General. The measure authorizes matters not provided in code to be decided according to Army, Air Force, or National Guard customs. The Military Department is also authorized to purchase information technology. However all federal programs managed by the Military Department are exempted from any and all Information Services Division Requirements. Officers and enlisted personnel of the Oklahoma National Guard will not receive compensation or monetary allowance except when in state active duty.

The floor substitute amends Article 15 on the commanding officer's nonjudicial punishment to specify that no member of the Oklahoma National Guard of the rank of E-8 or E-9 will be reduced in rank except when the reduction results from nonjudicial punishment imposed by an Officer of the National Guard of the rank of brigadier general or by the Adjutant General. When imposing nonjudicial punishment on persons of E-7 rank or below, a commander or officer in

charge who possesses the rank of colonel may consider reduction in rank as a possible punishment.

The measure adds Article 21 on the convening of court-martial by federal officials, which prohibits the President, the Defense Secretary, the secretary of a military department, a military officer on active duty, or other federal official from convening a court-martial proceeding unless prior written consent has been given by the Governor.

The measure allows a commissioned officer who was previously dismissed by a sentence of dismissal not imposed on a new trial to be reappointed solely by the Governor to such grade and rank they would have attained had they not been dismissed. The reappointment will be without regard for a vacancy and will affect the promotion status of other officers only as directed by the Governor. All time between dismissal and reappointment will be considered actual service for all purposes. The Governor or Adjutant General will prescribe regulations governing eligibility for pay and allowances for the period after the date on which an executed part of a court-martial sentence is set aside.

The measure adds Article 105 on Forgery which determines that forgery includes any person subject to the Oklahoma Uniform Code of Military Justice who, with the intent to defraud, falsely makes or alters any signature or part of writing which would apparently impose a legal liability on another or change their legal right or liability to their prejudice or utters, offers, issues, or transfers such a writing known to be made or altered. These individuals are guilty of forgery and must be punished as a court-martial may direct.

The measure adds that it will be unlawful for any member of the state military forces to knowingly use or ingest marijuana or any products derived thereof. The measure also adds that any person subject to the Oklahoma Uniform Code of Military Justice who commits a violent offense against a spouse, intimate partner, or their immediate family member; commits an offense against any person or property with intent to threaten; violates a protection order with intent to threaten; violates a protection order with an intent to commit a violent offense; or assaults a spouse intimate partner, or their immediate family member by strangling or suffocating will be punished as a court-martial may direct.

The measure clarifies that Article 134 will encompass all specifically enumerated offenses included in Section 934 of Title of US Code, including all amendments except when such provisions are contrary to or inconsistent with the code.

Specified sections of the Oklahoma Uniform Code of Military Justice must be explained again within 90 days of each re-enlistment.

Last, the measure creates a new section, Article 140C on manual for courts-martial, which specifies that the United State Manual for Courts-Martial, including all amendments, except when inconsistent with the Oklahoma Uniform Code of Military Justice, will be adopted as the Oklahoma State Manual for Courts-Martial.

CHANGES MADE FROM COMMITTEE SUBSTITUTE TO FLOOR AMENDMENT

The floor substitute provides that the Adjutant General will have the authority to arm members of the state military forces on military installations and other places under Military Department control with weaponry as deemed appropriate by the Adjutant General to adequately provide security.

The floor substitute exempts all federal programs managed by the state Military Department from any and all Information Services Division requirements.

The floor substitute amends Article 15 on the commanding officer's nonjudicial punishment to specify that no member of the Oklahoma National Guard of the rank of E-8 or E-9 will be reduced in rank pursuant to this section of law except when the reduction results from nonjudicial punishment imposed by an of Officer of the National Guard of the rank of brigadier general or by the Adjutant General. When imposing nonjudical punishment on persons of E-7 rank or below, a commander or officer in charge who possesses the rank of colonel may consider reduction in rank as a possible punishment.

The floor substitute also amends Article 112A on wrongful use, possession etc. or controlled substances to state that it will be unlawful for any member of the state military forces to knowingly use or ingest marijuana or any substances derived thereof.

The floor substitute adds that any person subject to the Oklahoma Uniform Code of Military Justice who commits a violent offense against a spouse, intimate partner, or their immediate family member; commits an offense against any person or property with intent to threaten; violates a protection order with intent to threaten; violates a protection order with an intent to commit a violent offense; or assaults a spouse intimate partner, or their immediate family member by strangling or suffocating will be punished as a court-martial may direct.

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Prepared By: Suzie Nahach

Fiscal Analysis

The floor amendment to HB 2382 modifies various sections of statute regarding the Oklahoma Military Department (OMD). Per the OMD, the changes and additions in the floor amendment would have no direct fiscal or revenue considerations for the state.

Prepared By: Jay St Clair, House Fiscal Staff

Other Considerations

None.