

HOUSE BILL No. 2230

By Committee on Veterans and Military

1-31

Proposed Amendments to HB 2230 for the
Committee on Veterans and Military
February 14, 2023
Prepared by the Office of Revisor of Statutes

1 AN ACT concerning veterans and military; updating certain provisions
2 related to the Kansas army and air national guard; providing for the
3 appointment of a state judge advocate; amending K.S.A. 48-101, 48-
4 202, 48-205, ~~48-209~~, 48-211, 48-214, 48-216, 48-242, 48-243, 48-
5 252c, 48-301, 48-509 and 48-516 and K.S.A. 2022 Supp. 48-204 and
6 repealing the existing sections: also repealing K.S.A. 48-103, 48-219,
7 48-221, 48-222, 48-223, ~~48-237~~ and 48-252.

48-206,
48-228,

8 *Be it enacted by the Legislature of the State of Kansas:*

9
10 New Section 1. (a) The adjutant general, with the approval of the
11 governor, shall appoint an officer of the state military forces as state judge
12 advocate, with the rank of colonel. To be eligible for such appointment, the
13 appointee shall meet the definition of judge advocate in K.S.A. 48-2101,
14 and amendments thereto.

15 (b) The adjutant general may appoint as many assistants to the state
16 judge advocate as the adjutant general considers necessary. The
17 appointees shall be designated assistant judge advocates. To be eligible for
18 such appointment, appointees shall meet the definition of judge advocate
19 in K.S.A. 48-2101, and amendments thereto.

state

20 (c) The adjutant general, with the approval of the governor, may
21 promote a state judge advocate to the rank of brigadier general if the state
22 judge advocate has served ~~30~~ years or more of combined service in the
23 Kansas national guard and the United States military forces and held the
24 rank of colonel for at least 10 years.

20

25 Sec. 2. K.S.A. 48-101 is hereby amended to read as follows: 48-101.
26 All persons subject to military duty under the constitution of this state and
27 not exempt therefrom by the provisions of this act, and such other persons
28 as shall voluntarily enroll themselves, shall be divided into three ~~(3)~~
29 classes: ~~to-wit:~~ One consisting of the federally recognized national guard,
30 ~~which shall to~~ be known as the "Kansas army and air national guard", one
31 consisting of those able-bodied ~~male~~ citizens prescribed and contemplated
32 in article 8 of the constitution of ~~this~~ the state of Kansas not in the "Kansas
33 army and air national guard" ~~which shall to~~ be known as "the militia"; and
34 one to consist of all those subject to military duty, but not included in the
35 "Kansas army and air national guard" or "the militia," to be known as the
36 "Kansas military reserve."

1 Sec. 3. K.S.A. 48-202 is hereby amended to read as follows: 48-202.
 2 All staff officers of the Kansas national guard, including officers of the
 3 pay, inspection, subsistence, and medical departments, ~~hereafter appointed~~
 4 shall have had previous military experience, and shall hold their positions
 5 until they ~~shall~~ have reached the ~~age of sixty-four~~ 64 years of age, unless
 6 retired prior to that time by reason of resignation, disability, or for cause to
 7 be ~~determined by a court-martial legally convened for that purpose; and.~~
 8 All vacancies among ~~said~~ such officers shall be filled by appointment from
 9 the officers of the militia of Kansas. Nothing in this section shall be
 10 construed or operate to limit the provisions of any federal law relative to
 11 the qualifications for appointment of officers or the filling of vacancies.

12 Sec. 4. K.S.A. 2022 Supp. 48-204 is hereby amended to read as
 13 follows: 48-204. (a) The adjutant general shall:

14 (1) Be in control of the military department of the state and
 15 subordinate only to the governor in matters pertaining to the department;

16 (2) have general supervision over all the subordinate military
 17 departments, ~~to include~~ including the department of the army national
 18 guard and the department of the air national guard;

19 (3) perform such duties as pertain to the adjutant general's department
 20 under the regulations and usage of the army of the United States;

21 (4) superintend the preparation of all returns and reports required by
 22 the United States from the state;

23 (5) require a certificate of the military service to be furnished, in
 24 accordance with K.S.A. 73-209, and amendments thereto, to any soldier
 25 who has served in the army in any of the state military organizations; and

26 (6) audit and pass upon all claims of a military character against the
 27 state, and no contract of a military nature against the state shall be valid or
 28 paid until approved by the adjutant general.

29 (b) The adjutant general is authorized to:

30 (1) Adopt regulations pertaining to the preparation and rendering of
 31 reports and returns and to the care and preservation of public property as in
 32 the adjutant general's opinion the conditions demand, ~~which~~ such
 33 regulations shall be operative and in force when promulgated in the form
 34 of general orders, circulars or circular letters;

35 (2) administer oaths in matters pertaining to the duties of the office as
 36 relates to:

37 (A) Claims against the state;

38 (B) the organization of boards ~~of survey, courts-martial~~ and courts of
 39 inquiry;

40 (C) affidavits covering loss of military property belonging to the state
 41 or the United States;

42 (D) oaths of office of officers of the Kansas national guard;

43 (E) statements and reports required from officers pertaining to

and

1 property and money accountability and expenditures; and
2 (F) any other official military matters coming before the adjutant
3 general;

4 (3) adopt an appropriate seal for use in the office, to be affixed to all
5 oaths that the adjutant general administers under authority of law, and to
6 authenticate all certificates required of the adjutant general;

7 (4) appoint such officers as necessary as security officers for the
8 protection of all national guard property and equipment, owned by or
9 under the control of the Kansas national guard wherever located in the
10 state of Kansas, including when transported over public roads or located
11 on temporary national guard sites, and for the protection of persons and
12 property associated with the national guard; and

13 (5) appoint law enforcement officers to serve under the command of
14 the adjutant general.

15 (c) (1) Those members of the adjutant general's department who are
16 appointed as law enforcement officers must meet the requirements of the
17 Kansas law enforcement training act, K.S.A. 74-5601 through 74-5623,
18 and amendments thereto.

19 (2) A law enforcement officer engaged in the protective functions
20 specified in subsection (b)(4) shall possess and exercise all general law
21 enforcement powers, rights, privileges, protections and immunities in
22 every county where there is located any Kansas national guard property.
23 All persons arrested by a law enforcement officer may be turned over to
24 the appropriate local police or county sheriff in whose jurisdiction the
25 offense was committed to be processed in the same manner as other
26 persons turned over to such police or sheriff or may book such arrested
27 person at the jail in the jurisdiction of the arrest. Such law enforcement
28 officer shall complete any required reports, arrest affidavits and other
29 documents associated with the arrest. These reports shall be kept on file
30 with the office of the adjutant general, unless a memorandum of agreement
31 with the local law enforcement agency specifies otherwise.

32 (3) While on duty, security officers or law enforcement officers
33 appointed pursuant to subsection (b)(4) or (b)(5), as applicable, shall wear
34 and display publicly a badge of office.

35 Sec. 5. K.S.A. 48-205 is hereby amended to read as follows: 48-205.
36 ~~(a) The adjutant general shall have immediate charge of the state arsenal~~
37 ~~under the supervision of the governor.~~

38 ~~(1) The adjutant general shall have charge and care of all state and~~
39 ~~United States military property for which the state is responsible and shall~~
40 ~~cause to be kept an accurate and careful account of all receipts and issues~~
41 ~~of the same such property.~~

42 ~~(2) He or she The adjutant general shall require to be kept a careful~~
43 ~~memorandum of all public property on hand in the state arsenal and in the~~

1 possession of the several organizations of the Kansas army and air national
 2 guard or Kansas state guard and will guard said such property against
 3 injury and loss to the extent of his or her ~~the adjutant general's~~ ability.
 4 (2) ~~The adjutant general shall require every accountable and~~
 5 ~~responsible officer of the Kansas army and air national guard or Kansas~~
 6 ~~state guard to account for every deficiency in public property in such~~
 7 ~~officer's possession immediately after such deficiency is discovered.~~

8 (b) ~~The adjutant general may appoint two assistant adjutants general~~
 9 ~~who may have the rank of brigadier general when they are assigned as~~
 10 ~~head of the department of the army national guard or the department of the~~
 11 ~~air national guard and who shall have served at least five years as~~
 12 ~~commissioned officers in the Kansas army or air national guard who shall~~
 13 ~~be within the classified service of the Kansas civil service act.~~

14 (c) ~~The office of one of the assistant adjutants general will be with the~~
 15 ~~adjutant general, and the assistant shall assist the adjutant general in the~~
 16 ~~performance of such duties as may be assigned to him or her such~~
 17 ~~assistant, and the assistant may perform the duties of the adjutant general~~
 18 ~~in the case of absence, inability, or by express direction of the latter~~
 19 ~~adjutant general, and at such time the assistant will sign as "acting~~
 20 ~~adjutant general." ~~He or she~~ The adjutant general may appoint one special~~
 21 ~~assistant adjutant general, with the rank of colonel, who shall have served~~
 22 ~~at least five years as a commissioned officer with the Kansas national~~
 23 ~~guard and who shall be within the classified service of the Kansas civil~~
 24 ~~service act; and one judge advocate general, with the rank of colonel. The~~
 25 ~~adjutant general may, with the approval of the governor, promote a judge~~
 26 ~~advocate general who has served thirty (30) or more years of combined~~
 27 ~~service in the Kansas national guard and United States military forces~~
 28 ~~with the rank of colonel for at least ten (10) years to the rank of brigadier~~
 29 ~~general.~~

30 (d) ~~Subject to the approval of the governor, and, within the provisions~~
 31 ~~of the civil service law and available appropriations, the adjutant general~~
 32 ~~may appoint one finance and disbursing officer with the rank of colonel,~~
 33 ~~who acts as disbursing officer for the state, and such other assistants and~~
 34 ~~clerical employees as may be necessary to carry out properly the~~
 35 ~~provisions of this act.~~

36 Sec. 6. K.S.A. 48-209 is hereby amended to read as follows: 48-209.
 37 All officers of the Kansas army and air national guard in the line and in all
 38 of the departments and corps, shall hold their positions until they have
 39 reached the age of sixty-four (64) years of age unless the same officer shall
 40 have ~~was~~ been terminated according to federal law. Upon the
 41 recommendation of the adjutant general, the governor may order any
 42 person on the state retired list to active service of the state for the purpose
 43 of serving on military ~~committees~~ or boards or performing staff duty in or with

assign the number of

from the ground forces and air forces of this state who are authorized by national guard bureau rules and regulations.

(b) 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.

(c) The assistant adjutants general shall serve at the pleasure of the adjutant general and perform such duties as are assigned by the adjutant general.

(d) 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

SEE ATTACHMENT A

1 Sec. 14. K.S.A. 48-509 is hereby amended to read as follows: 48-509.
 2 No person shall be commissioned or enlisted in such forces who is not a
 3 citizen of the United States qualified for commissioning or enlistment as
 4 established by part II, title 10 of the United States code or who has been
 5 dishonorably discharged received a punitive discharge from any military
 6 or naval organization of this state, or of another state, or of the United
 7 States.

8 Sec. 15. K.S.A. 48-516 is hereby amended to read as follows: 48-516.
 9 Members of the Kansas state guard after July 1, 1943, who are actually
 10 present and participate in regular weekly drills provided for by law or
 11 regulations, for not less than one and one-half 1/2 hours, shall receive the
 12 following schedule of pay: For each of no more than five such weekly
 13 periods in any one month: private, sixty cents; private first class, seventy
 14 cents; corporal, eighty cents; sergeant, ninety-five cents; staff sergeant and
 15 first sergeant, one dollar; second lieutenant, one dollar and twenty-five
 16 cents; first lieutenant, one dollar and fifty cents; captain, two dollars and
 17 fifty cents. The rate of pay for a technician fifth grade will be the same as
 18 that of a corporal; the rate of pay for a technician fourth grade and a
 19 technician third grade will be the same as that of a sergeant appropriate
 20 compensation as established by policy, guidance or regulation.

21 Sec. 16. K.S.A. 48-101, 48-103, 48-202, 48-205, 48-209, 48-211, 48-
 22 214, 48-216, 48-219, 48-221, 48-222, 48-223, 48-237, 48-242, 48-243, 48-
 23 252, 48-252c, 48-301, 48-509 and 48-516 and K.S.A. 2022 Supp. 48-204
 24 are hereby repealed.

25 Sec. 17. This act shall take effect and be in force from and after its
 26 publication in the statute book.

48-206,
 48-228,

48-206. ~~The finance and disbursing officer, shall perform such duties in connection with the Kansas national guard as usage and the regulations of the army of the United States assign to the finance and disbursing departments. He or she will, pursuant to the orders of the adjutant general, disburse the army rent allowance for the several organizations of the Kansas national guard entitled to the same and the allowances made to the several headquarters for postage and contingent expenses, and such allowances as the legislature may make to the minor military departments of the state; he or she will disburse upon approved vouchers the appropriations for semiannual inspection of companies, for active service, for purchase of marksmanship badges, for schools for officers, and all other pay and allowances to which officers and enlisted persons of the Kansas national guard may be entitled to according to law. The state controller is authorized to draw the necessary warrants against the foregoing appropriations in favor of the finance and disbursing officer on presentation of an itemized voucher made in conformity with the laws of the state and approved by the governor and the adjutant general.~~

- (a) There shall be a United States property and disbursing officer appointed or assigned as may be provided in federal regulations concerning the army national guard and air national guard of the United States.
- (b) The United States property and disbursing officer shall 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.
- (c) Such United States property and disbursing officer shall 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. The property and disbursing officer shall 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. The property and disbursing officer shall 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. Such officer shall be provided assistants and clerical, stenographic, shop, technical and warehouse personnel as may be necessary to properly discharge such officer's duties.
- (d) Personnel and other employees of the property and disbursing officer shall receive such salaries as the adjutant general determines, except that state funds shall be used for salaries or other expenses of the office of the United States property and disbursing officer only when federal funds are not available.
- (e) Expenditures from the appropriations described in this section shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports pursuant to vouchers approved by the governor and the adjutant general, or designees thereof.