

1987 Senate Bill 83

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## 1987 Wisconsin Act 63

AN ACT to amend 15.31, 17.07 (5), 21.18 (1) and (3), 102.07 (9), 102.475 (1) (a), 111.31 (1) to (3), 111.321 and 230.35 (3) (a); and to create 21.025 (2) (d) and 21.28 of the statutes, relating to various changes in the organization of the department of military affairs and in certain provisions governing members of the Wisconsin national guard or state guard.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 15.31 of the statutes is amended to read:

**15.31 Department of military affairs; creation.** There is created a department of military affairs under the direction and supervision of the adjutant general who shall be appointed by the governor for a 5-year term beginning on November 1, 1981, ~~unless terminated earlier by resignation, disability or for cause and effective on November 1 of every 5th year thereafter.~~ The adjutant general may be reappointed to successive terms. Interim vacancies shall be filled by appointment by the governor for the residue of the unexpired term. Appointees shall be officers of actively serving in the national guard of Wisconsin who have had at least 5 years of continuous federally recognized commissioned service in the active army national guard of Wisconsin or active air national guard of Wisconsin or a combination thereof immediately preceding the date of appointment and have attained at least the rank of lieutenant colonel.

SECTION 2. 17.07 (5) of the statutes is amended to read:

17.07 (5) State officers appointed by the governor alone for a fixed or indefinite term or to supply a vacancy in any office, elective or appointive, except justices of the supreme court and judges and the adjutant general, by the governor at pleasure; the adjutant general, by the governor, at any time, for cause or for withdrawal of federal recognition of his or her commission under 32 USC 323; and all officers appointed by the governor during the recess of the legislature whose appointments are required to be later confirmed by the senate shall be deemed to be appointed by the governor alone until so confirmed.

SECTION 3. 21.025 (2) (d) of the statutes is created to read:

21.025 (2) (d) The adjutant general may organize a cadre force of not more than 12 personnel at each state-owned armory. Each cadre force shall establish recruitment lists of persons interested in becoming members of the state defense force, which may be used

to recruit full units for the state defense force in case the Wisconsin national guard is mobilized for active federal duty.

SECTION 7. 21.18 (1) and (3) of the statutes are amended to read:

21.18 (1) The military staff of the governor shall consist of the adjutant general, with a minimum rank of brigadier general; a deputy adjutant general for army, who may be a general officer; an assistant adjutant general for army, for readiness and training, who may be a general officer; ~~an~~ a deputy assistant adjutant general, army, for readiness and training ~~for army, who may be a general officer~~; a deputy adjutant general for air, who may be a general officer; a chief surgeon for army ~~with a minimum rank of brigadier general, who may be a general officer~~; a chief surgeon for air ~~with a minimum rank of brigadier general; not more than 5 aides-de-camp with the rank of colonel, who may be a general officer~~; a staff judge advocate for army, who may be a general officer; a staff judge advocate for air, who may be a general officer; a state chaplain, who may be a general officer; and such other officers as the governor deems necessary. Vacancies in positions other than those of the adjutant general ~~and aides-de-camp~~ shall be filled through appointment by the adjutant general.

(3) All staff officers appointed under sub. (1), ~~except the aides-de-camp who shall hold office at the pleasure of the governor and~~ except the adjutant general whose tenure is governed by s. ss. 15.31 and 17.07 (5), shall hold their positions unless terminated earlier by resignation, disability or for cause and unless federal recognition of the officer's commission under 32 USC 323 is refused or withdrawn. The governor shall remove an officer whose federal recognition is refused or withdrawn, effective on the date of the loss of federal recognition. The terms of the deputy adjutants general for army and air shall be 5 years beginning on the first day of the 7th month of the term of the adjutant general. The deputy adjutants general may be reappointed to successive terms. Vacancies ~~among officers, other than aides-de-camp,~~ on the military staff of the governor shall be filled by appointment

from officers of actively serving in the Wisconsin national guard. Interim vacancies shall be filled by appointment by the adjutant general for the residue of the unexpired term.

SECTION 8. 21.28 of the statutes is created to read:

**21.28 United States property and fiscal officer.** (1) The adjutant general shall recommend a candidate for appointment as the United States property and fiscal officer for the Wisconsin national guard, subject to the concurrence of the governor, from federally commissioned officers actively serving in the Wisconsin national guard. The candidate shall be nominated by the governor, subject to the concurrence of the U.S. secretary of the army, if the nominee is serving in the army national guard, or the U.S. secretary of the air force, if the nominee is serving in the air national guard.

(2) The officer nominated under sub. (1) shall assume the duties of a United States property and fiscal officer under 32 USC 708, when properly ordered to active duty by the appropriate U.S. secretary, on the date specified in the order. The officer shall hold his or her position unless terminated earlier by resignation, disability or for cause and unless federal recognition of the officer's commission under 32 USC 323 is refused or withdrawn.

(3) Any action by the governor to remove the officer appointed under sub. (1) for cause shall be governed by the federal laws and military regulations governing removal of an officer for cause and shall be subject to review by the chief of the national guard bureau and by the U.S. secretary of the army, if the officer is commissioned by the army national guard, or by the U.S. secretary of the air force, if the officer is commissioned by the air national guard.

SECTION 9. 102.07 (9) of the statutes is amended to read:

102.07 (9) Members of the national guard and state guards defense force, when on state active duty under direction of appropriate authority, but only in case federal laws, rules or regulations provide no benefits substantially equivalent to those provided in this chapter.

SECTION 10. 102.475 (1) (a) of the statutes is amended to read:

102.475 (1) (a) If the deceased employe is a law enforcement officer, correctional officer, fire fighter, rescue squad member ~~or~~, national guard member or state guard defense force member on state active duty as described in s. 102.07 (9) or if a deceased person is an employe or volunteer performing emergency government activities under ch. 166 during a state of emergency or a circumstance described in s. 166.04, who sustained an accidental injury so that benefits are payable under s. 102.46 or 102.47 (1), the department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a sum equal to 75% of the primary death benefit as of the date of death, but not less than

\$50,000 to the persons wholly dependent upon the deceased. For purposes of this subsection, dependency shall be determined under ss. 102.49 and 102.51.

SECTION 11. 111.31 (1) to (3) of the statutes are amended to read:

111.31 (1) The legislature finds that the practice of unfair discrimination in employment against properly qualified individuals by reason of their age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record ~~or~~, conviction record or membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state substantially and adversely affects the general welfare of the state. Employers, labor organizations, employment agencies and licensing agencies which deny employment opportunities and discriminate in employment against properly qualified individuals solely because of their age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record ~~or~~, conviction record or membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state deprive those individuals of the earnings which are necessary to maintain a just and decent standard of living.

(2) It is the intent of the legislature to protect by law the rights of all individuals to obtain gainful employment and to enjoy privileges free from employment discrimination because of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record ~~or~~, conviction record or membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state, and to encourage the full, nondiscriminatory utilization of the productive resources of the state to the benefit of the state, the family and all the people of the state. It is the intent of the legislature in promulgating this subchapter to encourage employers to evaluate an employe or applicant for employment based upon the employe's or applicant's individual qualifications rather than upon a particular class to which the individual may belong.

(3) In the interpretation and application of this subchapter, and otherwise, it is declared to be the public policy of the state to encourage and foster to the fullest extent practicable the employment of all properly qualified individuals regardless of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation, arrest record ~~or~~, conviction record or membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state. Nothing in this subsection requires an affirmative action program to correct an imbalance in the work force. This subchapter shall be liberally construed for the accomplishment of this purpose.

SECTION 11g. 111.321 of the statutes is amended to read:

**111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36, no employer, labor organization, employment agency, licensing agency or other person may engage in any act of employment discrimination as specified in s. 111.322 against any individual on the basis of age, race, creed, color, handicap, marital status, sex, national origin, ancestry, arrest record ~~or~~, conviction record or membership in the national guard, state defense force or any reserve component of the military forces of the United States or this state.

SECTION 12. 230.35 (3) (a) of the statutes is amended to read:

230.35 (3) (a) Officials and employes of the state who have permanent status and who are members of the national guard, the state ~~guard~~ defense force, or any other reserve component of the military forces of the United States or this state now or hereafter organized or constituted under federal or state law, are entitled to leaves of absence without loss of time in the service of the state, to enable them to attend military schools and annual field training or annual active duty for training, and any other state or federal tours of active duty, except extended active duty or service as a member of the active armed forces of the United

States which have been duly ordered but not exceeding ~~45~~ 30 days, excluding Saturdays, Sundays and holidays enumerated in sub. (4) in the calendar year in which so ordered and held. During this leave of absence, each state official or employe shall receive base state pay less the base military pay received for and identified with such attendance but such reduction shall not be more than the base state pay. Such leave shall not be granted for absences of less than 3 days. A state official or employe serving on state active duty as a member of the national guard or state ~~guard~~ defense force, may elect to receive pay from the state under s. 20.465 (1) in an amount equal to base state salary for such period of state active duty. Leave granted by this section is in addition to all other leaves granted or authorized by any other law. For the purpose of determining seniority, pay or pay advancement and performance awards the status of the employe shall be considered uninterrupted by such attendance.

SECTION 13. **Terminology changes.** Wherever the term "state guard" appears in the following sections of the statutes, the term "state defense force" is substituted: 20.465 (1) (c), 21.025 (title), (1), (2) (b), (3), (11m) (a), (11n) and (13), 21.03, 21.07, 21.13, 21.30, 21.59 and 182.40 (1).