

WISCONSIN LEGISLATOR
BRIEFING BOOK
2017-18

**CHAPTER 23 – MILITARY
AFFAIRS AND EMERGENCY
MANAGEMENT**

The Wisconsin Department of Military Affairs oversees the operations of the Wisconsin National Guard, whose state mission is to help civil authorities protect life and property and preserve peace, order, and public safety in times of natural and human-caused disasters and emergencies. The Department of Military Affairs also administers the state's emergency management system through its Division of Emergency Management.

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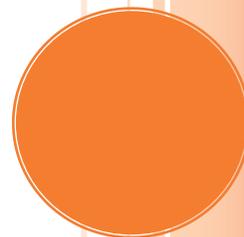


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DEPARTMENT OF MILITARY AFFAIRS

The Department of Military Affairs (DMA) is headed by the state Adjutant General, who is appointed by the Governor for a five-year term and may be reappointed. The Adjutant

The DMA legislative liaison may be reached at (608) 242-3026.

DMA’s website, at: <http://dma.wi.gov/> has links to Wisconsin Emergency Management or “WEM,” the Army National Guard, and the Air National Guard.

General reports to the Governor, who is designated by the Wisconsin Constitution as the commander-in-chief of the Wisconsin National Guard. [Wis. Const. art, V, s. 4.] Chapter 321, Stats., sets forth statutory provisions governing the Wisconsin National Guard, the Adjutant General, and the Governor’s military staff. Chapter 322, Stats., sets forth the Wisconsin Code of Military Justice.

DMA also administers Wisconsin’s emergency management system through its Division of

Emergency Management, which is headed by a division administrator appointed by the Governor. Statutes regarding emergency management and response requirements, disaster assistance programs, and continuity of government are found in ch. 323, Stats.

MILITARY AFFAIRS

Wisconsin National Guard

Organization and Dual Missions

The Wisconsin National Guard is the organized militia of the state and is headed by the state Adjutant General. It consists of the Army National Guard and the Air National Guard, each of which is headed by a deputy Adjutant General. A third deputy Adjutant

When the National Guard is activated in state duty status, the Governor is its commander-in-chief.

When the National Guard is activated in federal duty status, the President becomes its commander-in-chief.

Information on current Wisconsin Army and Air National Guard mobilizations is available at:

<http://dma.wi.gov/DMA/about/ng>

Additional information about Department of Defense-wide news is located at:

<http://www.defense.gov/news>

General serves the Guard for civil authority support. This person may be a member of either the Army or Air National Guard and may serve as joint chief of staff, responsible for overseeing the joint staff functions between the Army and Air National Guard. [ss. 321.10 and 321.30, Stats.]

The Guard is an armed military force which is organized, trained, equipped, and available for deployment under official orders in both state and

national emergencies. The Guard has dual missions--federal and state. Its federal mission is to provide trained units to the U.S. Army and Air Force in time of war or national emergency. Its state mission is to help civil authorities protect life and property and preserve peace, order, and public safety in times of natural or human-caused emergencies.

The composition of Wisconsin Army and Air National Guard units is authorized by the U.S. Secretary of Defense through the Department of Defense's National Guard Bureau. All Guard officers and enlisted personnel must meet the same physical, educational, and other eligibility requirements as members of the active duty Army or Air Force.

Role of Governor and Duties of Adjutant General

As commander-in-chief of the Wisconsin National Guard, the Governor may order the Guard or a portion of the Guard into active duty in the following circumstances:

- In the event of:
 - War, insurrection, rebellion, riot, invasion, terrorism, or resistance to execution of the laws of the state or of the United States.
 - A public disaster resulting from flood, fire, tornado, or other natural disaster.
 - A declared public health emergency.
- In order to assess damage or potential damage as a result of and to recommend responsive action to natural or man-made events.
- Upon application of a U.S. marshal, village president, mayor, town board chair, or county sheriff.

[s. 321.39, Stats.]

The Adjutant General serves as the military chief-of-staff to the Governor. The Adjutant General has numerous duties, including the following:

- Advising the Governor on military issues and transmitting military correspondence to and from the Governor.
- Drawing from the state treasury money necessary for paying National Guard members on state active duty, under orders from the Governor.
- Providing necessary medical supplies and services to the National Guard during periods of state active duty.
- Having custody of all military property, records, correspondence, and other documents relating to the National Guard.

The federal government currently provides approximately 90% of the funding for the Wisconsin National Guard.

[s. 321.04, Stats.]

Funding

The Wisconsin National Guard is funded and maintained by both the federal and state governments. The federal government provides arms and ammunition, equipment and uniforms, outdoor training facilities, pay for military and support personnel, and training and supervision. The state provides personnel, conducts training, and shares the cost of constructing, maintaining, and operating armories and other military facilities.

Army National Guard and Air National Guard

The Wisconsin Army National Guard has approximately 7,500 members and its headquarters are located in Madison. The four other major commands are: the 32nd Infantry Brigade Combat Team with headquarters in Camp Douglas; the 157th Maneuver Enhancement Brigade with headquarters in Milwaukee; the 64th Troop Command with headquarters in Madison; and the 426th Regiment Regional Training Institution, located at Fort McCoy. Subordinate units are located throughout the state.

Air National Guard

The Wisconsin Air National Guard is comprised of more than 2,200 members and includes the Air National Guard Headquarters at the Office of the Adjutant General and the 115th Fighter Wing at Truax Field, Madison; the 128th Air Refueling Wing at General Mitchell Field, Milwaukee; and the 128th Air Control Squadron and Combat Readiness Training Center located at Volk Field, Camp Douglas.

Service Member Support Division Programs

Further information about service member and family support programs is available online at:

www.wisconsinmilitary.org

The Wisconsin National Guard's Service Member Support Division provides pre-, during-, and post-mobilization support to commanders and service members by establishing a centralized connection to the many public and private agencies that provide benefits, programs, and services to Wisconsin military service members and their families.

Support programs include the following:

- **National Guard Family Program:** establishes and facilitates ongoing communication, involvement, and support between service members and their families.
- **Child and Youth Program:** provides youth with opportunities to form bonds with other military youth, building support networks that are essential in times of deployment, as well as reintegration.

The Service Member Support Division manages the administration of benefits, programs, and support services for Wisconsin service members and their families.

- **The Sexual Assault Response Program:** provides prevention training to all service members and resource and referral services to victims of sexual assault and domestic violence.
- **Suicide Prevention Program:** provides suicide prevention and intervention and training on the risk factors and warning signs of suicide and connects service members with resources.
- **Military Family Assistance Centers:** provide family members with information on entitlements and benefits available during the service member’s deployment cycle.
- **Transition Assistance Advisor:** assists service members in accessing federal and state veterans benefits, programs, and services, as well as public and private programs and services.
- **Director of Psychological Health:** provides assistance and direction to service members who are having transitional difficulties in adjusting to redeployment or life challenges.
- **Employer Support of the Guard and Reserve:** provides service members with education and awareness regarding employer relations, employment and re-employment rights, as well as programs and services to help strengthen employer support for the Guard and Reserve.

Other Programs and Services

National Guard Tuition Grant Program

DMA administers the Tuition Grant Reimbursement Program for qualified members of the Wisconsin National Guard. All National Guard enlisted members and warrant officers in good standing in the Guard who do not have a bachelor’s degree are eligible for tuition

More information about the National Guard Tuition Grant program is available at:

<http://dma.wi.gov/DMA/support/education>

reimbursement at an eligible school. Eligible schools include a University of Wisconsin (UW)-System campus, a technical college, or an institution of higher education as defined by federal law for student financial assistance purposes. The program will reimburse 100% of actual tuition or 100% of the maximum

resident undergraduate tuition at UW-Madison for a comparable academic load, whichever is less. Qualified students may receive reimbursement for up to eight full semesters of undergraduate courses or 120 credits of part-time study. [s. 321.40, Stats.]

Student Loan Repayment Program

National Guard members in good standing with pre-existing student loans may be eligible for the Federal Student Loan Repayment Program, if they re-enlist or extend their service for a six-year period and meet other requirements. The program repays loans up to \$50,000.

Challenge Academy

The mission of the Wisconsin National Guard Challenge Academy is to offer Wisconsin youths the opportunity to become successful, responsible citizens. [s. 323.03 (1) (c), Stats.] The Challenge Academy is a two-phase, 17-month program that serves 16- to 18-year old youths who have dropped out of school or are at-risk of not graduating from high school. The program is funded 75% by the federal government and 25% with state program revenue. The Challenge Academy began operations in 1998 at Fort McCoy.

STARBASE Wisconsin

STARBASE Wisconsin is a Department of Defense-funded educational initiative for fifth grade students. Administered by the Wisconsin Air National Guard and based at the U.S. Army Reserve Center in Milwaukee, the program provides 25 hours of interactive learning over the course of five weeks. The program aims to provide students with experience and skills in science, technology, engineering, and math.

Military Funeral Honors

The Adjutant General may activate members of the National Guard to serve on an honors detail of a funeral for a deceased veteran. [s. 45.60, Stats.] The Military Funeral Honors Program is administered by DVA and is described in Chapter 30.

Information on Military Points of Contact and Activations

The Adjutant General is required to provide DVA with information on all necessary military points of contact and general deployment information for activated and deployed members of the National Guard. [s. 321.04 (1) (o), Stats.] DVA, in turn, must provide this information to county veterans' service officers (CVSOs). In addition, the law permits DVA to provide CVSOs with information on military points of contact and general deployment information for Reserves units. [s. 45.03 (13) (e), Stats.] CVSOs are authorized to: (1) inform Guard and Reserves members or their dependents living in the CVSO's county regarding potential benefits to which the members may be entitled and necessary military points of contact and general deployment information for activated and deployed members of the National Guard and Reserves; and (2) cooperate with federal and state agencies that serve or grant aid or benefits to members and their dependents. [s. 45.80 (6), Stats.]

Legal Protections for National Guard Members

Federal and State Employment and Re-Employment Rights

The federal Uniformed Services Employment and Re-Employment Rights Act (USERRA) provides re-employment protection and other benefits to persons returning from federal military service. This includes service in the National Guard under a federal call-up and service in the Reserves. Under USERRA, a person who leaves a civilian job for military service is generally entitled to return to the job with accrued seniority if the person meets several eligibility criteria, including, among others, having notified the employer of the departure for military service, being honorably discharged, and reporting back to the

employer in a timely manner following military service. USERRA applies to virtually all civilian employers regardless of size, including the federal government and state and local governments.

Because service in the National Guard under a state call-up by the Governor is not covered by USERRA, state legislation was enacted in 2001 to provide the same re-employment rights for persons called to state service in the National Guard. [s. 321.65, Stats.]

Differential Pay for Activated State Employees

Wisconsin law requires that all state employees who are activated to military duty be paid their state salaries while on military duty, minus any military pay and housing allowances they receive, unless the military pay and housing allowances equal or exceed the person's state salary. An activated employee may also accumulate sick leave and paid annual leave as though no interruption in state service occurred. In order to qualify for payment, certain criteria must be satisfied. [s. 230.315, Stats.]

Other Legal Protections for National Guard Members

Wisconsin law provides National Guard members, including Wisconsin residents who serve in the National Guard of another state, certain legal protections, including:

- Providing legal representation and payment of expenses and judgments at state expense, in specified circumstances, to a member who is prosecuted for a civil or criminal action for an act committed while performing military duty.
- Staying civil court proceedings during the period of active service.
- Capping interest rates at 6% per year on debts incurred prior to entering the service.
- Protecting the member from eviction or mortgage foreclosure.
- Extending a member's professional or occupational license that would otherwise come up for renewal while the person is on duty and, if certain conditions are met, extending the license until the next date on which the license is usually renewed.
- Providing college student members opportunities to complete course work and re-enroll in the school, if called to active duty while in school.

[subch. V, ch. 321, Stats.]

The contact person for the Homeland Security Council is:

Randi Wind Milsap, Chief Legal Counsel, DMA (608) 242-3072.

The Homeland Security Council's website is: <http://www.hsc.wi.gov>

WISCONSIN HOMELAND SECURITY COUNCIL

The mission of the Homeland Security Council is to advise the Governor and coordinate the efforts of state and local

officials with regard to prevention of, and response to, potential threats to the homeland

security of Wisconsin. The Council works with local, state, federal, and tribal agencies, non-governmental organizations, and private industry to improve citizen and community preparedness. The Council was initially created by Executive Order in 2003. The Governor appoints each of the Council's 16 members.

WISCONSIN EMERGENCY MANAGEMENT SYSTEM

Overview of System

WEM's 24-hour emergency hotline number is: (800) 943-0003.

The WEM website is:

<http://emergencymanagement.wi.gov>

The DMA administers Wisconsin's emergency management system through its Division of Emergency Management, more commonly referred to as "Wisconsin Emergency Management" or "WEM." The purpose of the system is to prepare the state and its subdivisions and American Indian tribes to plan for, respond

to, recover from, and mitigate emergencies resulting from enemy action and natural or human-caused disasters. [s. 323.01, Stats.]

Duties of Various Officials

The Governor, Adjutant General, WEM administrator, and other state and local officials have statutory responsibilities related to the emergency management system. [subch. II, ch. 323, Stats.] When the Governor declares a state of emergency for the state or a portion of the state, the DMA, through WEM, is generally the lead state agency to respond to the emergency. However, if the Governor determines that a public health emergency exists, he or she may proclaim a state of emergency related to public health and designate the Department of Health Services (DHS) as the lead state agency to respond to that emergency. Additionally, if the Governor determines that an emergency is related to computer and telecommunications systems, the Governor may designate the Department of Administration (DOA) as the lead agency. [s. 323.10, Stats.]

The Governor is required to review state emergency management plans and to utilize WEM during a state of emergency. The Governor may order all or a portion of the Wisconsin National Guard into active service in case of war, other civil unrest, or public disaster, or to assess damage and recommend action as a result of natural or human-caused events. [ss. 323.12 (1) and 321.39 (1) (a), Stats.]

The state is divided into six emergency management regions, each headed by a WEM regional director. The regional directors work directly with the counties in coordinating WEM's programs and serve as on-site representatives of WEM during emergencies.

WEM also provides an Emergency Police Services (EPS) Director and an Emergency Fire Services Coordinator to assist the state, its subdivisions, and tribes during emergencies.

The county sheriff has most of the statutory powers at the local level in the event of an emergency. In addition, there are mutual assistance agreements between law enforcement agencies as well as firefighting agencies, both regionally and statewide. In an emergency, the sheriff may call upon the mutual aid authorized by these agreements before requesting assistance from the state. If the sheriff deems it necessary, he or she may ask the Governor, through the WEM administrator, to call the National Guard into state service to assist in the response. Local officials and other designated local personnel are also authorized to declare a state of emergency at the local level. [ss. 323.11 and 323.14, Stats.]

Emergency Management Planning

The Adjutant General, through WEM, is required to develop a comprehensive state plan of emergency management for the security of people and property, which is mandatory during a state of emergency, subject to approval by the Governor. The plan, known as the Wisconsin Emergency Response Plan

The Adjutant General carries out statewide training programs and exercises and serves as the principal assistant to the Governor in directing emergency management activities.

(ERP), sets forth the responsibilities of state and local officials to take specific actions. The Adjutant General must seek advice from DHS regarding emergency medical aspects of the ERP and from DOA regarding computer or telecommunications aspects of the ERP. [s. 323.13, Stats.]

Counties, towns, villages, and cities are required to adopt emergency management plans and programs that are compatible with the state ERP. [s. 323.14, Stats.] WEM provides assistance to local governments in the development of their plans. Each local government may appropriate funds and levy taxes for its emergency management program. Grants awarded by the U.S. Department of Homeland Security through WEM are a major source of funding to both state and local governments.

Disaster Assistance

Wisconsin Major Disaster Assistance Program

This state program makes payments to local units of government for damages and costs incurred as a result of a disaster. A “disaster” is a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or critical systems, including computer, telecommunications, or agricultural systems. Funds from the Wisconsin Major Disaster Assistance Program may be used for costs including debris removal, emergency protective measures, and road damage. Local governments must provide a 30% match. [s. 323.31, Stats.]

Federal Disaster Assistance

Various types of federal disaster assistance are available to both the public and private sectors as a result of a Presidential disaster declaration. Local, tribal, and state

More information on disaster recovery programs may be found at:

<http://emergencymanagement.wi.gov/recovery/government.asp>

governments and certain private not-for-profit agencies may receive grants through the public assistance program (75% federal funds, 12.5% state funds, and 12.5% local cost-sharing) to replace uninsured publicly owned facilities and equipment damaged in a disaster.

The public assistance program also provides funding to reduce the potential of future disaster

damages through the hazard mitigation program.

Funding is available to individuals, farmers, and businesses in the form of disaster housing grants, Small Business Administration loans, other needs assistance grants, and Farm Service Agency loans.

Hazardous Materials

The Emergency Planning and Community Right-to-Know Act (EPCRA) is a federal law created to help communities plan for emergencies involving hazardous substances. The law requires each state to establish a state emergency response commission and local emergency planning committees to develop emergency plans in case of an accidental release and to look for ways to prevent chemical accidents. WEM and local emergency planning committees in each county implement this requirement. [s. 323.60, Stats.]

WEM also contracts with a number of municipal fire departments around the state to provide regional coverage for hazardous materials (HAZMAT) incidents that require the highest level of respiratory and skin protection. There are currently 25 HAZMAT teams strategically located throughout the state.

CONTINUITY OF LEGISLATIVE OPERATIONS

Wisconsin law provides a mechanism for choosing interim successors for legislators if specified criteria are met. The provision takes effect if there are nine or more vacancies in the Senate at the same time or if there are 25 or more vacancies in the Assembly at the same time. [s. 13.41, Stats.]

The Wisconsin Constitution, Article V, Section 4 provides that the Governor may convene the Legislature at a place other than the State Capitol building in the case of invasion or prevalence of contagious disease at that location. State law further provides that whenever, during a state of emergency, it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capital, the Governor is required to designate an emergency temporary location for the seat of government and to take such

action and issue such orders as are necessary for an orderly transition of the affairs of state government to that location. While the seat of government remains at a temporary location, all official acts required by law to be performed at the seat of government are as valid and binding when performed at the temporary location as if performed at the normal location. [s. 323.51 (1) and (2), Stats.]

Wisconsin law also allows the Legislature, by joint rule, to provide a process for designating an emergency temporary seat of government for the Legislature that is different than the location designated by the Governor. Specifically, the statutes provide that, whenever, as the result of a disaster or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the Legislature at the state capital, the Legislature may meet either at the location designated by the Governor or the location designated by the Legislature itself. Information about this location is not subject to inspection or copying under the Open Records Law. The Legislature may meet for up to one week per session in a location other than the state capital or the temporary seat of government designated by the Governor, in order to practice meeting in a temporary location. [s. 323.51 (1m), Stats.]

ADDITIONAL REFERENCES

1. The DMA website describes the activities of the Wisconsin Army National Guard and Air National Guard, as well as the WEM system, at: <http://dma.wi.gov/>.
2. Wisconsin's Homeland Security website is a comprehensive source of information on homeland security issues. The website is: <http://www.hsc.wi.gov>.
3. WEM's website is: <http://emergencymanagement.wi.gov>.
4. Information on emergency preparedness is available at: <http://ready.wi.gov>.
5. Information about the rights and responsibilities of employees and employers under the federal USERRA is available at:
 - <http://www.dol.gov/vets/whatsnew/userraguide0903.rtf>.
 - Employer Support of the Guard and Reserve, (608) 242-3169.
6. Information about re-employment rights for military personnel called to state service may be obtained from the Office of the Staff Judge Advocate DMA, (608) 242-3071.
7. Legislative Audit Bureau audit reports available at <http://www.legis.wisconsin.gov/lab>:
 - *Emergency Management* (Audit Report 10-9).
 - *County Emergency Management Practices*, (best practices review, November 2006).

GLOSSARY

CVSO: County Veterans Service Officer. Each county has a CVSO who is responsible for providing information and assistance to individuals seeking state and federal benefits, programs, and services.

Disaster: Wisconsin law defines “disaster” as a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or critical systems, including computer, telecommunications, or agricultural systems.

WERP: Wisconsin Emergency Response Plan. The ERP is the state’s comprehensive emergency management plan.

ICS: Incident Command System. Wisconsin law defines ICS as a functional management system established to control, direct, and manage the roles, responsibilities, and operations of all of the agencies involved in a multi-jurisdictional or multi-agency emergency response.

WEM: Wisconsin Emergency Management. WEM is the informal name of the Division of Emergency Management in DMA.

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