

No. 10, A.]

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### CHAPTER 68

AN ACT to repeal 21.02, 21.04 (3), 21.08, 21.10, 21.22, 21.25, 21.27, 21.29, 21.31, 21.34, 21.39, 21.40, 21.41, 21.44, 21.45, 21.46, 21.48 (2) and (4), 21.49, 21.53, 21.55, 21.58, 21.63 to 21.66 and 21.68 to 21.78; to renumber 21.024, 21.20 and 21.48 (3); to renumber and amend 21.23, 21.24, 21.50 (intro. par.) and 21.67; to amend chapter 21 (chapter title), 21.025 (1), (2) (b) and (3), 21.03, 21.06, 21.13, 21.14, 21.15, 21.28, 21.33, 21.35, 21.37 (1), 21.38, 21.42, 21.48 (1), 21.50 (2), 21.54, 21.615 (1) (a) and 21.616; to repeal and recreate 21.01, 21.04 (2), 21.05, 21.07, 21.09, 21.12 and 21.18 (1) and (3); and to create 21.18 (4), 21.19 (5), (8) and (9) and 21.48 (3) of the statutes, relating to the Wisconsin national guard.

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

SECTION 1. Chapter 21 (chapter title) of the statutes is amended to read:

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#### WISCONSIN NATIONAL GUARD \* \* \*

SECTION 2. 21.01 of the statutes is repealed and recreated to read:

21.01 COMPOSITION OF NATIONAL GUARD. (1) The organized militia of this state shall be known as the "Wisconsin National Guard" and shall consist of members of the militia voluntarily therein, who upon original enlistment shall be not less than 17 nor more than 45 years of age, or who in subsequent enlistment shall be not more than 64 years, organized, armed, equipped and federally recognized, and of commissioned officers and warrant officers who are citizens of the United States between the ages of 18 and 65 years; provided that former members of the regular army, navy or marine corps under 64 years of age may enlist in the Wisconsin national guard.

(2) The Wisconsin national guard shall be organized into army national guard and air national guard units, and the term "National Guard" when used in this chapter, unless the context otherwise requires, includes both the Wisconsin army national guard and the Wisconsin air national guard.

SECTION 3. 21.02 of the statutes is repealed.

SECTION 4. 21.024 of the statutes is renumbered 21.02.

SECTION 5. 21.025 (1), (2) (b) and (3) of the statutes are amended to read:

21.025 (1) *In the event that all or part of the Wisconsin national guard is called into the service of the United States* the adjutant general shall organize a force to be known as the Wisconsin state guard. It shall be distinct from the national guard, uniformed, and composed of officers, commissioned or assigned, and of enlisted personnel who volunteer for service. \* \* \*

(2) (b) The governor is authorized to form an aviation unit of the state guard and to formulate the rules and regulations therefor and to prescribe the duties thereof consistent with the functions of the state guard. \* \* \*

(3) For the use of such forces, the governor may requisition from the \* \* \* *federal government* such arms and equipment as may be

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\* \* \* *available*, and he may make available to \* \* \* *the state guard* the facilities of state armories and their equipment and such other state premises and property as may be available and may, through the adjutant general, rent or lease buildings or parts of buildings and grounds for armory purposes or \* \* \* *continue in possession of* \* \* \* *such* premises leased by \* \* \* *the adjutant general for the use of the national guard*, paying rental therefor out of funds appropriated under s. 20.03 (1) \* \* \*. All leases so made shall terminate upon dissolution of the Wisconsin state guard regardless of the term provided therein unless the premises shall be needed for national guard purposes, in which case the lease may be assigned by the adjutant general to the national guard organization intending to occupy the premises.

SECTION 6. 21.03 of the statutes is amended to read:

21.03 The governor is authorized to receive and distribute, according to law, the quota of arms and military equipments which the state may receive from the government of the United States under the provisions of any acts of congress providing for arming and equipping the national guard *and the state guard*.

SECTION 7. 21.04 (2) of the statutes is repealed and recreated to read:

21.04 (2) The adjutant general may grant to the federal government the right to use any area of Camp Williams upon such conditions as he may deem advisable.

SECTION 8. 21.04 (3) of the statutes is repealed.

SECTION 9. 21.05 of the statutes is repealed and recreated to read:

21.05 TERM OF ENLISTMENT; REQUIREMENTS. Every person who enlists or receives a commission in the national guard shall serve for the term prescribed and satisfy the physical, educational and training requirements prescribed by the national guard bureau.

SECTION 10. 21.06 of the statutes is amended to read:

21.06 Every member of the national guard shall be exempt from jury duty and every member who shall be honorably discharged *or separated from the service*, either after 5 years service, or by reason of \* \* \* *disability* received in the line of duty, shall be forever so exempt \* \* \*.  
\* \* \*

SECTION 11. 21.07 of the statutes is repealed and recreated to read:

21.07 DECORATION FOR LONG AND FAITHFUL SERVICE. Every member of the Wisconsin national guard who has served for not less than 10 years in the national guard, shall be eligible to receive a decoration for long and faithful service and shall be entitled to a clasp thereon for each additional 5 years of service. The decorations shall be in such form and the issue thereof made under such regulations as the governor may prescribe.

SECTION 12. 21.08 of the statutes is repealed.

SECTION 13. 21.09 of the statutes is repealed and recreated to read:

21.09 TRAINING; SPECIAL SCHOOLS; PAY AND ALLOWANCES. The governor may order the national guard to assemble for training at any military establishment within or without the state specified and approved by the department of defense and fix the dates and places thereof, and he may order members of the national guard, at their option, to attend such special schools for military training as may be authorized by the state or federal government. For such training and attendance at

special schools, members of the national guard shall receive such pay and allowances as the federal government or the governor may authorize.

SECTION 14. 21.10 of the statutes is repealed.

SECTION 15. 21.12 of the statutes is repealed and recreated to read:

21.12 EXEMPTION FROM CIVIL AUTHORITY. During the time the national guard is performing military duty pursuant to proper orders issued by the governor or such other persons as provided in ss. 21.09 and 21.11, all members thereof shall be exempt from arrest or service of any process issued by a civilian court.

SECTION 16. 21.13, 21.14 and 21.15 of the statutes are amended to read:

21.13 If any member of the national guard or the state guard shall be prosecuted by any civil or criminal action for any act performed by such member while in the performance of his military duty and in pursuance thereof, the action against such member may, in the discretion of the governor, be defended by counsel appointed therefor by the governor upon the recommendation of the attorney general. The costs and expenses of any such defense shall be audited by the director of budget and accounts and paid out of the state treasury and charged to the legal expense appropriation \* \* \* s. 20.08 (2) *and if the jury or court finds that the member of the national guard against whom the action is brought acted in good faith the judgment as to damages entered against him shall also be paid by the state.*

21.14 A person who, either by himself or with another, wilfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or in respect to his trade, business or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect to his employment, trade, or business, or who refuses to grant leave to any employe who is a duly enrolled member of the national guard, state guard, officers reserve corps, enlisted reserve corps, naval reserve, marine corps reserve or any other reserve component of the military or naval forces of the United States or the state of Wisconsin \* \* \* organized or constituted under federal law to attend military schools, *armory drill, field training, field camps of instruction and training cruises which have been duly ordered* \* \* \* or who shall cause the seniority, vacation, or salary advancement of such employe to be adversely affected by reason of such leave, shall be \* \* \* *fined* not less than \* \* \* \$50 nor more than \* \* \* \$200, or \* \* \* *imprisoned* not \* \* \* *more than* \* \* \* *6 months, or both.*

21.15 No person shall retain at any time any arms, equipments or military stores of any kind belonging to the state *or any federally owned property issued to the state*, unless they have been properly issued to him in pursuance of law, and he shall be permitted by proper authority to retain the same in the discharge of a public duty; and no person shall use any public arms, equipments, clothing or military stores belonging to the state, *either as owner or bailee*, for his private use. Any person violating any provisions of this section shall \* \* \* *be fined* not \* \* \* *more than* \* \* \* \$200 \* \* \* . \* \* \*

SECTION 17. 21.18 (1) and (3) of the statutes are repealed and recreated 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, who may be a general officer; a chief surgeon; and not more than 5 aides-de-camp with the rank of colonel; and such other

officers as the governor may deem necessary. Vacancies shall be filled by appointment by the governor.

(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 sub. (4), shall hold their positions until they shall have reached the age of 65 years, unless retired prior to that time by reason of resignation, disability or for cause to be determined by a courtmartial legally convened for that purpose. Vacancies among said officers, other than aides-de-camp, shall be filled by appointment from officers of the Wisconsin national guard.

SECTION 17a. 21.18 (4) of the statutes is created to read:

21.18 (4) The present adjutant general shall have the same tenure as other staff officers under the provisions of sub. (3). Future vacancies of the office of the adjutant general shall be filled by appointment by the governor from officers of the army national guard of Wisconsin or air national guard of Wisconsin who have had 5 or more years of federally recognized commissioned service in the active army national guard of Wisconsin or active air national guard of Wisconsin or a combination thereof, and who have attained at least the grade of major. The adjutant general shall hold office for 10 years unless terminated earlier by reason of resignation, disability or for cause as determined by a court-martial legally convened for that purpose, and shall be eligible to succeed himself and when 65 years of age shall cease to hold office.

SECTION 18. 21.19 (5) of the statutes is created to read:

21.19 (5) In the absence or incapacity of the adjutant general the deputy adjutant general shall have all the powers and duties of the adjutant general.

SECTION 19. 21.20 of the statutes is renumbered 21.19 (4).

SECTION 20. 21.22 of the statutes is repealed.

SECTION 21. 21.23 and 21.24 of the statutes are renumbered 21.19 (6) and (7), respectively, and amended to read:

21.19 (6) The *adjutant general as* quartermaster-general shall also be \* \* \* chief of \* \* \* *all logistical services*.

(7) The *adjutant general as* quartermaster-general shall have charge of all the military property of the state, and carefully preserve, repair and account for the same; keep in such manner as the governor shall direct, and subject to his inspection, an account of all moneys received and expended by him; perform the customary duties of his office, and of the office of \* \* \* chief of \* \* \* *all logistical services*, and have the custody of all records, returns and papers pertaining to such offices; and he shall on or before October 1 in each even-numbered year render a report to the governor, to be laid before the legislature, giving a detailed statement of all moneys received and expended by him, of all military property belonging to the state *as owner or bailee* and remaining on hand at the date of his last report, and such as may have come into his possession after such date, from what sources the same have been received, to whom issued or how expended, and upon whose order, and the condition of the property remaining on hand, also showing who has the possession, and the condition of all military property issued under the law, so far as the same has been reported to him. The transportation of all troops, arms, accoutrements, stores and other property and the preparation for encampments shall be contracted for by him under direction of the governor.

SECTION 22. 21.19 (8) and (9) of the statutes are created to read:

21.19 (8) The adjutant general as quartermaster-general shall issue all necessary supplies to members and units of the national guard and,

subject to the approval of the governor, may contract for the purchase and transportation of such supplies.

(9) When any military property belonging to the state as owner or bailee is wrongfully held by another person, the adjutant general may bring an action in the name of the state to recover possession of the same or the money value thereof.

SECTION 23. 21.25 of the statutes is repealed.

SECTION 24. 21.27 of the statutes is repealed.

SECTION 25. 21.28 of the statutes is amended to read:

21.28 \* \* \* The chief surgeon shall be the head \* \* \* of the *medical department of the national guard* and shall be paid a salary of \$1,000 annually and shall be allowed his necessary expenses when serving under orders. \* \* \*

SECTION 26. 21.29 of the statutes is repealed.

SECTION 27. 21.31 of the statutes is repealed.

SECTION 28. 21.33 of the statutes is amended to read:

21.33 The \* \* \* quartermaster-general acting as paymaster under orders from the governor, shall have authority to draw from the state treasury the money necessary for paying troops in camp or on active service, and shall furnish such security for the same as the state treasurer may direct. The amount due on account of the field, staff or other officers, noncommissioned staff and band, company or enlisted men, not herein enumerated, if any, shall be paid to the person to whom the same shall be due, on the properly signed and certified pay rolls.

SECTION 29. 21.34 of the statutes is repealed.

SECTION 30. 21.35 of the statutes is amended to read:

21.35 The organization, armament, *equipment* and discipline of the Wisconsin national guard shall be \* \* \* that \* \* \* prescribed \* \* \* by *federal laws or regulations*; and the governor may by order perfect such organization, armament, *equipment* and discipline, at any time, so as to comply with \* \* \* *such laws* \* \* \* and regulations \* \* \*. *The uniform code of military justice shall apply under the authority of this state to members of the national guard during all periods of military duty. The governor may direct the convening of courts martial for the trial and punishment of offenders.* Notwithstanding any rule or regulation prescribed by the federal government or any officer or department thereof, no person, otherwise qualified, shall be denied membership in the Wisconsin national guard because of color, race or creed and no member of the Wisconsin national guard shall be segregated within the Wisconsin national guard on the basis of color, race or creed.

SECTION 31. 21.37 (1) of the statutes is amended to read:

21.37 (1) \* \* \* Courts-martial legally convened for the trial of members of the Wisconsin national guard shall have authority, \* \* \* to impose fines \* \* \* or imprisonment in \* \* \* accordance with the *uniform code of military justice, subject to approval of the governor.* The sheriff or other officers shall aid in the enforcement of such \* \* \* code as in other *criminal* cases.

SECTION 32. 21.38 of the statutes is amended to read:

21.38 The uniform of the national guard shall be that \* \* \* *prescribed by regulations for the corresponding branch of the United States* \* \* \* *armed forces.*

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SECTION 33. 21.39, 21.40 and 21.41 of the statutes are repealed.

SECTION 34. 21.42 of the statutes is amended to read:

21.42 (1) \* \* \* *Every federally recognized company sized unit*, when such organization is perfected, shall without any further proceeding constitute a corporate body to be known by the name by which such company is officially designated under the military laws and regulations of the state, and shall possess all the powers necessary and convenient to accomplish the objects and perform the duties prescribed by law.

(2) The members of such \* \* \* *company sized unit* in good standing and no others shall constitute the members of such corporation and shall elect 3 trustees who shall manage and administer the business of such corporation. The trustees shall elect one of their number president, and one vice president and shall also elect a secretary.

(3) Each such *company sized unit* may take by purchase, devise, gift or otherwise and hold property, both real and personal, and with the approval of the adjutant general sell, convey and mortgage such property, so long as such *company sized unit* is an existing \* \* \* *unit* and a part of the national guard of Wisconsin. All such property shall be in the custody and control of the trustees \* \* \* .

(4) Whenever any such *company sized unit* shall be disbanded as provided by law such corporation shall cease to exist and all property belonging to it shall become the property of the state \* \* \* .

SECTION 35. 21.44, 21.45 and 21.46 of the statutes are repealed.

SECTION 36. 21.48 (1) of the statutes is amended to read:

21.48 (1) Each officer *and enlisted man* while on active duty in the state under orders of the governor \* \* \* *on a state pay basis* shall receive the pay and allowances of an officer *or enlisted man* of equal rank in the *corresponding branch of the United States* \* \* \* *armed forces*.

SECTION 37. 21.48 (2) of the statutes is repealed.

SECTION 38. 21.48 (3) of the statutes is renumbered 21.48 (2).

SECTION 38a. 21.48 (3) of the statutes is created to read:

21.48 (3) The governor may order, with their consent, to active duty in the office of the adjutant general, any departmental officers of his staff, including the adjutant general and the deputy adjutant general, and while so assigned shall receive the pay, but not the allowances, of an officer of equal grade in the armed forces of the United States.

SECTION 39. 21.48 (4) of the statutes is repealed.

SECTION 40. 21.49 of the statutes is repealed.

SECTION 41. 21.50 (intro. par.) of the statutes is renumbered 21.50 (1) and amended to read:

21.50 (1) Each commanding officer to whom state *or federal* military property is issued shall execute to the state a bond, with such sureties and in such form *and amount* as the \* \* \* *adjutant general* shall approve, \* \* \* conditioned for the faithful preservation and care of all such arms, accoutrements, moneys, or stores, as shall be by him received, to indemnify the state against loss by misuse or misapplication of any part thereof by himself or any other person; to account for all of the same according to law, and to deliver the same to any officer lawfully entitled thereto, on demand, and to pay all sums lawfully appraised for losses or damages. Thereupon the quartermaster-general shall issue such arms, accoutrements and stores as the governor shall by order direct, which shall be as nearly as possible like those in use in the \* \* \* *armed forces* of the United States.

SECTION 42. 21.50 (2) of the statutes is amended to read:

21.50 (2) The \* \* \* *unit commander* is the legal custodian of the money, property and effects of any company, \* \* \* *sized unit or detachment* of the national guard, whether said property is owned by said \* \* \* *unit or detachment* or its members collectively, or has been issued to it or any of its officers, for its use by state or United States authority, and may sue for and recover possession of the same, whenever wrongfully withheld from his custody or the custody of the \* \* \* *unit or detachment*.

SECTION 43. 21.53 of the statutes is repealed.

SECTION 44. 21.54 of the statutes is amended to read:

21.54 A commissioned officer may resign his commission to his immediate commanding officer, in writing, who shall \* \* \* *promptly* forward the same *through military channels* to the adjutant general. The governor shall, by order, accept or reject the same, and, if accepted, fix the date of its taking effect. No resignation shall take effect except as so ordered. \* \* \*

SECTION 45. 21.55 of the statutes is repealed.

SECTION 46. 21.58 of the statutes is repealed.

SECTION 47. 21.615 (1) (a) of the statutes is amended to read:

21.615 (1) (a) There is created the Wisconsin state armory board which is hereby made a body politic and corporate to consist of 5 members. The adjutant general \* \* \* and the state engineer shall at all times be ex officio members of the board. The remaining \* \* \* 3 members shall be appointed by the governor from the active list of officers of the Wisconsin national guard or its successor, and any vacancy arising among the \* \* \* 3 members appointed by the governor shall be filled by appointment by the governor in like manner. The adjutant general of Wisconsin shall be chairman of the board. The board shall elect from its own membership a secretary and a treasurer and the board may change such officers from time to time.

SECTION 48. 21.616 of the statutes is amended to read:

21.616 The adjutant general is authorized and directed, when contributions therefor are made available by the federal government under the national defense facilities act of 1950 or any act or acts amendatory thereof or supplementary thereto, to expand, rehabilitate, *equip* or convert facilities owned by the state and to acquire, construct, expand, rehabilitate, *equip* or convert additional facilities. The adjutant general may on the part of the state accept such federal contributions in the manner prescribed by federal law or regulation, and may accept on behalf of the state the lawful terms and conditions thereof. The adjutant general shall take such steps and have all the functions and powers necessary, consistent with the appropriation therefor, to acquire contributions under any such federal act and to undertake and complete any such project in conformity with the applicable federal act and this section.

SECTION 49. 21.63 to 21.66 of the statutes are repealed.

SECTION 50. 21.67 of the statutes is renumbered 21.63 and amended to read:

21.63 Whenever any company *sized unit or detachment* shall fall below the minimum in membership, become lax in discipline, negligent in drill or other duties, insubordinate, or its members lose interest in their organization, or when, upon inspection, it shall appear to be not properly organized or conducted, or when musters and returns shall not be made, the governor may muster out the same, and may direct all arms, accoutre-

ments and stores to be delivered up by whomsoever held \* \* \*. Any person, who \* \* \* *is not* a member \* \* \* *in good standing*, \* \* \* *retaining* arms or property \* \* \* *belonging to* the state, as owner or bailee, in his possession \* \* \* shall forfeit not less than \$25 nor more than \$100.

SECTION 51. 21.68 to 21.78 of the statutes are repealed.

Approved May 6, 1955.

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