

1 **AN ACT** *to repeal* 21.15 (title), 21.155 (title), 21.56 (title), 21.57 (title), 21.61 (title),
 2 21.612 (title) and 21.616 (title); *to renumber and amend* 21.03, 21.04, 21.15,
 3 21.155, 21.50, 21.56, 21.57, 21.61, 21.612 and 21.616; and *to create* 21.23 (title) of
 4 the statutes; **relating to:** powers and duties of the department of military affairs,
 5 military officers, military property and assets, the national guard and state defense
 6 force, rights of service personnel, and the Wisconsin code of military justice.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the drafting subcommittee of the joint legislative council’s special committee on recodification of ch. 21, military affairs. The special committee was directed to conduct a recodification of ch. 21, relating to military affairs, to include reorganizing the chapter in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, making other necessary organizational changes, and making minor substantive changes.

Under the draft, ch. 21 will be reorganized as follows:

Subchapter I

General Provisions

- 21.01 Definitions.
- 21.02 Powers and duties of the governor.
- 21.03 Powers and duties of the department
- 21.04 Powers and duties of the adjutant general.
- 21.05 Civil service status.

Subchapter II

Military Officers

- 21.10 Military staff of the governor.
- 21.11 United States property and fiscal officer.

- 21.12 Chief surgeons.
- 21.13 Discharge of officers.
- 21.14 Authority to administer oaths.
- 21.15 Resignation of officer.

Subchapter III

Property and Assets

- 21.20 Distribution of arms.
- 21.21 Military property accountability.
- 21.22 Camp Williams.
- 21.23 Facilities and lands.
- 21.24 Encroachment on military areas and interference with military personnel.

Subchapter IV

National Guard and State Defense Force

Subchapter V

Rights of Service Personnel

Subchapter VI

Wisconsin Code of Military Justice

1 **SECTION 1.** 21.03 of the statutes is renumbered 21.20 and amended to read:

2 **21.20 Distribution of arms.** The governor may receive and distribute, according to
3 law, the quota of arms and military equipment which the state may receive from the U.S.
4 government of the United States under the provisions of any acts of congress federal laws
5 providing for arming and equipping the national guard and the Wisconsin state defense force.

6 **SECTION 2.** 21.04 of the statutes is renumbered 21.22 and amended to read:

1 **21.22 Camp Williams.** (1) The state ~~camp grounds~~ facilities near Camp Douglas,
2 Juneau County, shall be known as “Camp Williams”. The officer in charge of Camp Williams
3 shall have ~~at said camp~~ the police powers of arrest possessed by officials at state hospitals, as
4 provided in s. 46.058 (2).

5 (2) The adjutant general may grant to the federal government the right to use any area
6 of Camp Williams upon ~~such~~ conditions as that the adjutant general deems advisable.

7 (3) In memory of 1st lieutenant Jerome A. Volk, the first Wisconsin air national guard
8 pilot killed in combat during the Korean conflict, so much of Camp Williams as is under lease
9 to the federal government for use of the air national guard shall be known as “Volk Field”
10 during the time the property remains under lease to the U.S. government ~~of the United States~~.

COMMENT: Is “so much of Camp Williams as is under lease” archaic?

11 **SECTION 3.** 21.15 (title) of the statutes is repealed.

12 **SECTION 4.** 21.15 of the statutes is renumbered 21.21 (4) (a) and amended to read:

13 21.21 (4) (a) No person may retain at any time any military arms, equipment ~~or military~~
14 ~~stores of any kind belonging to, clothing, or supplies owned by~~ the state or any federally owned
15 property issued to the state, unless the property has been issued to the person pursuant to law
16 and the proper authority permits the person to retain the property in the discharge of a public
17 duty. No person may use ~~any public~~ military arms, equipment, clothing or ~~military stores~~
18 supplies belonging to the state, either as owner or bailee, for the person’s private use. Any
19 person violating this ~~section~~ paragraph shall forfeit not less than \$50 nor more than \$200.

COMMENT: The drafting subcommittee wanted to highlight for the special committee’s attention the level of penalties both in this provision and in current s. 21.155. Those penalty levels were established in 1980. Chapter 221, laws of 1979 (the 1980 budget review act), changed the penalty for violating s. 21.15 from a fine of not more than \$200 to a forfeiture of not less than \$50 nor more than \$200. In addition, ch. 221, laws of 1979 changed the penalty for violating s. 21.155 from

imprisonment for not more than 6 months or a fine of not more than \$100 to a forfeiture of not less than \$50 nor more than \$200 (no imprisonment).

In addition, the drafting subcommittee wanted to highlight the fact that there is a minimum forfeiture required for private use of military equipment, which could include, for example, using the office telephone to call home.

1 **SECTION 5.** 21.155 (title) of the statutes is repealed.

2 **SECTION 6.** 21.155 of the statutes is renumbered 21.21 (4) (b) and amended to read:

3 21.21 (4) (b) ~~No~~ A person who possesses under the laws of this state any military arms,
4 equipment or other ~~military~~ property ~~may willfully neglect or refuse~~, after lawful demand is
5 made for the return of the property by order of the ~~governor~~ adjutant general, to shall return
6 the property promptly. No person may knowingly resist any officer who is lawfully taking
7 possession of ~~such~~ the military arms, equipment or other ~~military~~ property. Any person
8 violating this ~~section~~ paragraph shall forfeit not less than \$50 nor more than \$200.

9 **SECTION 7.** 21.23 (title) of the statutes is created to read:

10 **21.23 (title) Facilities and lands.**

11 **SECTION 8.** 21.50 of the statutes is renumbered 21.21 and amended to read:

12 **21.21 Military property accountability. (1)** (a) Each commanding officer to whom
13 state or federal military property is issued may be required to execute to the state a bond, with
14 such sureties and in such form and amount as the adjutant general shall approve, conditioned
15 for the faithful preservation and care of all such the arms, accoutrements, moneys, or stores
16 supplies, that the officer received, to indemnify the state against loss by misuse or
17 misapplication by the officer or any other person; to account for ~~all of the same~~ them according
18 to law, and to deliver ~~the same~~ them to any officer lawfully entitled ~~thereto~~ to them, on demand,
19 and to pay all sums lawfully appraised for losses or damages.

COMMENT: Are “such sureties and in such form” and “faithful presentation” archaic?

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

7 (c) The adjutant general, ~~with the approval of the governor~~ may obtain and pay for out
8 of the annual military appropriation an adequate indemnity bond covering all of the officers
9 of the national guard responsible to the state for moneys and military property.

COMMENT: Is there a citation for the appropriation?

10 (d) Each company commander, with the approval of the adjutant general, may employ
11 an armorer to assist in the proper care of military property for which the company commander
12 is accountable.

COMMENT: Is the word “effects” needed? Is it different than “property”? Paragraph (b) uses “effects”, but par. (c) does not.

COMMENT: Is “armorer” the proper term?

13 **SECTION 9.** 21.56 (title) of the statutes is repealed.

14 **SECTION 10.** 21.56 of the statutes is renumbered 21.21 (2) and amended to read:

15 21.21 (2) (a) All state-owned military property issued to any officer or armory facility
16 manager shall be audited annually as a part of the annual inspection of federal property
17 accounts. When damages other than ~~fair~~ reasonable wear and tear or loss of state-owned
18 property is discovered, the adjutant general shall appoint a surveying officer to determine the
19 cause and fix blame. Upon review, the adjutant general may hold responsible individuals

1 ~~pecuniarily~~ financially liable, and may require a depreciated payment, as determined by the
2 adjutant general, into the state treasury. If it is determined that the property was damaged,
3 destroyed or lost without fault or neglect on the part of those responsible, all concerned may
4 be relieved of liability.

5 (b) Whenever any state-owned military property becomes unsuitable, unserviceable or
6 no longer required for military purposes, it shall be disposed of as surplus property subject to
7 s. 16.72 (4) and (5).

8 **SECTION 11.** 21.57 (title) of the statutes is repealed.

9 **SECTION 12.** 21.57 of the statutes is renumbered 21.21 (3) and amended to read:

10 21.21 (3) (a) Whenever any officer who is responsible for state property is separated
11 or reassigned, all property in the officer's possession or for which the officer is responsible
12 shall ~~be delivered to~~ become the responsibility of the person designated to receive the property
13 by the adjutant general. No separation shall be effective until all property accounts have been
14 settled.

15 (b) In case of the death of any officer having custody of state or federal property, the
16 next in command shall immediately take charge of ~~such~~ the property and deliver ~~the same~~ it
17 to the person appointed to receive the property by the adjutant general.

18 **SECTION 13.** 21.61 (title) of the statutes is repealed.

19 **SECTION 14.** 21.61 of the statutes is renumbered 21.23 (1) and amended to read:

20 21.23 (1) (a) The governing body of any city, village, town or county in which one or
21 more companies of the national guard may be located may erect or purchase a suitable armory
22 for the purpose of drill and for the safekeeping of the military arms, equipment, uniforms and
23 other ~~military~~ property furnished by the state, and for public meetings and conventions, when
24 ~~such~~ the use will not interfere with the use of ~~such~~ the building by the national guard. Plans

1 and specifications for ~~such~~ armories shall be inspected and approved by the ~~governor~~ state
2 building commission and the adjutant general ~~who~~. The adjutant general shall file with the
3 governing body of the city, village, town or county a certificate of ~~such~~ inspection and
4 approval prior to the erection thereof of the armory.

5 (b) The governing body of any city, village, town or county in which any ~~such~~ company
6 of the national guard may be located may purchase land and build armories in the same manner
7 as the governing body is now authorized by law to build other city, village, town or county
8 buildings, ~~and when~~. When the governing body is unable to agree upon the price of land with
9 its owner, the governing body may, ~~if in its opinion necessary~~, appropriate land for the purpose
10 of building armories in the same manner as the governing body is ~~now~~ authorized by law to
11 appropriate real estate for other city, village, town or county buildings. ~~In case however~~ If a
12 city, village, town or county ~~shall have~~ has aided in the erection of an armory and the company
13 or companies of the national guard for which the armory was erected ~~shall at any time be~~ is
14 disbanded, ~~then~~ the armory shall become the property of the city, village, town or county in
15 which the armory is erected.

16 (c) ~~Such~~ The armory, when erected or purchased, shall be under the control and charge
17 of the governor, the adjutant general and commanding officer of the company or companies
18 of the national guard for which it has been provided. ~~The commanding officer~~ company shall
19 ~~cause to be deposited therein~~, deposit in the armory all military arms, uniforms and equipment
20 received from the governor and the adjutant general ~~who~~. The governor and the adjutant
21 general may make ~~such~~ rules as ~~they deem proper~~ for the observance of all officers and persons
22 having charge of ~~such~~ the armories or occupying any part thereof of the armories.

23 (d) Whenever any county, city, town or village erects a building as a memorial to ~~the~~
24 ~~soldiers, sailors and marines~~ members of the U.S. armed forces or national guard who served

1 in any war or armed conflict of the United States and makes provision therein in the memorial
2 for the accommodation of one or more companies of the national guard having no regularly
3 established armory, the governor, adjutant general or other state officers having control of
4 armory accommodations and regulations shall, whenever practicable, rent the armory
5 provided in ~~such~~ the memorial building for the use of companies of the national guard.

COMMENT: In par. (d), should “regulations” be replaced by “rules.” See
par. (c).

6 **SECTION 15.** 21.612 (title) of the statutes is repealed.

7 **SECTION 16.** 21.612 of the statutes is renumbered 21.23 (2) and amended to read:

8 21.23 (2) Any county, city, town or village may transfer land or may acquire land for
9 the purpose of transferring the ~~same~~ land, by gift or otherwise, to the state for state military
10 purposes, ~~and any such transfers or acquisitions heretofore made for such purposes are~~
11 ~~validated.~~

COMMENT: Should this provision refer to “the governing body” of a
county, city, town, or village? In the alternative, should “the governing
body” be deleted from current s. 21.61 (1), as renumbered and amended
by SECTION 14?

12 **SECTION 17.** 21.616 (title) of the statutes is repealed.

13 **SECTION 18.** 21.616 of the statutes is renumbered 21.23 (3) and amended to read:

14 21.23 (3) The department of ~~military affairs is authorized and directed~~ may, when
15 contributions ~~therefor~~ are made available by the federal government under ~~the national~~
16 ~~defense facilities act of 1950 or any act or acts amendatory thereof or supplementary thereto~~
17 federal law, to expand, rehabilitate, equip or convert facilities owned by the state and to
18 acquire, construct, expand, rehabilitate, equip or convert additional facilities. The department
19 of ~~military affairs~~ may on the part of the state accept ~~such~~ federal contributions in the manner
20 prescribed by federal law or regulation, and may accept on behalf of the state the lawful terms

1 and conditions ~~thereof~~ of a federal contribution. The department of ~~military affairs~~ shall take
2 such steps and have all the functions and powers necessary, consistent with the appropriation
3 therefor, to acquire contributions under ~~any such~~ federal act law and to undertake and
4 complete ~~any such~~ a project in conformity with the applicable federal act and this section
5 subsection.

COMMENT: Are “on the part of the state” and “on behalf of the state” needed? If so, one phrase should be used consistently.

In the last sentence, is there a simpler way of saying “the department shall take such steps and have all the functions and powers necessary, consistent with the appropriation therefor...”? Could it be replaced by “the department has the powers and duties necessary....”?

6

(END)