



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #606

Creation of a Wisconsin Naval Militia (Military Affairs -- Agencywide)

[LFB 2001-03 Budget Summary: Page 450, #8]

CURRENT LAW

No provision.

GOVERNOR

Create a Wisconsin naval militia under the command and control of the Governor acting through the Department of Military Affairs Adjutant General, as follows:

Composition of Naval Militia. Provide that the Wisconsin naval militia would consist of members or former members of the U. S. Naval, Coast Guard or Marine Corps reserve, enlisted or appointed, who also join the Wisconsin naval militia. Specify that the members and units of this new entity would be under the command and control of the Governor through the Adjutant General. Establish the primary purpose of the naval militia as responding to the call of the Governor to support the state during times of natural disaster, state emergency, domestic disorder or other public service missions. Require the Adjutant General to establish the structure and units of the naval militia, subject to the approval of the Governor.

Assistant Adjutant General for Readiness and Training for the Naval Militia. Specify that the military staff of the Governor would be expanded to include an Assistant Adjutant General for Readiness and Training for the Naval Militia, who must hold the rank of Rear Admiral Lower Half or Brigadier General, depending on the branch of service. Specify that the new Assistant Adjutant General would be appointed by the Adjutant General, with the consent of the Governor, for a three-year period and could be reappointed. Stipulate that appointment of this Assistant Adjutant General would not be conditioned upon current membership in any of the U. S. armed forces reserves, but the individual would have to be a member of a U. S. reserve component or separated from the military under honorable conditions. Specify that this new

position would be assigned to the state unclassified service. No position authority or funding would be provided under the bill for the Assistant Adjutant General for Readiness and Training.

Naval Militia Units and Members Generally Made Subject to the Same Policies and Procedures Currently Applicable to the Wisconsin National Guard. Specify that the Wisconsin naval militia would be administered by the Department and would generally be subject to the same requirements of Chapter 21 of the statutes that govern members of the Wisconsin National Guard.

These provisions include the following. The Department would be responsible for providing facilities and any other available support and all administration needs for the naval militia. The Department would be authorized to rent these facilities to the naval militia when the facilities are not in use. The Adjutant General would be required to issue all necessary supplies, and arrange for their purchase and transportation. All subsistence would be supplied while on active duty. The naval militia would be provided with all necessary physical exams, inoculations and medical supplies. The Governor would be authorized to receive arms and military equipment from the U.S. government for a naval militia. The uniform of the naval militia would be consistent with the member's branch of service.

Specify that members of the naval militia on active duty in the state under orders of the Governor on a state basis would receive pay equal to their pay grade in the U. S. Armed Forces, including allowances and that the base pay could not be less than \$50 per day. Members of the Governor's military staff on such duty would receive the pay, but not the allowances, of an officer of equal grade in the U. S. armed forces. The Governor would be authorized to order the naval militia to assemble for regular and specialty training. Pay and allowances for attendance at these schools would be set by the state or federal government.

Provide that members of the naval militia would be entitled to leaves of absence from state service, without loss of time served, to attend military school and annual field training or annual federal tours of active duty. Establish that membership in the naval militia would be subject to the state nondiscrimination statutes, to the extent allowed by federal law and regulations. Specify that naval militia members while in state service are employees for worker's compensation purposes. Authorize the payment of a death benefit of at least \$50,000 to dependents of a deceased member of the naval militia who died while performing required services.

Any member of the naval militia failing to carry out orders, or failing to appear for duty as ordered, would be subject to the Wisconsin Code of Military Justice. Any member of the naval militia subject to prosecution arising from acts performed while on military duty, and in pursuance of that military duty would be defended at state expense and any judgments ordered to be paid would be funded from a sum sufficient appropriation under Program Supplements used for the payment of judgments against the state and its officers and agents.

In the event that the naval militia would be activated by the Governor for the defense of the state during war, riot, natural disaster, great public emergency, provide that the members of

the naval militia would be paid from an existing GPR sum sufficient appropriation under the Department for such purposes. Modify the appropriation to permit its use in funding the naval militia during public emergencies.

DISCUSSION POINTS

1. Although a number of states, particularly in the East, had naval militias during the Revolutionary War and Civil War periods, most were disbanded or deactivated during the latter part of the 19th century. Wisconsin had a small naval militia from 1909 until it was repealed by Chapter 68, Laws of 1955. Currently, only four states (Alaska, New Jersey, New York and Ohio) have active naval militias. The New York naval militia dates from 1889, while the active naval militias in the other three states have all been organized or reactivated within the last 20 years.

2. The Wisconsin Constitution [Article V, Section 4] provides that the Governor shall be the commander in chief of the "military and naval forces of the state." Although the Governor is vested with the authority to command the state's naval forces, this power lies unused in the absence of a naval militia. The Department of Military Affairs views the current budget recommendations as enabling legislation to establish a basic operational framework for a naval force under the command of the Governor.

3. Once an enabling statute is in place, current federal law [10 *U. S. Code* 7854] would apply. This federal provision authorizes the Secretary of the Navy to issue, loan or assign vessels, material, armaments, equipment and facilities that are available to the Naval Reserve and the Marine Reserve to the naval militia of any state, provided

- At least 95% of the members of the state naval militia unit are comprised of active members of the Naval or Marine Corps Reserves; and
- The organization, administration and training of the naval militia conform to the standards prescribed by the Secretary of the Navy.

4. If a Wisconsin naval militia would be organized, DMA has indicated that it would staff the new militia solely from the ranks of active Naval Reservists in the state. DMA has identified 149 hospital reservists and 224 engineer reservists stationed in Green Bay, La Crosse, Madison and Milwaukee who would be the initial candidates for participation in the new naval reserve.

5. These reservists would undergo initial documentation and background checks and would take an oath of allegiance to the Governor, as commander in chief. DMA anticipates that initially, these naval reservists would have two to three training sessions annually. Initially, the Department does not anticipate expanding the ranks of the proposed naval militia any further than described here.

6. The Department advises that these modest activities leading to the "stand-up" of a Wisconsin naval militia could be accomplished at minimal expense and could be supported within

existing base level resources.

7. Members of the naval militia would not be state employees, would be in nonpay status (unless activated by the Governor under a declaration of emergency) and would not be covered by the National Guard tuition grant program.

8. The Department has identified the following benefits that could accrue from having a naval militia:

- A specialized cadre of reservists would be available to provide medical expertise for triage and decontamination situations. The state recently lost an Army Reserve medical unit; consequently, incorporating the hospital reservists into a naval militia would fill an important need in the event of an emergency;
- The naval militia could engage in clean-up, prevention or mitigation of natural disaster or man-made catastrophic event, especially in the case of long-term response; and
- The naval militia could respond to domestic disorder and civil defense responses, as directed by the Governor.

9. If the Committee believes that these considerations have sufficient merit to warrant the establishment of a separate Wisconsin naval militia, then it could approve the Governor's recommendation.

10. On the other hand, if the Committee believes that the state's existing Army and Air Force National Guard organizations are sufficient to meet the state's needs and that scarce resources in the future should be allocated to these entities rather than to a new organizational unit, then it could act to delete the Governor's recommendation.

11. If the Committee chooses to establish a Wisconsin naval militia at this time, it should bear in mind that although the current budget proposal contains no funding or position authorizations for the staffing and implementation of a state naval militia, the establishment of such a function will ultimately require an on-going commitment of additional GPR funding to the Department.

12. The Department estimates that initially, it would require a minimum of \$144,800 GPR during the first year and \$162,800 GPR during the second year to provide the most basic staff support for the operation of a Wisconsin naval militia. These funds would support an Assistant Adjutant General for Readiness and Training for the Naval Militia, an administrative coordinator position, LTE assistance and supplies and services costs. Depending upon what other activities would ultimately be assigned to the naval militia, if it were further expanded, additional future costs could be incurred.

ALTERNATIVES

1. Approve the Governor's recommendation to establish a Wisconsin naval militia.
2. Maintain current law.

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