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HOUSE REPUBLICAN STAFF ANALYSIS

Bill: Senate File 194
Committee: Veterans Affairs
Date: March 17th, 2011
Staff: Jill Jennings (1-3440)

Iowa Military Code and Military Service Changes, Definition of Performing Military Duty, Tort Claims Protections

This bill amends current code to change the name of the National Guard Facilities Improvement Fund to National Guard Support and Facilities Improvement Fund. It allows for these funds to be used for both NG operations and facilities improvements.

Amends current code regarding leasing of governmental facilities for designated military events, to eliminate the requirement that the adjutant general approve the events and to expand the definition of events to include departure-related events

Eliminates the requirement that the state quartermaster be a current or former commissioned officer- this change allows current or former noncommissioned officers to serve in the position. Amends current code to specify who may be placed on the role of retired military personnel from the Iowa National Guard.

Specifies who may be placed on the role of retired military personnel from the Iowa national guard, relating to Brevet commissions, is amended to link the brevet to membership in the Iowa national guard

Provides definitions for “performing military duty” as it relates to the waiver of fees for certain birth and death certificates, the designation for the dispositions of remains made on forms provided and authorized by the department of public defense, the disconnection of public utility services, the refund of fishing and hunting license fees, and the renewal of weapon permits.

Amends the Iowa Tort Claims Act to provide for members of the Iowa NG performing military duty in a state that has requested assistance from Iowa under the emergency management assistance compact are to be considered employees of the state of Iowa- for the purpose of tort claims arising from those duties where the tort claims coverage of the requesting state does not extend to such Iowa NG.

Summary of Action

The committee of Veterans Affairs passed Senate File 194 on March 17th, unanimously.

Section by Section Analysis

Section 1 - Leasing Support and facilities improvement fund. Adjutant General may operate or lease any of the National Guard facilities at Camp Dodge. Any income or revenue derived from the operation or leasing shall be deposited with the treasurer of state and credited to the NG support and facilities improvement fund. The balance in the NG support and facilities improvement fund is limited to a max of two million dollars; any amount exceeding the limit is credited to the general fund of the state.

National Guard support and facilities improvement fund is created in the state treasury. The proceeds of the fund are appropriated, and shall be used only to support NG operations and for the construction, improvement, modification, maintenance or repair of NG facilities-proceeds of the fund cannot be used for the construction of a new facility without the approval of the general assembly

Section 2 - Use of government facilities. The state or any political subdivision of the state shall permit the rental of facilities under its control, for a fee not in excess of any expenses incurred by the state or political subdivision, for designated military events. For purposes of this section, “designated military event” means an event, authorized by the adjutant general, for military family readiness groups, departing units, or for returning veterans of the NG, reserves, or regular components of the armed forces of the United States for a period of up to one year from the date of return from active duty.

Section 3 - A commissioned officer member of the NG who has 10 years’ service in the IA Army NG or the Iowa Air NG and has attained the grade of a field officer is detailed to be quartermaster and property officer of the state. This person will be in charge of all state military property under the adjutant general. The quartermaster will keep property returns and reports and give bond to the state of Iowa as the governor directs.

Section 4 - Roll of retired officers and enlisted personnel. An officer or enlisted person who is a member of the Iowa NG and completed 20 years of military service upon retirement from the Iowa NG (and have written request to the adjutant general be placed by order of the commander in chief on a roll in the office of the adjutant general) to be known as the “roll of retired NG military personnel.” A member registered on the roll is entitled to wear the uniform of the rank last held on state or other occasions of ceremony, when the wearing of such uniform is not in conflict with federal law.

Section 5 - The board may acquire land or real estate by purchase, contract for purchase, gift, or bequest and acquire, own, contract for the construction of, erect, purchase, maintain, alter, operate, and repair installations and facilities of the Iowa Army NG and the Iowa Air NG when funds for the installations and facilities are made available by the federal government, the state of Iowa, municipalities, corporations, or individuals.

The title to the property acquired will be in the name of the state of Iowa and the real estate may be sold or exchanged by the executive council, upon recommendation of the board, when it is no longer needed for the purpose for which it was acquired.

Income/revenue derived from the sale of the real estate is credited to the NG Support and Facilities Improvement Fund and used for purposes specified in section 29A.14 subsection 72.8

Section 6 - Brevet rank. The Commander in Chief (on the recommendation of the Adjutant General) may commission by brevet general and field grade officers of in the NG whose names appear on the Roll of

Retired Military Personnel in the next higher grade than that held at retirement or resignation. Brevet rank is only honorary and does not confer any privileges, commands or pay emoluments. Brevet officers may wear the uniform of their brevet rank on occasions of ceremonies related to state functions only.

Section 7 - Waiver of fees -military service. The certified copy fees for a birth certificate or death certificate of a service member who died while performing military duty is waived for a period of one year from the date of death for a family member of the deceased service member.

Section 8 - A declaration for disposition of remains made by a service member, who died while performing military duty on forms provided and authorized by the department of defense for service members for this purpose shall constitute a valid declaration of designee for purposes of this chapter

Section 9- Board rules provide that a public utility furnishing gas or electricity cannot disconnect service to a residence in which one of the heads of household is a service member deployed for military service, prior to a date ninety days after the end of the service member's deployment as long as the public utility is informed of the deployment.

Section 10 - License refunds. A service member deployed for military service will receive a refund of that portion of any license fee paid by the service member representing the service member's period of military service.

Section 11 - "Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the GA, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, does not include a contractor doing business with the state.

Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates of state institutions under the jurisdiction of DHS or DOC, and employees of the DVA, are considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement.

Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 10 904.703, and persons supervising those inmates under and according to the terms of the chapter 28E agreement, are to be considered employees of the state.

Members of the Iowa NG performing duties in a requesting state pursuant to section 29C.21 are to be considered employees of the state solely for the purpose of claims arising out of those duties in the event that the requesting state's tort claims coverage does not extend to such members of the Iowa NG or is less than that provided under Iowa law.

Section 12 - The commissioner of Public Safety will develop a process to allow service members deployed for military service to submit a renewal of a nonprofessional permit to carry weapons early and by mail. A permit issued to a service member who is deployed for military service, that would otherwise expire during the period of deployment shall remain valid for ninety days after the end of the service member's deployment.

Section 13 -EFFECTIVE UPON ENACTMENT