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Wallace
2/12/18

CS FOR HOUSE BILL NO. 152()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

A BILL

FOR AN ACT ENTITLED

"An Act relating to the organized militia; and relating to the authority of the adjutant general."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 26.05.060 is amended to read:

Sec. 26.05.060. Control and command of the organized militia [ALASKA NATIONAL GUARD AND ALASKA NAVAL MILITIA]. The governor, by virtue of this office, is the commander in chief [AS EX OFFICIO COMMANDER] of the militia of the state. The governor's command is exercised through the adjutant general, who shall carry out the policies of the governor in military affairs. The adjutant general represents the governor and shall act in conformity with the governor's instructions. The adjutant general shall exercise control and command of the military department of the state. The adjutant general shall adopt regulations that provide for the organization, administration, and equipment of the organized militia that are not contrary to federal law or

1 **regulations** [HAS COMMAND OF THE ALASKA NATIONAL GUARD AND
2 THE ALASKA NAVAL MILITIA WHILE THEY ARE NOT IN ACTIVE
3 FEDERAL SERVICE. THE GOVERNOR MAY ADOPT NECESSARY
4 REGULATIONS FOR THEM]. The Alaska National Guard and the Alaska Naval
5 Militia and their members are subject to all federal laws and regulations relating to the
6 National Guard and Naval Militia of the several states and territories and of the United
7 States.

8 * **Sec. 2.** AS 26.05.070 is amended by adding new subsections to read:

9 (b) The organized militia may not be used against or to mitigate a lawful
10 activity, including an organized labor activity.

11 (c) The adjutant general may order members of the organized militia to active
12 state service, with their consent, for full-time duty with the office of the adjutant
13 general.

14 * **Sec. 3.** AS 26.05.080 is amended to read:

15 **Sec. 26.05.080. Decision of governor final.** Whenever any portion of the
16 militia is ordered to duty by the governor, the decision of the governor in this matter is
17 final. **Whenever any portion of the militia is ordered to duty by the adjutant**
18 **general, the decision is subject to review by the governor.**

19 * **Sec. 4.** AS 26.05.100 is amended to read:

20 **Sec. 26.05.100. Alaska State Defense Force.** **With the consent of the United**
21 **States Congress, a** [A] state militia, known as the Alaska State Defense Force, may
22 be organized through voluntary enlistments under regulations as to **commission,**
23 **enlistment, administration, equipment, maintenance,** discipline, and training that
24 may be prescribed by the **adjutant general under AS 26.05.060 and 26.05.360**
25 [GOVERNOR]. During the time that the Alaska National Guard or the Alaska Naval
26 Militia, or any part of either of them, is not available to the state by reason of active
27 federal service, or the National Guard or Naval Militia requires augmentation to
28 perform its state mission, the governor may activate the Alaska State Defense Force.
29 **Members of the Alaska State Defense Force performing inactive duty or training**
30 **or community service duties shall receive benefits under AS 26.05.260 if the**
31 **member suffers an injury, disability, or death while in the line of duty.**

1 * **Sec. 5.** AS 26.05.190(a) is amended to read:

2 (a) [THE ADJUTANT GENERAL SHALL ADOPT AND PUBLISH
3 ORDERS AND REGULATIONS NOT CONTRARY TO LAW THAT IN THE
4 ADJUTANT GENERAL'S JUDGMENT ARE NECESSARY TO BRING THE
5 ORGANIZATIONS, ARMAMENT, EQUIPMENT, AND DISCIPLINE OF THE
6 ORGANIZED MILITIA TO A HIGH DEGREE OF EFFICIENCY.] The adjutant
7 general shall perform all the administrative functions incident to the operation of the
8 Alaska National Guard, the Alaska State Defense Force, and the Alaska Naval
9 Militia. In addition, the adjutant general shall have an inventory taken at least once
10 each year of all state military stores, property, and funds under the jurisdiction of the
11 adjutant general.

12 * **Sec. 6.** AS 26.05 is amended by adding a new section to read:

13 **Sec. 26.05.195. Adjutant general and assistant adjutant general duty**
14 **status.** The adjutant general and assistant adjutants general are subject to regulations
15 under this chapter and paid according to state law.

16 * **Sec. 7.** AS 26.05.210(b) is amended to read:

17 (b) When federal recognition of an officer's commission or warrant has been
18 withdrawn, the officer's state appointment as a commissioned or warrant officer may
19 be terminated, and the commission or warrant vacated upon [THE
20 RECOMMENDATION OF THE ADJUTANT GENERAL AND] approval of the
21 adjutant general [GOVERNOR].

22 * **Sec. 8.** AS 26.05.210(d) is amended to read:

23 (d) Commissioned or warrant officers may tender their resignations through
24 National Guard or Naval Militia command channels. Resignations shall be in writing,
25 stating the reason for resignation, and shall take effect when accepted by the adjutant
26 general [UPON THE APPROVAL OF THE GOVERNOR].

27 * **Sec. 9.** AS 26.05.220 is amended to read:

28 **Sec. 26.05.220. Retired list.** A commissioned officer and enlisted person upon
29 reaching the maximum age prescribed for active duty by appropriate regulations and a
30 commissioned officer or enlisted person who is disabled or incapacitated for active
31 duty through no personal fault or dereliction, and a commissioned officer or enlisted

1 person who serves honorably with the Alaska National Guard or with the Alaska
2 Naval Militia in any capacity and is unable to perform further active duty due to
3 limitations imposed by appropriate regulations may be placed upon the retired list
4 upon recommendation by the adjutant general [AND APPROVAL OF THE
5 GOVERNOR].

6 * **Sec. 10.** AS 26.05.230(b) is amended to read:

7 (b) The armory of each battalion, company, or other unit is subject to the order
8 of the adjutant general and under the charge of its armory board which shall keep in
9 the armory all property furnished by the state. [EXCEPT FOR SCOUT
10 BATTALIONS ORGANIZED UNDER SPECIAL AUTHORITY OF THE
11 SECRETARY OF THE ARMY, A UNIT MAY NOT BE FURNISHED WITH
12 ARMS OR EQUIPMENT UNTIL A SUITABLE ARMORY IS PROVIDED FOR
13 THEIR DEPOSIT.] Subject to regulations adopted by the adjutant general, an armory
14 may be used for any reasonable and legitimate civilian activity so long as the activity
15 does not interfere with its use for military purposes. [PROCEEDS RECEIVED AS
16 RENTAL OR OTHERWISE AT AN ARMORY FROM NONMILITARY USE
17 SHALL BE DEPOSITED IN THE GENERAL FUND.]

18 * **Sec. 11.** AS 26.05.296(a) is amended to read:

19 (a) To the extent funds are available, the adjutant general may authorize the
20 payment of up to 100 percent of the cost of tuition and required fees for each active
21 member of the Alaska National Guard, the Alaska State Defense Force, or the
22 Alaska Naval Militia if the member attends an educational, vocational, or technical
23 training school in this state. The adjutant general may prioritize categories of
24 education benefits to encourage recruitment and retention of Alaska National Guard,
25 Alaska State Defense Force, or Alaska Naval Militia members. Payments
26 authorized under this section for active members of the Alaska National Guard, the
27 Alaska State Defense Force, or the Alaska Naval Militia continue so long as the
28 active member is a student in good standing in the educational program or class and
29 participates satisfactorily in unit training activities.

30 * **Sec. 12.** AS 26.05.360(b) is amended to read:

31 (b) The regulations adopted under this section must

(1) provide for nonjudicial punishment; the regulations for nonjudicial punishment may not provide for confinement or separation from military service or prohibit a member of the militia from declining the imposition of nonjudicial punishment in favor of a court-martial;

(2) as the adjutant general and the governor consider practicable, apply the principles of law and the rules of evidence and procedure governing military criminal cases in the courts of the armed forces of the United States, but may not be contrary to or inconsistent with this chapter or the applicable Alaska Rules of Evidence;

(3) include rules of pretrial, trial, and post-trial procedure, including methods of proof, for cases before courts-martial and courts of inquiry;

(4) not be contrary to federal law or regulations.

* **Sec. 13.** AS 26.05.360 is amended by adding a new subsection to read:

(e) The regulations adopted under this section must conform as nearly as practicable to regulations governing the armed forces of the United States.

* **Sec. 14.** AS 26.05.660 is amended to read:

Sec. 26.05.660. Delegation by the governor. The governor may delegate any authority vested in the governor under the code of military justice, and provide for the subdelegation of the authority, except the powers given to the governor by **AS 26.05.450** [AS 26.05.170 AND 26.05.450].

* **Sec. 15.** AS 26.05.170, 26.05.235, 26.05.340(a), and 26.05.340(d) are repealed.