

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS**

March 23, 2017

1:06 p.m.

**MEMBERS PRESENT**

Representative Chris Tuck, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Justin Parish  
Representative Ivy Spohnholz  
Representative George Rauscher  
Representative Lora Reinbold  
Representative Dan Saddler

**COMMITTEE CALENDAR**

HOUSE BILL NO. 165

"An Act relating to hiring for positions in state service based on substitution of military work experience or training for civilian work experience or training requirements."

- MOVED HB 165 OUT OF COMMITTEE

HOUSE BILL NO. 152

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

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 165

SHORT TITLE: STATE PERSONNEL ACT: VETERANS

SPONSOR(S): REPRESENTATIVE(S) PARISH

03/08/17	(H)	READ THE FIRST TIME - REFERRALS
03/08/17	(H)	MLV, STA
03/16/17	(H)	MLV AT 1:00 PM GRUENBERG 120
03/16/17	(H)	-- MEETING CANCELED --
03/21/17	(H)	MLV AT 1:00 PM GRUENBERG 120
03/21/17	(H)	Heard & Held
03/21/17	(H)	MINUTE(MLV)
03/23/17	(H)	MLV AT 1:00 PM GRUENBERG 120

BILL: HB 152

SHORT TITLE: ORGANIZED MILITIA; AK ST. DEFENSE FORCE

SPONSOR(s): MILITARY & VETERANS' AFFAIRS

03/06/17 (H) READ THE FIRST TIME - REFERRALS  
03/06/17 (H) MLV, STA  
03/14/17 (H) MLV AT 1:00 PM GRUENBERG 120  
03/14/17 (H) -- MEETING CANCELED --  
03/23/17 (H) MLV AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

KATE SHEEHAN, Director  
Division of Personnel and Labor Relations  
Department of Administration  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 165.

ROBERT DOEHL, Deputy Commissioner  
Office of the Commissioner  
Department of Military & Veterans' Affairs  
Joint Base Elmendorf-Richardson, Alaska

**POSITION STATEMENT:** Presented HB 152 and answered questions.

**ACTION NARRATIVE**

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**CHAIR CHRIS TUCK** called the House Special Committee on Military and Veterans' Affairs meeting to order at 1:06 p.m. Representatives Tuck, Spohnholz, Rauscher, and Parish were present at the call to order. Representatives Saddler, Reinbold, and LeDoux arrived as the meeting was in progress.

**HB 165-STATE PERSONNEL ACT: VETERANS**

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CHAIR TUCK announced that the first order of business would be HOUSE BILL NO. 165, "An Act relating to hiring for positions in state service based on substitution of military work experience or training for civilian work experience or training requirements."

REPRESENTATIVE PARISH urged the committee to [move HB 165 from committee]. He opined the bill would fill an existing gap in statute and pointed out the Department of Administration (DOA) is currently making some accommodations to allow military

service to be recognized; the bill would provide for the recognition of military service and allow military experience - if pertinent and at a level that equals or exceeds civilian training - to be substituted for other minimum qualifications. He remarked, "Essentially, if you've been doing a job for the armed services for a few years and you've done it well, I don't see why you need a degree, necessarily, to do the same job for the state of Alaska."

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CHAIR TUCK opened public testimony on HB 165. After ascertaining no one wished to testify, public testimony was closed.

REPRESENTATIVE SPOHNHOLZ recalled the committee previously requested more information from DOA on how it would determine that military experience meets or exceeds the requirements for a certain position.

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KATE SHEEHAN, Director, Division of Personnel and Labor Relations, Department of Administration, said individuals filling out a job application list their previous job titles and are given an opportunity to explain their responsibilities. Just like military experience, other private sector jobs might not be titled appropriately and could be misunderstood. After an applicant explains the duties of their previous job(s), the department could follow up with the applicant with any clarifying questions to understand and to give appropriate credit.

REPRESENTATIVE SPOHNHOLZ recalled the state uses some database tools to determine whether an individual meets the criteria for a job. She asked how the state can ensure applicants are being properly "screened-in rather than screened-out" if the applicants don't know which words to use.

MS. SHEEHAN advised there is a veteran preference: the state must consider a veteran's or a National Guard [member's] submitted application and must interview any disabled veteran or former prisoner of war. She stated hiring managers and human resource staff review applications; individuals self-certify their veteran status; therefore, no proof is required.

REPRESENTATIVE PARISH responded to Representative Rauscher's question about whether the bill applies to "state or private," and said the bill pertains to state employment.

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REPRESENTATIVE SPOHNHOLZ moved to report HB 165 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 165 was reported out of the House Special Committee on Military and Veterans' Affairs.

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The committee took an at-ease from 1:12 p.m. to 1:54 p.m.

[Although stated the committee was recessed, the committee was at-ease.]

**HB 152-ORGANIZED MILITIA; AK ST. DEFENSE FORCE**

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CHAIR TUCK announced that the final order of business would be HOUSE BILL NO. 152, "An Act relating to the organized militia; and relating to the authority of the adjutant general."

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ROBERT DOEHL, Deputy Commissioner, Office of the Commissioner, Department of Military & Veterans' Affairs (DMVA), informed the committee HB 152 is a maintenance bill to modernize several provisions of [Alaska Statutes title 26], which was drafted in the 1950s. Further, the bill creates efficiencies, allows for continuity in providing services during disasters, and would provide clear-cut accountability and responsibility for the adjutant general. Mr. Doehl said Section 1 clarifies the adjutant general is not only in control of the organized militia but is also in command. The organized militia includes the Alaska Army National Guard, the Alaska Air National Guard, the Alaska State Defense Force (ASDF), and the Alaska Naval Militia. He remarked:

The governor remains ultimately responsible and accountable for the Alaska organized militia and the actions of it, and also retains complete authority to supervene or overrule any order or directive given by the adjutant general, who is also the commissioner of

the state Department of Military & Veterans' Affairs. What this does do is clarify the obligation that comes with command; with command comes, comes absolute responsibility for the operation and the conduct of an organization.

MR. DOEHL stated such responsibility is inherent with command. He said "control" is only the authority to direct a subordinate to do something but does not bring with it the assurance a task is done right. He said [command] comes with the authority to develop regulations for the internal administration of the Alaska organized militia, which are necessary for good order and discipline. He clarified members of the general public remain subject to the Administrative Procedures Act. He said the proposed regulations are akin to the personnel policies other departments have, but the organized militia does not fall under the state classified personnel systems and thus does not have a clean-cut mechanism to institute regulations.

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MR. DOEHL informed the committee the proposed regulations would ensure that the adjutant general could carry out all the duties as a commander over the Alaska Air National Guard and the Alaska Army National Guard envisioned in House Bill 126 [passed in the Twenty-Ninth Alaska State Legislature], which had some ambiguities. He continued to review the bill and advised Sections 2 and 3 together clarify the roles and responsibilities related to state active duty. He explained state active duty status applies at the time the militia is put into paid status to work directly for the governor of Alaska. He said the bill would clarify the continuity of operations in a disaster; for example, in the event of a disaster or an emergency where the governor cannot be reached, HB 152 would authorize the adjutant general to place a limited portion of the organized militia into state active duty as needed.

MR. DOEHL stated the authority of the adjutant general became a priority for Governor Bill Walker after a recent incident when he was needed to authorize some organized militia members to be placed in state active duty to assist with a search and rescue mission. Mr. Doehl gave an example of a disaster that required a response from the organized militia while those in command were unable to reach the governor or the governor's successor. However, HB 152 provides two important limitations on the aforementioned authority: If the governor has not been reached after 72 hours, then there must be a reassessment to validate

whether the authority is still necessary, and the authority would also be limited to instances that do not affect the civil rights of other Alaskans, for example, it would not place members of the organized militia into roles assisting with law enforcement duties.

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MR. DOEHL said Section 4 states the governor's orders are final, and the adjutant general's orders are subject to being overruled by the governor at any time. Section 5 recognizes [Title 32 of the U.S. Code Chapter 109], which says states have the authority to retain a state militia while also having a National Guard. Further, Section 5 assures if said federal statute was repealed or amended, the legislature would need to enable legislation to clarify the relationship between the two entities. He remarked:

Given the federal role and some presumption of preemption and homeland defense and homeland security issues, we need this provision to deconflict the issues of federal preemption in the [Tenth Amendment to the U.S. Constitution] and clarify that what we're doing is legal and proper from both a legal, from both a federal and state perspective.

MR. DOEHL said Section 6 adds ASDF to the entities which comprise Alaska's organized militia and provides better alignment with existing statutory language. Section 7 would establish that the adjutant general and the assistant adjutant generals are subject to regulations in state law and they would be paid according to state law. He explained this assures that the accountability and jurisdiction over said generals are appropriate for their roles.

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MR. DOEHL continued to explain Sections 8, 9, and 10 streamline matters related to retirement, so the sections are more consistent with federal [retirement] processes, and also allow for more efficiencies at the governor's office and at DMVA. Section 11 would release DMVA's obligation to build armories before issuing equipment, which was instigated in the 1950s, but now constrains the state's ability to expand ASDF into new regions and facilities. Section 12 deals with education assistance - when funded - and retains the adjutant general's authority to prioritize how education assistance funds are awarded. Section 13 reiterates that regulations adopted under

[AS] title 26 may not conflict with federal laws or regulations. Section 14 directs that regulations are consistent with U.S. armed services regulations to assure consistency in the administration of justice to service members. Section 15 allows the delegation of authorities from the governor in the Alaska Code of Military Justice, except general courts martial cannot be further delegated. Section 16 removes irrelevant provisions.

REPRESENTATIVE RAUSCHER asked how many other states have taken similar actions.

MR. DOEHL explained the proposed legislation is not in response to a recommendation from the U.S. Department of Defense, but originated from DMVA analysis, and is related to inconsistencies in current Alaska legislation. In further response to Representative Rauscher, he said he was not aware of any instances in which the governor of Alaska could not be reached.

REPRESENTATIVE RAUSCHER asked whether authority passes to the lieutenant governor.

MR. DOEHL further explained a process must occur before the lieutenant governor assumes the duties of the governor. In further response to Representative Rauscher, he said he would provide a written response to the question of what the process would be following a temporary transfer of power.

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REPRESENTATIVE SADDLER also expressed interest in previous instances in which the governor was unavailable.

MR. DOEHL said the proposed legislation addresses a situation where the location or condition of the governor cannot be readily ascertained. In further response to Representative Saddler, he said ASDF exists to help civilian authorities safeguard the public.

REPRESENTATIVE SADDLER questioned whether the National Guard has the same function.

MR. DOEHL acknowledged both are part of the Alaska organized militia, and both have a role in responding to a disaster or an emergency; however, the National Guard could be deployed and its ranks in Alaska are "thin at times."

REPRESENTATIVE SADDLER asked whether there has ever been a time when the National Guard was unable to fulfil its mission to support civilian authorities in a disaster.

MR. DOEHL pointed out at the time of the 1964 earthquake there were National Guard units from Outside and active military units assisting in Southcentral Alaska.

REPRESENTATIVE SADDLER surmised the only time the National Guard was insufficient to assist civilian authority was after the 1964 earthquake.

MR. DOEHL said, "That I'm aware of, yes."

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CHAIR TUCK stressed the bill allows the adjutant general authority over all entities within the Alaska organized militia. In response to Representative Saddler, he said authority may be needed during any unknown disaster.

REPRESENTATIVE SADDLER questioned whether replicating the responsibilities of the National Guard over all the state is prudent.

MR. DOEHL stressed ASDF is staffed by volunteers at no cost [to the state].

REPRESENTATIVE SADDLER pointed out the bill proposes to use state funds for education, armories, training, and workers' compensation coverage.

MR. DOEHL clarified the bill directs the state does not have to provide armories in order to establish a detachment, and allows for the prioritization of education benefits at the state's discretion; further, previous legislation has determined workers' compensation provisions are "a zero-cost item."

REPRESENTATIVE SADDLER questioned whether the administration intends to make ASDF a duplication of the National Guard, which is a concern related to cost and the implications to state policy.

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MR. DOEHL, in response to Representative LeDoux's question about the Alaska Naval Militia, explained the Alaska Naval Militia are

U.S. Marine Corps and U.S. Navy reservists from Alaska who voluntarily participate in additional training, so they can serve in state active duty during a time of emergency in roles to augment command and control centers and to provide logistical skills. The Alaska Naval Militia are paid only when in state active duty status or during drill weekends. In further response to Representative LeDoux, he restated the adjutant general could not deploy the state militia to law enforcement functions where the rights of Alaskans could be affected; the ability of the adjutant general authority is limited to non-law enforcement roles, such as fire department or search and rescue duties.

REPRESENTATIVE LEDOUX directed attention to the bill on page 2, lines 19-20, which read in part:

Whenever any portion of the militia is ordered into active state service by the governor, it becomes an additional police force ...

REPRESENTATIVE LEDOUX also directed attention to the bill on page 1, [lines 9-10], which read in part:

who shall carry out the policies of the governor in military affairs.

REPRESENTATIVE LEDOUX asked where the regulations to be promulgated would not give the adjutant general the ability to exercise police authority.

MR. DOEHL remarked:

The governor believes that sort of call, where Alaskans' rights are going to be implicated should be made by the governor, and he does not feel it should be delegated. [That] is why ... we requested drafting in that manner.

MR. DOEHL directed attention to the bill on page 3, [lines 10-13] which read:

(c) Notwithstanding (b) of this section, the adjutant general may not order any part of the organized militia into active state service for actions that would subject civilians to the use of military power that is regulatory, prescriptive, proscriptive, or

compulsory, unless approved by the governor before giving the order.

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REPRESENTATIVE SPOHNHOLZ observed one of the challenges of disaster preparation is to contemplate every scenario possible and questioned whether the proposed legislation is intended to address a situation where there was no access to either the governor or lieutenant governor.

MR. DOEHL said the intent was to address a time when it is not possible to reach the governor; for example, when a disaster overcomes the ability to communicate or other imponderables. One of the greatest challenges is to overcome the friction of compromised communications, however unforeseen.

REPRESENTATIVE SPOHNHOLZ surmised in an unusual scenario, when the governor becomes available, the governor could overrule any actions by the adjutant general.

MR. DOEHL affirmed decisions of the governor are final; the governor always has the right to overrule the adjutant general in a matter of state.

REPRESENTATIVE REINBOLD expressed her concern, along with that of her constituents, about the mismanagement of the state's volunteer defense force and similar problems within DMVA over recent years. Although Alaska has rewritten its criminal code, justice has not been served; in fact, Alaskans are still suffering from past misconduct. She said she disagreed with efforts to seek compliance with federal regulations. Representative Reinbold advised the [Alaska state] constitution allows the governor to assign duties to the lieutenant governor when necessary and questioned the intent of the sponsors of the bill.

MR. DOEHL stressed the bill removes any ambiguity as to the obligations and responsibilities of the adjutant general. He pointed out ASDF is not subject to federal funding or regulations and remains funded and guided by state government.

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REPRESENTATIVE REINBOLD restated her reservations about the intent of HB 152.

REPRESENTATIVE RAUSCHER directed attention to the bill on page 2, lines 4-5, which read in part:

The Alaska National Guard and the Alaska Naval Militia and their members are subject to all federal laws and regulations relating to the National Guard and Naval Militia ...

REPRESENTATIVE RAUSCHER asked, "Is their 'commander in general' not the President of the United States?"

MR. DOEHL explained [for the Alaska National Guard and the Alaska Naval Militia] the commander in chief is the governor or, if the bill is enacted, the adjutant general, unless mobilized [by the federal government]. However, except for ASDF, the entities must remain in compliance with federal laws and regulations when executing federal funds. In further response to Representative Rauscher, he listed some related federal laws.

REPRESENTATIVE RAUSCHER inquired as to whom the adjutant general is subject if the governor cannot be reached.

MR. DOEHL further explained the adjutant general is always subject to the commander in chief; the bill clarifies the authority of the adjutant general, should the governor be unavailable. In further response to Representative Rauscher, he said after the governor or the governor's successor is reached, actions of the adjutant general would be reviewed and revoked if necessary.

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CHAIR TUCK pointed out the bill addresses a temporary situation in which the governor cannot be reached, until the governor is reached or is replaced; all responsibility remains with the governor or successor.

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REPRESENTATIVE PARISH expressed support for the intent to allow the adjutant general to act in the event the governor is unavailable. He directed attention to the bill on page 3, lines [21-22], which read:

The organized militia may not be used against or to mitigate a lawful organized labor action or activity.

REPRESENTATIVE PARISH made a motion to adopt a conceptual amendment to read:

The organized militia may not be used against or to mitigate a lawful action or activity, including those of organized labor.

CHAIR TUCK restated the motion.

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The committee took a brief at-ease.

CHAIR TUCK said amendments would not be taken under consideration at this time.

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REPRESENTATIVE PARISH withdrew his motion.

MR. DOEHL advised DMVA has no objection to the proposed conceptual amendment.

REPRESENTATIVE PARISH directed attention to Sections 8, 9, and 10, which he said do not appear to address emergency situations, and asked why the aforementioned provisions are being changed by the bill.

MR. DOEHL said the aforementioned provisions provide consistency within the state personnel system and the federal military personnel system.

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REPRESENTATIVE SADDLER directed attention to page 5, [lines 8-11], which read:

(d) Commissioned or warrant officers may tender their resignations through National Guard or Naval Militia command channels. Resignations shall be in writing, stating the reason for resignation, and shall take effect when accepted by the adjutant general.

REPRESENTATIVE SADDLER asked who has authority to grant commissions to members of the National Guard in Alaska.

MR. DOEHL stated officers receive federal and state commissions in the name of a senior executive, which would be the governor or the president.

REPRESENTATIVE SADDLER questioned why HB 152 proposes the adjutant general accept resignations that are issued by the governor.

MR. DOEHL said the bill is conforming to federal authorities, to be "more appropriate with the significance of the action." In further response to Representative Saddler, he advised when the government in Alaska was smaller, it was appropriate to have [resignation] actions pass through the governor's office.

REPRESENTATIVE SADDLER restated his question as to why the bill proposed [resignations] would be accepted by the adjutant general.

MR. DOEHL said the intent is to be more consistent and efficient.

REPRESENTATIVE SADDLER asked for an example of the bill's impact if enacted.

MR. DOEHL gave an example of an earthquake in Southcentral that compromises communications with the governor [in Southeast] thus the Alaska organized militia could not be authorized into state active duty. In further response to Representative Saddler, he envisioned the National Guard and other entities would be called to action concurrently.

MR. DOEHL added that immediate response authority is limited to members of the National Guard who are already in duty status; for example, in Southcentral, a fire department of thirty members may only have one member in duty status.

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REPRESENTATIVE SADDLER turned attention to education training funds and surmised the bill would give the adjutant general the authority to prioritize money away from members of the National Guard to members of the Alaska Naval Militia or ASDF.

MR. DOEHL said, should education receive funding, the bill expands the groups that could receive a limited amount of money. He added if the bill is enacted, there would be federal money

that could not be redirected, and state funding could be reallocated.

REPRESENTATIVE SADDLER questioned whether the adjutant general could redirect state education funds from members of the National Guard to members of ASDF.

MR. DOEHL said yes. In further response to Representative Saddler, he said there is zero money in DMVA's budget for education and DMVA has no intention to seek funds for education today.

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REPRESENTATIVE LEDOUX surmised currently the adjutant general may authorize payment of funds for members of the Alaska Naval Militia in preference to members of the National Guard and asked whether the adjutant general has done so.

MR. DOEHL said, "Not to my knowledge."

REPRESENTATIVE LEDOUX questioned if entities within the Alaska state militia are federalized when a disaster occurs.

MR. DOEHL said no. Even in the case of large disasters, the obligation to provide for public safety is primarily a state role.

REPRESENTATIVE LEDOUX asked whether the addition of ASDF in Section 12 is cleanup language.

MR. DOEHL stated the intent is to treat all members of the Alaska organized militia equally.

CHAIR TUCK reviewed provisions of the bill.

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REPRESENTATIVE REINBOLD stated her understanding is that no other state has similar legislation and restated her belief that the transfer of power from the governor is "a very simple process." She expressed her concern that DMVA receives federal funds and thus has a lot of federal ties. She asked whether the adjutant general has ties to the president [of the U.S.].

MR. DOEHL indicated no.

REPRESENTATIVE REINBOLD asked, "Does this increase any 'federal' at all, in any way?"

MR. DOEHL said no.

REPRESENTATIVE REINBOLD asked "Did you work with anybody in regards to the federal government, in any way, on this bill ...?"

MR. DOEHL said no.

REPRESENTATIVE REINBOLD asked, "Does this decrease the authority of the governor, yes or no?"

MR. DOEHL said no.

REPRESENTATIVE REINBOLD asked, "Does this decrease the freedom in any way of the state defense force?"

MR. DOEHL said no.

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REPRESENTATIVE RAUSCHER inquired as to how the proposed legislation affects the ability or function of the governor.

MR. DOEHL said the bill relates only to the authorities of the governor over the organized militia. He offered to provide Representative Rauscher further information in this regard.

HB 152 was held over.

[3:00:48 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 3:00 p.m.