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H.192

Introduced by Representatives Canfield of Fair Haven, Sibilias of Dover,
Batchelor of Derby, Brennan of Colchester, Burditt of West
Rutland, Chase of Colchester, Cupoli of Rutland City,
Dickinson of St. Albans Town, Fagan of Rutland City,
Gamache of Swanton, Goslant of Northfield, Gregoire of
Fairfield, Helm of Fair Haven, LaClair of Barre Town, Leffler
of Enosburgh, Martel of Waterford, Mattos of Milton,
Morrissey of Bennington, Page of Newport City, Quimby of
Concord, Rosenquist of Georgia, Savage of Swanton, Shaw of
Pittsford, Strong of Albany, Sullivan of Dorset, Terenzini of
Rutland Town, and Toof of St. Albans Town

Referred to Committee on

Date:

Subject: Internal security; taxation; Adjutant General; military retirement pay

Statement of purpose of bill as introduced: This bill proposes to establish
minimum qualifications for candidates for Adjutant and Inspector General; to
transfer authority for the appointment of the Adjutant and Inspector General
from the General Assembly to the Governor; to create a board to review and
recommend to the Governor candidates for Adjutant and Inspector General;
and to create an exemption from the income tax for military retirement pay.

1 Sec. 2. 20 V.S.A. § 370 is added to read:

2 § 370. ADJUTANT AND INSPECTOR GENERAL NOMINATING

3 BOARD

4 (a) The Adjutant and Inspector General Nominating Board is created to
5 nominate candidates for Adjutant and Inspector General.

6 (b)(1) The Board shall consist of nine members who shall be selected
7 as follows:

8 (A) three members of the Governor's Veterans Advisory Council
9 appointed on a majority vote of the Council;

10 (B) three members of the House, not all of whom shall be members
11 of the same party, appointed by the Speaker of the House; and.

12 (C) three members of the Senate, not all of whom shall be members
13 of the same party, appointed by the Committee on Committees.

14 (2)(A) The members of the Board shall serve for terms of two years and
15 may serve for not more than three consecutive terms.

16 (B) All appointments shall occur between January 1 and February 1
17 of each odd-numbered year, except to fill a vacancy. A House vacancy that
18 occurs when the General Assembly is adjourned shall be filled by the Speaker
19 of the House, and a Senate vacancy that occurs when the General Assembly is
20 adjourned shall be filled by the Senate Committee on Committees.

21 (C) Members shall serve until their successors are appointed.

1 (3) The members shall elect their own chair who shall serve for a term
2 of two years.

3 (c) Legislative members of the Board shall be entitled to per diem
4 compensation and reimbursement for expenses in accordance with 2 V.S.A.
5 § 406. Members of the Board who are not otherwise compensated by their
6 employer shall be entitled to per diem compensation and reimbursement for
7 expenses in the same manner as board members are compensated under
8 32 V.S.A. § 1010. The compensation and reimbursement for the six members
9 appointed by the House and Senate shall be paid from the legislative
10 appropriation. The compensation and reimbursement for the three members
11 appointed by the Governor's Veterans Advisory Council shall be paid from the
12 appropriation for the Military Department.

13 (d) A quorum of the Board shall consist of a majority of the members.

14 (e) The Board is authorized to use the staff and services of appropriate
15 State agencies and departments as necessary to conduct investigations of
16 candidates.

17 Sec. 3. 20 V.S.A. § 371 is added to read:

18 § 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND

19 INSPECTOR GENERAL; REQUIREMENTS

20 (a)(1) A candidate for Adjutant and Inspector General shall, on or before
21 November 1 of the year prior to when the Governor will appoint a new

1 Adjutant and Inspector General, declare his or her candidacy to the Board
2 pursuant to procedures adopted by the Board and certify under oath that he or
3 she meets the qualifications set forth in subsection (b) of this section.

4 (2) In the case of a vacancy occurring during a term, a candidate shall,
5 not later than 14 days after the office of Adjutant and Inspector General
6 becomes vacant, declare his or her candidacy to the Board pursuant to
7 procedures adopted by the Board and certify under oath that he or she meets
8 the qualifications set forth in subsection (b) of this section.

9 (b) A candidate for Adjutant and Inspector General shall:

10 (1) be a resident of Vermont;

11 (2) have attained the rank of lieutenant colonel (O-5) or above;

12 (3) be a current member of the U.S. Army, the U.S. Air Force, the
13 U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or
14 the Air National Guard, or be eligible to return to active service in the Army
15 National Guard or the Air National Guard; and

16 (4) be a graduate of a Senior Service College, currently enrolled in a
17 Senior Service College, or eligible to be enrolled in a Senior Service College
18 during the biennium in which the candidate would first be appointed.

19 (c) The Board's procedures pursuant to this section and section 372 of this
20 chapter shall not be subject to rulemaking under 3 V.S.A. §§ 836–844 and may
21 be adopted and revised at the discretion of the Board.

1 (d)(1) Except as otherwise provided by subdivision (2) of this subsection:

2 (A) all proceedings of the Board shall be confidential and exempt
3 from the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2; and

4 (B) all records of the Board, including the names of candidates and
5 any information related to candidates, shall be exempt from public inspection
6 and copying under the Public Records Act and shall be kept confidential.

7 (2) The following shall be public:

8 (A) the Board's operating procedures;

9 (B) the Board's application procedures and any application or other
10 forms used by the Board, provided they do not contain information about a
11 candidate or confidential proceedings;

12 (C) proceedings of the Board that are not directly related to the
13 consideration of candidates;

14 (D) the names of the candidates sent to the Governor; and

15 (E) at the time the Board sends the names of the candidates to the
16 Governor, the total number of applicants interviewed by the Board and the
17 total number of candidates sent to the Governor.

18 Sec. 4. 20 V.S.A. § 372 is added to read:

19 § 372. DUTIES OF NOMINATING BOARD

20 (a) Interview and selection. The Board shall interview each candidate for
21 Adjutant and Inspector General and evaluate him or her with respect to:

1 (1) the qualifications set forth in subsection 371(b) of this title;

2 (2) leadership;

3 (3) integrity; and

4 (4) administrative and communication skills.

5 (b) Nomination. After interviewing and evaluating all candidates, the

6 Board shall submit to the Governor a list of all well-qualified candidates for

7 Adjutant and Inspector General.

8 Sec. 5. 20 V.S.A. § 363 is amended to read:

9 § 363. OFFICERS GENERALLY

10 (a)(1) The ~~General Assembly shall biennially elect~~ Governor shall appoint,

11 with the advice and consent of the Senate and from a list of candidates

12 submitted by the Adjutant and Inspector General Nominating Board, an

13 Adjutant and Inspector General, ~~who~~ for a term of four years.

14 (2) An Adjutant and Inspector General appointed to fill a vacancy

15 occurring during a term shall serve the remainder of the unexpired term.

16 (3) The Adjutant and Inspector General shall also be Quartermaster

17 General with the rank of a major general.

18 (b)(1) The Adjutant General may appoint a ~~deputy~~ Deputy with appropriate

19 rank, an Assistant Adjutant General for Army, an Assistant Adjutant General

20 for Air, an Assistant Adjutant General for Joint Operations, a Sergeant Major,

21 and a Chief Master Sergeant, without pay, with the approval of the Governor.

1 (2) The Adjutant and Inspector General may remove the appointed
2 assistant adjutant generals and sergeants and shall be responsible for their acts.

3 (3) Upon appointment, each Assistant Adjutant General shall be a
4 federally recognized officer of the National Guard of the rank of lieutenant
5 colonel or above, and shall have a rank of colonel or brigadier general, and the
6 Sergeant Major shall be a federally recognized noncommissioned officer of the
7 National Guard of the rank of master sergeant or first sergeant or above, and
8 the Chief Master Sergeant shall be a federally recognized noncommissioned
9 officer of the rank of senior master sergeant or first sergeant.

10 (4) The Deputy, ~~Assistants~~ assistants, and ~~Sergeants~~ sergeants shall
11 perform duties as the Adjutant and Inspector General ~~and Quartermaster~~
12 ~~General~~ shall direct.

13 (c)(1) In the absence or disability of the ~~officer~~ Adjutant and Inspector
14 General, the Deputy shall perform the duties of that office.

15 (2) In case a vacancy occurs in the office of Adjutant and Inspector
16 General ~~and Quartermaster General~~, the Deputy shall assume and discharge the
17 duties of the office until the vacancy is filled.

18 (d) ~~The appointments~~ Appointments made pursuant to subsections (a) and
19 (b) of this section shall be in writing and recorded in the office of the Secretary
20 of State.

1 (iv) the portion of federally taxable benefits received under the
2 federal Social Security Act that is required to be excluded under section 5830e
3 of this chapter; and

4 (v) one-half the amount of U.S. Armed Forces retirement pay that
5 is subject to federal income tax; and

6 (C) ~~Decreased~~ decreased by the following exemptions and
7 deductions:

8 * * *

9 Sec. 7. 32 V.S.A. § 5811 is amended to read:

10 § 5811. DEFINITIONS

11 The following definitions shall apply throughout this chapter unless the
12 context requires otherwise:

13 * * *

14 (21) “Taxable income” means, in the case of an individual, federal
15 adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

16 * * *

17 (B) decreased by the following items of income (to the extent such
18 income is included in federal adjusted gross income):

19 * * *

20 (v) ~~one-half~~ the amount of U.S. Armed Forces retirement pay that
21 is subject to federal income tax; and

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Sec. 8. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(g)(1) The statutory purpose of the exemption for military pay in subdivisions 5823(a)(2) and (b)(3) of this title is to provide additional compensation for military personnel in recognition of their service to Vermont and to the country.

(2) The statutory purpose of the exemption for U.S. Armed Forces retirement pay in subdivision 5811(21)(B)(v) of this title is to provide additional income to retired military personnel who derive part of their income in the form of military retirement pay, in recognition of their service to Vermont and to the country.

* * *

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) Notwithstanding 1 V.S.A. § 214, Secs. 6 and 8 shall take effect retroactively on January 1, 2019 and apply to taxable year 2019.

(b) Sec. 7 shall take effect on January 1, 2020 and apply to taxable year 2020 and after.

1 (c) This section and the remaining sections shall take effect on July 1,
2 2019.