

H.530

An act relating to the qualifications and election of the Adjutant and
Inspector General

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 2 V.S.A. § 10 is amended to read:

§ 10. ELECTION OF STATE AND JUDICIAL OFFICERS

(a) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday after their biennial meeting and organization, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the State officers, except judicial officers, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly, including the Sergeant at Arms, ~~the Adjutant and Inspector General~~, and the legislative trustees of the University of Vermont and State Agricultural College. In case election of all such officers shall not be made on that day, they shall meet in joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

* * *

(c) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday of the second year of the biennial session, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the State officers whose election by the Constitution and laws devolves in the first instance upon

them in joint assembly, including the Adjutant and Inspector General and the legislative trustees of the Vermont State Colleges Corporation, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly. In case election of all such ~~legislative trustees~~ officers shall not be made on that day, they shall meet in joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such ~~legislative trustees~~ officers are elected.

Sec. 2. 2 V.S.A. § 12 is amended to read:

§ 12. LEGISLATIVE ELECTIONS; UNIFORM BALLOTS

* * *

(b) A candidate for office, other than for Adjutant and Inspector General, shall, not later than one week preceding the election, notify the Secretary of State in writing of his or her candidacy, naming the particular office. If he or she fails so to notify the Secretary of State, his or her name shall not be printed on the ballot. No ballot may be used other than the official ballot provided by the Secretary of State.

(c) A written list of the names of the candidates for Adjutant and Inspector General shall be submitted to the Secretary of State by the Adjutant and Inspector General Nominating Board not later than four weeks before the election. If the name of an individual is not included in the list provided by the

Board, it shall not be printed on the ballot prepared by the Secretary of State.

No ballot may be used other than the official ballot provided by the Secretary of State.

Sec. 3. 20 V.S.A. § 370 is added to read:

§ 370. ADJUTANT AND INSPECTOR GENERAL NOMINATING

BOARD

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

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

(A) three members of the Governor's Veterans Advisory Council appointed on a majority vote of the Council, provided that no member appointed by the Council may be a current member of the General Assembly;

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

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

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

(B)(i) All appointments shall be made, if practicable, within seven days of the convening of each biennial session of the General Assembly.

(ii) A House vacancy that occurs when the General Assembly is adjourned shall be filled by the Speaker of the House, and a Senate vacancy that occurs when the General Assembly is adjourned shall be filled by the Senate Committee on Committees.

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

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

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

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

(e) The Board may use the staff and services of the Legislative Council to, in addition to other duties, obtain information regarding candidates for

Adjutant and Inspector General by soliciting comments from members of the Vermont National Guard and the public.

Sec. 4. 20 V.S.A. § 371 is added to read:

§ 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND INSPECTOR GENERAL; REQUIREMENTS

(a)(1) All candidates for Adjutant and Inspector General shall, on or before November 1 of the year prior to the next election of an Adjutant and Inspector General pursuant to 2 V.S.A. § 10(c), declare their candidacy to the Board pursuant to procedures adopted by the Board and demonstrate that they meet the qualifications set forth in subsection (b) of this section as required pursuant to procedures adopted by the Board.

(2) In the case of a vacancy occurring during a term, any candidates for Adjutant and Inspector General shall, not later than 14 days after the office of Adjutant and Inspector General becomes vacant, declare their candidacy to the Board pursuant to procedures adopted by the Board and demonstrate that they meet the qualifications set forth in subsection (b) of this section as required pursuant to procedures adopted by the Board.

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

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

(2) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard or

the Air National Guard, or be eligible to return to active service in the Army National Guard or the Air National Guard; and

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

Sec. 5. 20 V.S.A. § 372 is added to read:

§ 372. PROCEDURES OF THE BOARD; CONFIDENTIALITY

(a)(1) The Board shall endeavor to hold its organizational meeting within seven days of the appointment of its members.

(2) The Board shall endeavor to adopt all necessary forms and procedures for receiving and reviewing applications of candidates for Adjutant and Inspector General by April 15 of the first year of each biennial session.

(b) The Board's procedures shall not be subject to rulemaking under 3 V.S.A. §§ 836–844 and may be adopted and revised at the discretion of the Board.

(c) In the performance of its functions pursuant to subsection 373(a) of this section, the Board may by a majority vote of its membership issue subpoenas to compel the attendance of witnesses to testify under oath and to produce documents.

(d) All candidates shall have the right to a reasonable time period to prepare and present to the Board a response to any testimony or written complaint adverse to their candidacy for Adjutant and Inspector General.

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

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

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

(2) The following shall be public:

(A) the Board's operating procedures;

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

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

(D) the names of the candidates; and

(E) the list of well-qualified candidates submitted to the Secretary of State by the Board.

Sec. 6. 20 V.S.A. § 373 is added to read:

§ 373. DUTIES OF NOMINATING BOARD

(a) Evaluation. In determining whether a candidate for Adjutant and Inspector General should be listed on the ballot for election by the General Assembly, the Board shall do the following:

(1) Interview the candidate for Adjutant and Inspector General.

(2) Review comments received in relation to the candidate from members of the Vermont National Guard and the public. The Board may, in its discretion, conduct interviews or seek additional information related to comments received in relation to a candidate.

(3) Determine whether the candidate is well qualified for election by the General Assembly based on the candidate's application materials and interview, and any comments and related information received in relation to the candidate. The Board shall evaluate whether each candidate is well qualified based on:

(A) whether the candidate satisfies the qualifications set forth in subsection 371(b) of this chapter; and

(B) the candidate's leadership; integrity; and administrative and communication skills.

(b) Nomination. After interviewing and evaluating each of the candidates, the Board shall submit to the Secretary of State a list of all candidates that it determines are well qualified for election to the office of Adjutant and Inspector General.

(c) Report. Not later than four weeks before the election of the Adjutant and Inspector General pursuant to 2 V.S.A. § 10(c), the Board shall report to the General Assembly its reasons for selecting each of the candidates submitted to the Secretary of State, with any information that it may deem appropriate, in order that the General Assembly may discharge its obligation under 2 V.S.A. § 10(c).

Sec. 7. 20 V.S.A. § 363 is amended to read:

§ 363. OFFICERS GENERALLY

(a)(1) The General Assembly shall biennially elect an Adjutant and Inspector General, ~~who~~ for a term of two years.

(2) An Adjutant and Inspector General appointed to fill a vacancy occurring during a term shall serve the remainder of the unexpired term.

(3)(A) The Adjutant and Inspector General shall, at all times during the term of office:

(i) be a resident of Vermont; and

(ii) satisfy the requirements set forth in 20 V.S.A. § 371(b).

(B) As used in this section, “resident of Vermont” means an individual who is domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent.

(b) The Adjutant and Inspector General shall also be Quartermaster General with the rank of a major general.

(c)(1) The Adjutant General may appoint a ~~deputy~~ Deputy with ~~appropriate rank, the approval of the Governor.~~ The Adjutant General may also appoint an Assistant Adjutant General for Army, an Assistant Adjutant General for Air, an Assistant Adjutant General for Joint Operations, a Sergeant Major, and a Chief Master Sergeant, without pay, with the approval of the Governor.

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

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

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

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

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

(e) ~~The appointments~~ Appointments made pursuant to subsections (a) and (c) of this section shall be in writing and recorded in the ~~office~~ Office of the Secretary of State.

(f) All other officers of the National Guard shall be chosen in accordance with rules adopted by the Governor consistent with the laws of this State and the United States.

Sec. 8. ADJUTANT AND INSPECTOR GENERAL; CURRENT TERM

Notwithstanding any provision of law to the contrary, the term of the Adjutant and Inspector General in office on the effective date of this act shall end on March 1, 2022.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2020.