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S.121

Introduced by Senators White, Benning, Collamore, Kitchel, Lyons, Mazza,
Pollina and Sears

Referred to Committee on

Date:

Subject: Internal security and public safety; Adjutant General

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; and to create a board to interview
and recommend to the Governor candidates for Adjutant and Inspector
General.

An act relating to 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

1 laws devolves in the first instance upon them in joint assembly, including the
2 Sergeant at Arms, ~~the Adjutant and Inspector General~~, and the legislative
3 trustees of the University of Vermont and State Agricultural College. In case
4 election of all such officers shall not be made on that day, they shall meet in
5 joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding
6 day, Saturdays and Sundays excepted, and proceed in such election, until all
7 such officers are elected.

8 * * *

9 Sec. 2. REDESIGNATION; ADDITION OF SUBCHAPTER

10 20 V.S.A. chapter 21, subchapter 1, which shall include 20 V.S.A. §§ 361–
11 369, is added to read:

12 Subchapter 1. General Provisions

13 Sec. 3. 20 V.S.A. chapter 21, subchapter 2 is added to read:

14 Subchapter 2. Adjutant and Inspector General Nominating Board

15 § 370. ADJUTANT AND INSPECTOR GENERAL NOMINATING

16 BOARD

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

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

1 (A) three members appointed by the Governor who shall not be
2 current members of the Vermont National Guard;

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

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

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

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

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

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

17 (c) Legislative members of the Board shall be entitled to per diem
18 compensation and reimbursement for expenses in accordance with 2 V.S.A.
19 § 406. Members of the Board who are not otherwise compensated by their
20 employer shall be entitled to per diem compensation and reimbursement for
21 expenses in the same manner as board members are compensated under

1 32 V.S.A. § 1010. The compensation and reimbursement for the six members
2 appointed by the House and Senate shall be paid from the legislative
3 appropriation. The compensation and reimbursement for the three members
4 appointed by the Governor shall be paid from the appropriation for the Military
5 Department.

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

7 (e) The Board is authorized to use the staff and services of appropriate
8 State agencies and departments as necessary to investigate the qualifications of
9 candidates.

10 § 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND

11 INSPECTOR GENERAL; REQUIREMENTS

12 (a)(1) A candidate for Adjutant and Inspector General shall, on or before
13 November 1 of the year prior to when the Governor will appoint a new
14 Adjutant and Inspector General, declare his or her candidacy to the Board
15 pursuant to procedures adopted by the Board and certify under oath that he or
16 she meets the qualifications set forth in subsection (b) of this section.

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

- 1 (b) A candidate for Adjutant and Inspector General shall:
2 (1) be a resident of Vermont;
3 (2) have attained the rank of lieutenant colonel (O-5) or above;
4 (3) be a current member of the U.S. Army, the U.S. Air Force, the
5 U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or
6 the Air National Guard, or be eligible to return to active service in the Army
7 National Guard or the Air National Guard; and
8 (4) be a graduate of a Senior Service College, currently enrolled in a
9 Senior Service College, or eligible to be enrolled in a Senior Service College
10 during the biennium in which the candidate would first be appointed.

11 § 372. ADOPTION OF PROCEDURES; CONFIDENTIALITY

12 (a) The Board's procedures adopted pursuant to sections 371 and 373 of
13 this chapter shall not be subject to rulemaking under 3 V.S.A. §§ 836–844 and
14 may be adopted and revised at the discretion of the Board.

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

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

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

21 (2) The following shall be public:

1 (A) the Board's operating procedures;

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

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

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

8 (E) at the time the Board sends the names of the candidates to the
9 Governor, the total number of applicants interviewed by the Board and the
10 total number of candidates sent to the Governor.

11 § 373. DUTIES OF NOMINATING BOARD

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

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

15 (2) leadership;

16 (3) integrity; and

17 (4) administrative and communication skills.

18 (b) Nomination. After interviewing and evaluating all candidates, the
19 Board shall submit to the Governor a list of all well-qualified candidates for
20 Adjutant and Inspector General.

1 Sec. 4. 20 V.S.A. § 363 is amended to read:

2 § 363. OFFICERS GENERALLY

3 (a)(1) The ~~General Assembly shall biennially elect~~ Governor shall appoint,
4 with the advice and consent of the Senate and from a list of candidates
5 submitted by the Adjutant and Inspector General Nominating Board, an
6 Adjutant and Inspector General, ~~who~~ for a term of two years.

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

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

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

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

17 (3) Upon appointment, each Assistant Adjutant General shall be a
18 federally recognized officer of the National Guard of the rank of lieutenant
19 colonel or above, and shall have a rank of colonel or brigadier general, and the
20 Sergeant Major shall be a federally recognized noncommissioned officer of the
21 National Guard of the rank of master sergeant or first sergeant or above, and

1 the Chief Master Sergeant shall be a federally recognized noncommissioned
2 officer of the rank of senior master sergeant or first sergeant.

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

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

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

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

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

17 Sec. 5. EFFECTIVE DATE

18 This act shall take effect on July 1, 2019.