

1 H.188

2 Introduced by Representatives Canfield of Fair Haven, Hango of Berkshire,
3 Morrissey of Bennington, Palasik of Milton, Savage of
4 Swanton, and Shaw of Pittsford

5 Referred to Committee on

6 Date:

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

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

14 An act relating to the appointment of the Adjutant General and creating a
15 tax exemption for military retirement pay

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

17 * * * Selection of the Adjutant and Inspector General * * *

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

19 § 10. ELECTION OF STATE AND JUDICIAL OFFICERS

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

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

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

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

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

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

15 (c) Legislative members of the Board shall be entitled to per diem
16 compensation and reimbursement for expenses in accordance with 2 V.S.A.
17 § 406. Members of the Board who are not otherwise compensated by their
18 employer shall be entitled to per diem compensation and reimbursement for
19 expenses in the same manner as board members are compensated under
20 32 V.S.A. § 1010. The compensation and reimbursement for the six members
21 appointed by the House and Senate shall be paid from the legislative

1 appropriation. The compensation and reimbursement for the three members
2 appointed by the Governor's Veterans Advisory Council shall be paid from the
3 appropriation for the Military Department.

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

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

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

9 § 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND

10 INSPECTOR GENERAL; REQUIREMENTS

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

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

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

1 (1) be a resident of Vermont;

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

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

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

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

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

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

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

19 (2) The following shall be public:

20 (A) the Board's operating procedures;

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

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

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

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

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

11 § 372. 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. 5. 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 four 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~~ and have the rank of a major general in Vermont.

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

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

18 (3) Upon appointment, each ~~Assistant Adjutant General~~ assistant
19 adjutant general shall be a federally recognized officer of the National Guard
20 of the rank of lieutenant colonel or above, and shall have a rank of colonel or
21 brigadier general in Vermont, and the Sergeant Major shall be a federally

1 recognized noncommissioned officer of the National Guard of the rank of
2 master sergeant or first sergeant or above, and the Chief Master Sergeant shall
3 be a federally recognized noncommissioned officer of the rank of senior master
4 sergeant or first sergeant.

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

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

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

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

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

19 * * * Tax Exemption for U.S. Armed Forces Retirement Pay * * *

20 Sec. 6. 32 V.S.A. § 5811 is amended to read:

21 § 5811. DEFINITIONS

1 The following definitions shall apply throughout this chapter unless the
2 context requires otherwise:

3 * * *

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

6 (A) ~~Increased~~ increased by the following items of income (to the
7 extent such income is excluded from federal adjusted gross income):

8 * * *

9 (B) ~~Decreased~~ decreased by the following items of income (to the
10 extent such income is included in federal adjusted gross income):

11 * * *

12 (iii) recapture of State and local income tax deductions not taken
13 against Vermont income tax; ~~and~~

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

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

19 (C) ~~Decreased~~ decreased by the following exemptions and
20 deductions:

21 * * *

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

2 § 5811. DEFINITIONS

3 The following definitions shall apply throughout this chapter unless the
4 context requires otherwise:

5 * * *

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

8 * * *

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

11 * * *

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

14 * * *

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

16 § 5813. STATUTORY PURPOSES

17 * * *

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

