WEST VIRGINIA CODE CHAPTER 15 ARTICLE 1B

WV Legislature

§15-1B-1. Organization of the National Guard.

The National Guard shall be organized, equipped, disciplined, governed, administered and trained in accordance with the laws and regulations of the federal government for the purpose of organization and governance of the same, and for that purpose, the Governor is authorized to organize, reorganize or disband any unit, headquarters or staff therein, to increase or decrease the number of officers and noncommissioned officers and the strength of the National Guard or any unit thereof: Provided, however, That the Governor shall not be required to consent to the organization of any forces required or withdrawal of units organized in the state unless he deems the same in the best interest of the state. The Governor, in case of war, insurrection, invasion or imminent danger thereof, shall have the power to increase the National Guard and organize additional units thereof, though the same are not authorized or provided for by federal laws or regulations.

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§15-1B-2. Army National Guard.

The army National Guard shall comprise the army units including army aviation units, which are a part of the West Virginia National Guard and the personnel enlisted, appointed, or commissioned therein. All members of the army National Guard shall be federally recognized as such.

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§15-1B-3. Air National Guard.

The air National Guard shall comprise the air units of the West Virginia National Guard, except army aviation units, and the personnel enlisted, appointed or commissioned therein. All personnel of the air National Guard shall be federally recognized as such.

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§15-1B-4. Oath, appointment and promotion of officers.

a. Oath, appointment and promotion of officers shall be made in conformity with applicable rules and regulations of the federal government.

b. Every officer duly commissioned shall, within ten days, after his commission is tendered to him or within ten days after he shall be personally notified that the same is held in readiness for him by any superior officer, take and subscribe to the oath of office prescribed by the Constitution of this state. In case of neglect or refusal to take and subscribe to such oath within the time mentioned, he shall be deemed to have resigned such office. Such oath shall be taken and subscribed before any officer authorized to take acknowledgments of deeds in this state, or some officer who has taken it himself and who is hereby authorized to administer the same.

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§15-1B-5. Surplus officers; resignations.

a. Commissioned officers who shall be rendered surplus by reduction, consolidation, or disbandment of organizations, or in any manner provided by law, may be transferred to the inactive National Guard in conformity with applicable rules and regulations prescribed by federal authority, or may be discharged.

b. An officer may tender his resignation or request transfer from the National Guard at any time: Provided, That no such resignation shall be accepted unless the officer tendering the same shall furnish the Adjutant General from each property accounting officer concerned a certificate that he has delivered all books and other property of the state and federal government in his possession to the person authorized to receive the same, and that his accounts for money or public property are correct, and that he is not indebted to the state or federal military authorities.

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§15-1B-6. Dismissal of officers.

a. No officer of the National Guard shall be dismissed unless by reason of resignation, approval of findings of an efficiency or medical examining board, withdrawal of federal recognition, the sentence of a court-martial, or for cause as provided in subsection d of this section.

b. The efficiency, moral character, incompetency, inability to properly perform his duty, and general fitness for retention in the National Guard of any officer may be investigated and determined by an efficiency examining board.

c. The physical fitness for further service of any officer of the National Guard may be investigated by a medical examining board of officers.

d. Efficiency and medical examining boards consisting of three or more officers shall be appointed by the Adjutant General upon recommendation of the commanding officer of the officer under investigation. All members of such boards shall be senior in grade to the officer under investigation, unless unavailable. Such boards shall be vested with the powers of courts of inquiry and courts-martial. Any officer ordered to appear before such a board shall be allowed to appear in person or by counsel, to cross-examine and to call the witnesses in his behalf. He shall at all stages of the proceedings be allowed full access to records pertinent to his case and be furnished copies of the same. If the officer shall fail to appear at the time and place set for the hearing by the board, the board shall proceed to consider the evidence presented to it and make such findings as shall be warranted. If the findings of the board are unfavorable to an officer and are approved by the Governor, the Governor shall dismiss the officer, transfer him to the state retired list or the honorary militia, or make such other order as may be appropriate.

e. Any officer who permanently moves from the state or who is absent without leave from drill, training and other duty for two months, or whose federal recognition is withdrawn may be dismissed automatically.

f. In any case in which the Adjutant General shall have ground to believe an officer unfit, incompetent, or incapable of performing his duties, he may be dismissed or transferred to the reserve list or honorary National Guard, if appropriate, without reference to an efficiency or medical examining board, unless the officer so dismissed or transferred shall, within thirty days after being notified thereof, serve upon the Adjutant General notice in writing demanding a hearing and examination before an appropriate board.

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§15-1B-7. Appointment, promotion and reduction of noncommissioned officers.

Noncommissioned officers shall be appointed and promoted and may be reduced in accordance with applicable federal laws and regulations: Provided, however, That in active service of the state, in cases requiring immediate example, a noncommissioned officer may be reduced to the ranks by his immediate commander, subject to appeal to, and review and approval by, the appointing officer.

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§15-1B-8. Enlisted personnel -- Generally.

(a) The qualification for enlistment and reenlistment, the period of enlistment, reenlistment and voluntary extension of enlistment, the period of service and the manner and form of transfer and discharge of enlisted personnel of the National Guard shall be as prescribed by applicable federal law and regulations: Provided, That the Governor may extend the period of any enlistment, reenlistment, voluntary extension of enlistment and the period of service of enlisted personnel of the National Guard for a period not exceeding the duration of an emergency declared by him pursuant to article one-c of this chapter.

(b) Any person who has been discharged under other than honorable conditions from the National Guard of this or any other state or from any component of the Armed Forces of the United States and has not been restored to duty shall not be eligible for enlistment in the National Guard.

(c) Every person enlisted for the National Guard shall take an oath of allegiance to the state and the United States and shall sign an enlistment paper, which shall be forwarded to the Adjutant General on such form as may be prescribed.

(d) The oath of allegiance referred to in subsection (c) of this section may be taken and signed before any commissioned officer of the Armed Forces of the United States.

WV Legislature

§15-1B-9. Enlisted personnel -- Discharge.

a. Enlisted men may be honorably discharged, discharged, or discharged dishonorably; but in no case may an enlisted man be dishonorably discharged unless by sentence of a general court- martial, except as hereinafter provided. No enlisted man shall be honorably discharged from service unless he produces the certificate of his immediate commanding officer that he has turned over or satisfactorily accounted for all property issued to him

b. Whenever any enlisted man of the National Guard shall have performed service therein for the term of his enlistment or reenlistment, and has turned in to the proper officer all state or military property for which he is responsible, his commanding officer shall grant him a full and honorable discharge, except in time of insurrection or invasion or other emergency declared by the Governor, when his enlistment shall be automatically extended for the period he shall be in the active service of the state, and until released therefrom by proper order. Discharge for physical disability shall be granted pursuant to applicable rules and regulations. The Governor may authorize for sufficient reason, and in his discretion, the discharge of enlisted men, with or without their consent, at any time, upon the recommendation of the commanding officer of the unit of organization to which they belong. An enlisted man who cannot, after due diligence, be found, or who shall remove his residence from the state, or to such distance from the armory of his organization, as to render it impracticable for him to perform properly military duties, or who shall be convicted of a felony, may be discharged by order of the Governor.

c. A dishonorable discharge from the service in the National Guard shall operate as a complete expulsion from the guard, a forfeiture of all exemptions and privileges acquired through membership therein, and disqualification for any military office under the state. The names of all persons dishonorably discharged shall be published in orders by the Adjutant General at the time of such discharge, and as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such dishonorably discharged person resides. No person so discharged shall be admitted to any armory or other meeting place of the National Guard or to the immediate vicinity of any encampment, drill or parade of troops. All commanding officers are hereby required to enforce these prohibitions.

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§15-1B-10. Inactive National Guard.

The inactive National Guard shall consist of the persons commissioned, appointed or enlisted therein at the effective date of this article, such officers and enlisted personnel as may hereafter be transferred thereto from the army National Guard and the air National Guard, and such persons as may be enlisted therein, under applicable regulations.

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§15-1B-11. Uniforms, arms, equipment and supplies.

(a) The uniforms, arms, equipment, and supplies necessary for performance of duties shall be those prescribed by applicable federal laws and regulations. Officers shall provide themselves with uniforms and equipment prescribed, and there shall be annually allowed, to aid them in procuring and maintaining the same in condition for service, the sum of $100 each or a higher sum not to exceed $750 as determined at the discretion of the Adjutant General. Such sum shall be paid during the last month of each fiscal year for such year. In the event of service for less than the full fiscal year one-twelfth of such sum shall be allowed for each month of service during such year.

(b) Any member of the National Guard requiring a maternity or other specialty uniform, may request a sum or reimbursement to offset any expenses incurred in procuring such uniform, not to exceed the amount provided in subsection (a) of this section once in a 36-month period. Sums or reimbursements made pursuant to this subsection are made at the discretion of the Adjutant General. Any approved sum or reimbursement shall be paid during the last month of the fiscal year in which the request was approved.

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§15-1B-12. Care of and responsibility for military property and funds.

a. Military property of the state and of the United States shall be issued, safeguarded, maintained, accounted for, inventoried, inspected, surveyed and disposed of as provided in applicable laws and regulations of the United States and regulations issued by the Adjutant General pursuant to this chapter.

b. Every officer of the National Guard responsible for military property or funds of the state or of the United States shall give bond to the state in such amount as shall be determined by the Adjutant General, with good and sufficient security, to be approved by him conditioned upon the safekeeping, proper use and care and prompt surrender of such property or funds for which he may be properly responsible.

c. When military property is lost, damaged, or destroyed through the negligence or fault of a member of the National Guard, the amount determined as the value of such property or the cost of repairing the same may be collected from any pay or allowance due or to become due him from the state.

d. An action may be maintained in the name of the state in any court having jurisdiction thereof by the Attorney General upon the request of the Adjutant General to recover from a member or former member of the organized militia found responsible for military property lost, damaged or destroyed through his negligence or fault, the amount determined as the value of such property or the cost of repairing the same.

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§15-1B-13. Assemblies, annual training and other duty.

a. Members and units of the organized militia shall assemble for drill, or other equivalent training, instruction or duties during each year and shall participate in field training, encampments, maneuvers, schools, conferences, cruises or other similar duties each year as may be prescribed by the applicable laws and regulations of the United States and of this state.

b. Members of the organized militia may be ordered by the Governor or under his authority to perform special duty, including but not limited to duty in a judicial proceeding, as a member of or in any other capacity with any military board, or as an investigating officer or as a medical examiner.

c. Organization and unit commanders may in their discretion order drills of such portion of their command as may be deemed necessary, and may in their discretion order target practice for their command: Provided, That if any expense is to be incurred, written authority must be obtained from the Adjutant General.

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§15-1B-14. Annual inspection and muster.

An annual inspection and muster of each organization of the National Guard shall be made by an inspector at such time and place as the Adjutant General shall order and direct.

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§15-1B-15.

Repealed.

Acts, 1982 Reg. Sess., Ch. 102.

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§15-1B-16. Pay and allowances.

(a) Pay and allowances for officers and enlisted personnel of the National Guard for drill, encampment or other duty for training prescribed or ordered by the federal government shall be such as are provided by the laws of the United States.

(b) Officers and enlisted personnel of the National Guard in active service of the state shall receive the same pay and allowances, in accordance with their rank and service, as are prescribed for the Armed Forces of the United States: Provided, That no member of the National Guard shall receive base pay of less than $100 per day while he or she is in active service of the state.

(c) Notwithstanding any of the provisions of this article, members of the National Guard may, with their consent, perform without pay, or without pay and allowances, any duties prescribed by section thirteen of this article pursuant to competent orders therefor: Provided, That necessary expenses may be furnished such personnel within the discretion of the Adjutant General.

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§15-1B-17. Command pay; inspections; compensation for clerical services and care of property.

(a) There may be paid to each commander of a brigade, regiment, air wing, army group or other corresponding type organization $100 per month and to each commander of a battalion, army squadron, air group or other equivalent type organization $50 per month and to each commander of a company, air squadron or other equivalent type organization $25 per month, payable quarterly, to be known as command pay.

(b) There is allowed to each commander of a brigade, regiment, air wing, army group or equivalent type organization the sum of $100 per month and each commander of a battalion, army squadron, air group or corresponding type organization the sum of $50 per month for clerical services; and to each commander of a company air squadron or corresponding type unit the sum of $25 per month for like services, payable quarterly. The Commandant of the West Virginia Military Academy is allowed the sum of $25 a month, payable quarterly, for like services.

(c) At the discretion of the Adjutant General, there may be paid to the enlisted man or woman who is directly responsible for the care and custody of the federal and state property of each organization or unit the sum of $10 per month, payable quarterly, upon the certificate of his or her commanding officer that he or she has faithfully and satisfactorily performed the duties assigned him or her and accounted for all property entrusted to his or her care.

(d) The Adjutant General shall determine the amount of entitlement to command pay and clerical pay, using organizational charts showing chain of command and authorized strengths and defining other equivalent type organizations. Notwithstanding the provisions of subsections (a) and (b) of this section, the Adjutant General may authorize the payment of command and clerical pay above the amounts set in subsections (a) and (b) out of existing funding: Provided, That the authorized payment is no more than twice the amounts authorized in subsections (a) and (b) of this section.

(e) Notwithstanding any other provision of this code, there shall be paid to the command administrative officer of the headquarters of the West Virginia Army National Guard and to the executive staff support officer of the headquarters of the West Virginia Air National Guard, or to the officer occupying a similar position, regardless of title, $100 per month, payable quarterly, to be known as an administrative allowance.

(f) The state command sergeant of the West Virginia Army National Guard and the command chief master sergeant of the West Virginia Air National Guard shall receive a monthly administrative allowance of $100 per month. The command sergeant major or command chief master sergeant of a unit authorized under the command of a commander in the rank of colonel shall receive a monthly administrative allowance of $75 per month. The command sergeant major or command chief master sergeant of a unit authorized under the command of a commander in the rank of lieutenant colonel shall receive a monthly administrative

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allowance of $45 per month.

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§15-1B-18. Injury or death while in service of state.

A member of the organized militia who, (1) while in active service of the state, shall receive an injury, or incur or contract any disability or disease, by reason of such duty, or (2) while performing any lawfully ordered state duty, shall without fault or neglect on his part be injured or disabled, and shall be incapacitated from pursuing his usual business or occupation, shall, during the period of such incapacity, receive the pay provided by this article and actual necessary expenses for care and medical attendance, including burial and funeral expenses in case of death resulting therefrom. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed, upon the application of the member claiming to be so incapacitated, or his personal representatives, by the commanding officer of the organization or unit to which such member is attached or assigned. Such board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and punish their failure to do so, as is possessed by a general court- martial. The findings of the board shall be subject to the approval of the officer convening it, and also to the approval of the Governor, either of whom may return the proceedings of the board for revision and for the taking of further testimony. The amount found due such member by such board, to the extent that its findings are approved by the reviewing officers thereof, shall be paid by the treasurer of the state out of any moneys in the military fund unexpended. The widow and children of every officer or soldier killed, while in the service of the state or performing lawfully ordered state duty, shall be suitably provided for by the Legislature.

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§15-1B-19. Military fund.

The sums of money which may be appropriated by the Legislature for carrying into effect any provisions of this article, and the penalties and collections required thereby to be paid to the treasurer of the state, shall constitute the military fund of the state for the uses and purposes set forth in this article. The State Treasurer shall, at the end of each quarter, render to the Adjutant General a statement of the condition of the military fund, showing the amount on hand at the beginning of the quarter, the amount received and expended during the quarter, and the balance on hand at the end of the quarter. The Adjutant General shall furnish the Governor a copy of this quarterly report.

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§15-1B-20. Military expenses.

All payments made under the provisions of this article, except pay and allowances for active service of the state, shall be paid out of the military fund. All pay and allowances and other expenses incurred in active service of the state shall be paid out of any moneys in the treasury not otherwise appropriated. The military fund shall be disbursed on warrant of the Adjutant General, properly drawn and in such manner as the Governor may order, or as may be required by law, but no warrant for funds signed by him shall be honored by the Auditor until such Adjutant General shall have executed and filed such bond as may be required by the Governor. Payments shall be made on proper vouchers, which vouchers shall show the authority under which the expenditures are made, contain an itemized statement of the transactions, and be filed for record in the office of the Adjutant General. All claims for services rendered or material furnished shall be approved by the officer ordering the work or material, and shall be over his certificate to the effect that the amount is just and reasonable, and that it has not been previously paid. No expenditures shall be made by any officer until an estimate of the amount and a statement of the necessity therefor shall have been laid before the Adjutant General and his approval received.

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§15-1B-21. Tuition and fees for guard members at institutions of higher education.

(a) Any member of the Army National Guard or Air National Guard who is enrolled in an educational program which leads to a certificate, undergraduate degree, master's degree, doctor of medicine, or doctor of osteopathic medicine, and is attending any accredited community and technical college, college, university, or business, career-technical, vocational, trade, or aviation school, located in West Virginia, may be entitled to payment of tuition and fees for that program during the period of his or her service in the National Guard.

(1) The Adjutant General may prescribe criteria of eligibility for payment of tuition and fees. The payment is contingent upon appropriations being made by the Legislature for the express purpose of this section.

(2) A member may receive payment for only one certificate, undergraduate degree, and master's degree pursuant to this section.

(3) Not more than two members a year may be selected by the Adjutant General to receive payment for either a doctor of medicine or doctor of osteopathic medicine degree program. Any candidate selected for this program must remain a member of the Army National Guard or the Air National Guard after receiving a doctor of medicine or doctor of osteopathic medicine degree for a mandatory service obligation as prescribed by the Adjutant General, or be subject to recoupment for all moneys paid pursuant to this subdivision.

(b) The amount of the payment for a member attending a state-supported school is determined by the Adjutant General and may not exceed the actual cost of tuition and fees at the school. The amount of the payment for a member attending a private school is determined by the Adjutant General and may not exceed the highest amount payable at any state-supported school.

(c) Any member of the Army National Guard or Air National Guard who is receiving payments under a federally funded continuing education system and is eligible to receive tuition and fee payments pursuant to this section may be entitled to payment of tuition and fees under this section. The sum of payments received under this section and a federally funded continuing education system may not exceed the actual amount of tuition and fees at the school and in any event may not exceed the highest amount payable at any state-supported school. If a member of the Army National Guard or Air National Guard uses education benefits that are administered by the U.S. Department of Veterans Affairs, such as the Post 9/11 GI Bill or any other program that pays tuition or fees directly to the institutions of higher education, the institution of higher education shall first assess the U.S. Department of Veterans Affairs for payment of tuition and fees payable by those programs, with the remaining tuition and fees, if any, then being payable in accordance with this section.

(d) For any member of the West Virginia Army National Guard or West Virginia Air National Guard who is participating in the PROMISE Scholarship program provided in §18C-7-1 *et*

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seq. of this code, the Adjutant General may pay directly to the member an amount equal to the amount of tuition and fees which otherwise would have been paid to the school.

(e) A member of the West Virginia Army National Guard or West Virginia Air National Guard who is receiving payments for tuition and fees under this section and is discharged from the military service due to wounds or injuries received in the line of duty may continue to receive payments for tuition and fees under this section as if he or she were still a member.

(f) The Adjutant General shall administer the tuition and fee payments authorized under this section and shall establish policies to implement the provisions of this section.

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§15-1B-22. Military facilities; security guards; qualifications; duties; powers.

(a) Notwithstanding any provision of this code to the contrary, bona fide members of the West Virginia National Guard assigned by the Adjutant General to function as security guards to safeguard military property of the state or of the United States who have successfully completed a training program in law enforcement approved by the Adjutant General and the superintendent of the West Virginia Department of Public Safety shall be deemed to have met all the requirements for certification as a law-enforcement officer set forth in section five, article twenty-nine, chapter thirty of this code. Those members of the West Virginia National Guard who are so designated as security guards and who have successfully completed such training program are hereby empowered:

(1) To make arrests on military installations of the state or of the United States for any violations of the law of this state or of the United States occurring on any such military installation;

(2) To patrol areas immediately adjacent to military installations to provide for its security and to safeguard military personnel, equipment and other government assets located on said installation: Provided, That nothing in this subparagraph shall confer upon security guards the right to enter upon private property;

(3) To cooperate with state and local authorities in detecting and apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state or of the United States, or of any ordinance of any municipality of this state, if such is committed or attempted to be committed on or adjacent to a military installation in this state; and

(4) To respond to areas adjacent to military facilities and installations at the request of state and local authorities to provide support and mutual aid in the event of accidents, emergency or otherwise.

(b) Any security guard, duly appointed by the Adjutant General, knowing or having reasonable cause to believe that a person has violated the law while situate on a military installation, may make complaint in writing before any court or officer having jurisdiction and procure a warrant for such person.

(c) For the purposes of this section, the term "military installation" shall mean a facility under the command of the Adjutant General.

(d) Notwithstanding any provision of this code to the contrary, bona fide members of the West Virginia National Guard assigned by the Adjutant General to function as firefighters to safeguard military property of the state or of the United States are hereby empowered to respond to areas adjacent to military facilities and installations at the request of state and local authorities to provide support and mutual aid in the event of accidents, emergency or otherwise.

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§15-1B-23. American flag for burial of deceased members of the National Guard; presentation of flag to parent or spouse.

(a) The Adjutant General shall pay the necessary expenses for the presentation of a flag of the United States with care to the person designated to direct disposition of the remains of a deceased person who served a federally recognized unit of National Guard of this state, upon request of such designated person, if the deceased member of the National Guard has not been dishonorably discharged from service as provided for in section nine of this article, and if such deceased person is not otherwise eligible to receive such flag under any other provision of the laws of this state or federal law. Such flag shall be provided in order that the casket of the deceased person may be draped in a flag of the United States.

(b) After the burial of the deceased member, the flag so furnished pursuant to subsection (a) of this section shall be given to the parent or parents or to the spouse of the deceased person. If no claim is made by a parent or spouse for the flag furnished under subsection (a), the flag may be given, upon request, to a close friend or associate of the deceased member.

(c) For the purposes of this section, the term "parent" includes a natural parent, a step-parent, a parent by adoption or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to him and preference under this clause shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent.

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§15-1B-24. Mountaineer Challenge Academy; expansion; cooperation of state executive agencies.

(a) Subject to the agreement entered into between the United States Secretary of Defense and the Governor to establish, organize, and administer the Mountaineer Challenge Academy pursuant to 32 U.S.C. § 509, the Governor shall:

(1) Expand the capacity of the Mountaineer Challenge Academy location in Preston County to accept cadets up to its maximum capacity;

(2) Expand the Mountaineer Challenge Academy to a second location in Fayette County; and

(3) To the extent necessary to accomplish the requirements set forth in this subsection and to maximize the use of federal funds, pursue an amendment to the agreement entered into with the United States Secretary of Defense pursuant to 32 U.S.C. § 509.

(b) The Mountaineer Challenge Academy, operated by the Adjutant General at Camp Dawson, is hereby acknowledged to be a program of great value in meeting the educational needs of at-risk youth throughout the state. Further, the Mountaineer Challenge Academy is hereby designated as a special alternative education program as is further provided pursuant to section §18-2-6 of this code. It is, therefore, the intent of the Legislature that the Mountaineer Challenge Academy should enjoy the full cooperation of the executive agencies of state government in carrying out its program.

To this end, the State Board of Education shall, notwithstanding any other provision in this code to the contrary:

(1) Include the Mountaineer Challenge Academy in the child nutrition program;

(2) Provide the names and mailing addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy annually; and

(3) Provide for Mountaineer Challenge Academy graduates to participate in the adult basic education program.

(c) Further cooperation with the Mountaineer Challenge Academy is encouraged by the Legislature for the purpose of assisting the Mountaineer Challenge Academy to achieve its mission and help prepare young people for productive adulthood.

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§15-1B-25. Readiness Enhancement and Commissioning Bonus.

(a) The Adjutant General may establish, within the limitations of this section, a program to provide enlistment bonuses to eligible prospects who become members of the West Virginia National Guard.

(1) Eligibility for the bonus is limited to a candidate who: (A) Joins the National Guard as an enlisted member; (B) Serves satisfactorily during the period of, and completes, the person's initial entry training, if applicable; and (C) Has expertise, qualifications, or potential for military service deemed by the Adjutant General as sufficiently important to the readiness of the National Guard or a unit of the National Guard. The Adjutant General may, within the limitations of this subsection and other applicable laws, determine additional eligibility criteria for the bonus.

(2) The enlistment bonus payments are to be in an amount to generally encourage the candidate's enlistment in the National Guard, subject to available appropriations, and on a schedule that is determined and published in department regulations by the Adjutant General.

(3) If a member fails to complete a term of enlistment for which a bonus was paid, the Adjutant General may seek to recoup a prorated amount of the bonus as determined by the Adjutant General.

(b) The Adjutant General may establish a program to provide a reenlistment or commissioning bonus to eligible members of the West Virginia National Guard who extend their term of service in the National Guard within the limitations of this subsection. Eligibility for the bonus is limited to a member of the National Guard who: (1) Is serving satisfactorily as determined by the Adjutant General and (2) has military training and expertise deemed by the Adjutant General as sufficiently important to the readiness of the National Guard or a unit of the National Guard, or has accepted a commission as an officer in the National Guard. The Adjutant General may, within the limitations of this subsection and other applicable laws, determine additional eligibility criteria for the bonus.

(1) The enlistment bonus payments are to be in an amount to generally encourage the member's reenlistment or commissioning in the National Guard, subject to available appropriations, and on a schedule that is determined and published in department regulations by the Adjutant General.

(2) If a member fails to complete a term of reenlistment or an obligated term of commissioned service for which a bonus was paid, the Adjutant General may seek to recoup a prorated amount of the bonus as determined by the Adjutant General.

(c) Upon graduation from the officer candidate school conducted at the regional training institute, Camp Dawson, each member of the West Virginia Army National Guard who accepts a commission shall be entitled to a commissioning bonus of $2,000.

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§15-1B-26. Firefighters and security guards to be members of the National Guard.

(a) Only firefighters and security guards who are members of the West Virginia National Guard may be employed by the Adjutant General as firefighters and security guards: *Provided*, That any person employed as a firefighter on the effective date of this section who is not a member of the West Virginia Air National Guard may continue to be employed as a firefighter: *Provided, however*, That no person who is not employed on the effective date of this section as a firefighter and who is not a member of the West Virginia Air National Guard may be employed as a firefighter for the West Virginia Air National Guard: *Provided further*, That any firefighter or security guard employed under this section who reaches age 60 and loses military membership may continue to serve as a civilian firefighter or civilian security guard until they reach age 62.

(b) In the event military deployments, mobilization, or other circumstances result in personnel shortages in the firefighter or security guard force, the Adjutant General may temporarily employ or execute any other agreement necessary to obtain the services of civilian firefighters or civilian security guards as may be required to continue operations.

WV Legislature

§15-1B-27. Asset Forfeiture and Asset Sharing.

(a) The West Virginia National Guard is authorized to participate in asset forfeiture and seizure programs established by the United States government relating to drug interdiction and counter-drug activities, pursuant to the provisions of 32 U. S. C. §112.

(b) (1) There is hereby created in the State Treasury a special revenue account, designated the West Virginia National Guard Counterdrug Forfeiture Fund which shall be administered by the Adjutant General.

(2) Any balance in the account at the end of the fiscal year shall not revert to the general revenue fund but shall remain in the account, and be expended as provided in this section. The fund shall consist of property seized or forfeited to the United States under any federal asset, forfeiture or sharing program and shared with the West Virginia National Guard Counter Drug Program.

(3) Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code: Provided, That for fiscal year ending June 30, 2013, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature. Expenditures from the fund shall be for facilities, equipment, administrative expenses and to defray any other necessary expenses incidental to and associated with the program.

(c) The Adjutant General shall propose rules pursuant to article three, chapter twenty-nine-a of this code for the operation of any asset forfeiture and asset sharing program by the West Virginia National Guard Counterdrug Support Program and for the operation of the special revenue fund account established under this section.

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§15-1B-28. Protection of classified and sensitive military information.

While there is a presumption of public accessibility to all public records, the following types of records are specifically exempt from public disclosure, to include any disclosure under §29B-1-1 *et seq.* of this code:

(1) Information that is properly classified to protect national or state security;

(2) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of the Department of Defense, armed forces of the United States, the National Guard, or Department of Homeland Security;

(3) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, the National Guard, the armed forces of the United States, Department of Defense, state and local law enforcement, and other agencies within the U.S. Department of Homeland Security or the W. Va. Department of Homeland Security; and

(4) Sensitive military information the public disclosure of which would threaten public safety, endanger military personnel, or provide a military advantage to an adversary. Such information includes, but is not limited to, deployment, operational or emergency response plans or operations, military tactics, techniques, or procedures, rules for the use of force, rules of engagement, critical infrastructure security information, offensive, defensive, force protection, cyberspace, stability, civil support, freedom of navigation, operations security, domestic operation, personnel and equipment strengths and location of the National Guard, armed forces, or the Department of Defense.

WV Legislature