



Ohio Legislative Service Commission

Bill Analysis

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Am. Sub. H.B. 461 128th General Assembly (As Passed by the House)

Reps. Pillich and Boose, Baker, Balderson, Beck, Brown, Chandler, Derickson, Domenick, Evans, Garland, Gerberry, Grossman, Harwood, McGregor, Okey, Pryor, Sears, Ujvagi, Wachtmann, Yuko, Carney, Fende, Gardner, Garrison, Goyal, McClain, Mecklenborg, Bolon, Boyd, Celeste, Daniels, Driehaus, Dyer, Foley, Hackett, Hagan, Harris, Heard, Hite, Hottinger, Koziura, Lehner, Letson, Luckie, Lundy, Mallory, Murray, Oelslager, Otterman, Patten, Schneider, Stewart, Szollosi, Walter, Weddington, B. Williams, Winburn, Zehringer

BILL SUMMARY

- Modifies the law governing the operation of Ohio veterans' homes.
- Modifies eligibility requirements for admission to veterans' homes.
- Eliminates reporting requirements of the Director of Veterans Services.
- Eliminates a requirement that the Director seek Medicaid certification for veterans' homes and Medicaid eligibility for veterans' home residents.
- Makes other miscellaneous changes to the laws governing the Department of Veterans Services.
- Removes Revised Code references to the Ohio Veterans' Home Agency and replaces references to the Director with the Superintendent of Ohio veterans' homes, as appropriate, in the laws governing the administration of veterans' homes.
- Modifies pay and accrual of leave provisions for the Adjutant General, Assistant Adjutant Generals for Army and Air, and the Assistant Quartermaster General (AQG).
- Makes changes to the eligibility requirements to serve as Adjutant General, Assistant Adjutant Generals for Army and Air, or as AQG.
- Modifies the composition of and eligibility to serve on the Governor's military staff.

- Modifies the law establishing who may administer oaths for the purposes of military administration and affidavits.
- Makes other miscellaneous changes to the laws governing the Adjutant General and Ohio National Guard.
- Makes changes to the Ohio National Guard Scholarship Program.
- Creates the Commission for the Future of Local Veterans Posts in Ohio.
- Provides that the spouse of a deceased former prisoner of war (POW) may still apply for and receive a POW license plate even if the spouse has remarried.
- Changes the laws regarding the length of leases of vacant armories.
- Makes changes to the appropriations for the Department of Veterans Services.
- Makes changes to the appropriations for the Department of Education.
- Provides that the bill is not subject to the referendum and therefore goes into immediate effect.

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CONTENT AND OPERATION

Ohio Veterans' Home Agency and Department of Veterans Services

The bill makes many changes regarding veterans' homes and the Department of Veterans Affairs. First, the bill modifies the operation of, and eligibility requirements for admittance as a resident to, veterans' homes. The bill also makes several miscellaneous changes to operations and duties of the Department. Additionally, the bill changes the Department's appropriations for the current fiscal biennium. Finally, the bill removes Revised Code references to the Ohio Veterans' Home Agency.¹

Changes to veterans' homes operation and eligibility

(R.C. 5907.01, 5907.02, 5907.04, and 5907.10; R.C. 5907.05, repealed by the bill)

The bill provides that the Department, instead of the Ohio Veterans' Home Agency, is responsible for maintaining and operating Ohio veterans' homes. Additionally, current law requires that the homes be maintained and operated for honorably discharged veterans. The bill instead requires the homes to be operated in accordance with federal laws governing state veterans' home programs (*see* 38 United States Code 1701 *et seq.*).

The bill also changes the eligibility requirements for admission to a veterans' home. Under current law, a veteran must be an Ohio citizen for at least five consecutive years before being eligible to reside in a veterans' home. The bill reduces the residency requirement to one year. Also, the bill repeals a provision that grants a preference for

¹ The Ohio Veterans' Home Agency was incorporated into the Department as part of S.B. 289 of the 127th General Assembly. That act created the cabinet-level Department of Veterans Affairs, abolished the Agency, and transferred all Agency functions, assets, and liabilities to the control of the Department (*see* Section 6, Am. Sub. S.B. 289, 127th General Assembly).

admission to a veterans' home to veterans who served in Ohio military organizations. In addition, current law lists the specific conflicts during which veterans must have served to qualify to reside in an Ohio veterans' home. The bill provides instead that a veteran who served during a period of conflict as determined by the U.S. Department of Veterans Affairs may be eligible.

Miscellaneous changes to veterans' homes operation

The bill makes several miscellaneous changes to the laws governing the Department of Veterans Services and the operation of veterans' homes.

Director of Veterans Services reporting requirements

(R.C. 3313.616, 5902.02, and 5907.02)

The bill eliminates a requirement that the Director of Veterans Services annually publish and distribute to each county veteran service office and state headquarters of congressionally chartered veterans organizations in Ohio a directory of recently enacted Ohio laws dealing with veterans issues. The bill also eliminates a requirement that the Director annually report to the Governor regarding all expenditures and management of the Ohio Veterans' Home Agency.

Domiciliary care definitions

(R.C. 5907.01; R.C. 5907.022, not in the bill)

Under current law, the Director may contract to provide Department-operated or privately operated nursing home care and domiciliary services to veterans. The bill provides definitions for "domiciliary" and "domiciliary care" as follows:

(1) "Domiciliary" means a separate area within the Ohio veterans' home providing domiciliary care.

(2) "Domiciliary care" means providing shelter, food, and necessary medical care on an ambulatory self-care basis to eligible veterans who do not need the nursing services provided in nursing homes.

Veterans' home chief of police power to appoint officers and other personnel

(R.C. 5907.02)

The Superintendent of Ohio veterans' homes is required to appoint a chief of police. Under current law, the chief of police is authorized to appoint officers and other personnel as required for the veterans' homes. The bill authorizes the chief to

recommend the appointment of officers and removes the chief's power to appoint other personnel.

Medicaid eligibility

(R.C. 5907.04)

The bill eliminates a requirement that the Superintendent pursue Medicaid eligibility for residents. The bill also eliminates a requirement that the Superintendent pursue Medicaid certification for the largest number of beds within the veterans' homes.

Residents' benefit funds

(R.C. 5907.11)

Under current law, a residents' benefit fund may be established in each veterans' home for the entertainment and welfare of the residents. Additionally, the fund may be used to receive and disburse any donations made for events sponsored by the Ohio Veterans Hall of Fame. The bill eliminates this additional use.

Use of volunteers

(R.C. 5907.12)

Under current law, the Director of Veterans Services may use volunteers to assist with certain tasks at veterans' homes. The Director must approve and supervise the volunteer programs and may designate volunteers as state employees for the purpose of motor vehicle accident liability insurance and for the purpose of indemnifying the volunteers from liability incurred in the performance of official duties as permitted under current law. The bill transfers oversight of the volunteer programs to the Superintendent.

Residents' financial information

(R.C. 5907.13)

Current law requires a veterans' home resident to submit to the Director any statements of income, assets, debts, and expenses the Director requires. The bill removes reference to the Director regarding who prescribes the required information and who receives it.

Appropriations changes

(Section 6)

The bill combines the Department's Personal Services (900100) and Maintenance (900200) items to form the new Veterans' Homes Operations items (900321).

Elimination of the Ohio Veterans' Home Agency references

(R.C. 123.024, 3721.50, 5111.21, 5907.021, 5907.023, 5907.08, and 5907.11)

The bill makes the following changes to reflect the full assimilation of the Ohio Veterans' Home Agency into the Department of Veterans Services and the elimination of all references to the Agency:

(1) Removes a requirement that the Department of Administrative Services provide office space to the Agency.

(2) Replaces a reference to nursing homes operated by the Agency with nursing homes operated by the Department in the nursing facility laws.

(3) Replaces a reference to the Agency with the Department with regard to persons eligible to serve as chief of police or as police officers of veterans' homes.

(4) Replaces a reference to the Agency with the Department regarding procedures used when a veterans' home resident becomes dangerous to the community due to mental illness.

(5) Replaces a reference to the Agency with the Department regarding establishment of local funds for each veterans' home to be used for the entertainment and welfare of the home's residents.

(6) Replaces a reference to the Agency with the Department with regard to Medicaid nursing facility requirements.

(7) Repeals a provision exempting the Agency from oversight by the Sunset Review Committee.

Adjutant General and Ohio National Guard changes

The bill makes several changes to the laws governing the office of Adjutant General and the Ohio National Guard. First, the bill makes changes to the manner in which the Adjutant General and other Ohio National Guard officers are paid and accrue leave. Second, the bill modifies eligibility to serve as Adjutant General and other offices within the Ohio National Guard. The bill also modifies the laws governing the

administration of oaths for the purpose of military administration and affidavits. Additionally, the bill modifies the laws prescribing Governor's military staff. Finally, the bill makes several miscellaneous changes to the laws governing the Adjutant General and Ohio National Guard.

Changes to pay and accrual of leave

(R.C. 141.02)

Under the bill, the Adjutant General, Assistant Adjutant Generals for Air and Army, and the Assistant Quartermaster General (AQG) are permitted to retain any federal pay, allowances, and compensation received because of any federally recognized officer status in addition to any state compensation they receive.

The bill further provides that the Adjutant General, Assistant Adjutant Generals for Air and Army, and the AQG (if the AQG is a federally recognized officer) may take a leave of absence from their respective positions without a loss of pay for the time they are performing service in the uniformed service as required by their federally recognized officer status. The bill also provides that these positions are to accrue leave in the same manner as current law provides for other Ohio administrative department heads, such as the Director of Commerce or Superintendent of Insurance. If the AQG is not a federally recognized officer, the bill states that the AQG is to accrue leave in the same manner as other permanent state employees.

Current law also provides that although the Adjutant General, Assistant Adjutant Generals for Air and Army, and the AQG must receive basic allowances for quarters and for subsistence of their rank according to the pay prescribed for the U.S. Armed Forces, the Assistant Adjutant General for Air may not receive flying pay. The bill adds that the Adjutant General also may not receive flying pay, even if the Adjutant General is an officer in the Air National Guard.

Adjutant General officer eligibility

(R.C. 5913.021)

Current law requires that the Adjutant General, Assistant Adjutant General for Army, and Assistant Adjutant General for Air must each be a federally recognized officer in the Ohio National Guard (or Army or Air National Guard, as appropriate) in the grade of colonel or above at the time of appointment. The AQG must be a federally recognized officer in the Ohio Army National Guard in the grade of lieutenant colonel or above. Each must be a federally recognized officer during his or her tenure of office.

The bill would permit an officer with a certificate of eligibility for federal recognition to serve as Adjutant General, Assistant Adjutant General for Army, and Assistant Adjutant General for Air. Additionally, the bill requires that the AQG must be in the grade of colonel or brigadier general instead of lieutenant colonel. The bill removes the requirement that the Adjutant General, Assistant Adjutant Generals for Army and Air, and the AQG be federally recognized officers during their tenure in office.

Commissioning officers in the Ohio National Guard

(R.C. 5919.06)

Under current law, persons commissioned as officers of the Ohio National Guard must be selected only from the following classes:

- (1) Officers or enlisted men of the National Guard;
- (2) Officers, active or retired, reserve officers, and former officers of the Armed Forces of the United States;
- (3) Persons who hold certificates of eligibility for commission;
- (4) Enlisted men and former enlisted men of the U.S. Armed Forces who have received an honorable discharge;
- (5) Graduates of the U.S. Military, Naval, and Air Force academies;
- (6) Graduates of the Reserve Officers Training Corps;
- (7) For the technical branches and services, civilians who are specially qualified for duty.

The bill provides instead that members of the Ohio National Guard shall be commissioned as provided under U.S. Army, Air Force, and National Guard regulations.

Administration of oaths

(R.C. 5924.136)

Current law allows many individuals to administer oaths for the purposes of military administration and affidavits, including the state judge advocate, law specialists, commanding officers of the naval militia, and all other persons designated by regulations of the Governor. The bill modifies this to include all other persons designated by regulations of the Adjutant General instead of the Governor.

Under current law, no officers on the state reserve list and state retired list may administer oaths unless they are on active duty in or with the organized militia under orders of the Governor. The bill removes this limitation for officers on the state reserve list.

Governor's military staff

(R.C. 5913.02; R.C. 5913.04, repealed by the bill)

Under current law, the Governor's military staff may consist of one or more of the following:

- (1) An Adjutant General in the grade of major general, who is to perform the duties of quartermaster general;
- (2) An Assistant Adjutant General for Army in the grade of major general;
- (3) An Assistant Adjutant General for Air in the grade of major general;
- (4) An AQG in the grade of colonel or any other qualified retired officer.

The bill provides that the AQG may be in the grade of colonel or brigadier general. The bill eliminates the requirement that the Governor's military staff include four aides-de-camp appointed by the Governor who hold office during the Governor's pleasure. The bill also repeals a provision requiring that the Governor's aides-de-camp be detailed from the commissioned officers of the Ohio National Guard in active service.

Miscellaneous changes

(R.C. 5913.01, 5913.011, 5919.26, 5919.28, and 5919.29)

The bill makes several smaller changes to the laws governing the Adjutant General and Ohio National Guard.

Ohio National Guard training and evaluation

The bill provides that that the Ohio National Guard must use the system of evaluation of the U.S. Army or Air Force in addition to tactics, field exercises, and training as required under current law. The bill also makes a correction to federal law cited for incorporation into Ohio law with regard to the protections afforded National Guard members when ordered by the Governor to perform training or duty.

Adjutant General's title and command

The bill provides that the Adjutant General is the commander as well as the current law administrative head of the Ohio organized militia. The bill further provides that the Adjutant General must command the joint force headquarters of the Ohio National Guard instead of the state area command as required by current law.

Adjutant General reporting duties

Current law requires the Adjutant General to provide by order the reports to be made by Ohio National Guard officers. The reports are to be upon similar blanks and in similar form to the reports required under the regulations for the U.S. Armed Forces. The bill removes the requirement for the reports to be provided "by order" and "upon similar blanks."

Social Security benefits

Current law authorizes the Adjutant General to enter into a contract with the U.S. Department of Health and Human Services (HHS) for the purpose of securing Social Security benefits for qualified employees of the Ohio National Guard. The bill updates the provision to authorize the Adjutant General to contract with the Social Security Administration instead of HHS.

Ohio National Guard Scholarship

(R.C. 5919.34)

Current law establishes the Ohio National Guard Scholarship Program. The Program provides scholarships to certain individuals currently enlisted in the Ohio National Guard and Ohio National Guard veterans called into active duty on or after September 11, 2001. The bill makes changes to the Program as described below.

Scholarship reduction due to federal aid

Current law provides for the scholarship amount to be paid to an eligible applicant's institution of higher education for each academic term of approved eligibility. The bill adds that an applicant's scholarship must be reduced by the amount of the applicant's tuition benefits under a federal scholarship program for post-September 11, 2001, veterans. This reduction does not apply in the case of a prior service applicant who qualified for 100% tuition under the federal program and transfers the federal benefits to the applicant's spouse, children, or both.

Scholarship eligibility for Ohio National Guard veterans

Current law provides that an Ohio National Guard veteran called into active duty on or after September 11, 2001, is eligible for scholarships under the Program for those academic terms that were missed or could have been missed as a result of the individual's call into active duty. Current law does not specify a time limit on scholarship eligibility. The bill provides that the eligibility period lasts for up to five years from when an individual's enlistment obligation in the Ohio National Guard ends. Additionally, the bill adds that no individual who is discharged from the Ohio National Guard under other than honorable conditions is eligible for scholarships awarded to veterans called into active duty on or after September 11, 2001.

Credit hour requirement

Current law requires, for scholarship eligibility, that an applicant be actively enrolled as a full- or part-time student for at least six credit hours per semester or quarter. Likewise, current law prohibits a scholarship from being paid on behalf of an individual who withdraws from courses prior to the end of an academic term so that the recipient's enrollment for that term is less than six credit hours. The bill reduces the requirement to three credit hours.

Recipient enrollment certification and receipt of payment by institution

Current law requires an institution of higher education to certify the full-time or part-time enrollment of each scholarship recipient based on an eligibility roster provided by the Adjutant General. The bill removes a provision requiring the certified roster to be returned to the Adjutant General within 30 days after the first day of the academic term. The bill also provides that if an institution of higher education fails to certify the actual enrollment of a scholarship recipient listed as enrolled at the institution within 30 days of the end of an academic term, the institution is not eligible to receive payment from the Program or from the individual enrollee.

Removal of Program participant limit

Current law specifies for each academic term a limit on the number of participants in the Program for fiscal year 2000 and succeeding fiscal years. The bill removes the limit on the number of participants.

Inadequate appropriations

Current law requires the Adjutant General to notify all applicants not receiving scholarships for an academic term of when the next academic term scholarships will be available if the Adjutant General estimates that General Revenue Fund appropriations are inadequate to pay all scholarships applied for and likely to be used currently. The

bill also requires estimates of any funds in the Ohio National Guard Scholarship Reserve Fund, in addition to the appropriation estimates. The Fund money must be used to pay scholarship obligations in excess of the appropriations.

Commission for the Future of Local Veterans Posts in Ohio

(Section 3)

Commission duties

The bill creates the Commission for the Future of Local Veterans Posts in Ohio. The Commission must develop recommendations for the successful and sustainable operation of local veterans posts in Ohio. The bill requires the Commission to analyze (but is not limited to analyzing only) the following as it develops its recommendations:

- (1) The economic status of local veterans posts throughout the state;
- (2) Relevant tax and regulatory issues impacting Ohio posts, and those of other states' posts;
- (3) Tax and regulatory costs impacting Ohio posts compared to support provided by Ohio and its political subdivisions, and the comparable costs and support for other states' posts;
- (4) The local economic and civic impact of Ohio posts in their communities throughout the state;
- (5) The sustainability of Ohio posts.

The Commission must conduct public meetings on the development of its recommendations and meet at the call of the chairperson.

The Commission must report its recommendations and reasons supporting them to the President and Minority Leader of the Senate, Speaker and Minority Leader of the House of Representatives, and the Governor not later than December 31, 2010. Under the bill, the Commission ceases to exist after submitting its report to the General Assembly and the Governor.

Commission membership and appointments

The Commission is to consist of nine members. The President and Minority Leader of the Senate and Speaker and Minority Leader of the House of Representatives must each appoint one member from their respective houses. The Director of Veterans Services must appoint, on the recommendation of each organization, one representative

each from the American Legion of Ohio, AMVETS of Ohio, and the Veterans of Foreign Wars. The Director must also appoint a veteran who is a member of an Ohio post not otherwise represented on the Commission. The Director or a designee must serve as an *ex officio* member of the Commission and as the Commission's chairperson.

Initial appointments to the Commission are to be made within 30 days after the bill's effective date. Vacancies must be filled in the same manner provided for original appointments. Members are not entitled to compensation for their services.

Prisoner of War license plates

(R.C. 4503.46)

Under current law, the Registrar of Motor Vehicles is authorized to issue license plates inscribed with the words "FORMER POW" to a person who has been a prisoner of war (POW) or the spouse of a person who has been a POW. The Registrar may also issue such license plates to the spouse of a deceased former POW if the spouse has not since remarried. The bill removes the prohibition against remarriage, thus allowing a remarried spouse of a deceased former POW to obtain such license plates.

Additionally, current law prohibits an applicant for FORMER POW license plates from willfully and falsely representing that the applicant is a qualified recipient of such plates. Because the bill permits a spouse of a deceased former POW to apply for such plates even if the spouse has remarried, the bill makes the prohibition inapplicable to such spouses.

Lease of vacant armories

(R.C. 5911.10)

Current law authorizes the Governor and Adjutant General to lease a vacant armory for periods not to exceed one year. The bill removes the one-year limitation.

Appropriations for the Department of Education

(Sections 4 and 6)

The bill permits, under certain conditions, an additional per pupil subsidy to school districts, community schools, and STEM schools in FY 2010 and FY 2011. The bill also permits the Superintendent of Public Instruction, under certain conditions, to cancel up to \$29,732,647 of encumbrances in the Department of Education's budget that are expected to lapse. The bill reappropriates these for additional funding for chartered nonpublic schools.

Effective date

(Section 8)

The bill declares it is not subject to the referendum and therefore goes into immediate effect when it becomes law.

HISTORY

ACTION	DATE
Introduced	03-02-10
Reported, H. Finance and Appropriations	04-19-10
Passed House (95-1)	05-19-10

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