

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

Senate Bills 550, 551, and 897 (as passed by the Senate)

Sponsor: Senator John F. Kelly

Committee: Local Government and Veterans

Date Completed: 7-11-90

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**RATIONALE**

According to officials with the Department of Military Affairs, Michigan's military laws are ambiguous and/or outdated in several ways. First, under the Military Act, only commissioned officers of the National Guard may give oaths. Over a period of years, however, the National Guard has become closely aligned with the active military and oaths of enlistment are taken at Federal military entrance processing stations. It is reported that, under Federal regulations, any Federally recognized officer may administer the oath of enlistment.

Second, the Michigan Code of Military Justice provides for three kinds of courts-martial, including a summary court-martial consisting of one commissioned officer who must be licensed to practice law in this State. (A summary court-martial is an informal proceeding that can result in a maximum sentence of forfeiture of pay or a fine of up to \$25, and/or a reduction in grade, and is appealable to a higher authority.) Reportedly, the requirement that the officer be an attorney was inadvertently added in 1980 and, as a result, the Code no longer parallels the Federal Uniform Code of Military Justice, in this respect.

Lastly, the Military Act provides that the Adjutant General "shall be" the military advisor to the Governor and "may be" the director of the Department of Military Affairs (emphasis added). Apparently, this permissive language creates the possibility that the Department could be headed by more than one person, including one who was a civilian. The balance of the law, however, requires the Adjutant General to perform duties that would be

required of a department director, and in actuality the Adjutant General always has been the Director.

**CONTENT**

**Senate Bill 550** would amend the Michigan Military Act to provide that an officer of an active or reserve component of the United States armed forces, rather than a commissioned officer of the National Guard, could administer oaths and affirmations in the appointment of officers and enlisted personnel of the Michigan National Guard.

**Senate Bill 551** would amend the Michigan Code of Military Justice to remove the requirement that the officer who performs a summary court-martial be licensed to practice law in this State and be certified as qualified for that duty by the State Judge Advocate General. The individual still would have to be a commissioned officer who was not a member of the accused's unit.

**Senate Bill 897** would amend the Michigan Military Act to provide that the Adjutant General "is the military advisor to the governor and the director of the department of military affairs" (emphasis added).

MCL 32.629 (Senate Bill 550)  
32.1016 (Senate Bill 551)  
32.710 (Senate Bill 897)

**FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

S.B. 550, etc. (7-11-90)

## **ARGUMENTS**

### **Supporting Argument**

The bills would remove ambiguities and out-of-date requirements from Michigan's military laws. Senate Bill 550 would bring the Military Act back into line with Federal regulations and statutorily legitimize the practice of Federal military officers giving oaths of enlistment to new National Guard soldiers. Senate Bill 551 also would put the Code of Military Justice back on track with the Federal code by deleting the requirement that the officer presiding over a summary court-martial be an attorney. Further, since many troop commands apparently are going to lose their judge advocates over the next few years as part of reductions in armed forces, the bill would facilitate the provision of military justice in those units by extending to nonattorney officers the authority over summary courts-martial. Finally, by requiring the Adjutant General to be the director of the Department of Military Affairs, Senate Bill 897 would eliminate the possibility that two people, including one civilian, could be in charge of one small department.

Legislative Analyst: S. Margules

Fiscal Analyst: M. Hansen

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SENATE ANALYSIS SECTION

SENATE BILL 551

ANALYSIS First

SEE SB ~~550~~