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**SUBSTITUTE HOUSE BILL 1707**

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**State of Washington                      52nd Legislature                      1992 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Anderson, Sheldon, McLean, R. King, Jacobsen, Broback and Wineberry; by request of Military Department)

Read first time 01/15/92.

1            AN ACT Relating to the Washington state defense force; and amending  
2 RCW 38.04.010, 38.04.030, 38.12.095, 38.12.125, 38.12.170, 38.12.180,  
3 38.14.006, 38.14.012, 38.14.018, 38.14.024, 38.14.030, 38.14.036,  
4 38.16.015, 38.16.040, and 38.16.050.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 38.04.010 and 1991 c 43 s 1 are each amended to read  
7 as follows:

8            When used in this title, the following words, terms, phrases shall  
9 have the following meaning:

10           The word "militia" shall mean the military forces provided for in  
11 the Constitution and laws of the state of Washington.

12           The term "organized militia" shall be the general term to include  
13 both state defense force and national guard and whenever used applies  
14 equally to all such organizations.

1       The term "national guard" shall mean that part of the military  
2 force of the state that is organized, equipped and federally recognized  
3 under the provisions of the national defense act of the United States,  
4 and, in the event the national guard is called into federal service or  
5 in the event the state ((guard)) defense force or any part or  
6 individual member thereof is called into active state service by the  
7 commander-in-chief, the term shall also include the "Washington state  
8 ((guard)) defense force" or any temporary organization set up in times  
9 of emergency to replace either the "national guard" or "state ((guard))  
10 defense force" while in actual service of the United States.

11       The term "state ((guard)) defense force" shall mean that part of  
12 the military forces of the state that is organized, equipped, and  
13 recognized under the provisions of the State Defense Forces Act of the  
14 United States (32 U.S.C. Sec. 109, as amended).

15       The term "active state service" or "active training duty" shall be  
16 construed to be any service on behalf of the state, or at encampments  
17 whether ordered by state or federal authority or any other duty  
18 requiring the entire time of any organization or person except when  
19 called or drafted into the federal service by the president of the  
20 United States.

21       The term "inactive duty" shall include periods of drill and such  
22 other training and service not requiring the entire time of the  
23 organization or person, as may be required under state or federal laws,  
24 regulations, or orders, including travel to and from such duty.

25       The terms "in service of United States" and "not in service of  
26 United States" as used herein shall be understood to mean the same as  
27 such terms when used in the national defense act of congress and  
28 amendments thereto.

29       The term "military" refers to any or all of the armed forces.

1       The term "armory" refers to any state-owned building, warehouse,  
2 vehicle storage compound, organizational maintenance shop or other  
3 facility and the lands appurtenant thereto used by the Washington  
4 national guard for the storage and maintenance of arms or military  
5 equipment or the administration or training of the organized militia.

6       The term "member" refers to a soldier or airman of the organized  
7 militia.

8       **Sec. 2.** RCW 38.04.030 and 1989 c 19 s 3 are each amended to read  
9 as follows:

10       The militia of the state of Washington shall consist of all able  
11 bodied citizens of the United States and all other able bodied persons  
12 who have declared their intention to become citizens of the United  
13 States, residing within this state, who shall be more than eighteen  
14 years of age, and shall include all persons who are members of the  
15 national guard and the state (~~(guard)~~) defense force, and said militia  
16 shall be divided into two classes, the organized militia and the  
17 unorganized militia.

18       **Sec. 3.** RCW 38.12.095 and 1989 c 19 s 16 are each amended to read  
19 as follows:

20       Whenever a commissioned officer is to be appointed or promoted  
21 either to fill a vacancy in the organized militia (Washington army  
22 national guard, Washington air national guard and the Washington state  
23 (~~(guard)~~) defense force) or for any other reason, the officer to be  
24 appointed or promoted shall be selected by the officer promotion board.  
25 This selection in no way will change the powers of the governor under  
26 RCW 38.12.060. This section in no way applies to appointments or  
27 promotions to adjutant general or assistant adjutant general, to the  
28 appointment of officers to the rank of captain, lieutenant, or warrant

1 officer, or to the promotion of second lieutenants, first lieutenants,  
2 or warrant officers.

3 **Sec. 4.** RCW 38.12.125 and 1989 c 19 s 18 are each amended to read  
4 as follows:

5 The officer promotion board shall be composed as follows:

6 (1) For promotions or appointments of army national guard officers,  
7 the board will consist of the adjutant general, the assistant adjutant  
8 general army, and the five commanders senior in grade and date of rank  
9 in that grade in the Washington army national guard. If the board is  
10 selecting an officer for promotion to the rank of colonel, any member  
11 of the board who is a lieutenant colonel will be automatically  
12 disqualified and will not be replaced. If the board is selecting an  
13 officer for promotion to the rank of brigadier general, any member of  
14 the board who is a lieutenant colonel or who is a colonel will be  
15 automatically disqualified and will not be replaced.

16 (2) For promotions or appointments of air national guard officers,  
17 the board will consist of the adjutant general, the assistant adjutant  
18 general air, and the five commanders senior in grade and date of rank  
19 in that grade in the Washington air national guard. If the board is  
20 selecting an officer for promotion to the rank of colonel, any member  
21 of the board who is a lieutenant colonel will be automatically  
22 disqualified and will not be replaced. If the board is selecting an  
23 officer for promotion to the rank of brigadier general, any member of  
24 the board who is a lieutenant colonel or who is a colonel will be  
25 automatically disqualified and will not be replaced.

26 (3) For promotions or appointments of state (~~guard~~) defense force  
27 officers, the board will consist of the adjutant general, the assistant  
28 adjutant general army, and the five officers senior in grade and in  
29 date of rank in that grade in the state (~~guard~~) defense force. If

1 the board is selecting an officer for promotion to the rank of colonel,  
2 any member of the board who is a lieutenant colonel will be  
3 automatically disqualified and will not be replaced. If the board is  
4 selecting an officer for promotion to the rank of brigadier general,  
5 any member of the board who is a lieutenant colonel or who is a colonel  
6 will be automatically disqualified and will not be replaced.

7 **Sec. 5.** RCW 38.12.170 and 1989 c 19 s 20 are each amended to read  
8 as follows:

9 The governor may terminate the membership of any commissioned or  
10 warrant officer of the organized militia of Washington for any of the  
11 following reasons:

12 (1) Conviction of an infamous crime;

13 (2) Absence from his or her command for more than thirty days  
14 without proper leave;

15 (3) Sentence of dismissal by court martial, duly approved;

16 (4) Upon muster out of the organization to which the officer is  
17 then assigned;

18 (5) Acceptance of the resignation of the officer, but no officer  
19 may be discharged or his or her resignation accepted while under arrest  
20 or against whom military charges have been preferred, or until he or  
21 she has turned over to his or her successor or satisfactorily accounted  
22 for all state and federal moneys and military property for which he or  
23 she is accountable or responsible;

24 (6) Removal of his or her actual residence to such distance from  
25 the station of his or her command as to render it impracticable for him  
26 or her to perform the duties of his or her office;

27 (7) Incompetence or unfitness for military service as determined by  
28 the duly approved findings of a board of officers appointed for that  
29 purpose by the adjutant general.

1       The adjutant general shall annually appoint and convene qualitative  
2 retention boards to review the military personnel records of officers  
3 who have completed three or more years service in the Washington state  
4 (~~guard~~) defense force to determine their retention potential and  
5 acceptability for continuation in an active status. In the conduct of  
6 the reviews, the regulation issued by the adjutant general to implement  
7 this provision shall conform to the extent practicable to that  
8 governing the army national guard.

9       **Sec. 6.** RCW 38.12.180 and 1989 c 19 s 21 are each amended to read  
10 as follows:

11       Commissioned officers of the organized militia of Washington shall  
12 be retired by order of the commander-in-chief with the rank  
13 respectively held by them at the time of such retirement for the  
14 following reasons:

15       (1) Unfitness for military service by reason of permanent physical  
16 disability.

17       (2) Upon request after at least five years continuous service as an  
18 officer in the organized militia of Washington.

19       Commissioned officers of the state (~~guard~~) defense force shall  
20 upon reaching the age of sixty-four years be retired.

21       Retired officers shall draw no pay or allowance from the state  
22 unless recalled to service.

23       Retired officers are subject, with their consent, to temporary  
24 detail on active state service by the commander-in-chief, and while on  
25 such duty shall receive the same pay and allowances as officers of like  
26 rank on the active list.

27       **Sec. 7.** RCW 38.14.006 and 1989 c 19 s 23 are each amended to read  
28 as follows:

1       The Washington state (~~guard~~) defense force will be available to  
2 serve, at the call of the governor in the place of the national guard  
3 of the state of Washington under the provisions of this title when the  
4 national guard is in the service of the United States, or when  
5 otherwise ordered to active state service by the governor. The  
6 Washington state (~~guard~~) defense force shall consist of commissioned  
7 and warrant officers and enlisted persons commissioned, warranted, or  
8 enlisted under the provisions of this title. Persons enlisted under  
9 RCW 38.16.015 shall be enrolled in accordance with regulations  
10 promulgated by the adjutant general.

11       **Sec. 8.** RCW 38.14.012 and 1989 c 19 s 24 are each amended to read  
12 as follows:

13       No member of the Washington state (~~guard~~) defense force shall by  
14 reason of such membership be exempt from federal military service under  
15 the laws of the United States.

16       **Sec. 9.** RCW 38.14.018 and 1989 c 19 s 25 are each amended to read  
17 as follows:

18       Members of the Washington state (~~guard~~) defense force shall serve  
19 without pay except when on active state service with the state as  
20 defined in RCW 38.04.010, or when serving on inactive duty as defined  
21 in RCW 38.04.010 under orders of the governor specifically authorizing  
22 pay. When ordered to active state service or when serving on inactive  
23 duty in a pay status, members of the Washington state (~~guard~~) defense  
24 force will be paid as prescribed for members of the national guard in  
25 RCW 38.24.050, except longevity adjustments for pay will be based  
26 solely on total service with the Washington state (~~guard~~) defense  
27 force.

1       **Sec. 10.** RCW 38.14.024 and 1989 c 19 s 26 are each amended to read  
2 as follows:

3       The governor may obtain from the federal government such arms and  
4 other equipment and supplies as may be available for issue, donation or  
5 loan for the use of the Washington state ((guard)) defense force. When  
6 such property is provided by the federal government, it will be  
7 utilized, maintained, and disposed of in accordance with federal  
8 requirements and with property rules and regulations promulgated under  
9 the provisions of RCW 38.08.090.

10       **Sec. 11.** RCW 38.14.030 and 1989 c 19 s 27 are each amended to read  
11 as follows:

12       Members of the Washington state ((guard)) defense force may  
13 participate in such training opportunities as may be available from the  
14 federal government and as approved by the adjutant general. Where  
15 required as a condition of such participation, the military department  
16 may reimburse the federal government for the costs of such training.

17       **Sec. 12.** RCW 38.14.036 and 1989 c 19 s 28 are each amended to read  
18 as follows:

19       The adjutant general shall establish by regulation qualifications  
20 for appointment of commissioned and warrant officers in the Washington  
21 state ((guard)) defense force.

22       **Sec. 13.** RCW 38.16.015 and 1989 c 19 s 30 are each amended to read  
23 as follows:

24       The period of enlistment in the Washington state ((guard)) defense  
25 force shall be set by regulation by the adjutant general: PROVIDED,  
26 That no original enlistment may be consummated unless the term thereof  
27 can be completed before the applicant attains the age of sixty-four.



1       **Sec. 14.** RCW 38.16.040 and 1943 c 130 s 86 are each amended to  
2 read as follows:

3       In order to afford the utmost protection to the state of Washington  
4 and to the lives and property of citizens thereof, in times of  
5 emergency or anticipation thereof, the governor, through the state  
6 military department may provide for the organization and training of  
7 state ((guard)) defense force reserve companies in communities not  
8 allocated a federally recognized or authorized state ((guard)) defense  
9 force unit.

10       **Sec. 15.** RCW 38.16.050 and 1988 c 288 s 17 are each amended to  
11 read as follows:

12       To assist the state of Washington in the event of mobilization of  
13 state and federal military forces in the state, and notwithstanding  
14 other provisions of the state military law and other regulations  
15 governing appointment and promotion of officers and enlisted personnel  
16 of the Washington state ((guard)) defense force, members of the  
17 Washington committee for employer support of the guard and reserve may  
18 be appointed to serve in a civil affairs unit of the Washington state  
19 ((guard)) defense force. The rank shall be determined by the adjutant  
20 general.