

## CHAPTER 47

### REGULATION OF MILITARY SERVICE AND PROPERTY

#### S.F. 194

**AN ACT** relating to the Iowa military code and military service by making changes related to the use and support of certain facilities, operations support, employment and rank of active and retired military personnel, the definition of performing military duty, tort claims protections, and including effective date provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 29A.14, Code 2011, is amended to read as follows:

**29A.14 Leasing Support and facilities improvement fund.**

1. The adjutant general may operate or lease any of the national guard facilities at Camp Dodge. Any income or revenue derived from the operation or leasing shall be deposited with the treasurer of state and credited to the national guard support and facilities improvement fund. The balance in the national guard support and facilities improvement fund is limited to a maximum of two million dollars. Any amount exceeding the limit shall be credited to the general fund of the state.

2. A national guard support and facilities improvement fund is created in the state treasury. The proceeds of the fund are appropriated, and shall be used only to support national guard operations and for the construction, improvement, modification, maintenance or repair of national guard facilities. However, proceeds of the fund shall not be used for the construction of a new facility without the approval of the general assembly.

Sec. 2. Section 29A.14A, Code 2011, is amended to read as follows:

**29A.14A Use of government facilities.**

Notwithstanding any provision of law to the contrary, the state or any political subdivision of the state, shall permit the rental of facilities under its control, for a fee not in excess of any expenses incurred by the state or political subdivision, for designated military events. For purposes of this section, “*designated military event*” means an event, ~~authorized by the adjutant general,~~ for military family readiness groups, departing units, or for returning veterans of the national guard, reserves, or regular components of the armed forces of the United States for a period of up to one year from the date of return from active duty.

Sec. 3. Section 29A.19, Code 2011, is amended to read as follows:

**29A.19 Quartermaster.**

A present or retired ~~commissioned officer~~ member of the national guard who has ten years' service in the Iowa army national guard or the Iowa air national guard ~~and has attained the grade of a field officer~~ shall be detailed to be the quartermaster and property officer of the state, who shall have charge of and be accountable for, under the adjutant general, all state military property. The quartermaster shall keep property returns and reports and give bond to the state of Iowa as the governor may direct.

Sec. 4. Section 29A.23, Code 2011, is amended to read as follows:

**29A.23 Roll of retired officers and enlisted personnel.**

An officer or enlisted person who is a member of the Iowa national guard who has completed twenty years of military service under 10 U.S.C. § 1331(d), as evidenced by a letter of notification of retired pay at age sixty, shall upon retirement from the Iowa national guard and written request to the adjutant general be placed by order of the commander in chief on a roll in the office of the adjutant general to be known as the “roll of retired national guard military personnel.” A member registered on the roll is entitled to wear the uniform of the rank last held on state or other occasions of ceremony, when the wearing of such uniform is not in conflict with federal law.

Sec. 5. Section 29A.57, subsection 2, Code 2011, is amended to read as follows:

2. The board may acquire land or real estate by purchase, contract for purchase, gift, or bequest and acquire, own, contract for the construction of, erect, purchase, maintain, alter,

operate, and repair installations and facilities of the Iowa army national guard and the Iowa air national guard when funds for the installations and facilities are made available by the federal government, the state of Iowa, municipalities, corporations, or individuals. The title to the property so acquired shall be taken in the name of the state of Iowa and the real estate may be sold or exchanged by the executive council, upon recommendation of the board, when it is no longer needed for the purpose for which it was acquired. Income or revenue derived from the sale of the real estate shall be credited to the national guard support and facilities improvement fund and used for the purposes specified in section 29A.14, subsection 2.

Sec. 6. Section 29A.78, Code 2011, is amended to read as follows:

**29A.78 Brevet rank.**

The commander in chief, on the recommendation of the adjutant general, may commission by brevet general and field grade officers ~~of~~ in the national guard whose names appear on the roll of retired military personnel as defined in section 29A.23 in the next higher grade than that held at retirement or resignation. Brevet rank is only honorary and does not confer any privilege, precedence or command or pay any emoluments. Brevet officers may wear the uniform of their brevet rank on occasions of ceremonies related to state functions only.

Sec. 7. Section 144.13B, Code 2011, is amended to read as follows:

**144.13B Waiver of fees — military service.**

Notwithstanding any provision of this chapter to the contrary, the certified copy fees for a birth certificate or death certificate of a service member, ~~as defined in section 29A.90,~~ who died while ~~on active duty~~ performing military duty, as defined in section 29A.1, subsection 3, 11, or 12, shall be waived for a period of one year from the date of death for a family member of the deceased service member.

Sec. 8. Section 144C.6, subsection 4, Code 2011, is amended to read as follows:

4. A declaration for disposition of remains made by a service member, ~~as defined in section 29A.90,~~ who died while performing military duty as defined in section 29A.1, subsection 3, 11, or 12, on forms provided and authorized by the department of defense for service members for this purpose shall constitute a valid declaration of designee for purposes of this chapter.

Sec. 9. Section 476.20, subsection 3, unnumbered paragraph 3, Code 2011, is amended to read as follows:

The rules established by the board shall provide that a public utility furnishing gas or electricity shall not disconnect service to a residence in which one of the heads of household is a service member deployed for military service, as defined in section ~~29A.90~~ 29A.1, subsection 3, prior to a date ninety days after the end of the service member's deployment, if the public utility is informed of the deployment.

Sec. 10. Section 483A.24A, Code 2011, is amended to read as follows:

**483A.24A License refunds — military service.**

Notwithstanding any provision of this chapter to the contrary, a service member deployed for military service, both<sup>1</sup> as defined in section ~~29A.90~~ 29A.1, subsection 3, shall receive a refund of that portion of any license fee paid by the service member representing the service member's period of military service.

Sec. 11. Section 669.2, subsection 4, unnumbered paragraph 1, Code 2011, is amended to read as follows:

"*Employee of the state*" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation, but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists, dentists, nurses, physician assistants, and other medical personnel, who render services to patients or inmates

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<sup>1</sup> See chapter 131, §67, 158 herein

of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections, and employees of the department of veterans affairs, are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, and persons supervising those inmates under and according to the terms of the chapter 28E agreement, are to be considered employees of the state. Members of the Iowa national guard performing duties in a requesting state pursuant to section 29C.21 are to be considered employees of the state solely for the purpose of claims arising out of those duties in the event that the requesting state's tort claims coverage does not extend to such members of the Iowa national guard or is less than that provided under Iowa law.

Sec. 12. Section 724.7, subsection 2, Code 2011, is amended to read as follows:

2. The commissioner of public safety shall develop a process to allow service members deployed for military service to submit a renewal of a nonprofessional permit to carry weapons early and by mail. In addition, a permit issued to a service member who is deployed for military service, as defined in section ~~29A.90~~ 29A.1, subsection 3, 11, or 12, that would otherwise expire during the period of deployment shall remain valid for ninety days after the end of the service member's deployment.

Sec. 13. EFFECTIVE UPON ENACTMENT. The section of this Act amending section 29A.14, being deemed of immediate importance, takes effect upon enactment.

Approved April 13, 2011