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BILL ANALYSIS



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House Bill 5106 (Substitute H-1 as passed by the House)
Sponsor: Representative Tom Barrett
House Committee: Military and Veterans Affairs
Senate Committee: Veterans, Military Affairs and Homeland Security

Date Completed: 9-7-16

CONTENT

The bill would amend the Michigan Military Act to do the following:

- **Authorize the Governor to order members of the National Guard into active State service for duties in support of the operation of the Guard, but without police powers, under circumstances other than those for which the Governor currently may activate members of the organized militia.**
- **Apply the Governor's current authority to activate troops to members of the National Guard, rather than members of the organized militia.**
- **Designate the Governor as the commander-in-chief of the Michigan National Guard, rather than of the organized militia.**

The bill would take effect 90 days after enactment.

Governor as Commander-in-Chief

Under the Act, the Governor is the commander-in-chief of the "organized militia". The bill would refer instead to the "Michigan National Guard".

The Act defines "Michigan National Guard" as the Army National Guard and the Air National Guard. The "organized militia" consists of the Army National Guard, the Air National Guard, and the "defense force" when actually in existence as provided in the Act. (Please see **BACKGROUND** for a discussion of the defense force and the "unorganized militia".)

Active State Service

The Act authorizes the Governor to order to active State service any members of the organized militia in case of riot, tumult, breach of the peace, or resistance of process, or for service in aid of civil authority, whether State or Federal, or in time of actual or imminent public danger, disaster, crisis, catastrophe, or other public emergency within Michigan or to respond to acts or threats of terrorism or to safeguard military or other vital resources of the State or the United States. If the Governor and his or her legal successor are absent or disabled, or cannot be communicated with, the Adjutant General may order out troops of the organized militia as he or she believes necessary to meet an emergency, if he or she believes the danger is great and imminent.

Under the bill, those provisions would apply to ordering members of the Michigan National Guard, rather than the organized militia, into active State service.

The bill also would permit the Governor in circumstances other than those described above, to order any member of the Michigan National Guard to active State service for duties in support of the full-time operation of the Michigan National Guard. A member called to active service under this provision, however, would not have any police powers or arrest authority.

Under the Act, "active state service", as applied to the National Guard and the defense force, means military service in support of civil authorities, at the request of State or local authorities, including support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the Governor or as otherwise provided in the Act.

MCL 32.551

BACKGROUND

Chapter 4 (State Defense Force) of the Michigan Military Act specifies that a reference in the Act to the defense force means the Michigan volunteer defense force. The Governor, as commander-in-chief, may activate within the military establishment (the organized militia of the State) a number of units to be known as the Michigan volunteer defense force as he or she considers necessary for adequate emergency assistance to the State. A list of former officers, warrant officers, and enlisted personnel of the Michigan National Guard must be maintained, with their consent, in the office of the Adjutant General to aid in forming the Michigan volunteer defense force.

The Act also authorizes the Governor to order into the defense force any members of the "unorganized militia" in case of riot, tumult, breach of the peace, or resistance of process, or for service in aid of civil authority, whether State or Federal, or in time of actual imminent public danger, disaster, crisis, catastrophe, or other public emergency within the State.

As noted above, the "organized militia" consists of the Army National Guard, the Air National Guard, and the defense force when it is in existence. The "unorganized militia" consists of all other able-bodied citizens of the State and all other able-bodied citizens who are Michigan residents who have declared their intention to become citizens of the United States, who are 17 years of age or older and not more than 60, and are subject to State military duty as provided in the Act.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State, as its cost would depend entirely on the degree to which the additional allowance for activation of the National Guard would be invoked. In recent years, the Department of Military and Veterans Affairs' initial annual appropriation has included funding (\$70,000 restricted) for Guard activation duties that would fall under the new, expanded purposes in the bill; specifically, the funding has been for the purpose of providing security at the annual Labor Day Mackinac Bridge Walk.

Costs for State activation of the Michigan National Guard can range from approximately \$125 to \$400 per day, plus other expenses, depending upon a Guard member's rank and years of service.

Fiscal Analyst: Bruce Baker

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