

ASSEMBLY BILL NO. 174—ASSEMBLYMEN GRAY; DICKMAN, D’SILVA, GALLANT, GURR, HAFEN, HANSEN, KASAMA, KOENIG AND O’NEILL

FEBRUARY 15, 2023

JOINT SPONSORS: SENATORS SPEARMAN, KRASNER, STONE AND SEEVERS GANSERT

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the state militia. (BDR 36-734)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to the state militia; revising provisions governing the Adjutant General of the Office of the Military; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law creates the position of the Adjutant General as an appointed member of the military staff of the Governor and grants the Adjutant General the authority to appoint two Assistant Adjutants General that are selected from the commissioned officers of the Armed Forces of the United States. (NRS 412.042) **Section 2** of this bill requires instead that the two Assistant Adjutants General are selected from the commissioned officers of the Nevada National Guard.

Existing law further provides that to be eligible for appointment to the office of Adjutant General or Assistant Adjutant General, a person must be an officer of the Armed Forces of the United States and be federally recognized in the grade of colonel or higher. (NRS 412.044, 412.054) **Sections 3 and 4** of this bill require instead that to be eligible for appointment to the office of Adjutant General or Assistant Adjutant General, a person must be an officer of the Nevada National Guard, federally recognized in the grade of colonel or higher, and must have completed at least 6 years of service in the Nevada National Guard as a federally recognized officer.

Under existing federal law, an Adjutant General is required to retire when the Adjutant General becomes 66 years of age. (10 U.S.C. § 14512) Existing Nevada law establishes the Nevada National Guard as an organized body of enlisted personnel between the ages of 17 and 64 years and commissioned officers between



20 the ages of 18 and 64 years. (NRS 412.026) **Section 1** of this bill increases the  
21 maximum age of a commissioned officer to 66 years of age to comply with federal  
22 law.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 412.026 is hereby amended to read as follows:

2 412.026 1. The militia of the State is composed of the  
3 Nevada National Guard and, when called into active service by the  
4 Governor, reservists to the Nevada National Guard and any  
5 volunteer military organizations licensed by the Governor.

6 2. The Nevada National Guard is an organized body of enlisted  
7 personnel between the ages of 17 and 64 years and commissioned  
8 officers between the ages of 18 and ~~64~~ 66 years, divided into the  
9 Nevada Army National Guard and the Nevada Air National Guard.

10 3. If a volunteer military organization is formed and becomes  
11 licensed by the Governor, it shall consist of an organized body of  
12 able-bodied residents of the State between the ages of 17 and 64  
13 years who are not serving in any force of the Nevada National  
14 Guard and who are or who have declared their intention to become  
15 citizens of the United States.

16 **Sec. 2.** NRS 412.042 is hereby amended to read as follows:

17 412.042 1. The military staff of the Governor consists of the  
18 Adjutant General and not more than two Assistant Adjutants  
19 General selected from the commissioned officers of the ~~{Armed~~  
20 ~~Forces of the United States.}~~ *Nevada National Guard.*

21 2. The military staff of the Governor shall perform such  
22 ceremonial functions and duties as the Governor may prescribe.

23 **Sec. 3.** NRS 412.044 is hereby amended to read as follows:

24 412.044 1. The Governor shall appoint an Adjutant General  
25 who shall serve at the pleasure of the Governor or until relieved by  
26 reason of resignation, withdrawal of federal recognition or for cause  
27 to be determined by a court-martial. The service of the Adjutant  
28 General shall continue while such Adjutant General is serving in a  
29 federal active duty status under an order or call by the President of  
30 the United States.

31 2. To be eligible for appointment to the office of Adjutant  
32 General, a person must be an officer of the ~~{Armed Forces of the~~  
33 ~~United States.}~~ *Nevada National Guard* and federally recognized in  
34 the grade of colonel or higher ~~{}~~, *and must have completed at least*  
35 *6 years of service in the Nevada National Guard as a federally*  
36 *recognized officer.*

37 3. The Adjutant General may be appointed in the grade of  
38 colonel or higher, but not exceeding that of major general. If



1 appointed in a lower grade, the Adjutant General may be promoted  
2 by the Governor to any grade not exceeding that of major general.

3 **Sec. 4.** NRS 412.054 is hereby amended to read as follows:

4 412.054 1. The Adjutant General may appoint two Assistant  
5 Adjutants General, one each from the Nevada Army National Guard  
6 and the Nevada Air National Guard, who may serve as Chief of  
7 Staff for Army and Chief of Staff for Air, respectively, at the  
8 pleasure of the Adjutant General or until relieved by reason of  
9 resignation, withdrawal of federal recognition or for cause to be  
10 determined by a court-martial.

11 2. To be eligible for appointment to the office of Assistant  
12 Adjutant General, a person must be an officer of the ~~[Armed Forces~~  
13 ~~of the United States]~~ *Nevada National Guard* and be federally  
14 recognized in the grade of colonel or higher ~~[ ]~~, *and must have*  
15 *completed at least 6 years of service in the Nevada National Guard*  
16 *as a federally recognized officer.*

17 3. An Assistant Adjutant General may be appointed in the  
18 grade of colonel or higher, but not exceeding that of brigadier  
19 general. An Assistant Adjutant General may be promoted by the  
20 Governor to any grade not exceeding that of brigadier general.

21 4. The Assistant Adjutants General shall perform such duties as  
22 may be assigned by the Adjutant General.

23 5. Whoever serves as Chief of Staff for Army is in the  
24 unclassified service of the State and, except as otherwise provided in  
25 NRS 284.143, shall not hold any other city, county, state or federal  
26 office of profit.

27 6. In the event of the absence or inability of the Adjutant  
28 General to perform his or her duties, the Adjutant General shall  
29 designate by Office regulations:

30 (a) One of the Assistant Adjutants General to perform the duties  
31 of his or her office as Acting Adjutant General.

32 (b) If neither Assistant Adjutant General is available, any  
33 national guard officer to be the Acting Adjutant General.

34 ➤ The designated Assistant Adjutant General or designated officer  
35 may continue to receive his or her authorized salary while so serving  
36 as Acting Adjutant General, and shall so serve until the Adjutant  
37 General is again able to perform the duties of the office, or if the  
38 office is vacant, until an Adjutant General is regularly appointed and  
39 qualified.



