

**REVISION OF MILITARY LAWS**  
**REPORT OF THE**  
**VIRGINIA ADVISORY LEGISLATIVE COUNCIL**  
**TO**  
**THE GOVERNOR**  
**AND**  
**THE GENERAL ASSEMBLY OF VIRGINIA**



HO 2, 1964

COMMONWEALTH OF VIRGINIA  
Department of Purchase and Supply  
RICHMOND  
1968



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REVISION OF MILITARY LAWS  
REPORT OF THE  
VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, May 3, 1963

To:

HONORABLE A. S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The most recent revision in the Military Laws of Virginia was had in 1958. Since those changes in our statutes, the national military establishment has undergone major changes in order to meet the demands placed upon it. It is essential that Virginia's military laws keep abreast of these new patterns of organization and terminology in order that confusion may be avoided in time of emergency. The State's ability to respond adequately to emergency situations must be re-examined periodically in order to assure the safety of her citizens.

The General Assembly of 1962 was of the opinion that an overall study of the military statutes of Virginia should be made with a view to correcting deficiencies, conforming the laws to current practices and making such other changes as experience might dictate. Accordingly, the following resolution was adopted:

HOUSE JOINT RESOLUTION NO. 89

*Directing the Virginia Advisory Legislative Council to make a study of the laws in Title 44 of the Code.*

Whereas, the statutes contained in Title 44 of the Code of Virginia relating to the military have not been completely reviewed and revised for many years and the organization of the military forces has changed materially in that time; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is hereby directed to make a study and report upon the military laws in Virginia as set forth in Title 44 of the Code of Virginia. The Council, in its study, shall review these laws, bring them into accord with the present organization of the military forces, coordinate them with the appropriate federal statutes and regulations, and make such changes as appear proper under present conditions. All agencies of the State shall assist the Council in its study. The Council shall conclude its study and make its report to the Governor and General Assembly not later than September one, nineteen hundred sixty-three.

The Council assigned this study to Charles R. Fenwick, member of the State Senate from Arlington, to serve as Chairman of a Committee to make the initial investigation and report. The following were also members of the Committee which made the study: Marvin T. Ball, Jr., Small Business Administration, Richmond; Major General Paul M. Booth, Adjutant General of Virginia, Richmond; Major General Reginald Har-

mon, USAF Ret., Arlington; John Wingo Knowles, Associate Judge, 10th Judicial Circuit, Richmond; Richard T. Luck, Virginia National Guard, Richmond; Robert D. McIlwaine, III, Assistant Attorney General, Richmond; James B. Moore, III, President, Asher-Moore Company, Richmond; John Pendleton Read, Jr., Vice-President, Lynchburg Broadcasting Corporation, Lynchburg; James W. Roberts, member of the House of Delegates, Norfolk, and A. Simpson Williams, Jr., Attorney at Law, Richmond. John B. Boatwright, Jr., and Fletcher W. Harkrader, Jr., served as Secretary and Recording Secretary, respectively, to the Committee.

After consideration of the facts before it, the Committee made its report to the Council. This report has been reviewed at length by the Council, and the Council now submits its own report based thereon.

The Department of Military Affairs was of especial assistance, both in furnishing information as to administrative practices and difficulties and in pointing up areas in which changes were required. We express our appreciation to the Committee, the Department of Military Affairs and all others who assisted in the preparation of this report.

Throughout our consideration of the problems involved in this study we kept foremost in our minds the need to provide for an efficient military organization, able to respond to the emergency needs of the Commonwealth of whatever nature, while at the same time being organized in such a way as to conform to the requirements of the national military complex. The changes which we feel desirable are included in the bill which is attached and made a part of this report.

#### SPECIFIC RECOMMENDATIONS AND REASONS THEREFOR

1. § 2-27.1. The protection extended State and local officers against forfeiture of office while engaging in the war service of the United States is extended to cover those called in event of emergency by the Governor or those called to active duty in the armed forces of the United States.
2. § 44-8. The term "land and naval forces" as used in this section is replaced with the term "armed forces" which is in keeping with current usage.
3. § 44-11 is amended to provide that the Governor may appoint an Adjutant General with the rank of Lieutenant General when such a rank is federally recognized. This will enable Virginia to take advantage of higher federal rank when such becomes available and thus keep her in a position of equality with her sister states.

This section is also amended to require at least 10 years commissioned service in the Virginia National Guard in at least field grade for appointment as Adjutant General. The previous requirement of 5 years commissioned service without limitation on the grade in which such service was performed was felt to permit the appointment of an officer without sufficient experience to assume the responsibilities inherent in the office of Adjutant General.

4. § 44-17 is amended by adding "other regulations and documents" to "general orders, circulars and circular letters" as forms by means of which the Adjutant General is empowered to promulgate regulations. This provides the Adjutant General with greater flexibility and is in keeping with current army practice.

5. § 44-20 is amended to provide specifically for a Deputy Adjutant General in a grade not exceeding that of Brigadier General. This is done

so that Virginia may have a Deputy Adjutant General of equal rank with those of other states. Current federal regulations authorize the rank of Brigadier General for this position only where state law calls for an officer of that rank as Deputy Adjutant General.

6.. § 44-21. The term "disbursing clerk" is changed throughout this section to "fiscal clerk", since the individuals referred to as "disbursing clerks" no longer disburse funds.

7. § 44-23 is amended to provide that the annual report of the Adjutant General to the Governor be made not later than 60 calendar days after the 31st day of December of each year rather than on or before the 31st day of December. This change is made in order to give a reasonable time to the Adjutant General after the close of the calendar year to complete the gathering of information on the year's activities. Training is added to those items which should be reported on and the term "armed forces of the Commonwealth" is substituted for the "military and naval forces of the State" as being more inclusive.

8. § 44-25 is amended to refer to the Active Army, Air Force and Navy instead of the regular Army in accordance with current terminology.

9. § 44-27 is amended to make the procedure for appointment of Second Lieutenant conform to modern army practice. Terminology throughout this section is modernized. Professional qualifications and length of commissioned service are added to those qualifications upon which promotions and appointments will be based. Subparagraph (2) of the present section is eliminated because of its apparent conflict with subparagraph (4), verbal changes are made, and appointments as well as promotions are now covered by this subparagraph.

10. § 44-30 is amended to provide that officers appointed as members of officer candidate examining boards be appointed by the Secretary of Defense rather than the Secretary of the Army, in keeping with present practice. The term "active army" is substituted for the term "regular army" to bring the terminology up to date.

11. § 44-31 is amended to provide that relative rank among officers be determined by current and subsequently amended Department of Defense and National Guard regulations rather than by Army regulations only. This modification is made to bring the section in line with current practice.

12. § 44-33 is amended to provide that officers of the Virginia National Guard rendered surplus by the disbanding of their organization be placed in another unit, provided an appropriate vacancy exists; otherwise, they will be separated from the Virginia National Guard and automatically revert to the Reserve. Previously, this section required that such officers be placed in the inactive National Guard, and permitted officers on their own application to be placed in the inactive National Guard if approved by the Adjutant General. This latter provision has been eliminated in line with current practice.

13. § 44-41 is revised to make it consistent with modern terminology. The term "field training encampment" is dropped and the terms "inactive training, annual active duty for training and active duty training" are added to the specific types of training conducted in accordance with National Guard regulations.

14. § 44-43 is revised for clarity.

15. § 44-44 is revised for clarity and to include within its provisions all military units now given special court-martial jurisdiction.

16. § 44-45 is revised to include all units given summary court-martial jurisdiction.

17. § 44-48 is amended to provide for review of all courts-martial by the Adjutant General and that every court-martial and the review by the Adjutant General be carried out in accordance with the procedure prescribed by the manual of courts-martial and the Secretary of the particular armed service involved rather than, as previously, by the Secretary of the Army. These changes provide for review procedure and recognize the diversity of the services which now make up the Virginia National Guard.

18. § 44-49 is amended to provide review by the Adjutant General of decisions of military courts as to the prisons in which sentences are to be served. This provides an additional check on the military courts and enables the Adjutant General to keep a close watch on the execution of military justice.

19. § 44-80 is revised in order to assure to the Governor the greatest possible flexibility in calling the State's military forces in the event of an emergency.

20. § 44-93 is amended to substitute the phrase "annual active duty for training" for the term "field or coast defense training" in keeping with modern terminology. State officers and employees called by the Governor in the event of emergency under § 44-75 are afforded the same guarantees as to loss of time, accrued leave, efficiency rating, and restoration to positions as were formerly provided for such officers and employees when called for National Guard training purposes. There is to be no loss of pay during either of such calls where they do not exceed fifteen days per year.

21. § 44-115 is amended to include the Air Force with the Army and Navy among those services whose customs and usages govern matters relating to organization and discipline of the National Guard and Naval Militia not otherwise covered. This is done to bring the statute up to date.

22. § 44-135 which provides for boards of control for armories, is amended to limit the application of the section to armories erected or provided by the Commonwealth. This is done in order to be fair to localities which, in some instances, have constructed armories with local funds.

23. § 44-204 is modernized as to terminology. The amendment adds accrued leave to other employment benefits guaranteed to State employees who are members of Reserve units and who are engaged in up to 15 days' annual active duty for training. This guarantee of accrued leave makes it unnecessary to retain the guarantee of regular vacation periods.

## CONCLUSION

We believe these recommendations will serve to make Virginia's military laws clearer, fairer, more responsive to changed conditions and more in keeping with modern service terminology. The rights of the individual will be better protected and hardships avoided. A greater flexi-



bility will be afforded Virginia authorities in dealing with unforeseen emergencies. For these reasons we recommend the bill attached.

Respectfully submitted,

CHARLES K. HUTCHENS, Chairman  
EDWARD E. WILLEY, Vice-Chairman  
C. W. CLEATON  
JOHN WARREN COOKE  
JOHN H. DANIEL  
CHARLES R. FENWICK  
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*A BILL to amend and reenact §§ 2-27.1, 44-8, 44-11, 44-17, 44-20, 44-21, 44-23, 44-25, 44-27, 44-30, 44-31, 44-33, 44-41, 44-43, 44-44, 44-45, 44-48, 44-49, 44-80, 44-93, 44-115, 44-135 and 44-204 of the Code of Virginia as severally amended, all relating to the Virginia military establishment.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2-27.1, 44-8, 44-11, 44-17, 44-20, 44-21, 44-23, 44-25, 44-27, 44-30, 44-31, 44-33, 44-41, 44-43, 44-44, 44-45, 44-48, 44-49, 44-80, 44-93, 44-115, 44-135 and 44-204 of the Code of Virginia, as severally amended, be amended and reenacted as follows:

§ 2-27.1. No State, county or municipal officer or employee shall forfeit his title to office or position or vacate the same by reason of *either* engaging in the war service of the United States *or when called forth by the Governor pursuant to the provisions of § 44-75 or when called to active duty in the armed forces of the United States*; and any such officer or employee who, voluntarily or otherwise, enters *upon* such war service *or is called to service as above provided* may notify the officer or body authorized by law to fill vacancies in his office, of such fact, and thereupon be relieved from the duties of his office or position during the period of *\* such* service; and the officer or body authorized to fill vacancies shall designate some suitable person to perform the duties of such office as acting officer during the period the regular officer is engaged in *\* such* service, and during such period the acting officer shall be vested with all the powers, authority, rights and duties of the regular officer for whom he is acting.

§ 44-8. The Governor shall be Commander in Chief of the *\* armed* forces of the Commonwealth, and shall have power to employ *\* such* forces to repel invasion, suppress insurrection, and enforce the execution of the laws.

§ 44-11. There is hereby created the Department of Military Affairs to which is transferred all of the functions, powers and duties of the former Division of Military Affairs.

The Governor shall appoint an Adjutant General with the rank of brigadier general, *\* major general or lieutenant general* as the Governor may prescribe, subject to confirmation by the General Assembly if in session, and if not in session, then at its next succeeding session *\**. *The Adjutant General shall not hold the rank of lieutenant general unless such rank is federally recognized. The Adjutant General shall be in direct charge of the Department of Military Affairs and shall be responsible to the Governor and Commander in Chief for the proper performance of his duties. All the powers conferred and the duties imposed by law upon the Adjutant General shall be exercised or performed by him under the direction and control of the Governor. The Adjutant General shall serve at the pleasure of the Governor for a term coincident with that of the Governor. No person shall be appointed Adjutant General who shall not have had at least \* ten years' commissioned service in the Virginia National Guard in at least field grade. The Adjutant General, while serving as such, may be a member of the Virginia National Guard.*

The Adjutant General shall receive a salary prescribed by law.

§ 44-17. The Adjutant General is empowered to make such regulations pertaining to the preparation and rendering of reports and returns

and to the care and preservation of public property as in his opinion the conditions demand, such regulations to be operative and in force when promulgated in the form of general orders, circulars, \* circular letters, or other regulations and documents.

§ 44-20. The Adjutant General shall have \* *a deputy Adjutant General whose grade shall not exceed that of brigadier general and he shall have other assistants and such clerical forces as may be necessary* \* *who shall serve at the pleasure of the Adjutant General, subject to the provisions of general law, and shall perform such duties as he may assign them. The Adjutant General shall have such other clerks and employees as may be necessary for the administration of his office.*

§ 44-21. The Adjutant General and his \* *fiscal* clerks shall each give bond, with sufficient sureties, to be approved by the Governor, as provided by law for other State officers. The penalties of the bond shall be as follows: Of the Adjutant General, ten thousand dollars, of each of his \* *fiscal* clerks, three thousand dollars.

§ 44-23. The Adjutant General shall make annually a report to the Governor, \* *not later than sixty calendar days after the thirty-first day of December, of the strength, condition, training and equipment of the* \* *armed forces of the* \* *Commonwealth, and of the expenditures of the Department of Military Affairs since the last annual report.*

44-25. Except as otherwise specifically provided by the laws of the United States, the organization of the National Guard, including the composition of all units thereof, shall be the same as that prescribed for the \* *active army, air force and navy*, subject in time of peace to such general exceptions as may be authorized by the Secretary of Defense.

§ 44-27. All officers of the National Guard shall be appointed and commissioned by the Governor as follows:

(1) Appointments of second lieutenants shall, when practicable, be made from the enlisted men within the organization. Commanding officers shall forward through \* channels the *name* \* of the \* best qualified \* *enlisted man* in their organization, accompanied by \* *the necessary documents and his military records*, with \* *the commander's* endorsement thereon, to the Adjutant General's Office for consideration by the Governor.

\*

(3) Original appointments in new organizations, all appointments \* *in the headquarters and hearquarters detachment*, and to all staffs higher than brigade, and the appointment of brigade and higher commanders shall be made upon the recommendation of the Adjutant General.

(4) *Within the organization, insofar as practicable, all appointments and promotions* \* *shall be based on professional qualifications, efficiency, length of service in grade, length of commissioned service, and demonstrated command and staff ability at the appropriate level, and will be effected only when an appropriate vacancy exists in the applicable table of organization and equipment or table of organization* \* *or distribution.*

§ 44-30. No person shall hereafter be appointed an officer of the National Guard unless he first shall have successfully passed such tests

as to his physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three commissioned officers appointed by the Secretary of \* *Defense* from the \* *active* army or the National Guard, or both. \*

§ 44-31. Relative rank among officers of the same grade shall be determined according to \* *current and subsequently amended Department of Defense* and National Guard regulations.

§ 44-33. At any time the moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board of three commissioned officers senior in rank to the officer whose fitness for service shall be under investigation, said board to be appointed by the Adjutant General and convened on his order. If the findings of such board be unfavorable to such officer and be approved by the Adjutant General, \* *such officer* shall be discharged. Commissions of officers of the National Guard may be vacated upon resignation, if approved by the Adjutant General, absence without leave for three months, upon the recommendation of an efficiency board, pursuant to sentence of a court-martial, upon physical disqualification, when convicted of a felony in a civil court, when appointed or inducted into the armed forces of the United States, when federal recognition is withdrawn from such officer or his unit, upon reaching maximum age limitation, and when it has been determined that *an* officer is subversive or disloyal. Officers of the Virginia National Guard rendered surplus by the disbandment of their organization shall be placed in \* *another unit, providing an appropriate vacancy exists, otherwise such officers shall be separated from the Virginia National Guard and automatically revert to the Reserve.*

§ 44-41. Training, including *inactive training*, armory drills, \* *annual active duty for training, active duty training* and other exercises, shall be conducted in accordance with existing or subsequently amended National Guard regulations.

§ 44-43. General courts-martial of the National Guard, not in the service of the United States, may be convened by orders of the Governor or of the Adjutant General of Virginia, and such courts shall have the power to impose fines or sentences to forfeiture of pay and allowances, in either case not to exceed \$200.00, to reprimand, to dismiss or to discharge dishonorably from the service, to reduce noncommissioned officers and specialists to any grade lower than that held. \* Any two or more of \* *the foregoing* punishments, may be combined in the sentences imposed by such courts, except \* *that no sentence may provide for both a fine and a forfeiture.*

§ 44-44. In the National Guard, not in the service of the United States, the commanding officer of each garrison, fort, post, \* camp, or other place, \* *division*, brigade, \* *separate battle group, squadron*, battalion, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Such special courts-martial shall \* have \* *no jurisdiction over* commissioned officers, including *warrant officers*, but *with respect to other ranks* shall have similar powers of punishment as do general courts-martial, except that

finer or forfeiture of pay and allowances imposed by special courts-martial shall not exceed one hundred dollars.\*

§ 44-45. In the National Guard, not in the service of the United States, the commanding officer of each garrison, fort, post, *camp* or other place, *division*, brigade, \* *separate battle group*, *squadron*, battalion or company, or other detachment, may appoint for such place or command a summary court, to consist of one officer of field grade, if available, and if none such be \* *available*, of the highest commissioned grade available. Summary courts-martial shall have the power to try enlisted personnel only, the power to administer oaths and to impose fines or forfeitures of pay and allowances, not exceeding \$25.00 for any single offense, and may reduce noncommissioned officers and specialists to any grade lower than that held.

§ 44-48. *Judgments of general, special and summary courts-martial shall be subject to review by the Adjutant General only, and such judgments may be affirmed, set aside or modified; provided, however, no higher or greater sentence, punishment, penalty, fine or forfeiture than that imposed by the court-martial shall be approved; otherwise* trials and proceedings by all courts and boards, *including review proceedings*, shall be in accordance with the plan and procedure laid down in the manual of courts-martial, courts of inquiry, and retiring boards, and other procedures under military law, as may from time to time be prescribed by the *appropriate* Secretary of the \* *respective services*.

§ 44-49. All sentences to confinement imposed by any military court of this Commonwealth shall be executed in such prisons as the court may designate, *subject to review by the Adjutant General*.

§ 44-80. \*The National Guard, Naval Militia and \* *the unorganized militia or any part thereof* may be \* ordered into service by the Governor \* *in such order as he determines*.

§ 44-93. All officers and employees of the State who shall be members of the National Guard or Naval Militia shall be entitled to leaves of absence from their respective duties, without loss of \* *seniority*, accrued leave, or efficiency rating, on all days during which they shall be engaged in \* *annual active duty for training, or when called forth by the Governor pursuant to the provisions of § 44-75; there shall be no loss of pay during such leaves of absence, not to exceed fifteen days per calendar year. When relieved from such duty, they shall be restored to positions held by them when ordered to duty*.

§ 44-115. All matters relating to the organization, discipline and government of the National Guard and Naval Militia, not otherwise provided for by law or by regulations, shall be decided by the custom and usage of the United States army, *air force* or navy, respectively.

§ 44-135. For each armory erected or provided *by the Commonwealth* the Governor shall appoint, with the advice of the Adjutant General, a board of control to consist of one or more officers of the organization or organizations quartered therein. Such board or officer of control may rent the armory for temporary purposes, subject to regulations to be prescribed by the Adjutant General, and the money derived from such rental shall be paid into the treasury of the organization or organizations quartered therein.

§ 44-204. All officers and employees of the State who shall be \* members of the \* *reserve components of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service or United States Coast and Geodetic Survey*, shall be entitled to leaves of absence from their respective duties without loss of pay, \* *seniority, accrued leave* or efficiency rating on all days during which they shall be \* *engaged in annual active duty for training, not to exceed fifteen days per calendar year*. When relieved from such duty, they shall be restored to positions held by them when ordered to duty.\*

## APPENDIX A

The following is a concise summary of changes in military laws as proposed by the Virginia Advisory Legislative Council:

§ 2-27.1. Present Law: Protects State and local officers against forfeit of office while engaging in war service of the United States. Provides for designation of acting officer to perform duties.

Changes: Extends coverage to those called in event of emergency by Governor and those called to active duty in the armed forces of the United States.

Reason: National emergencies, including armed combat, frequently arise which are not now designated as wars. It would appear proper to extend the section to cover personnel called in these emergencies and those called in State emergencies.

§ 44-8. Present Law: Provides that Governor shall be commander in chief of land and naval forces of the Commonwealth.

Change: Substitutes term "armed forces" for term "land and naval forces".

Reason: Conforms to modern terminology.

§ 44-11. Present Law: Provides for department of military affairs and appointment by Governor of Adjutant General with rank of Brigadier or Major General. Provides for powers of Adjutant General and requires that he have five years commissioned service in the Virginia National Guard.

Changes: Provides for Adjutant General with rank of Lieutenant General subject to such rank being federally recognized. Provides that Adjutant General must have had ten years' commissioned service in the Virginia National Guard in at least field grade.

Reason: Will enable Virginia to have Adjutant General with grade of Lieutenant General when such grade is authorized by federal regulation. The change as to service requirement will assure an Adjutant General experienced in the problems of the Virginia National Guard.

§ 44-17. Present Law: Empowers Adjutant General to make regulations and prescribes form in which they shall be promulgated.

Changes: Provides for promulgation by "other regulations and documents" as well as general orders, circulars and circular letters.

Reason: Provides greater flexibility in promulgating regulations.

§ 44-20. Present Law: Provides for assistants and clerical forces for the Adjutant General.

Changes: Provides for Deputy Adjutant General whose grade does not exceed that of brigadier general.

Reason: Will allow Virginia's deputy adjutant general to have a rank which will place him on a level of equality with deputy adjutant generals from other states. Present federal regulations require that State law call for a brigadier general in the position of deputy before such rank will be federally recognized.

§ 44-21. Present Law: Provides for bonding of Adjutant General and disbursing clerks.

Change: Substitutes the term "fiscal clerk" for the term "disbursing clerk".

Reason: Disbursing clerks no longer disburse funds; this duty performed by "fiscal clerks".

§ 44-23. Present Law: Provides for annual report by the Adjutant General to the Governor on or before December 31 on strength, condition and equipment of Commonwealth's armed forces and expenditures of the Department of Military Affairs.

Changes: Provides that report be made not later than 60 calendar days after the 31st day of December. Adds training to the items covered in the report. Makes minor changes in terminology.

Reason: It is not possible to make a report on the last day of the year covering the condition of the military forces during the said year. Training has become an important subject which should be included in the annual report. Other changes are for the sake of accuracy.

§ 44-25. Present Law: Provides that the organization of the National Guard shall be the same as prescribed for the regular Army.

Change: Substitutes the words "active army, air force, and navy" for the term "regular army".

Reason: To make terminology current.

§ 44-27. Present Law: Provides for the appointment and promotion of officers.

Changes: Provides that the name of the best qualified enlisted man accompanied by necessary documents be forwarded by commanding officers to the Adjutant General's office for consideration for appointment by the Governor. Previously three names were submitted. Subparagraph (2) which provided that within the organization all officers below the grade of Brigadier General shall be appointed or promoted by seniority has been eliminated. Professional qualifications and length of commissioned service have been added to those qualifications upon which promotions and appointments are based in subparagraph (4). The terminology has been generally modernized.

Reasons: Subparagraph (2) was eliminated because of an apparent conflict with subparagraph (4). Professional qualification and length of commissioned service have been added as factors to be considered in promo-

tion and appointment because they are factors which play an important part in the overall qualifications of officers.

§ 44-30. Present Law: Sets up tests for appointments to National Guard commissions. Provides for board to conduct tests.

Changes: Substitutes "Secretary of Defense" for "Secretary of the Army" as the appointing authority for the Boards to administer tests. The term "active army" is substituted for the term "regular army".

Reasons: To bring statute in line with current practice and modern terminology.

§ 44-31. Present Law: Provides for determination of relative rank among officers of the same grade by army regulations.

Change: Substitutes current and subsequently amended Department of Defense and National Guard regulations as the criteria for determining relative rank.

Reason: To comply with current practice and terminology.

§ 44-33. Present Law: Provides for the elimination and disposition of National Guard officers.

Change: Officers of the Guard rendered surplus by disbandment of their organization shall be placed in another unit provided an appropriate vacancy exists, otherwise they shall be separated from the Virginia National Guard and automatically revert to the reserve.

Reason: Provides for fuller utilization of surplus officers and prohibits voluntary retirement to inactive status.

§ 44-41. Present Law: Provides for armory drills, encampments and other training exercises to be conducted according to National Guard regulations.

Change: Substitutes terms "inactive training", "annual active duty for training", and "active duty training" for term "field training encampments".

Reasons: Modern terminology and current usage.

§ 44-43. Present Law: Provides for general courts-martial in National Guard.

Change: Revised for clarity.

Reason: To clarify.

§ 44-44. Present Law: Provides for special courts-martial in National Guard.

Changes: Revised to include all units with special court-martial jurisdiction.

Reasons: To bring statute in line with special court-martial authorization as set out in Manual for Courts-martial.

§ 44-45. Present Law: Provides for summary courts-martial.

Change: Revised to include all units given summary court-martial jurisdiction by Manual for Courts-martial.



Reasons: To bring statute in line with summary court-martial jurisdiction granted by the Manual for Courts-martial.

§ 44-48. Present Law: Provides that the Manual for Courts-martial governs trials and proceedings along with other procedures as may from time to time be prescribed by the Secretary of the Army.

Change: Secretary of the Army is replaced by the appropriate secretary of the respective services as the authority prescribing procedures under military law. Provides for review of courts-martial by Adjutant General.

Reason: To bring statute into conformity with current armed services organization and to provide for review.

§ 44-49. Present Law: Provides that sentences to confinement imposed by military courts shall be executed in the prisons designated by such courts.

Change: Makes designation of prison subject to review by Adjutant General.

Reasons: To provide for review by Adjutant General.

§ 44-80. Present Law: Provides that the unorganized militia shall be the last ordered out.

Change: Provides that the National Guard, Naval Militia, the unorganized militia, or any part thereof, may be ordered into service in such order as the Governor determines.

Reasons: To provide greater flexibility in the event of an emergency.

§ 44-93. Present Law: Provides leaves of absence for State officers and employees who are members of the National Guard or Naval Militia without loss of pay, time, accrued leave, or efficiency rating, on days in which they are engaged in field or coast defense training.

Change: The term "annual active duty for training" is substituted for the term "field or coast defense training". Guarantees are extended to State officers and employees when called out by the Governor under the provisions of § 44-75 in the event of an emergency. Guarantee as to loss of pay is limited to fifteen days.

Reason: To clarify statute and make its terminology current and to prevent hardships to State officers and employees called up under the provisions of § 44-75.

§ 44-115. Present Law: Provides that all matters relating to organization, discipline, and government of the National Guard and Naval Militia, not provided for by law or regulations, shall be decided by the customs of the United States Army or Navy.

Change: Customs of the Air Force are included along with those of the Army or Navy.

Reason: Conformity with the present organization of the armed forces of the United States.

§ 44-135. Present Law: Provides for Board of Control for each armory; temporary renting of armories.

Change: Provides that only armories erected or provided by the Commonwealth shall have Boards of Control.

Reasons: Some armories are constructed with local funds and the Commonwealth should not exercise control over their non-military use.

§ 44-204. Present Law: Provides for leaves of absence for officers and employees of the State who are members of the Organized Reserves of the United States Army or Navy or Marine Corps without loss of pay, time, or efficiency rating, on order to active duty by the President of the United States for periods not to exceed 15 days; provides they shall be entitled to regular vacation periods with pay in addition to military leaves.

Change: Substitutes the terms "Reserve Components of the United States Army, Navy, Air Force and Marine Corps, Coast Guard, Public Health Service and United States Coast and Geodetic Survey" for the terms "Reserve Corps of the United States Army, Navy, and Marines." Individual's accrued leave is guaranteed but reference to vacation with pay is omitted. The leave is now granted for up to a fifteen day period in which the individual is engaged in annual active duty for training and the reference to an order to active duty by the President of the United States is omitted.

Reasons: The terminology in the statute is brought up to date. The guarantee of accrued leave is more appropriate than a vacation guarantee under present State personnel practices.



