February 9, 2011

SENATE BILL No. 248

DIGEST OF SB 248 (Updated February 8, 2011 11:42 am - DI 71)

Citations Affected: IC 10-16.

Synopsis: Indiana National Guard. Makes changes to the powers of the state armory board to accept and convey real and personal property and to expend funds. Provides for certain changes to the structure of the state armory board, and expands the definition of "commanding officer". Provides that for purposes of the federal controlled substance statutes, the Indiana National Guard is considered a law enforcement agency and is eligible to receive forfeited property from federal law enforcement agencies. Establishes a First Sergeant Ribbon as an award for the Indiana Air National Guard.

Effective: July 1, 2011.

Wyss

January 6, 2011, read first time and referred to Committee on Rules and Legislative Procedure.
January 18, 2011, amended; reassigned to Committee on Homeland Security, Transportation, and Veterans Affairs.
February 8, 2011, reported favorably — Do Pass.

C o p y

February 9, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 248

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 10-16-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. "Commanding officer" means **the commander of** a company, a troop, a battery, a squadron, a battalion, an air group, a regiment, **a brigade,** a battle group, a wing, ~~or~~ a division, ~~commander.~~ **a post, an installation, or a joint forces headquarters.**

SECTION 2. IC 10-16-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The state armory board is established to provide, manage, and care for armories for the use of the military and naval forces of Indiana.

(b) The board consists of the following members:

(1) The following ex officio members:

(A) The governor.

(B) The adjutant general.

(2) Five (5) members appointed by the governor. At least three (3) of the members must be or must have been officers of the military or naval forces of the United States or of the state of Indiana.

~~(3) The presidents of the local armory boards as provided under IC 10-16-4-3(c).~~

SECTION 3. IC 10-16-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. The state armory board established by section 1 of this chapter may contribute funds in support of the following authorized duties and responsibilities of the adjutant general:

(1) The military department of the Indiana ceremonial unit.

(2) The Indiana guard reserve.

(3) The annual report of the adjutant general's department.

(4) The medical treatment, pensions, and funeral expenses of officers and soldiers wounded, disabled, or killed while in the active service of the state.

(5) **Expenditures for** public relations ~~expenditures of~~ **and the promotion of morale within** the adjutant general's department that are not paid by the United States Department of Defense.

(6) Recruitment and retention expenditures of the adjutant general's department that are not paid by the United States Department of Defense.

(7) The publication of the armed forces law of Indiana in accordance with IC 10-16-2-9(d).

SECTION 4. IC 10-16-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The state armory board may:

(1) lease real estate from:

(A) the federal, the state, or a local government; or

(B) a federal, state, or local agency; or

(2) purchase real estate throughout the state;

where necessary to provide armories **or other military purposes.**

(b) The state armory board shall lease or purchase real estate in the name and for the use of the state. The state armory board ~~shall~~ **may** erect on the real estate an armory **or another appropriate structure** to be used for meetings, rendezvous, and drill purposes by the following organizations:

(1) A company.

(2) A battery.

(3) A troop.

(4) A battalion.

(5) A regiment.

(6) A division organization.

(7) An air squadron.

(8) A related group.

C o p y

(9) An organization authorized by the state board.

The ordnance stores, quartermaster stores, and other property issued to an organization described in this subsection and occupying the armory shall be stored in the armory **or other appropriate structure.**

(c) The state armory board shall arrange for the occupancy and use of the armories under the direction and responsibility of the senior officer in command of an organization described in subsection (b).

(d) An armory may not be erected on land that is leased for less than fifty (50) years.

(e) The Indiana wing of the civil air patrol and its subordinate units may use armory facilities without charge when the officer responsible for the armory determines the use would not interfere with operational training requirements of the military forces concerned.

SECTION 5. IC 10-16-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. The state armory board shall constitute a board for the general management, care, and custody of the armories. The state armory board may adopt rules for:

(1) the management and government of the armories; ~~and~~

(2) the guidance of the organizations occupying the armories; **and**

(3) any other purpose consistent with this chapter.

SECTION 6. IC 10-16-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) The state armory board may receive from any source donations of ~~land~~ **real or personal property** or contributions of money to aid in ~~providing or erecting armories throughout Indiana for the use~~ **the support and assistance** of:

(1) the armed forces of Indiana; and

(2) the armed forces of Indiana called or inducted into federal service.

Property received under this subsection shall be held as other property for the use of the state.

(b) Counties, cities, and municipalities may make donations and contributions under subsection (a).

(c) This subsection applies to real ~~estate.~~ **or personal property:**

(1) donated under subsection (a); and

(2) upon which the state of Indiana has not erected structures.

The state armory board may determine that real ~~estate~~ **property** donated under subsection (a) is no longer usable or cannot be used by the military department. The state armory board may certify its determination to the adjutant general. The adjutant general may reconvey the real ~~estate~~ **property** to the donor **or to another entity or individual that the adjutant general considers appropriate.**

SECTION 7. IC 10-16-3-11 IS AMENDED TO READ AS

C o p y

FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. The state armory board may use ~~the receipts under IC 10-16-9-3(a)(3)~~ **its financial resources** to make contributions to organizations that promote the public image of the national guard, the United States armed forces, or veterans of the United States armed forces. These contributions may be made for the following purposes:

(1) Public events.

(2) Activities on Veterans' Day, Memorial Day, the Fourth of July, and other holidays.

(3) Monuments, plaques, or inscriptions that memorialize veterans of United States wars or military actions.

(4) Other appropriate activities that the state armory board approves.

SECTION 8. IC 10-16-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) The state armory board may sell, lease, convey, or otherwise dispose of any real property belonging to the state and being under the charge and in the custody and possession of the state armory board if, in the judgment of the state armory board:

(1) the real property can no longer be used for the purpose for which it was acquired; **and**

(2) the conveyance provides a substantial public or military benefit.

(b) The sale shall be made at public or private sale, after appropriate publication, for the highest price to be obtained for the same. If the state armory board takes bids in the sale of real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

(c) All money derived from the sale, conveyance, or other disposition of any real property shall be paid into the state treasury, but may be used for the purchase of other real property for armory purposes.

SECTION 9. IC 10-16-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) If the state armory board sells ~~conveys, or otherwise disposes of~~ any real property, the value of the property shall be determined by three (3) disinterested appraisers appointed by the state armory board with the approval of the governor.

(b) Real property may not be sold ~~conveyed, or otherwise disposed of~~ for less than the appraised value of the real property. If the real

C o p y

property cannot be sold at its appraised value, it may be reappraised.

(c) Real property may not be sold ~~conveyed, or otherwise disposed of~~ unless:

(1) the governor approves the sale; ~~conveyance, or disposition,~~ and

(2) the attorney general states in writing that all the conditions necessary to the legal and valid sale ~~conveyance, or disposition~~ of ~~such~~ **the** property have been fully complied with.

SECTION 10. IC 10-16-7-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 25. For purposes of transfers of property forfeited to the United States under the Controlled Substance Act (21 U.S.C. 881), the Indiana National Guard is designated as a law enforcement agency.**

SECTION 11. IC 10-16-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) Fines may be collected in the following manner:

(1) By the retention of any pay or allowances due or to become due from the state.

(2) By commitment to a jail designated by the reviewing authority until the fine is paid or until one (1) day is served for each one dollar ($1) of the fine imposed.

(3) By payment to the ~~county treasurer.~~ **local armory board assigned to the convicted soldier's unit.** The ~~county treasurer~~ **local armory board** shall immediately transmit the payment to the ~~treasurer of state. The treasurer of state shall quarterly pay the sums to the armory board,~~ **state armory board,** and the sums are appropriated continuously for the purposes of IC 10-16-3-11. It is sufficient to record upon the payroll opposite the name of the person fined a notation of the sentence of the court-martial and the date of approval of the sentence, together with the name and rank of the reviewing authority.

(b) A sentence of imprisonment imposed by a court-martial during active service or at camps of instruction shall be carried out by confinement in a guardhouse, tent, or other places designated by the reviewing authority. A sentence of imprisonment imposed by court-martial upon persons not in active service or at camps of instruction shall be carried out by confinement in a jail to be designated by the reviewing authority.

SECTION 12. IC 10-16-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The following awards and decorations are established to be bestowed upon the

C o p y

officers and enlisted persons of the armed forces of Indiana under the conditions and in the manner provided in this article:

(1) An Indiana Distinguished Service Cross shall be awarded to any commissioned officer or enlisted person of the militia, who:

(A) performs, at great personal danger and risk of life or limb in peace or war, any act of heroism designed to protect life or property; or

(B) in the face of a military or armed enemy of the United States government or of the state of Indiana, performs an act over and beyond the call of duty, which act, danger, or risk the officer or enlisted person could have failed to perform or incur without being subject to censure for neglect of duty.

(2) An Indiana Distinguished Service Medal shall be awarded to a commissioned officer or an enlisted person of the militia and other officers, enlisted persons, and civilians, who perform unusually distinguished or meritorious service, that:

(A) to a marked degree is reflected in the increased efficiency of the militia; or

(B) brings exceptional and great honor or credit to the Indiana armed forces and commands the attention and respect of the citizens of Indiana and of the military establishment throughout the United States.

(3) Long Service Medals shall be awarded to officers and enlisted persons for honest and faithful service in the federally recognized Indiana national guard for periods of:

(A) ten (10) years;

(B) fifteen (15) years;

(C) twenty (20) years;

(D) twenty-five (25) years; and

(E) for longer periods.

A symbol shall be worn on the ribbon of each medal, one (1) for each year in addition to the period for which the medal was issued, until the officer or enlisted person is entitled to a medal for the next period for which a different long service medal is issued.

(4) An Indiana national guard commendation medal shall be awarded to any commissioned officer or enlisted person of the militia and other officers, enlisted persons, and civilians, who have distinguished themselves by meritorious achievement or meritorious service. The required meritorious achievement or meritorious service while of lesser degree than that required for the award of the Indiana distinguished service medal must have

C o p y

been accomplished with distinction. The award may be made for acts of outstanding courage that do not meet the requirements for award of the Indiana distinguished service medal. It is particularly desirable that emphasis be placed on the award of this decoration to outstanding company grade officers, warrant officers, and enlisted personnel whose achievements and service meet the prescribed standards.

(5) An Indiana Emergency Service Ribbon shall be awarded to all currently assigned officers, warrant officers, and enlisted members of the Indiana national guard who have served on state active duty during a state emergency. For purposes of this subdivision, "state emergency" means any emergency for any period declared by the governor or the adjutant general. The Indiana emergency service ribbon shall be awarded to denote honorable state active military duty by members of the Indiana army and air national guard during state emergencies.

(6) Other medals for any war or campaign or mobilization for which a medal has not been awarded by the federal government may be:

(A) established by executive order of the governor; and

(B) awarded to members of any federally recognized military force of the state who participated in the military force.

(7) An Air National Guard First Sergeant Ribbon is authorized for a currently assigned member who serves or has previously served as a first sergeant in the Indiana Air National Guard, if the member meets the criteria set forth in clause (A). A request for an award, including a retroactive award, must be submitted in the manner set forth in clause (B), and meet any other criteria established by the adjutant general. The ribbon shall consist of a plain blue field with a silver diamond device in the center, and no medal shall accompany the award of the ribbon. The ribbon shall be awarded as follows:

(A) In recognition of meritorious service by a member of the Indiana Air National Guard who has served in the first sergeant career field, Special Duty Identifier 8F000, and who meets the following criteria:

(i) Has been assigned to a valid first sergeant position for at least three (3) years.

(ii) Graduated from either the United States Air Force Academy or the Army National Guard First Sergeant Academy.

C o p y

(B) The individual unit commander of a member of the Indiana Air National Guard who meets the criteria set forth in clause (A) shall submit a letter to the wing commander, recommending the member for the award based upon the member's contributions, conduct, and demonstrated leadership as a first sergeant. If the wing commander approves, the wing commander shall forward the letter of recommendation to the military personnel flight commanding officer for action. If the wing commander disapproves, the wing commander shall return the letter of recommendation to the unit commander.

(C) The adjutant general shall establish procedures for the award presentation ceremony following accepted practice and miliary tradition.

For the purposes of this article, officers and enlisted persons of the regular army assigned to the armed forces of Indiana as instructors and assistant instructors shall be considered as officers and enlisted persons of the Indiana armed forces.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 248, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security, Transportation, and Veterans Affairs.

(Reference is to SB 248 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 248, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 248 as printed January 19, 2011.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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