

1 SB108  
2 206031-2  
3 By Senator Whatley  
4 RFD: Veterans and Military Affairs  
5 First Read: 02-FEB-21  
6 PFD: 01/28/2021

8 SYNOPSIS: Under current law, the Adjutant General of  
9 the Alabama National Guard is appointed by the  
10 Governor with the advice and consent of the Senate.

11 Under current law, there is a requirement  
12 that an individual appointed as the Adjutant  
13 General must be an active officer of the National  
14 Guard, have previously served in a line position or  
15 has exercised general command authority, and be  
16 eligible for operational command positions.

17 Under current law, officers and enlisted  
18 personnel of headquarters elements of the National  
19 Guard are selected by the Adjutant General from  
20 among active or inactive members of the National  
21 Guard.

22 Under current law, general officers of the  
23 line are appointed by the Governor from among the  
24 active officers of the National Guard.

25 This bill would revise the method of  
26 appointment of the Adjutant General and general

1 officers of the line and the duties and  
2 responsibilities of the Adjutant General.

3 This bill would remove the requirement that  
4 a person selected to serve as the Adjutant General  
5 have previously served in a line position and be an  
6 active officer in the National Guard at the time of  
7 appointment.

8 This bill would require a person appointed  
9 Adjutant General be a resident of the state who  
10 served or has served in the National Guard for a  
11 period of not less than 15 years and as a  
12 commissioned officer in the active National Guard  
13 for a period of not less than five years and is at  
14 least 40 years of age and not more than 65 years of  
15 age at the time of appointment.

16 This bill would provide that the Adjutant  
17 General be compensated in an amount equal to the  
18 compensation due to an officer of the rank  
19 indicated on the valid commission held by the  
20 Adjutant General.

21 This bill would further provide that a  
22 person appointed as a general officer in the  
23 National Guard would serve until the adjournment of  
24 the next regular session of the Legislature and if  
25 not confirmed by the Senate, the position would  
26 once again become vacant.

1                   This bill would allow the Governor to submit  
2                   an officer for confirmation as a general officer by  
3                   the Senate at any time, regardless of vacancy. The  
4                   Governor could then appoint that officer as a  
5                   general officer at any time prior to the expiration  
6                   of that confirmation at the conclusion of the final  
7                   session of the legislative quadrennium during which  
8                   the confirmation occurred.

9  
10   A BILL  
11   TO BE ENTITLED  
12   AN ACT

13  
14                   Relating to the Military Department; to amend  
15                   Sections 31-2-55, 31-2-58, and 31-2-72, Code of Alabama 1975,  
16                   to clarify the method of appointment of the Adjutant General  
17                   of the National Guard, the appointment of general officers of  
18                   the line, and the duties and responsibilities of the Adjutant  
19                   General upon appointment by the Governor; to revise the  
20                   qualifications for appointment as Adjutant General; to provide  
21                   for the compensation of the Adjutant General; to provide for  
22                   the term of an appointed general officer in the National  
23                   Guard; and to provide that the Governor may submit an officer  
24                   for confirmation as a general officer by the Senate prior to  
25                   appointing that officer as a general officer.  
26                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 31-2-55, 31-2-58, and 31-2-72,  
2 Code of Alabama 1975, are amended to read as follows:

3           "§31-2-55.

4           "Officers and enlisted ~~men~~ personnel of the  
5 headquarters and headquarters detachment of the Alabama Army  
6 and Air National Guard shall be selected and appointed from  
7 among the active or inactive members of the National Guard by  
8 the Adjutant General in the same manner as for other units.

9           "§31-2-58.

10          "(a) The ~~head~~ director of the Military Department  
11 shall ~~be a commissioned officer of~~ have a valid commission in  
12 the National Guard of Alabama and shall be designated as the  
13 Adjutant General.

14          "(b) He or she shall be ~~designated and~~ assigned to  
15 duty as the Adjutant General by the Governor and shall serve  
16 ~~as Adjutant General~~ at the pleasure of the Governor.

17          ~~He may be commissioned as an officer on the state~~  
18 ~~staff, in the Adjutant General's office, and he may have such~~  
19 ~~rank as is now or may hereafter be provided for an officer of~~  
20 ~~the state staff, Adjutant General's office, under the~~  
21 ~~provisions of the National Defense Act and Department of~~  
22 ~~Defense regulations promulgated thereunder. The officer of the~~  
23 ~~National Guard of Alabama assigned to duty by the Governor as~~  
24 ~~the Adjutant General~~

25          "(c) The Adjutant General may be an individual  
26 commissioned by the Governor ~~as a~~ and appointed as a general

1 officer in the National Guard of Alabama, with the advice and  
2 consent of the Senate.

3 "(d) Notwithstanding the provisions of subsection  
4 (c), the ~~The~~ Adjutant General shall be appointed from among  
5 the active, inactive, reserve, or retired officers of the  
6 ~~federally recognized~~ National Guard of Alabama, and ~~he~~ shall  
7 meet all of the following requirements:

8 "(1) Is a resident of the State of Alabama.

9 "(2) ~~Have had~~ Has at least ~~six~~ 15 years<sup>+</sup> of  
10 cumulative past or present service ~~therein,~~ in the National  
11 Guard. ~~two years of which must have been in the line, and he~~  
12 ~~shall have served~~

13 "(3) At any point prior to appointment, has served  
14 as a commissioned officer in the active National Guard for a  
15 period of, cumulatively, not less than ~~four~~ five years , and  
16 was eligible for federal recognition as a general officer.

17 "(4) Is at least 40 years of age and not more than  
18 65 years of age at the time of the appointment.

19 "(e) The Adjutant General ~~of the state~~ shall ~~be in~~  
20 ~~direct charge~~ have command and control of the military  
21 department and shall be responsible to the Governor and to the  
22 Commander in Chief of the Armed Forces of the United States  
23 for the ~~proper~~ performance of his all duties assigned. ~~All the~~  
24 ~~powers conferred and duties imposed by law upon the Adjutant~~  
25 ~~General shall be exercised or performed by him under the~~  
26 ~~direction and control of the Governor.~~

1           "(f) The Adjutant General shall be chief of the  
2 state staff, National Guard of Alabama, and shall serve on the  
3 personal staff of the Governor,~~and similar military agencies~~  
4 ~~of the state.~~

5           "(g) ~~He~~ The Adjutant General shall supervise the  
6 receipt, preservation, repair, distribution, issuance, and  
7 collection of all arms, military equipment, and stores of the  
8 state and of the United States under his or her control.

9           "(h) ~~He~~ The Adjutant General shall ~~supervise~~ be  
10 responsible for the supervision of all troops personnel, ~~arms~~  
11 and operations for all branches of the militia, ~~such~~  
12 ~~supervisory powers covering primarily all duties pertaining to~~  
13 National Guard of Alabama, including the organization,  
14 armament, discipline, training, recruiting, inspecting  
15 inspection, instructing, pay, subsistence, and supplies  
16 maintenance, and supply of all personnel and units assigned  
17 and organized under the Alabama National Guard.

18           "(i) The Adjutant General shall be the direct  
19 channel of military communications and correspondence with the  
20 Governor for the Alabama National Guard.

21           "(j) ~~He~~ The Adjutant General shall maintain a roster  
22 of all the officers and ~~men~~ enlisted personnel of the Army and  
23 Air National Guard and Naval Militia of the state of Alabama  
24 and keep on file in his office copies records of all orders,  
25 reports, and communications received and issued by the  
26 Military Department ~~in its several branches and sections.~~

1           "(k) ~~He~~ The Adjutant General shall, from time to  
2 time, ~~cause the laws and all~~ shall require that state  
3 regulations affecting the National Guard or its personnel ~~that~~  
4 ~~may be written thereunder~~ to be printed, bound, and  
5 distributed at the expense of the state.

6           "(l) The Adjutant General ~~shall~~, from time to time,  
7 shall draft, prepare, and publish, by order of the Governor,  
8 ~~such orders, and rules, and regulations,~~ consistent with ~~the~~  
9 state and federal laws ~~, as are necessary to bring the~~  
10 ~~organization, armament, equipment, training, and discipline of~~  
11 ~~the various classes of the Militia of Alabama to a state of~~  
12 ~~efficiency as near as possible to that of the United States~~  
13 ~~Army and Navy. He shall prepare such reports and returns as~~  
14 ~~the Secretary of Defense of the United States may prescribe~~  
15 ~~and require. He shall perform such other duties as may be~~  
16 ~~required of him by the Commander in Chief.~~

17           "(m) The Comptroller of Alabama shall draw warrants  
18 on the Treasury for all expenses incurred under this section  
19 on bills regularly presented to, and approved by, the  
20 Governor.

21           "(n) ~~It shall be the duty of the Adjutant General,~~  
22 ~~if ordered by the Governor, to visit and inspect each company,~~  
23 ~~troop, or battery inspect each company, troop, or battery~~ The  
24 Adjutant General shall ensure the inspection of all units  
25 assigned, at least once ~~a~~ per year, and ~~to~~ report to the  
26 ~~Commander in Chief~~ Governor the condition of armories and  
27 other ~~military buildings and properties, and~~ as well as of the



1 arms, equipment, and personnel of the ~~companies, troops, or~~  
2 ~~batteries~~ units, and make such recommendations as required or  
3 that he or she thinks proper. ~~in regard thereto; provided~~  
4 ~~that, the Adjutant General may designate members of the state~~  
5 ~~staff or field officers of the National Guard as inspecting~~  
6 ~~officers for the purposes in question. The Adjutant General~~  
7 ~~shall assist all persons residing in Alabama or other states~~  
8 ~~having claims against the state or the United States for~~  
9 ~~compensation, pension, retired pay, bounty, or back pay or~~  
10 ~~service medals and decorations awarded by the United States or~~  
11 ~~the State of Alabama, where such claims and requests have~~  
12 ~~arisen out of, or by reason of, service in any of the wars or~~  
13 ~~insurrections concerning the United States or the State of~~  
14 ~~Alabama. He shall furnish to claimants or their accredited~~  
15 ~~representatives, or assist them in procuring, all necessary~~  
16 ~~certificates and certified abstracts from the records and~~  
17 ~~documents in the State Military Department and other~~  
18 ~~departments of the state or the United States; provided that~~  
19 ~~any or all of these services shall be rendered without charge~~  
20 ~~to the claimant. The Adjutant General shall have a seal of~~  
21 ~~office, to be approved by the Commander in Chief, and all~~  
22 ~~copies of papers in his office duly certified and~~  
23 ~~authenticated under the seal shall be evidence in all cases in~~  
24 ~~like manner as if the original were produced.~~

25 "(o) The Adjutant General shall make an annual  
26 report to the Governor as required, setting forth the  
27 transaction of the Office of the Adjutant General, the

1 strength and condition of the National Guard of Alabama,  
2 including results of the most recent federal inspections, and  
3 other matters as the Adjutant General may deem important or as  
4 may be requested by the Governor.

5 "(p) The Adjutant General shall have an appropriate  
6 seal of office and affix it to all official correspondence and  
7 certificates of record issued from the Office of the Adjutant  
8 General.

9 "(q) The Adjutant General shall perform all other  
10 military duties, not otherwise assigned, as may be ordered by  
11 the Governor.

12 "(r) The Adjutant General shall be compensated  
13 monthly in an amount equal to the pay due to an officer of the  
14 rank indicated on the Adjutant General's valid commission.  
15 This compensation shall include all pay, subsistence  
16 allowances, and housing allowances due to an officer of that  
17 rank, and shall be paid out of any appropriations made for the  
18 expenses of the State Military Department.

19 "§31-2-72.

20 "(a) General officers of the line shall be ~~appointed~~  
21 ~~selected~~ under the rules ~~and regulations~~ of the Department of  
22 Defense. ~~Such officers and~~ shall be appointed by the Governor  
23 ~~with the advice and consent of the Senate~~ from among active  
24 officers of the National Guard of Alabama, who have not less  
25 than six years<sup>+</sup> ~~of~~ active service in the National Guard of  
26 Alabama, ~~with the advice and consent of the Senate.~~

1           "(b) General officer Vacancies vacancies in the  
2 offices caused by that occur as the result of death,  
3 resignation, or removal while the Senate is not in session  
4 shall be filled by through recess appointments appointment by  
5 the Governor. ; ~~provided, that should the vacancies in the~~  
6 ~~grade of general officer of the line be in an organization in~~  
7 ~~which the State of Alabama has joint interest with another~~  
8 ~~state or states, the Governor is authorized to enter into a~~  
9 ~~conference through the Military Department of the state with~~  
10 ~~the other states concerned for the purpose of determining~~  
11 ~~which state shall, with the concurrence of the other states,~~  
12 ~~nominate the general officer to fill such vacancy in~~  
13 ~~conformity with laws, rules, and regulations of the state and~~  
14 ~~the United States written under the provisions of the National~~  
15 ~~Defense Act; provided further, that staff officers allotted to~~  
16 ~~this state, who are members of organizations jointly organized~~  
17 ~~with other states, and who are on the staff of general or~~  
18 ~~other officers who are commissioned in another state that has~~  
19 ~~joint interest in a unit of the National Guard of this state,~~  
20 ~~and whose appointment was approved by Alabama, shall be~~  
21 ~~appointed by the Governor under the rules and regulations~~  
22 ~~written under the provisions of the National Defense Act.~~

23           "(c) The officer appointed shall serve immediately  
24 upon appointment and qualification until the adjournment of  
25 the next regular session of the Legislature. If not confirmed  
26 prior to the adjournment of that session, the position shall  
27 again become vacant and subject to appointment in the same

1 manner. The Military Department shall not seek federal  
2 recognition of the appointment until after the officer is  
3 confirmed by the Senate.

4 "(d) The Governor may submit an officer for  
5 confirmation as a general officer by the Senate at any time,  
6 regardless of vacancy. If the Governor does not appoint that  
7 officer as a general officer prior to the conclusion of the  
8 final session of the legislative quadrennium during which the  
9 confirmation occurred, the confirmation expires."

10 Section 2. This act shall become effective  
11 immediately following its passage and approval by the  
12 Governor, or its otherwise becoming law.