

of age at the time of the act and which act would have constituted a violation of a statute prohibiting lewd and lascivious conduct, lewd or lascivious conduct with a child, felony sexual exploitation of a minor in violation of 13 V.S.A. § 3258(c), sexual assault, or aggravated sexual assault in effect at the time the act was committed.

(d) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to childhood sexual abuse that occurred prior to the effective date of this act, irrespective of any statute of limitations in effect at the time the abuse occurred. In an action based on childhood sexual abuse that would have been barred by any statute of limitations in effect on June 30, 2019, damages may be awarded against an entity that employed, supervised, or had responsibility for the person allegedly committing the sexual abuse only if there is a finding of gross negligence on the part of the entity.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 19, 2019, pages 513-514)

H. 530.

An act relating to the qualifications and election of the Adjutant and Inspector General.

Reported favorably with recommendation of proposal of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. § 10 is amended to read:

§ 10. ELECTION OF STATE AND JUDICIAL OFFICERS

(a) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday after their biennial meeting and organization, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the State officers, except judicial officers, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly, including the Sergeant at Arms, ~~the Adjutant and Inspector General,~~ and the legislative trustees of the University of Vermont and State Agricultural College. In case election of all such officers shall not be made on that day, they shall meet in

joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

* * *

Sec. 2. REDESIGNATION; ADDITION OF SUBCHAPTER

20 V.S.A. chapter 21, subchapter 1, which shall include 20 V.S.A. §§ 361–369, is added to read:

Subchapter 1. General Provisions

Sec. 3. 20 V.S.A. chapter 21, subchapter 2 is added to read:

Subchapter 2. Adjutant and Inspector General Nominating Board

§ 370. ADJUTANT AND INSPECTOR GENERAL NOMINATING BOARD

(a) The Adjutant and Inspector General Nominating Board is created to nominate candidates for Adjutant and Inspector General.

(b)(1) The Board shall consist of nine members who shall be selected as follows:

(A) one member appointed by the Governor, who shall not be a current member of the Vermont National Guard;

(B) one member appointed by the Executive Director of the Vermont Office of Veterans Affairs, who shall be a veteran but shall not be a current member of the Vermont National Guard;

(C) one member appointed by the Chief Justice of the Vermont Supreme Court, who shall not be a current member of the Vermont National Guard;

(D) three members of the House, not all of whom shall be members of the same party, appointed by the Speaker of the House; and

(E) three members of the Senate, not all of whom shall be members of the same party, appointed by the Committee on Committees.

(2)(A) The members of the Board shall serve for terms of two years and may serve for not more than three consecutive terms.

(B)(i) All appointments shall be made between January 15 and February 15 of each odd-numbered year, except to fill a vacancy.

(ii) Any vacancy in the membership of the Board shall be filled by the appointing authority for the remainder of the term.

(C) Members shall serve until their successors are appointed.

(3) The members shall elect their own chair who shall serve for a term of two years.

(c) Legislative members of the Board shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Members of the Board who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses in the same manner as board members are compensated under 32 V.S.A. § 1010. The compensation and reimbursement for the Board members shall be paid from the legislative appropriation.

(d) A quorum of the Board shall consist of a majority of the members.

(e) The Board may use the staff and services of the Legislative Council to, in addition to other duties, obtain information regarding candidates for Adjutant and Inspector General by soliciting comments from members of the Vermont National Guard and the public.

§ 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND INSPECTOR GENERAL; REQUIREMENTS

(a)(1) All candidates for Adjutant and Inspector General shall, on or before January 15 of each even-numbered year, declare their candidacy to the Board pursuant to procedures adopted by the Board and demonstrate that they meet the qualifications set forth in subsection (b) of this section as required pursuant to procedures adopted by the Board.

(2)(A) In the case of a vacancy occurring during a term, any candidates for Adjutant and Inspector General shall, not later than 90 days after the office of Adjutant and Inspector General becomes vacant, declare their candidacy to the Board pursuant to procedures adopted by the Board and demonstrate that they meet the qualifications set forth in subsection (b) of this section as required pursuant to procedures adopted by the Board.

(B) During a vacancy in the Office of Adjutant and Inspector General, the Deputy Adjutant General shall fulfill the Duties of the Office until a new Adjutant and Inspector General is appointed by the Governor.

(b) A candidate for Adjutant and Inspector General shall:

(1) be a resident of Vermont;

(2) have attained the rank of lieutenant colonel (O-5) or above;

(3) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard or

the Air National Guard, or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(4) be a graduate of a Senior Service College or currently enrolled in a Senior Service College.

(c) As used in this section, “resident of Vermont” means an individual who is domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent.

§ 372. PROCEDURES OF THE BOARD; CONFIDENTIALITY

(a) The Board shall endeavor to adopt all necessary forms and procedures for receiving and reviewing applications of candidates for Adjutant and Inspector General by September 30 of the first year of each biennial session.

(b) The Board’s procedures shall not be subject to rulemaking under 3 V.S.A. §§ 836–844 and may be adopted and revised at the discretion of the Board.

(c) All candidates shall have the right to a reasonable time period to prepare and present to the Board a response to any testimony or written complaint adverse to their candidacy for Adjutant and Inspector General.

(d)(1) Except as otherwise provided by subdivision (2) of this subsection:

(A) the proceedings of the Board shall be confidential and exempt from the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2; and

(B) all records of the Board, including information related to candidates, shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(2) The following shall be public:

(A) the Board’s operating procedures;

(B) the Board’s application procedures and any application or other forms used by the Board, provided they do not contain information about a candidate or confidential proceedings;

(C) proceedings of the Board that are not directly related to the consideration of candidates;

(D) the names of the candidates; and

(E) the list of well-qualified candidates submitted to the Governor by the Board.

§ 373. DUTIES OF NOMINATING BOARD

(a) Evaluation. In determining whether a candidate for Adjutant and Inspector General should be submitted to the Governor for consideration, the Board shall do the following:

(1) Interview the candidate for Adjutant and Inspector General.

(2) Hold a hearing to receive information and hear testimony in relation to the candidates.

(3) Review comments received in relation to the candidate from members of the Vermont National Guard and the public. The Board may, in its discretion, conduct interviews or seek additional information related to comments received in relation to a candidate.

(4) Determine whether the candidate is well qualified for appointment by the Governor based on the candidate's application materials and interview, and any comments and related information received in relation to the candidate. The Board shall evaluate whether each candidate is well qualified based on:

(A) whether the candidate satisfies the qualifications set forth in subsection 371(b) of this chapter; and

(B) the candidate's leadership; integrity; and administrative and communication skills.

(b) Nomination. After interviewing and evaluating each of the candidates, the Board shall submit to the Governor a list of all well qualified candidates for Adjutant and Inspector General.

Sec. 4. 20 V.S.A. § 363 is amended to read:

§ 363. OFFICERS GENERALLY

(a)(1) ~~The General Assembly shall biennially elect~~ On or before April 15 of the second year of each biennial session, the Governor shall appoint, with the advice and consent of the Senate and from a list of candidates submitted by the Adjutant and Inspector General Nominating Board, an Adjutant and Inspector General, ~~who~~ for a term of two years.

(2) An Adjutant and Inspector General appointed to fill a vacancy occurring during a term shall serve the remainder of the unexpired term.

(3)(A) The Adjutant and Inspector General shall, at all times during the term of office satisfy the requirements set forth in 20 V.S.A. § 371(b).

(b) The Adjutant and Inspector General shall also be Quartermaster General with the rank of a major general.

(c)(1) The Adjutant General may appoint a ~~deputy~~ Deputy with appropriate rank, the approval of the Governor. The Adjutant General may also appoint an Assistant Adjutant General for Army, an Assistant Adjutant General for Air, an Assistant Adjutant General for Joint Operations, a Sergeant Major, and a Chief Master Sergeant, without pay, with the approval of the Governor.

(2) The Adjutant and Inspector General may remove the appointed assistant adjutant generals and sergeants and shall be responsible for their acts.

(3) Upon appointment, each Assistant Adjutant General shall be a federally recognized officer of the National Guard of the rank of lieutenant colonel or above, and shall have a rank of colonel or brigadier general, and the Sergeant Major shall be a federally recognized noncommissioned officer of the National Guard of the rank of master sergeant or first sergeant or above, and the Chief Master Sergeant shall be a federally recognized noncommissioned officer of the rank of senior master sergeant or first sergeant.

(4) The Deputy, ~~Assistants~~ assistants, and ~~Sergeants~~ sergeants shall perform duties as the Adjutant and Inspector General and ~~Quartermaster General~~ shall direct.

(d)(1) In the absence or disability of the ~~officer~~ Adjutant and Inspector General, the Deputy shall perform the duties of that office.

(2) In case a vacancy occurs in the office of Adjutant and Inspector General and ~~Quartermaster General~~, the Deputy shall assume and discharge the duties of the office until the vacancy is filled.

(e) ~~The appointments~~ Appointments made pursuant to subsections (a) and (c) of this section shall be in writing and recorded in the ~~office~~ Office of the Secretary of State.

(f) All other officers of the National Guard shall be chosen in accordance with rules adopted by the Governor consistent with the laws of this State and the United States.

Sec. 5. ADJUTANT AND INSPECTOR GENERAL; CURRENT TERM

Notwithstanding any provision of law to the contrary, the term of the Adjutant and Inspector General in office on the effective date of this act shall end on April 15, 2022.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that after passage the title of the bill be amended to read:

An act relating to the qualifications and appointment of the Adjutant and Inspector General.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 22, 2019, pages 646-647)

House Proposal of Amendment to Senate Proposal of Amendment

H. 514

An act relating to miscellaneous tax provisions

The House concurs in the Senate proposal of amendment with further amendments thereto as follows:

First: by inserting a Sec. 7a and 7b to read as follows:

Sec. 7a. 32 V.S.A. § 5833 is amended to read:

§ 5833. ALLOCATION AND APPORTIONMENT OF INCOME

(a) If the income of a taxable corporation is derived from any trade, business, or activity conducted entirely within this State, the Vermont net income of the corporation shall be allocated to this State in full. If the income of a taxable corporation is derived from any trade, business, or activity conducted both within and outside this State, the amount of the corporation's Vermont net income ~~which~~ that shall be apportioned to this State, so as to allocate to this State a fair and equitable portion of that income, shall be determined by multiplying that Vermont net income by the arithmetic average of the following factors, with the sales factor described in subdivision (3) of this subsection double-weighted:

(1) The average of the value of all the real and tangible property within this State (A) at the beginning of the taxable year and (B) at the end of the taxable year (but the Commissioner may require the use of the average of such value on the 15th or other day of each month, in cases where he or she determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year), expressed as a percentage of all such property both within and outside this State;

(2) The total wages, salaries, and other personal service compensation paid during the taxable year to employees within this State, expressed as a percentage of all such compensation paid whether within or outside this State;