

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 620
HOUSE BILL 1128

AN ACT TO FURTHER EFFECTUATE THE REORGANIZATION OF STATE
GOVERNMENT #3.

The General Assembly of North Carolina enacts:

Sec. 1. Department of Military and Veterans Affairs; creation. — There is hereby re-created and reconstituted a department to be known as the "Department of Military and Veterans Affairs", with the organization, powers, and duties hereafter defined in the Executive Organization Act of 1973.

Sec. 2. Duties of the Department— It shall be the duty of the Department to provide National Guard Troops trained by the State to federal standards; to insure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life, prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes; and to provide assistance to veterans, their families, and their dependents, in obtaining or maintaining privileges, rights, and benefits to which they are entitled under federal, State, or local laws.

Sec. 3. Functions of the Department of Military and Veterans Affairs. — (a) The functions of the Department of Military and Veterans Affairs shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all functions of the executive branch of the State in relation to military and veterans affairs delineated in the foregoing section and further including those prescribed powers, duties, and functions enumerated in Article 18 of Chapter 143A of the General Statutes.

(b) All such functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 18 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Military and Veterans Affairs, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

- (1) The Adjutant General's Department,
- (2) The State Civil Defense Agency,
- (3) The State Civil Air Patrol,
- (4) The Department of Veterans Affairs,
- (5) The State Board of Veterans Affairs,
- (6) The Armory Commission, and
- (7) The National Guard Mutual Assistance Compact.

Sec. 4. Head of the Department. — The Secretary of Military and Veterans Affairs shall be the head of the Department.

Sec. 5. Organization of the Department — The Department of Military and Veterans Affairs shall be organized initially to include the Veterans Affairs Commission, the Division of Veterans Affairs, the Division of Civil Preparedness, the Division of Civil Air Patrol, the Division of the National Guard, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

Sec. 6. Confidentiality of records. — Notwithstanding any other provisions of the Executive Reorganization Act of 1973, no records of the Department of Military and Veterans Affairs shall be disclosed or used for any purpose except official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this act shall convert records which are the property of the federal government into State property.

Sec. 7. Veterans Affairs Commission; creation, powers, and duties. — There is hereby created the Veterans Affairs Commission of the Department of Military and Veterans Affairs. The Veterans Affairs Commission shall have the following functions and duties:

- (1) to advise the Secretary of Military and Veterans Affairs on matters relating to the Department's activities with respect to veterans;
- (2) to maintain a continuing review of the operation of existing programs for veterans and their dependents in the State and to make any recommendations to the Secretary of Military and Veterans Affairs for improvements and additions to such programs to which the secretary shall give due consideration;
- (3) to serve collectively as a liaison between the Department and the veterans organizations represented on the Commission;
- (4) to promulgate rules and regulations concerning the awarding of scholarships for children of North Carolina veterans as provided by Article 4 of Chapter 165 of the General Statutes of North Carolina. The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations not inconsistent with the provisions of this Chapter heretofore adopted by the State Board of Veterans Affairs shall remain in full force and effect unless and until repealed or superseded by action of the Veterans Affairs Commission. All rules and regulations adopted by the Commission shall be enforced by the Department of Military and Veterans Affairs; and
- (5) to advise the Secretary of Military and Veterans Affairs on any matter the Secretary may refer to it.

Sec. 8. Veterans Affairs Commission; members, selection, quorum, compensation. — The Veterans Affairs Commission shall consist of five voting members all of whom shall be veterans, appointed by the Governor for five-year terms. In making these appointments, the Governor shall insure that both major political parties will be continuously represented on the Veterans Affairs Commission.

Initial members of the Commission shall be the appointed members of the present State Board of Veterans Affairs who shall serve for a period equal to the remainder of their current terms on the State Board of Veterans Affairs, one of whose appointment expires May 16, 1973; one of whose appointment expires May 16, 1974; one of whose appointment expires May 16, 1975; one of whose appointment expires May 16, 1976; and one of whose appointment expires May 16, 1977. At the end of the respective terms of office of the initial members of the Commission, the appointments of all members shall be for terms of five years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Commission from office in accordance with the provisions of Section 13 of the Executive Organization Act of 1973. In addition to the five members appointed by the Governor, the Department Commander or official head of each veterans organization which has been chartered by an act of the United States Congress and is legally constituted and operating in this State pursuant to said Chapter may serve, at his option, as an ex-officio, nonvoting member of the Commission.

The Governor shall designate one member of the Commission to serve as chairman to serve at the pleasure of the Governor.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Commission shall constitute a quorum for the transaction of business.

The Veterans Affairs Commission shall meet at least twice per year and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least three members.

All clerical and other services required by the Commission shall be provided by the Secretary of Military and Veterans Affairs.

Sec. 9. Department of Military and Veterans Affairs; conforming changes. — (a)(1) Whenever the words "Adjutant General's Department" or "North Carolina Department of Veterans Affairs" or "Department", when referring to the Adjutant General's Department or the North Carolina Department of Veterans Affairs are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Military and Veterans Affairs" or "Department", as appropriate, shall be inserted in lieu thereof with the exception that in the following references the words "Department of Veterans Affairs" are deleted and the words "Veterans Affairs Commission" are inserted in lieu thereof: G.S. 165-22.1(a), lines 4 and 7; G.S. 165-22.1(d), line 17; G.S. 165-22. 1(e), lines 1 and 4.

(2) Whenever the words "Director of Civil Defense" or "Director", when referring to the Director of Civil Defense are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Military and Veterans Affairs" or "Secretary", as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(3) Whenever the words "North Carolina Armory Commission" or "Armory Commission" or "Commission", when referring to the North Carolina Armory Commission, are used or appear in any statute or law of this State, the same shall be deleted and the words "Department of Military and Veterans Affairs" or "Department", as appropriate, shall be inserted in lieu thereof, unless otherwise provided for in the Executive Organization Act of 1973.

(4) Whenever the words "Director of the Department of Veterans Affairs," "State Director of Veterans Affairs," or "Director" when referring to the Director of the Department of Veterans Affairs are used or appear in any statute or law of this State, the same shall be deleted and the words "Secretary of Military and Veterans Affairs" or "Secretary" as appropriate is hereby inserted in lieu thereof with the exception that in the following reference the words "Director of the Department of Veterans Affairs" are hereby deleted and the words "Veterans Affairs Commission" are inserted in lieu thereof: G.S. 165-22. 1(e), line 4.

(b) In addition to the foregoing, the following amendments to the General Statutes of North Carolina are hereby made:

(1) G.S. 127-12 is hereby rewritten to read as follows:

"§ 127-12. Adjutant General. — The military head of the militia shall be the Adjutant General who shall hold the rank of Major General. The Adjutant General shall be appointed by the Governor in his capacity as Commander-in-Chief of the militia, in consultation with the Secretary of Military and Veterans Affairs, and shall serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has had less than five years' commissioned service in an active status in any component of the armed forces of the United States. The

Adjutant General, while holding such office, may be a member of the active National Guard or naval militia."

- (2) Chapter 127 of the General Statutes is hereby amended by inserting therein a new section, G.S. 127-13, to read as follows:

"§ 127-13. Administrative and operational relationships of the Adjutant General. — In all administrative and operational matters affecting the militia while under State control, the Adjutant General shall be responsible to and subject to the direction and supervision of the Secretary of Military and Veterans Affairs."

- (3) G.S. 127-14 is hereby rewritten to read as follows:

"§ 127-14. National Guard. — The National Guard class of the five classes of the State militia as established under G.S. 127-1 is hereby designated the North Carolina National Guard. Those elements of the North Carolina National Guard which receive 'Federal Recognition' by the United States Government shall hold a dual status both as State troops and as a reserve component of the armed forces of the United States. In its federal status, the North Carolina National Guard shall be subject to federal laws and regulations pertaining thereto. The Adjutant General shall ensure compliance with such federal laws and regulations and with all State laws and orders of the Governor not inconsistent with those federal laws and regulations.

Subject to the approval of the Governor and in consultation with the Secretary of Military and Veterans Affairs, the Adjutant General may appoint a Deputy Adjutant General and an Assistant Adjutant General for Air National Guard, both of whom may hold the rank of Brigadier General and who shall serve at the pleasure of the Governor. The Adjutant General may also employ such staff members and other personnel as may be authorized by the Secretary and funded."

- (4) G.S. 127-15 is hereby amended by deleting the words "Governor may authorize" appearing in the second sentence thereof immediately following the words "salary as the" and inserting in lieu thereof the words "State Personnel Act may provide".

- (5) G.S. 143-234 is hereby rewritten to read as follows:

"§ 143-234. Power to acquire land, make contracts, etc. — In furtherance of the duties, power, and authority given herein, the Department of Military and Veterans Affairs is authorized and empowered within the limitations of G.S. 143-341 to accept and hold title to real property in the name of the State of North Carolina, and to enter in contracts and do any and all things necessary to carry out any statewide programs for the acquisition of armories and armory sites, the construction and maintenance of armories, and to provide facilities which may be considered by it as necessary for any unit and which may be authorized by Act of Congress or otherwise."

- (6) G.S. 165-3(1) is hereby rewritten to read as follows:

"(1) 'Commission' means the Veterans Affairs Commission".

- (7) G.S. 166-3 is hereby rewritten to read as follows:

"§ 166-3. State Civil Preparedness Agency. — The Department of Military and Veterans Affairs shall be the State Civil Preparedness Agency."

- (8) G.S. 167-2 is hereby amended by deleting from line 2 thereof the words "including the members of the Governing Board thereof, except the Adjutant General,".

- (9) The third sentence of G.S. 165-22.1(a) being lines 11 through 14 shall be rewritten to read as follows: "The Department of Military and Veterans Affairs shall maintain the primary and necessary records, and the Veterans Affairs Commission shall promulgate such rules and regulations not inconsistent with the other provisions of this Article as it deems necessary for the orderly administration of the program."

(c) The following sections of the General Statutes of North Carolina are hereby repealed: G.S. 127-18; G.S. 143-230; G.S. 143-231; G.S. 165-3(3); G.S. 165-5; G.S. 165-6(10); G.S. 165-7; G.S. 167-1; G.S. 167-3; and Article 18 of Chapter 143A of the General Statutes of North Carolina, being sections G.S. 143A-231 through G.S. 143A-238.

(d) (1) Chapter 476 of the 1973 Session Laws of North Carolina is hereby amended by amending Section 2 thereof by adding the following:

"4. Department of Military and Veterans Affairs."

(2) Chapter 476 of the 1973 Session Laws of North Carolina is hereby amended by amending Section 6(a) thereof by adding the following:

"4. Department of Military and Veterans Affairs."

(3) Chapter 476 of the 1973 Session Laws of North Carolina is hereby amended by amending Section 6(b) thereof by deleting the word "and" immediately following the words "G.S. 143A-11(17)," and inserting the words "and G.S. 143A-11(19)" immediately following the words "G.S. 143A-11(18)".

Sec. 10. This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 18th day of May, 1973.