

## **IC 10-16-2**

### Chapter 2. Military Department

#### **IC 10-16-2-1**

##### **Military department established**

Sec. 1. (a) The military department of the state:

- (1) is established; and
- (2) shall be administered and controlled by the governor as commander in chief.

(b) The military department consists of the following:

- (1) An adjutant general, who shall be the executive and administrative head of the department.
- (2) Other officers, enlisted individuals, and employees considered necessary and authorized.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-2**

##### **Duties**

Sec. 2. The military department shall administer all matters concerning or relating to the following:

- (1) The militia.
- (2) The national guard.
- (3) Other military organizations under the jurisdiction of the state.
- (4) Other duties as the governor may assign.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-3**

##### **Commander in chief; duties; permission to bear arms**

Sec. 3. (a) The governor shall:

- (1) be the commander in chief of the military forces of the state;
- (2) have supreme command of the military forces of the state while in the service of the state or until they are ordered and accepted into the service of the United States; and
- (3) have power to:
  - (A) muster out any organization of the state;
  - (B) discharge enlisted men as provided; and
  - (C) perform other acts in keeping with the laws of the state, subject to the laws of the United States and regulations prescribed by the President of the United States.

(b) An armed military force from another state or territory may not enter Indiana without permission of the governor, unless the military force is:

- (1) a part of the armed forces of the United States; or
- (2) acting under the authority of the United States.

(c) An independent military organization under the jurisdiction of the state, except as a corps of cadets in the educational institutions, may not bear arms without first securing permission of the commander in chief.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-4**

##### **Interpretation of article**

Sec. 4. This article shall be interpreted liberally in favor of the exercise of all the constitutional powers of the governor as commander in chief.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-5**

##### **Governor's honorary staff; chief of staff**

Sec. 5. (a) The governor may appoint an honorary staff of aides with the brevet title of colonel, lieutenant colonel or major, or comparable naval rank.

(b) The staff officers hold office at the will of the governor. Their commissions expire with the term of office of the governor making the appointment.

(c) The adjutant general shall be ex officio chief of staff.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-6**

##### **Adjutant general**

Sec. 6. (a) The governor shall appoint the adjutant general.

(b) The adjutant general must hold the rank of not less than brigadier general.

(c) The governor may increase the rank of the adjutant general not to exceed the rank of major general as a reward for efficient and loyal service to the state.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-7**

##### **Assistant adjutants general**

Sec. 7. The adjutant general shall appoint two (2) assistant adjutants general to serve at the will and pleasure of the adjutant general as follows:

(1) One (1) assistant adjutant general from the Indiana army national guard to be chief of staff to the adjutant general for all the Indiana army national guard forces. This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for all administrative and operational functions of the Indiana army national guard. A person is not eligible for appointment as assistant adjutant general unless the person is a member of the Indiana army national guard with at least six (6) years service in the Indiana army national guard and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the table of organization for the army national guard.

(2) One (1) assistant adjutant general from the Indiana air national guard to be chief of staff to the adjutant general for all the Indiana air national guard forces. This assistant adjutant general shall perform duties assigned by the adjutant general

and is responsible for administrative and operational functions of the Indiana air national guard. A person is not eligible for appointment as air forces chief of staff unless the person is a member of the Indiana air national guard with at least six (6) years service as a commissioned officer and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the tables of organization for the air national guard.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-8**

##### **Executing orders of commander in chief; bond**

Sec. 8. The adjutant general shall do the following:

- (1) Execute all orders given by the commander in chief.
- (2) Give bond with surety to the state, to the approval of the governor, in the sum of ten thousand dollars (\$10,000) for the faithful discharge of the duties of the office of adjutant general.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-9**

##### **Duties; audits**

Sec. 9. (a) The adjutant general shall perform duties required by law, in rules adopted under this chapter, and in the statutes of the United States and required by the governor. If the adjutant general:

- (1) fails or refuses to properly and efficiently perform the duties of the office; or
- (2) is guilty of misconduct or conduct prejudicial to good order and military discipline;

written charges setting forth the acts involved shall be filed with the governor. The governor shall take action on the charges for the best interests of the service.

(b) The adjutant general shall superintend the preparation of all returns and reports required by the United States from the state.

(c) The adjutant general shall:

- (1) keep a register of all the officers of the armed forces of the state; and
- (2) keep in the adjutant general's office all records and papers required to be kept and filed.

(d) If necessary, the adjutant general shall, at the expense of the state, cause:

- (1) the armed forces law;
- (2) the general regulations of the state; and
- (3) the uniform code of military justice of the United States;

to be printed, indexed, and bound in proper and compact form. One (1) copy of each publication shall be distributed to the commissioned officers, sheriffs, clerks of boards of county commissioners, and county treasurers of Indiana. The adjutant general shall issue to each commissioned officer and headquarters one (1) copy of the necessary textbooks and of such annual reports concerning the militia as the

governor directs.

(e) The adjutant general shall cause to be prepared and issued all blank books, blank forms, and blank notices required to implement this chapter. The books and blanks are property of the state.

(f) The adjutant general shall attend to the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military and naval property belonging to the state or issued to it by the United States. The governor shall order the adjutant general to dispose of all military and naval property of the state that after a proper inspection is found unsuitable for the use of the state. The adjutant general shall dispose of the property:

- (1) by public auction after advertisement of the sale weekly for three (3) weeks in at least one (1) newspaper published in the English language in the city or county where the sale is to take place;
- (2) by private sale when ordered by the governor; or
- (3) with the approval of the governor, by turning over the property to any other department, board, or commission of state government that can use the property.

If the adjutant general believes that better prices may or should be obtained, the adjutant general shall bid in the property or suspend the sale. All parts of uniforms before being offered for sale shall be mutilated so they cannot be again used as uniforms. The adjutant general shall periodically account to the governor of the sales made. The adjutant general shall expend the proceeds of the sales for the use and benefit of the military or naval forces of the state as the governor directs.

(g) The adjutant general shall keep an accurate account of all expenses necessarily incurred, including the following:

- (1) Pay of officers and enlisted persons.
- (2) Allowances to officers and organizations.
- (3) Pensions.
- (4) Any other money required to be disbursed by the adjutant general, including the following:
  - (A) Subsistence of the national guard.
  - (B) Transportation of the national guard.
  - (C) Transportation of all military and naval property of the state or of the United States.

These expenses shall be audited and paid in the same manner as other military and naval accounts.

(h) The adjutant general shall:

- (1) issue military and naval property; and
- (2) make purchases of military and naval property;

as the governor directs. Military or naval property may not be issued to persons or organizations other than those belonging to the state armed forces, except to those parts of the sedentary militia as the governor may call out.

(i) The seal used in the office of the adjutant general on January 1, 1954, shall be:

- (1) the seal of that office; and

(2) delivered by the adjutant general to the successor in office.

(j) Except as provided in subsection (k), the adjutant general shall be the auditor of all military accounts payable by the state.

(k) The auditor of state shall audit expenditures made by the adjutant general or through the adjutant general's office. Copies of all orders and contracts relating to expenditures described in this subsection shall be filed in the auditor's office.

*As added by P.L.2-2003, SEC.7.*

#### **IC 10-16-2-10**

##### **Compensation**

Sec. 10. (a) The adjutant general may be paid a sum equal to the pay received by an officer of the same grade in federal services, excluding allowances.

(b) The governor, with the approval of the budget committee, may periodically adjust the salary of the adjutant general to meet the pay adjustments of an officer of the same grade in federal service.

*As added by P.L.2-2003, SEC.7.*