

The House Committee on Defense & Veterans Affairs offers the following substitute to SB 496:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 38 of the Official Code of Georgia Annotated, relating to
2 military affairs, so as to provide that the adjutant general may appoint officers of the National
3 Guard as deputy assistant adjutants general; to provide that such deputy assistant adjutants
4 general shall be of field rank or general officer rank; to provide that certain provisions
5 relating to compensation shall not apply when the National Guard is called into active service
6 under certain conditions; to provide that members of the National Guard shall have the same
7 powers of arrest as law enforcement officers under certain conditions; to provide an effective
8 date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Chapter 2 of Title 38 of the Official Code of Georgia Annotated, relating to military affairs,
11 is amended by striking in its entirety Code Section 38-2-152, relating to assistant adjutants
12 general, eligibility, appointment, duties, compensation, and tenure, and inserting in lieu
13 thereof the following:
14

15 "38-2-152.

16 (a) The Governor shall appoint an assistant adjutant general for army and an assistant
17 adjutant general for air to assist the adjutant general in the discharge and performance of
18 his or her duties. Each of the assistant adjutants general, at the time of appointment, shall
19 be a federally recognized officer with the rank of lieutenant colonel or higher with not less
20 than five years of continuous service in the Army or Air National Guard of this state. An
21 officer who has retired or resigned from the Georgia National Guard shall be eligible for
22 appointment as assistant adjutant general for army or air; provided, however, that the
23 officer shall have served not less than five years in a federally recognized status in the
24 active Army or Air National Guard, as appropriate, and attained the rank of lieutenant
25 colonel or higher; and provided, further, that the appointment of the officer shall be within
26 five years after the date of his or her retirement or resignation and prior to his or her

1 attaining age 60. Each of the assistant adjutants general shall have the rank of not less than
 2 brigadier general, the specific rank to be determined by the Governor. Each of the officers
 3 shall receive the pay and allowances for his or her rank as provided by law for an officer
 4 of equivalent rank in the regular armed forces of the United States. In the event of a
 5 vacancy in the office of the adjutant general, and until his or her successor is appointed and
 6 qualified as provided by law, the assistant adjutant general who is senior in rank shall
 7 perform the duties required of the adjutant general in connection with the military division,
 8 as provided by law. Assistant adjutants general shall hold no other state office, and they
 9 shall serve at the pleasure of the Governor.

10 (b) The adjutant general may appoint, designate, or detail officers of the National Guard
 11 as deputy assistant adjutants general for army and for air who shall perform the military
 12 duties assigned by the adjutant general. Deputy assistant adjutants general shall be of field
 13 grade or general officer rank, the specific rank to be determined by the adjutant general.
 14 Deputy assistant adjutants general shall serve at the pleasure of the adjutant general."

15 SECTION 2.

16 Said chapter is further amended by inserting at the end of Code Section 38-2-250, relating
 17 to pay while on active service, special duty, travel expenses, and minimum base pay, a new
 18 subsection (e) to read as follows:

19 "(e) Nothing in this Code section shall be construed as to apply when the National Guard
 20 is called into active service pursuant to Title 32 of the United States Code."

21 SECTION 3.

22 Said chapter is further amended by striking in its entirety Code Section 38-2-307, relating
 23 to militia members having powers of arrest in emergencies, and inserting in lieu thereof the
 24 following:

25 "38-2-307.

26 ~~When called to state active service pursuant to Code Sections 38-2-6 and 38-2-7 or~~
 27 ~~pursuant to Code Section 45-12-31 or 45-12-34 the members of the organized militia shall~~
 28 ~~have the same powers of arrest and apprehension as do law enforcement officers. Members~~
 29 ~~of the National Guard shall have the same powers of arrest and apprehension as do law~~
 30 ~~enforcement officers when called to active duty to respond to emergencies pursuant to~~
 31 ~~Code Section 38-2-6, 38-2-7, 45-12-31, or 45-12-34 or pursuant to any other provision of~~
 32 ~~state or federal law other than Title 10 of the United States Code."~~

1 **SECTION 4.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 5.**

5 All laws and parts of laws in conflict with this Act are repealed.