Senate Bill 496

By: Senators Hill of the 4th, Harp of the 16th, Harbison of the 15th and Crotts of the 17th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"38-2-152.

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

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

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

SECTION 2.

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

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

SECTION 3.

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

″38-2-307.

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

SECTION 4.

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

SECTION 5.

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