



House of Representatives

File No. 441

General Assembly

February Session, 2010 (Reprint of File No. 146)

House Bill No. 5264
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 9, 2010

AN ACT CONCERNING THE DUTIES OF THE ADJUTANT GENERAL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 27-20 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) The Adjutant General shall make such returns and reports to
4 such officers as may be prescribed by the Department of Defense in
5 regulations pertaining to the National Guard, [and naval militia,] at
6 such times and in such form as [may, from time to time, be] prescribed.
7 The Adjutant General shall (1) keep a record of all officers and enlisted
8 personnel, (2) issue authorized service medals, ribbons and
9 documents, and [shall also keep in the office] (3) maintain all records
10 and [papers] documents required by law or [regulations to be filed
11 therein] regulations thereunder.

12 (b) The Adjutant General is charged, in all matters pertaining to the
13 command, discipline, [or] employment and administration of the
14 [military establishment] armed forces of [this] the state, with the duty
15 of: [recording] (1) Recording, authenticating and communicating to

16 [troops and individuals in the military service] members of the armed
17 forces of [this] the state all orders, instructions and regulations issued
18 by order of (A) the Governor or the Adjutant General as the designee
19 of the Governor, for [the National Guard, naval militia and organized
20 militia] the armed forces of the state, and [by] (B) the Secretary of
21 Defense for the National Guard; [and the naval militia; of] (2)
22 preparing and distributing commissions; [of] (3) compiling and issuing
23 the [register of the National Guard, naval militia and organized militia;
24 of] registers of the armed forces of the state; (4) conducting internal
25 audits and investigations; [of] (5) organizing and coordinating the
26 participation of the [organized militia] armed forces of the state in
27 military and civic ceremonies; [of] (6) organizing and coordinating
28 inaugurations; and [of] (7) managing the recruiting for the [National
29 Guard, naval militia and organized militia] armed forces of the state.

30 (c) In event of emergency use of the [militia] armed forces of the
31 state and with the approval of the Governor, the Adjutant General may
32 [be] serve as the disbursing officer of all funds appropriated by the
33 General Assembly for the expense of the office of the Adjutant
34 General.

35 (d) The Adjutant General may [make such] adopt regulations
36 pertaining to the preparation and rendering of reports and returns,
37 [and to] the care and preservation of [public] military property and the
38 administration of military personnel as in the Adjutant General's
39 opinion the conditions demand, such regulations to be operative and
40 in force when promulgated in the form of general orders, circulars or
41 circular letters.

42 (e) The Adjutant General shall have charge and care of all state
43 military property and all United States military property issued to the
44 state, [of Connecticut,] and shall [cause to be kept] keep an accurate
45 and careful account of all receipts and issues of the same. The Adjutant
46 General shall [require to be kept a careful memorandum] keep a record
47 of all public [military] property [on hand] in the state [arsenal or
48 storehouses and] in the possession of the [several organizations of the

49 military] armed forces of the state and shall guard such property
50 against injury and loss to the greatest extent possible. [The Adjutant
51 General shall require each accountable and responsible officer of the
52 state military forces to account for any deficiency in public military
53 property in such officer's possession immediately after such deficiency
54 is discovered.] The Adjutant General shall [cause] conduct annual
55 inspections [to be made] of all public [military] property and keep a
56 complete inventory of such property and the places where it is
57 deposited. [shall be kept.] The Adjutant General shall require each
58 accountable and responsible officer of the armed forces of the state to
59 account for any deficiency in public property in such officer's
60 possession upon discovery of such deficiency. The Adjutant General
61 shall require each unit of the armed forces of the state to be inspected
62 at least once each calendar year. The Adjutant General shall, annually,
63 as provided in section 4-60, make a report to the Governor of the
64 strength, condition and equipment of the armed forces of the state and
65 of the expenditures of the office since the last annual report.

66 (f) The Adjutant General may adopt a seal for use in the office of the
67 Adjutant General. [The Adjutant General shall require that each unit of
68 the armed forces of the state be inspected at least twice in each
69 calendar year and issue service medals and service records. The
70 Adjutant General shall, annually, as provided in section 4-60, make a
71 report to the Governor of the strength, condition and equipment of the
72 military and naval forces of the state and of the expenditures of the
73 office since the last annual report.] The Adjutant General may delegate
74 duties to an Assistant Adjutant General or to Military Department
75 officials as the Adjutant General deems necessary for the efficient
76 operation of said department.

77 (g) The Adjutant General may enter into contracts [for the
78 furnishing by] or agreements with any person or agency, public or
79 private, [of services] for goods, services or property necessary [to the
80 proper] for execution of the duties of the Adjutant General's office and
81 the operation of the Military Department, including the performance
82 of federal construction contracting on state property, subject to the

83 approval of the Attorney General.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	27-20

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

This bill has no fiscal impact as it clarifies the duties of the Adjunct General and aligns state statute with federal requirements concerning federal military construction.

House "A" altered the original bill by striking the requirement that the Adjutant General adopt regulations in accordance of Chapter 54 and allowing the Adjutant General to enforce regulations in the form of general orders, circulars, or circular letters. There is no associated fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 5264 (as amended by House "A")*****AN ACT CONCERNING THE DUTIES OF THE ADJUTANT GENERAL.****SUMMARY:**

This bill generally streamlines and codifies the process for the Military Department adjutant general to enter into contracts or agreements for federal construction (projects constructed with federal funds) on state property, subject to the attorney general's approval.

The bill decreases, from twice to once per calendar year, the number of times the adjutant general must inspect National Guard units. It conforms the law to practice by allowing him to delegate his duties to department officials, including an assistant adjutant general, as he deems necessary to operate the department efficiently.

The bill also makes conforming changes and technical changes affecting, among other things, the adjutant general's authority to adopt regulations. It conforms the law to practice by explicitly adding personnel administration to the issues subject to regulation.

*House Amendment "A" restores current law by removing the explicit requirement in the original bill for the adjutant general to follow the Uniform Administrative Procedure Act (UAPA) when adopting certain regulations. The legal effect of this change is unclear.

EFFECTIVE DATE: October 1, 2010

ADJUTANT GENERAL'S DUTIES

The bill allows the adjutant general to enter into agreements, not just contracts, for goods and property, instead of just services, to carry

out his duties, subject to the attorney general's approval. It also allows him, subject to the attorney general's approval, to enter into such contracts or agreements necessary for the operation of the Military Department.

BACKGROUND

Federal Construction of Military Facilities

According to the Connecticut National Guard, the federal government will not build military facilities on state land unless either a state law authorizes, or a state official approves, the construction.

Under current practice, and in the absence of statutory authorization, the Connecticut attorney general, before certifying to the federal government that a proposed project is legal, requires the governor to review and approve it. When the project is approved and certified, the federal government, in conjunction with state military officials, puts it out to bid, selects the winning bid, and awards the contract.

Adoption of Regulations

Current law allows the adjutant general to adopt regulations covering the preparation and submission of reports and returns and the care and preservation of public property. The regulations take effect when promulgated in the form of general orders, and circulars or circular letters. The original bill specified that the regulations must be adopted in accordance with the UAPA. The amendment removes the original bill's specification, thereby restoring current law in this regard.

The legal effect of these changes is unclear because, by law, state agencies adopting regulations must do so in accordance with UAPA requirements irrespective of whether this is specified in law. In practice, according to the Military Department, UAPA procedures have never applied to the adoption of these specific regulations, most of which affect the internal workings of the agency and do not have general applicability. Under UAPA, "regulation" means an "agency

statement of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of [the] agency” (CGS § 4-166(13)).

The department follows UAPA procedures when the statutes specifically requires this (e.g., the award of ribbons or medals to veterans (CGS § 27-73e), bonus pay for veterans (CGS § 27-61a), administering of oaths (CGS § 27-184), and payments under the Military Family Relief Fund (CGS § 27-100a).

COMMITTEE ACTION

Select Committee on Veterans' Affairs

Joint Favorable Change of Reference
Yea 9 Nay 0 (03/02/2010)

Public Safety and Security Committee

Joint Favorable
Yea 20 Nay 0 (03/11/2010)