

The Commonwealth of Massachusetts

THE ADJUTANT GENERAL'S OFFICE
905 COMMONWEALTH AVENUE
BOSTON, MASSACHUSETTS 02215, OCTOBER 23, 1985.

The Honorable Michael J. Connolly, *Secretary of State*
State House, Room 340, Boston, Massachusetts 02133

Dear Mr. Connolly:

In compliance with Section 33 of General Laws Chapter 30 enclosed are six (6) legislative proposals of the Military Division for the 1986 legislative session, together with a brief summary of each and a separate list of the prepared bills.

Sincerely,

ANTHONY C. SPADORCIA
Major General (MA)
The Adjutant General

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

**LEGISLATIVE RECOMMENDATIONS OF THE
MILITARY DIVISION**

1. AN ACT RELATIVE TO CIVIL ACTIONS BROUGHT AGAINST AN EMPLOYEE, OFFICER OR SOLDIER OF THE MILITARY DIVISION OF THE COMMONWEALTH.
2. AN ACT PROVIDING FOR THE USE OF ARMORIES AND OTHER MILITARY FACILITIES FOR NON-MILITARY PURPOSES.
3. AN ACT PROVIDING PAY AND ALLOWANCES FOR OFFICERS AND ENLISTED PERSONNEL OF THE ARMED FORCES OF THE COMMONWEALTH.
4. AN ACT RELATIVE TO THE RETIREMENT OF CERTAIN EMPLOYEES OF THE MILITARY DIVISION OF THE COMMONWEALTH.
5. AN ACT RELATIVE TO THE ANNUAL ALLOWANCES TO ORGANIZATIONS AND UNITS OF THE ARMED FORCES OF THE COMMONWEALTH.
6. AN ACT PROVIDING FOR THE RETIREMENT FOR DISABILITY OF FRANK J. OLIVO FOR INJURIES SUSTAINED AS A MEMBER OF THE ARMED FORCES OF THE COMMONWEALTH AND ESTABLISHING THE AMOUNT OF HIS RETIREMENT PAYMENTS.

1. AN ACT RELATIVE TO CIVIL ACTIONS BROUGHT AGAINST AN EMPLOYEE, OFFICER OR SOLDIER OF THE MILITARY DIVISION OF THE COMMONWEALTH.

This bill allows the attorney general to represent an employee or member of the military division of the commonwealth in law suits, in which the employee or member is named as a defendant, for damages for injuries or death or damage to property arising out of the employee's or member's performance of his official duties.

This bill will relieve the employee or member of the costs of employing private counsel to defend himself in such actions.

The attorney general is often involved in such lawsuits as the commonwealth is usually a co-defendant.

2. AN ACT PROVIDING FOR THE USE OF ARMORIES AND OTHER MILITARY FACILITIES FOR NON-MILITARY PURPOSES.

This legislation re-writes Section 122 which, as presently written, has created numerous problems as to application. For example, many organizations similar to those listed are omitted from the lesser of the 2 fee structures created under the statute.

The nature of the present statute is such that it requires numerous attorney general opinions, some of which are contradictory. The new legislation, which will provide for the management of our military facilities by rules and regulations, provides a flexibility not now available.

3. AN ACT PROVIDING PAY AND ALLOWANCES FOR OFFICERS AND ENLISTED PERSONNEL OF THE ARMED FORCES OF THE COMMONWEALTH.

This legislation changes the present status in one respect only, providing the troops with a minimum of \$50 for a 24-hour day of state active duty instead of the present \$30.

The principal beneficiaries will be lower ranked enlisted personnel, who generally suffer financial hardship while serving during emergencies. The amount sought is *not* in addition to the established rate of pay.

4. AN ACT RELATIVE TO THE RETIREMENT OF CERTAIN EMPLOYEES OF THE MILITARY DIVISION OF THE COMMONWEALTH.

The employees covered under the two sections total 9, 7 under section 15 and 2 under section 18.

The nature of the duties of the members of the military forces of the commonwealth is mostly akin to those covered under Group 4. Much of their planning relates to law enforcement responsibilities in the case of natural disasters, such as blizzards, hurricanes and the like, and in the case of civil disturbances, such as in the case of demonstrations or threats of riot.

Those under section 18 are further penalized because their positions require federal recognition, placing them under the provisions of the Reserve Officers Personnel Act (ROPA) which requires early retirement at either age 53 or 55; thus precluding full annuity retirement benefits.

National Guard Federal technicians, who elected to remain in the State Retirement System, were and are assigned to Group 4 based on analysis of their duties during fire and storm disasters, civil disturbances, floods, protection and public safety, and law enforcement.

The Officers designated in section 15 and section 18 have the responsibility for the general supervision and direction of this technician force as well as direct involvement in the above-noted civil emergencies, and as such it would appear that their omission from Group 4 was an oversight.

This civil mission is directed by law and is well recognized by local and state law enforcement authorities as evidenced by the identification of the Military Division by the Secretary of Public Safety as a "Priority 1" agency, having a "direct emergency or law enforcement responsibility to the public."

The affected individuals are, by virtue of their positions, officers of the military forces of the Commonwealth, and, as such, are subject to 24-hour duty, seven days a week, without any right to overtime pay or compensatory time. They may at any time be ordered into law enforcement activities as part of their official duties.

5. AN ACT RELATIVE TO ANNUAL ALLOWANCES TO ORGANIZATIONS AND UNITS OF THE ARMED FORCES OF THE COMMONWEALTH.

The present statute provides monetary allowances to specific units and organizations of the armed forces of the commonwealth. It is now obsolete. Due to past military reorganizations by the Department of the Army, some of these organizations no longer exist, and recurring reorganization makes it impossible to devise a formula which would remain effective for long.

This legislation provides that these changes will be met promptly by changing the regulations which this legislation requires the Governor to promulgate.

6. AN ACT PROVIDING FOR THE RETIREMENT FOR DISABILITY OF FRANK J. OLIVO FOR INJURIES SUSTAINED AS A MEMBER OF THE ARMED FORCES OF THE COMMONWEALTH AND ESTABLISHING THE AMOUNT OF HIS RETIREMENT PAYMENTS.

This bill allows the State Retirement Board to pay retirement benefits to Frank J. Olivo, who was injured fighting a fire in Manchester in 1957 on State Active Duty as a member of the Massachusetts National Guard.

Since that time, the Commonwealth, through the Military Division has been paying him regularly under Chapter 33.

It is apparent that Mr. Olivo's disability is permanent and the object of this bill is to place him on State retirement for disability.

This will not cost the Commonwealth any more than it is now paying and will provide an established procedure for administering the payments.

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RESOLUTION OF THE HOUSE OF REPRESENTATIVES

The Government of the State of New York

IN SENATE, January 15, 1910.

Resolved, That the sum of \$1,000,000 be and it is the sense of the Senate that the sum of \$1,000,000 be appropriated for the purpose of...

And the Senate do hereby certify that the foregoing is the sense of the Senate...

Approved by the Senate this 15th day of January, 1910.

Attest: I, the Secretary of the Senate, do hereby certify that the foregoing is the sense of the Senate...

Witness my hand and the seal of the Senate at Albany, New York, this 15th day of January, 1910.

Secretary of the Senate

Approved by the Senate this 15th day of January, 1910.

Attest: I, the Secretary of the Senate, do hereby certify that the foregoing is the sense of the Senate...

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