

BILL ANALYSIS

S.B. 1536
By: Van de Putte
Defense & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that the Texas military forces are governed under statutory provisions that have not been updated in decades and as such do not reflect current events, technology enhancements, or terms and conditions currently used in military policy, such as "homeland security." S.B. 1536 seeks to implement recommended updates to state law regulating Texas military forces.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority previously granted to the adjutant general is transferred to the Texas Military Department in SECTION 1.01 of this bill and that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1.01 of this bill.

ANALYSIS

General Provisions

S.B. 1536 amends the Government Code to reorganize and revise certain statutory provisions relating to the Texas military forces, which includes the Texas National Guard, the Texas State Guard, and any other military forces organized under state law. The bill revises certain statutory provisions related to the adjutant general and the adjutant general's department and establishes the Texas Military Department as the state agency charged with administrative activities in support of Texas military forces. The bill establishes that a reference in other law to the adjutant general's department means the Texas Military Department.

S.B. 1536, in statutory provisions prescribing the governor's military appointments, specifies that the term served by an adjutant general appointed by the governor with the advice and consent of the senate is for two years, expiring February 1 of each even-numbered year, and authorizes the adjutant general to be referred to as the commanding general of the Texas military forces. The bill changes references to the assistant adjutants general for air and for army who are appointed by the governor to instead refer to the deputy adjutant general for army and the deputy adjutant general for air. The bill requires the governor to appoint a commander of the Texas State Guard on recommendation of the adjutant general, requires the commander to have the same qualifications as the adjutant general, and specifies that the commander serves until replaced. The bill clarifies statutory provisions specifying the military service required of a service member for appointment as a Texas State Guard general officer to include all U.S. military service, rather than U.S. Army or Air Force service, and adds as an eligibility requirement that the service member have served at least three years as a commissioned officer in the Texas State Guard. The bill defines, among other terms, "service member" as a member or former member of the state military forces or a component of the United States armed forces, including a reserve component. The bill authorizes the governor to delegate to the adjutant general the power to appoint, commission, assign, remove, or reassign Texas State Guard general officers.

S.B. 1536, in statutory provisions establishing the governor's authority to regulate state military forces, clarifies that the governor's authority to reorganize and provide regulations includes the reorganization and provision of regulations relating to the organization of the Texas National Guard, Texas State Guard, emergency militia, or other military force organized under state law. The bill authorizes the governor to delegate to the adjutant general powers relating to the regulation of Texas military forces.

S.B. 1536 expands the governor's authority to call the state's military forces to active duty from the authorization to activate and call all or part of the Texas State Guard to the authorization to call to state active duty or for state training and other duty all or part of the Texas military forces, which includes the Texas National Guard, the Texas State Guard, and any other military forces organized under state law. The bill defines "state active duty" to mean the performance of military or emergency service for the state at the call of the governor or the governor's designee and authorizes the governor to delegate all or part of this authority to the adjutant general. The bill authorizes the adjutant general, on delegation of authority by the governor, to order all or part of the Texas military forces to state training and other duty if funding has been provided in the General Appropriations Act or if volunteer resources are available, and to order all or part of the Texas military forces to state training and other duty if requested by a federal, state, or local governmental entity and if such an entity authorizes reimbursement of the costs to Texas. The bill specifies that a service member, rather than all or part of the Texas State Guard, called to state active duty or to state training and other duty has the rights, privileges, duties, functions, and authorities conferred or imposed by state law.

S.B. 1536 requires the governor to appoint and commission officers of the Texas National Guard, requires the adjutant general to appoint and commission officers, other than a general officer, in the Texas State Guard, and sets out provisions relating to eligibility for appointment. The bill restricts the authority of the governor and legislature to prescribe additional terms, qualifications, and requirements for enlistment and appointment in the Texas National Guard to such terms, qualifications, and requirements that do not conflict with federal law.

S.B. 1536, in provisions specifying the governor's authority to direct money appropriated for another purpose to be used to obtain matching federal funds for projects at military facilities in Texas, conditions such authority on whether the appropriation authorizes the money to be used for that purpose.

Texas Military Department

S.B. 1536 revises certain statutory provisions relating to the adjutant general's department to make them applicable instead to the Texas Military Department as established by the bill. The bill specifies that the department is a state agency charged with administrative activities in support of the Texas military forces and subjects it to the same sunset review provision previously applicable to the adjutant general's department. The bill establishes that the adjutant general exercises the jurisdiction and powers conferred by statutory provisions regulating state military forces and veterans and makes the adjutant general the governing officer, policy maker, and head of the department. The bill requires the adjutant general to adopt and implement regulations or policies that clearly separate the adjutant general's responsibilities from the administrative responsibilities of the department's executive director and staff. The bill sets out and revises the eligibility requirements for appointment as adjutant general.

S.B. 1536 clarifies certain provisions prescribing the required duties of the adjutant general and relating to the general powers of the adjutant general, including the establishment of the adjutant general as the decision-making authority on all matters concerning the location and maintenance of military forces and facilities in Texas. The bill authorizes the adjutant general to execute the cooperative agreements with the National Guard Bureau and an interagency military agreement with a federal, state, or local governmental or quasi-governmental agency. The bill authorizes the adjutant general to delegate in whole or in part any general powers of the adjutant general.

S.B. 1536, in statutory provisions prescribing the mandatory training for an adjutant general, specifies that the training program must provide information to the adjutant general regarding Texas military regulations.

S.B. 1536, in provisions relating to the deputy adjutants general for army and for air who are appointed by the governor on recommendation of the adjutant general, specifies that if the adjutant general is dead, absent, or unable to act, the deputy adjutant general who is designated in the adjutant general's succession plan, rather than who is senior in rank, must perform the adjutant general's duties. The bill requires each deputy adjutant general to complete the training required of the adjutant general not later than the 60th day after the date of appointment. The bill authorizes the adjutant general to appoint as general officers assistant deputy adjutants general for army, for air, for homeland security, and for government affairs and provides for the rank and duties of such general officers. The bill authorizes the adjutant general to appoint full-time employees of the department, traditional national guard members, state guard volunteers, or federal employees. The bill extends the application of specified provisions regulating conflicts of interest to include a deputy adjutant general, a general officer, judge advocate general, and executive director of the department, as applicable.

S.B. 1536 adds as grounds for removal of the adjutant general the grounds that the adjutant general has not obtained approval of the General Officer Federal Recognition Board or its successors and that the adjutant general is found to have violated ethical standards of conduct of the federal government, the state, or the department.

S.B. 1536 clarifies statutory provisions relating to an adjutant general's salary by specifying that a deputy adjutant general, general officer, or executive director is entitled to a salary subject to the classification and salary schedule provisions defined in the General Appropriations Act.

Texas Military Department Operations

S.B. 1536 creates the position of executive director for the Texas Military Department, specifies that the executive director is responsible for managing the department, and establishes that the executive director is an employee of the department serving at the pleasure of the adjutant general. The bill authorizes the executive director to enter into contracts and to have and use a corporate seal. The bill makes the executive director responsible for the daily administration of the department and for operational compliance with the cooperative agreements between the department and the National Guard Bureau.

S.B. 1536 clarifies the executive director's authority to hire employees as necessary to carry on the operations of the department and specifies that the executive director or the executive director's designee, rather than the adjutant general or the adjutant general's designee, provides certain specified information regarding the requirements for office or employment. The bill requires a person holding a position relating to the daily operations and coordination of the Texas State Guard to maintain membership in the Texas State Guard, with certain specified exceptions. The bill, in statutory provisions relating to the career ladder program, requires the executive director, rather than the adjutant general, to develop the program and specifies that provisions requiring the concurrent public and intra-agency posting of certain positions apply to non-entry level positions. The bill requires the executive director, rather than the adjutant general, to develop the system of annual employee performance evaluations.

S.B. 1536 authorizes the department under specified circumstances to pay an employee additional compensation and requires the department to adopt regulations establishing the classification, procedures, and amount of the additional compensation. The bill authorizes the department to make differential payments only if money is available to pay those amounts.

S.B. 1536 requires the department to preserve all historically significant military records or

property in the Texas Military Forces Museum.

S.B. 1536, in statutory provisions establishing annual financial reporting requirements, requires the department, rather than the adjutant general, to annually submit to the presiding officer of each house of the legislature, in addition to the governor, a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year and clarifies that the report is required to be in the form and reported in the time provided by the General Appropriations Act. The bill, in statutory provisions providing for a required report containing specified information relating to the Texas military, requires the report to be provided to both the governor and the legislature by the department in December of each even-numbered year, rather than only to the governor on an unspecified, annual basis by the adjutant general.

S.B. 1536 requires the department to develop and implement a technology policy requiring the executive director and department employees to research and propose appropriate technological solutions to improve the department's ability to perform its functions. The bill sets out the requirements associated with those technological solutions.

S.B. 1536 provides the department certain exemptions from certain specified state activities, including exemption from statutory provisions relating to the oversight of information resources and information resource manager provisions. The bill establishes that a service member considered to be a temporary state employee is not considered to be an employee of the department for the purpose of counting the number of full-time equivalent positions authorized for the department in the General Appropriations Act.

S.B. 1536 clarifies that statutory provisions relating to the authority to establish and contract for military-type post exchanges on state military property apply to the department, rather than to the adjutant general, except in circumstances in which the adjutant general is required to adopt regulations governing such exchanges. The bill, in statutory provisions prescribing the department's authority to accept funds, property, or services donated by any public or private entity, clarifies that the department, rather than the adjutant general, is authorized to accept a donation or transfer of funds from the federal government directly or through another agency or from an agency or political subdivision of this state and revises this provision to require the comptroller to make payments from the funds under rules, rather than regulations, adopted by the comptroller. The bill authorizes the department to solicit and accept gifts, grants, or donations from any private or public entity to support the Texas military forces or the Texas Military Forces Museum and authorizes the department to spend the proceeds consistent with donor limitations and for the use of the Texas military forces, the museum, or the department. The bill authorizes a unit to accept funds for the benefit of a particular military unit in a unit fund as prescribed by the bill.

S.B. 1536 sets out procedures for the department's development and implementation of a policy to encourage the use of appropriate alternative dispute resolution procedures for assisting in the resolution of internal and external disputes within the department's jurisdiction.

S.B. 1536, in statutory provisions prescribing the authority and procedures to purchase supplies for the state's military forces, assigns such authority to the department and clarifies that the department is authorized to make such purchases from money appropriated to the department and that the department is authorized to keep ready for use, store, or issue a necessary amount of ordnance, subsistence, medical, signal, engineering, and other supplies. The bill clarifies that the department has the authority to dispose of or exchange supplies owned by the state that are unfit for further use as the department determines is in the best interest of the Texas military forces, that the department is required to provide each state military unit with the supplies necessary for performance of its required duties, and that the unit is required to keep the property in proper repair and good condition. The bill authorizes the department, rather than the governor, to execute bonds in the name of Texas as necessary to obtain this property. The bill requires the

department, rather than the adjutant general, to adopt rules governing the preparation, submission, and opening of bids for contracts.

S.B. 1536 requires the department to maintain and operate charged military housing in accordance with policies and regulations adopted by the adjutant general and published on the department's Internet website and to deposit room fees in a billeting account. The bill removes a statutory provision conditioning the department's authority to use appropriated money for purchasing food and beverages for training functions required of the Texas military forces on the adjutant general's approval and authorizes the department to use such money to purchase food and beverages for charged military housing.

Real Property Management

S.B. 1536 changes references to the real property advisory committee to instead refer to the real property advisory council in the applicable statutory provisions, revises certain other provisions related to that entity and to real property management, and adds the executive director of the department to the council membership, making it an eight-member body instead of a seven-member body. The bill adds experience in facilities maintenance management to the acceptable experience for the five public members of the real property advisory council and establishes that the public members are appointed to staggered three-year terms by the adjutant general. The bill requires the adjutant general to adopt regulations specifying the requirements, term limits, and expectations for the advisory council. The bill establishes that the director of the facilities management office is responsible for administration and coordination of council meetings and preparation of materials with input from the council membership. The bill, in a provision requiring the council to meet at least two times each fiscal year to provide certain advice to the department, removes from the scope of such advice the requirement to advise the department on the future year defense plan.

S.B. 1536 requires the advisory council, rather than the adjutant general, to develop and implement policies providing the public with a reasonable opportunity to appear before the council and speak on any issue related to the construction, repair, and maintenance of Texas military forces armories, facilities, and improvements under the jurisdiction of the department and adds a requirement that the advisory council provide for public comment at least annually.

S.B. 1536 requires the department, rather than the adjutant general, to fulfill the requirements prescribed by statute for the production and submission of a report to the governor and the governor's budget office, the presiding officer of each house of the legislature, and the Legislative Budget Board evaluating the military use of any real property under the management and control of the department.

S.B. 1536 requires the department, rather than the adjutant general, to fulfill the requirements prescribed by statute for the acquisition of real property, furniture, and equipment. The bill authorizes the department to own and operate or contract with a vendor to provide temporary lodging facilities for use of military and retired military personnel and requires the department to publish information on its Internet website outlining the operation, use, and fee structure for temporary lodging facilities. The bill authorizes the department to procure the necessary furnishings, goods, and services to manage and operate the temporary lodging facilities out of the money received for operating the facilities. The bill authorizes the adjutant general, deputy adjutant general for air, and deputy adjutant general for army to reside in state-owned housing and specifies that such personnel are exempt from paying housing costs. The bill authorizes the department to allocate existing department housing to other department employees who demonstrate a need based on location and job description at a rate in accordance with the General Appropriations Act. The bill requires the department to deposit proceeds from any land lease or other revenue, other than daily fee deposits that qualify as unit funds, into the state treasury to the credit of the department for the use and benefit of the facilities of the Texas military forces and sets out provisions relating to the dedication of unexpended and unobligated

funds. The bill removes statutory provisions prohibiting the comptroller from issuing a warrant on or initiating an electronic funds transfer from the state treasury for an expenditure for state military forces unless the expenditure is approved by the adjutant general or the adjutant general's designee before payment.

S.B. 1536 provides authority to the department, rather than to the adjutant general, to construct buildings on real property held by the department and to furnish and equip those buildings. The bill authorizes the department to construct a building on land comprising a site licensed or otherwise provided to Texas by the federal government and removes provisions restricting the construction of a building on land comprising a state camp only on a site selected and described by a board of officers. The bill requires department buildings that are constructed or undergoing major renovations to include information distribution system provisions in the contract.

S.B. 1536, in statutory provisions relating to the leasing of property, grants authority to the department, rather than to the adjutant general, and provides that the definition of "lease" includes a sublease for these purposes.

S.B. 1536 requires, rather than authorizes, the Texas Public Finance Authority to donate and transfer bond-financed property to the department, rather than to the state, by appropriate instruments of transfer after such property is fully paid for and free of liens. The bill specifies that a reference to the department, rather than to the adjutant general, in the bill's provisions regarding the ownership of bond-financed property that has not yet been transferred means the Texas Public Finance Authority until the property is transferred. The bill changes references to the adjutant general to references to the department in statutory provisions relating to the donation of real property by a local government and in statutory provisions relating to the tax status of certain property. The bill sets out certain applicable facility accessibility provisions.

S.B. 1536 provides authority for the department, rather than the adjutant general, to fulfill the statutory requirements for the disposal of certain surplus real property. The bill requires the department to conduct an analysis to determine whether the disposal of property is in the best interests of the Texas military forces, in addition to a determination regarding the adequacy of facility space for ongoing operations, before granting or conveying an interest in real property. The bill authorizes the department, rather than requiring the adjutant general, to sell surplus property to the highest and best bidder for cash using either sealed bid or public auction and, if the site is considered historical, authorizes the department to evaluate other factors relating to ensuring the long-term care of the site when selecting the winning bidder.

Texas Military Forces

S.B. 1536 specifies that a military unit is entitled to the amenities conferred by the laws and regulations of the Texas military forces in addition to the rights, powers, privileges, and immunities conferred by such laws and regulations. The bill requires a person appointed, enlisted, or drafted in the Texas military forces to take and subscribe to an oath prescribed by the adjutant general and removes provisions specifying the form and content of the oath. The bill clarifies that statutory provisions prescribing the requirements for a commission in the state's military forces apply to an initial state commission and requires the recording of such a commission to be performed by the Texas military forces, rather than by the adjutant general in a record book kept in the adjutant general's office for that purpose. The bill requires the adjutant general to specify criteria for gallant conduct or meritorious military service for purposes of the governor's authority to confer on an officer or noncommissioned officer a brevet of a grade higher than the ordinary commission or brevet held by the officer or noncommissioned officer for such conduct or service. The bill authorizes the governor to delegate powers relating to state commission in the Texas military forces to the adjutant general.

S.B. 1536 authorizes the governor to delegate powers to the adjutant general relating to the prohibition, with certain exceptions, against associating as a military company or organization or

parade in public with firearms in a state municipality, and explicitly authorizes students in an educational institution at which military science is a prescribed part of the course of instruction to drill and perform ceremonies with firearms in public with the consent of the governor. The bill, in a provision providing an exception to the prohibition on a military force from another state, territory, or district from entering Texas without the governor's permission, changes the exception from a force that is acting as a part of the U.S. military to an exception for a force that is on federal orders and acting as a part of the U.S. military. The bill authorizes the governor to delegate the power to give this permission to the adjutant general.

S.B. 1536, in a provision making it an offense to physically and intentionally hinder, delay, or obstruct or intentionally attempt to hinder, delay, or obstruct a portion of the Texas military forces on active duty in performance of a military duty, makes it a Class B misdemeanor offense instead of a misdemeanor offense punishable by a fine of not less than \$100 or more than \$1,000, by imprisonment for not less than one month or more than one year, or by both fine and imprisonment. The bill authorizes a commanding officer of the Texas military forces during an occasion of duty to detain, rather than arrest, a person who interferes with Texas military forces, and requires the commanding officer to make a reasonable effort to forward detained individuals to civil authorities as soon as practicable.

S.B. 1536, in statutory provisions requiring the commanding officer of a unit to periodically prepare and submit an itemized statement of money received and disbursed during a preceding reporting period, requires the statement to be submitted to the department on September 1 of each year and when there is a change of the commanding officer of the unit instead of being submitted to the adjutant general on June 30 and December 31 of each year. The bill sets out the composition of the unit fund and establishes that the fund is a special fund held outside the state treasury to be administered by the commanding officer of the unit without further appropriation. The bill exempts a unit fund from statutory provisions regulating public funds investment, requires the department to develop policies and procedures concerning the fund's administration, and sets out provisions relating to the dedication of unexpended and unobligated unit funds. The bill exempts vending facilities operated for the benefit of a unit fund from Human Resources Code provisions regulating vending facilities operated by blind persons.

S.B. 1536 clarifies the state's authority to make suitable provision for the pay, transportation, subsistence, and housing of service members by specifying that such pay is authorized for state active duty or state training and other duty as necessary to accomplish the mission. The bill sets out additional provisions relating to the pay and benefits for state active duty, state training, and other duty, including provisions relating to certain entitlements and benefits for service members who are state employees and service members who are not state employees when called by the proper authority into state active service. The bill makes a volunteer in the Texas State Guard who is not a full-time or part-time state employee and who has been on state active duty or on state training or other duty for more than 90 days eligible to participate in the state group benefits program, subject to specified requirements. The bill requires the adjutant general and the Employees Retirement System of Texas to coordinate and consult to implement the benefits program. The bill prohibits a service member who is on active guard reserve status from receiving state active duty pay or state training and other duty pay and prohibits a service member who is a federal technician in a paid status from receiving state active duty pay or pay for state training and other duty unless the member is on a military leave or leave without pay status from the federal employment. The bill clarifies that statutory provisions prescribing certain benefits and protections for state service apply to a service member of the Texas military forces who is ordered to state active duty or to state training and other duty by the governor, the adjutant general, or another proper authority under state law.

S.B. 1536 authorizes the Texas military forces to provide a military funeral and honor service for a decedent who served in the Texas military forces and specifies the persons authorized to request such a funeral and service. The bill specifies that a person is not eligible for such a funeral and service if the service member is eligible for a military funeral and honor service

under federal law. The bill requires the Texas military forces to model the military funeral and honor service after the service provided by the federal government. The bill, in statutory provisions prescribing grave markers for state military personnel, clarifies that the department, rather than the adjutant general, has the authority to receive requests regarding a grave marker and is required to model grave markers after the grave markers provided by the federal government. The bill requires the department to publish information about its grave marker program on the department's Internet website.

S.B. 1536 requires the Texas military forces in developing a program to provide referrals to service members for reintegration services to consult with the Health and Human Services Commission, in addition to the National Guard Bureau, the U.S. Veterans Health Administration, the Texas A&M Health Science Center College of Medicine, and The University of Texas Health Science Center at San Antonio.

S.B. 1536, in statutory provisions exempting certain military personnel being deployed to serve in certain hostile fire zones from paying certain state or local governmental fees incurred by those members in arranging the member's personal affairs, authorizes the governmental entity responsible for collecting such a fee to rely on a letter issued by the commander of the service member's unit for purposes of providing the exemption.

S.B. 1536 removes statutory provisions authorizing reimbursement for the lodging and meals of a member of the state military forces who performs training or other duty under authority of the U.S. Code as authorized by the General Appropriations Act under certain conditions. The bill establishes that when orders are issued for state active duty or state training or other duty, a National Guard service member of the Texas military forces performing the duty or training is entitled, during the period of the duty or training, to receive pay and allowances as provided by law for the U.S. military and specifies that pay is a stipend for duty or training and is salary or base pay. The bill set out requirements for the adjutant general in setting the daily pay rate and allowance rate for state active duty and for state training and other duty for Texas State Guard service members called to duty or training. The bill requires the department to publish information about the established pay rates on the department's Internet website. The bill specifies that duty or training by volunteers in the Texas State Guard without pay is considered for insurance and state coverage purposes as if it were duty or training for pay.

S.B. 1536 specifies that the supplemental pay received by a person who is called to military duty as a member of the Texas National Guard in the service of Texas or the United States by proper federal or state authority and who suffers an economic hardship as a result of serving on military duty is subject to the availability of funds. The bill clarifies that the adjutant general is required to determine whether a member is eligible to receive supplemental pay and to determine the amount of such supplemental pay a member may receive.

S.B. 1536 authorizes the governor or the adjutant general, if designated by the governor, to require other duty for officers and enlisted persons in the Texas military forces and specifies that the other duty may include community service missions.

S.B. 1536 clarifies statutory provisions relating to the liability of a service member of the Texas military forces to establish that such a service member ordered into state service by proper authority is not personally liable in the person's private capacity for any act performed or for any contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in connection with the administration, management, or conduct of the department in business, programs, or other related affairs, under the limited waiver of governmental immunity provided by the Texas Tort Claims Act.

S.B. 1536 revises statutory provisions making certain commissioned officers of the Texas military forces eligible to receive assistance for tuition and mandatory fees by specifying that the commissioned officer be of a grade from Second Lieutenant through Lieutenant Colonel instead

of a grade from Second Lieutenant through Captain. The bill specifies that the assistance for tuition and fees for all eligible service members is in an amount not to exceed the amount provided in the General Appropriations Act. The bill applies requirements to the department, rather than to the adjutant general, that relate to the certification of a list of the service members to whom the adjutant general has awarded assistance for tuition and mandatory fees and the accompanying authorization of the comptroller to reimburse certain institutions of higher education.

S.B. 1536 clarifies that a member of the Texas military forces who is on state active duty, on state training or other duty, or traveling to or from the member's duty location and who is killed or injured while engaged in authorized duty, training, or travel is entitled to receive compensation and protections under provisions of the Labor Code relating to workers' compensation.

S.B. 1536 specifies that the adjutant general, if delegated the authority, can prescribe modifications to the uniform of the officers and enlisted service members of the Texas military forces. The bill specifies that the uniforms of the officers and enlisted personnel of the Texas State Guard are the uniforms prescribed for the U.S. armed forces with any modifications the governor, or the adjutant general if delegated the authority by the governor, considers necessary to distinguish the Texas State Guard from the Texas National Guard.

S.B. 1536, in statutory provisions authorizing the governor to by warrant command the sheriff of a county to seize arms, equipment, or other military property from a person who unlawfully possesses and refuses or fails to deliver up such property, to exercise such authority on a finding by the adjutant general, rather than on affidavit of a credible witness. The bill authorizes, rather than requires, each sheriff to collect military arms or property issued by the department that is liable to loss or in the hands of unauthorized persons and safely keep the arms and property subject to order of the governor.

Texas National Guard

S.B. 1536 defines "Texas National Guard" as the Texas Army National Guard and the Texas Air National Guard and removes provisions that specifically prescribe the composition of the Texas National Guard. The bill prohibits the Texas National Guard from exceeding half of one percent of the population of the state, rather than 37,000 officers and enlisted persons, except in case of war, insurrection, or invasion, the prevention of invasion, the suppression of riot, or the aiding of civil authorities to execute state law. The bill clarifies, in a provision entitling a state employee called to state active duty as a member of the Texas military forces to paid emergency leave without loss of military leave or annual leave, that the employee is entitled to such paid leave if called to state active duty by the governor or other appropriate authority in response to a natural or man-made disaster.

S.B. 1536 repeals a statutory provision relating to testing certain members or former members of the Texas National Guard for exposure to depleted uranium.

Texas State Guard

S.B. 1536 establishes the position of commander of the Texas State Guard and sets out the commander's responsibilities. The bill, in statutory provisions relating to the composition of and eligibility requirements for the Texas State Guard, establishes that the Texas State Guard is composed of units the adjutant general, in addition to the governor, considers advisable, if the adjutant general is delegated the appropriate authority. The bill changes the age requirements for service in the Texas State Guard to specify that a person must be at least 18 years of age and not older than 70 years of age, instead of at least 17 years of age and with no maximum age limit. The bill requires a person to undergo a criminal history check for eligibility and prohibits a registered sex offender from serving in the Texas State Guard. The bill authorizes the governor

to delegate to the adjutant general the governor's powers relating to the Texas State Guard.

S.B. 1536 establishes that the funds or other property or services solicited by or donated to a unit in the Texas State Guard by any public or private entity is governed by the policies and regulations adopted by the adjutant general.

S.B. 1536 clarifies, in a provision entitling a state employee called to state active duty as a member of the Texas State Guard to paid emergency leave without loss of military leave or annual leave, that the employee is entitled to such paid leave if called to state active duty by the governor or other appropriate authority in response to a natural or man-made disaster.

S.B. 1536 requires the commander of the Texas State Guard, rather than the adjutant general, to maintain and preserve the individual and unit records of the Texas State Guard and the Texas State Guard Honorary Reserve. The bill requires, rather than authorizes, the governor to make available to the Texas State Guard state armories and available state property and requires the adjutant general to do the same, if delegated the appropriate authority. The bill authorizes the adjutant general under the governor's authority and direction, rather than any person under the governor's authority and direction, to transfer to the Texas State Guard Honorary Reserve certain officers or enlisted service members of the Texas State Guard who meet specified criteria. The bill decreases a service requirement in such criteria by specifying that an officer or enlisted service member of the Texas State Guard who has served the federal or state military satisfactorily for at least 20 years, rather than 25 years, is eligible for the Texas State Guard Honorary Reserve. The bill authorizes the adjutant general to advance a service member who is not a general officer one grade or rank at the time of the transfer into the honorary reserve.

S.B. 1536 removes money appropriated by the legislature from the composition of the special revolving fund established for purchasing uniforms and insignia for use by members of the Texas State Guard. The bill clarifies that any part of the fund that remains unexpended and unobligated at the end of the state fiscal year is dedicated for the same purposes in the subsequent year.

Awards

S.B. 1536 transfers, redesignates, and revises certain Government Code provisions relating to awards for certain state military forces and veterans and applies such provisions to those added by the bill relating to the Texas military forces. The bill authorizes the governor or, if the authority is delegated, the adjutant general to adopt policies and regulations, rather than rules and regulations, regarding certain specified awards.

S.B. 1536 prohibits the legislature from directing the Texas Legislative Medal of Honor to be awarded, during a regular session, to more than one service member for service in the state or federal military forces during the period beginning after 1835 but before 1956 and to more than one service member for service in the state or federal military forces after 1955. The bill removes the Texas Cavalry Medal from statutory provisions prescribing military service awards. The bill removes the Lone Star Distinguished Service Medal from the medals for which a recommendation for its award is to be forwarded through military channels to the adjutant general and instead includes its award among the other awards over which the governor or adjutant general have the authority to adopt policies and regulations. The bill clarifies that the Lone Star Distinguished Service Medal is awarded to a member of the military forces of Texas, another state, or the United States for whom the department receives a letter of recommendation for the medal that gives an account of the exceptional achievement or service and that includes facts and photographs and extracts from official documents to support and amplify the facts.

S.B. 1536 requires the department, rather than the adjutant general, to design and have manufactured medals, awards, decorations, and ribbons and others that the adjutant general has approved for award. The bill authorizes the department to purchase or replace such awards for

the recipient, the decedent's family, and nonprofit and governmental entities honoring the recipient or decedent.

Administrative Review and Judicial Enforcement

S.B. 1536 transfers provisions of the Government Code relating to administrative review and judicial enforcement of certain employment practices relating to a member of the state military forces of Texas or any other state who is ordered to authorized training or duty and updates and applies such provisions to those added by the bill relating to the Texas military forces.

Miscellaneous Provisions

S.B. 1536 amends the Labor Code to establish that information in or derived from a risk management review related to facility security or continuity of operations of the Texas military forces is confidential and may not be disclosed by the State Office of Risk Management, with certain exceptions, and provides for the continued confidentiality protection of classified or sensitive information of the Texas military forces specifically preempted from disclosure by federal law.

S.B. 1536 amends the Government Code, Education Code, Health and Safety Code, Natural Resources Code, Property Code, Business & Commerce Code, Labor Code, Local Government Code, Occupations Code, Parks and Wildlife Code, Penal Code, Tax Code, Transportation Code, and Utilities Code to make conforming changes.

Repealed Law

S.B. 1536 repeals the following provisions of the Government Code:

- Section 431.002
- Section 431.003
- Section 431.004
- Section 431.005
- Section 431.0055
- Section 431.006
- Section 431.007
- Section 431.008
- Section 431.009
- Section 431.010
- Section 431.011
- Section 431.012
- Section 431.013
- Section 431.014
- Section 431.015
- Section 431.016
- Section 431.017
- Section 431.0175
- Section 431.018

- Section 431.0185
- Subchapter B, Chapter 431
- Subchapter C, Chapter 431
- Subchapter D, Chapter 431
- Subchapter F, Chapter 431
- Subchapter G, Chapter 431
- Subchapter I, Chapter 431

EFFECTIVE DATE

September 1, 2013.