

Chapter 49,
Laws 1901,
repealed.

SEC. 6. That Chapter XLIX of the Session Laws of 1901, entitled "An act providing for county boards of grammar school examiners, prescribing manner of appointment, term of office, duty and compensation of such boards," approved March 6th, 1901, be and the same is hereby repealed.

Passed the Senate March 11, 1903.

Passed the House March 12, 1903.

Approved by the Governor March 16, 1903.

CHAPTER 155.

[H. B. No. 251.]

RELATING TO NATIONAL GUARD OF WASHINGTON, AND AMENDING FORMER ACTS RELATIVE THERETO.

AN ACT to provide for the enrollment of the Militia, for the regulation, maintenance and discipline of the National Guard of the State of Washington and for the public defense, and to amend Sections 1932, 1933, 1934, 1939, 1955, 1964, 1975, 1991, 2000, 2010 and 2068 and to repeal Section 1957 of Ballinger's Annotated Codes and Statutes of the State of Washington, and to amend Sections 6, 7, 8 and 11 of an act entitled "An act to amend Sections 1926, 1929, 1930, 1950, 1953, 1954, 1963, 1981, 1990, 1992, 1993, 2025, 2028, 2046 and 2061 of Ballinger's Annotated Codes and Statutes of the State of Washington, relating to the Military Code of the State of Washington, providing for courts of inquiry, and declaring an emergency," approved March 16, 1901, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1932 Bal-
linger's Code.

SECTION 1. That section 1932 of said Ballinger's Code be amended to read as follows: "Section 1932. The number of officers and non-commissioned officers in any company, troop or battery, shall be prescribed from time to time by the commander-in-chief to correspond to similar organization in the regular army."

Number of
officers.

Sec. 1933 Bal-
linger's Code.

SEC. 2. That section 1933 of said Code be amended to read as follows: Section 1933. The commanding officer of

a regiment may enlist a band of not less than sixteen nor more than thirty-six musicians, who shall be entitled to the clothing and allowances prescribed for other enlisted men of the same rank. The distribution of non-commissioned officers and privates in said band, and the organization thereof, shall be that now or hereafter provided for similar organizations in the regular army. Said band shall be subject to the orders of the regimental commander, who may discharge and recruit said band at his discretion. The duty of said band shall be to furnish music for the troops and perform such other duty as may be ordered by proper military authority. Members of bands shall be subject to all laws and regulations for the government of the national guard.

Enlistment of
regimental
band.

SEC. 3. That section 1934 of said Code be amended to read as follows: Section 1934. A signal corps company shall be organized as provided for the organization of a similar corps in the regular army. The number of officers and men composing such company may be increased or decreased from time to time in the discretion of the commander-in-chief. At no time shall the number exceed the authorized strength of one company.

Sec. 1934 Bal-
linger's Code.
Signal corps.

SEC. 4. That section 1939 of said Code be amended to read as follows: Section 1939. The medical department of the National Guard of Washington shall consist of one surgeon-general with the rank of colonel, one surgeon with rank of major for each regiment, with such assistant surgeons of such rank as may now or hereafter be provided for service with similar organizations in the regular army. As many acting assistant surgeons shall be appointed as may be necessary in the discretion of the commander-in-chief, and said acting assistant surgeons shall occupy the same relative positions as contract surgeons in the regular army.

Sec. 1939 Bal-
linger's Code.
Medical de-
partment.

SEC. 5. That section 6 of said act to amend certain sections of Ballinger's Code, approved March 16, 1901, be amended to read as follows: Sec. 6. The military officers of the State shall be chosen as follows: The adjutant general shall be appointed by the commander-in-chief with the advice and consent of the Senate. No person shall be eligible as adjutant general who has not served as an officer

Military of-
ficers—how
chosen.

at least three years in the aggregate in either the National Guard of this State or the regular army of the United States, and who is not at the time of his appointment a field, line or regimental staff officer not below the rank of captain in the National Guard of this State: *Provided*, That any adjutant general may be re-appointed from time to time at the expiration of his term in the discretion of the commander-in-chief. Any vacancy in said office from any cause may be filled by the commander-in-chief in accordance with the preceding provisions, subject to confirmation or rejection by the Senate at the next meeting of the Legislature thereafter. Whenever in this act service in the volunteer or regular army of the United States, or the National Guard of this or any other state is named as a qualification for any commissioned office, service with the First Washington Volunteer Infantry until muster out of that organization shall be considered to equal three years' service in the National Guard of this State. Field officers of regiments shall be appointed by the commander-in-chief, and no person shall be eligible as field officer who has not served as an officer at least three years in the aggregate in either the National Guard of this State or the army of the United States, and who is not at the time of his appointment of the rank of captain in the National Guard of this State. Whenever a vacancy occurs in a commissioned office of the National Guard of Washington below the rank of major, except among officers on duty as a regimental staff, the officer next in rank in the company shall be ordered before an examining board, and upon passing a satisfactory examination shall be commissioned to fill the vacancy existing in said company. Vacancies among the officers on duty as regimental staff shall be filled by appointment of an officer from the next lower grade of such staff upon proper examination. Vacancies among second lieutenants of such staff shall be filled by appointment from regimental non-commissioned staff upon proper examination. Vacancies in the office of second lieutenant of a company shall be filled in the following manner: All the sergeants of the company shall be eligible for appointment, and the examining board shall order them to appear before it for a competitive examination for the office: *Provided*, That any sergeant of said company

Field officers.

Vacancies—
how filled.

who may have been appointed a non-commissioned staff officer shall also be eligible for examination and appointment to fill a vacancy in the company of which he was originally a sergeant. The sergeant whom the board considers to be the best qualified for the position after the examination shall be appointed to fill the vacancy. This examination shall be both practical and written. The warrant of any sergeant competing in the examination shall not be affected by his failure to secure promotion. No commissioned officer shall be recommended for promotion who fails to make a record of at least seventy-five per cent. on examination, and where said failure has occurred the officer failing shall be recommended for honorable discharge by the examining board, and the officer next in rank shall be ordered before a board for examination for promotion: Whenever a vacancy shall exist in any field office in any regiment or battalion not part of a regiment, the vacancy shall be filled in the manner herein provided: *Provided*, Whenever a vacancy occurs in any office by reason of the expiration of the term of office, such officer may, if found qualified upon examination, be re-appointed to fill the vacancy. No person shall be eligible as captain of a company, unless he shall have served at least one year as an officer, and three years in the aggregate in the National Guard of this State or some other state of the Union, or in the volunteer or regular army of the United States, or is a graduate of a military college requiring at least three years military service. Service in two or more of these branches may be added together to secure this qualification. For the purposes of this act the word company or companies shall apply to and include the cavalry, infantry and artillery forces. Company commanders shall give bond in the sum of \$2,000, in form to be prescribed by the adjutant general, conditioned for the faithful discharge of the duties of their respective offices, and the proper care and preservation of the State funds and property in their charge. The commander-in-chief shall appoint his staff, and with the exception of the adjutant general, they shall hold office at his pleasure and their commissions shall expire with the term of the Governor appointing them. The adjutant general shall be appointed as hereinbefore provided, and shall hold office for four years and until his successor is

Examination.

Eligibility as captain.

Word "company"—what to include.

Bonds of company officers.

Staff.

appointed and qualified. In the absence of specific orders of the commander-in-chief to the contrary, the adjutant general shall perform all departmental duties designated for members of the Governor's staff. No person shall be appointed a member of the Governor's staff except as judge advocate or military secretary, unless he shall have served three years in the National Guard of this or some other state or in the army of the United States.

Sec. 1955 Bal-linger's Code.

SEC. 6. That section 1955 of said Code be amended to read as follows: Section 1955. Commanding officers of regiments and separate battalions, not parts of regiments, shall appoint and warrant the non-commissioned staff officers of their respective regiments and battalions, and they shall appoint and warrant the non-commissioned officers of the companies of their respective regiments and battalions from the members thereof upon the nomination of the company commanders. All non-commissioned officers shall be appointed for length of service and military qualifications. They may be selected by competitive examination at the discretion of the company commander.

Regimental commanders to appoint staff and officers.

Sec. 1957 Bal-linger's Code repealed.

SEC. 7. That section 1957 of said Code be repealed.

SEC. 8. That section 7 of said act be amended to read as follows: Section 7. No company other than those now organized and in the service as part of the National Guard shall be admitted into the National Guard of Washington, except upon recommendation of the military board approved by the commander-in-chief, and in the following manner: Upon application of a citizen of the State of Washington from an approved locality, said applicant having served one year as a commissioned officer, and three years in the aggregate in the National Guard of Washington, or three years as a commissioned officer in the National Guard of another state, or three years in the volunteer or regular army of the United States, he shall be required to appear before an examining board for examination as to his physical and mental qualifications to become captain of a company; said examination to be that provided in the Military Code of the State, and before an examining board appointed in accordance with the same. If such applicant shall attain a record of seventy-five per cent. or better in such examination he shall be appointed and commissioned

Admission of companies into National Guard.

Appointment of captains.

captain in the National Guard of Washington, and authorized to enlist a company. If there be more than one of said applicants from the same point, all whose applications are received before an examination is ordered, shall appear for examination, and the one who in the judgment of the examining board is the best qualified, shall be selected and authorized to enlist a company as herein provided. Upon notification from him of the enlistment of not less than forty able-bodied men, and upon approval of such enlistments by the adjutant general, the company shall be mustered into the National Guard of Washington. Thirty days after the date of the muster in, all of such enlisted men may appear before an examining board for the purpose of engaging in a competitive examination to determine and select a first lieutenant and a second lieutenant for said company. All members of the company who are regularly enlisted at the date of said examination shall be eligible for appointment and commission. None shall be compelled to take said examination, but not less than six must take it, or no appointment can take place. Such company commander may not nominate for appointment non-commissioned officers for such company until after said examination shall have taken place, but may designate by company order such men of the company as acting non-commissioned officers as he may see fit. Upon conclusion of the competitive examination, the candidate who in the judgment of the board is best qualified shall be appointed and commissioned first lieutenant of the National Guard of Washington and assigned to duty with the company of which he was originally a member. The candidate, who in the judgment of the board, is best qualified for second lieutenant shall be appointed and commissioned to such grade in the National Guard of Washington, and assigned to duty with such company. Until the first and second lieutenants of such newly organized company shall have been appointed and commissioned, the company shall be attached directly to general headquarters. Immediately upon appointment of the first and second lieutenants, the company commander may nominate and secure the appointment of non-commissioned officers for the company in the way prescribed by law and the regulations: *Provided,*

Muster of
companies.

Examination
for lieutenants.

That when in the judgment of the commander-in-chief an emergency exists, the examination for first and second lieutenants make [may] take place immediately upon muster in of the company. The military board shall consist of the commander-in-chief, the adjutant general and the senior field officer.

Military Board.

Sec. 1964 Bal-linger's Code.

Enlistments and re-enlistments.

Applicants.

Physical examination.

Recruiting of officers.

Sec. 1975 Bal-linger's Code.

Discharge of members for cause.

SEC. 9. That section 1964 of said Code be amended to read as follows Section 1964. All enlistments and re-enlistments in the National Guard of Washington shall be for the term of three years, and at the expiration of their terms, men, if discharged with good character, may re-enlist, either immediately, or at any time thereafter. The qualifications for enlistment and re-enlistment shall correspond as nearly as possible to those fixed for similar service in the regular army. Applicants for enlistment must be citizens of the United States and of the State of Washington, and of good moral character. Before any applicant shall be enlisted or re-enlisted, he shall be subjected to a strict physical examination by a medical officer or by an acting assistant surgeon, and the certificate of such medical officer or acting assistant surgeon shall accompany his enlistment papers. Any enlisted man may at any time be ordered by his commanding officer to appear for physical examination, and if not up to requirements he shall be discharged from the service. Every enlisted man shall continue to be held to duty, and shall retain rank and be eligible to promotion, after the expiration of his term of enlistment or re-enlistment, until he is actually discharged. When an organization is consolidated or disbanded, the enlisted men thereof discharged for such reason, who shall thereafter re-enter the service within 30 days shall have allowed as part of their terms of service, the time already served. Company commanders and such other officers as may be designated by the commander-in-chief, shall act as recruiting officers. Applications for enlistment shall be in writing upon forms to be prescribed by the adjutant general.

SEC. 10. That section 1975 of said Code be amended to read as follows: Section 1975. The company commander may recommend the discharge for the good of the service of any enlisted member of his command, and must

state the reason for such recommendation and give notice thereof to such member in the manner of giving warning for duty. Any member so recommended for discharge, may appeal from such recommendation to the adjutant general through the regimental and battalion commanders. Non-commissioned staff officers may be discharged at any time by the officer appointing them. Non-commissioned officers may be reduced to the ranks by the commanding officer of the regiment, or in the case of a separate battalion, not part of a regiment, by the commanding officer of that battalion, or by sentence of court martial. Reduced to ranks.

SEC. 11. That section 8 of said act be amended to read as follows: Section 8. The arms, uniforms and equipment of the National Guard of Washington shall be prescribed by the adjutant general. They shall as nearly as possible conform to the arms, uniforms and equipment now or hereafter in use by the regular army of the United States for similar service, except that the full dress uniform shall not be worn. Every commissioned officer shall provide himself with the arms, uniforms and equipment prescribed within thirty days from the receipt of his commission, or he will be considered to have resigned same. All officers now commissioned or who shall hereafter be commissioned, shall receive from the State annually the sum of thirty dollars, mounted officers the sum of forty dollars, to assist in uniforming and equipping themselves, but not until they have served as such as [a] calendar year, and shall have furnished satisfactory evidence to the adjutant general that they are properly armed, uniformed and equipped. The first annual payment on this account shall be for the year 1903. All non-commissioned officers, musicians and privates shall be uniformed, armed and equipped at the expense of the State. Whoever shall secrete, sell, dispose of, offer for sale, purchase, retain after proper demand made, or in any manner pawn or pledge any military property which shall have been issued under the provisions of this act, and any person not a member of the National Guard, except organizations especially authorized to do so, who shall wear any uniform or designation of grade similar to those in use by the National Guard, issued or authorized under the provisions of this act, shall forfeit to the people of this State \$100, and any member of the National Guard who shall, when not on Uniforms, etc. Allowance for uniforms, etc. Unlawful to sell military property. Unlawful to wear uniforms when not on duty.

duty, wear any such uniform or equipments without permission of the commanding officer, shall be subject to a fine of not more than \$10, which fine shall forthwith be paid over to the State Treasurer.

Sec. 1991 Bal-
lenger's Code.

Quarterly al-
lowance for
rent, etc.

SEC. 12. That section 1991 of said Code be amended to read as follows: Section 1991. There must be audited and allowed by the board of military auditors, to be paid quarterly out of the special military fund to the commanding officer of each infantry, cavalry and artillery company of the National Guard of Washington, performing the duty required by law, for armory rent and other incidental expenses, the sum of forty dollars per month, or so much thereof as may be necessary, and to each band and each signal corps company twenty-five dollars per month, or so much thereof as may be necessary: *Provided*, That in cities where are located armories owner by the State such allowances shall be paid to the officer or officers selected by the commander-in-chief to have charge of such armories, under such regulations for the government of the same as may hereafter be adopted. The officers to whom such allowances are paid shall render to the adjutant general quarterly reports showing expenditures for preceding quarter before said allowance is paid.

Transporta-
tion.

Pay and al-
lowance.

SEC. 13. That section 11 of said act be amended to read as follows: Section 11. There shall be provided by the State transportation for all officers, and transportation and subsistence for all enlisted men, who shall be ordered out for encampment and field duty, or assembled for duty in case of riot, tumult or breach of the peace, war, insurrection, invasion or imminent danger thereof and in addition thereto officers and men upon such duty shall receive pay from the State according to the following schedule: To all commissioned officers, the same pay and allowances as for commissioned officers of the regular army of corresponding grade, branch and term of service. Chief musicians, each \$5 per day. Regimental and battalion non-commissioned staff officers, hospital stewards, first class sergeants of the signal corps, first sergeants, company quartermaster sergeants, musicians who are members of enlisted bands, and company cooks, each \$3.00 per day; sergeants of infantry, cavalry and artillery, second class sergeants of the signal

corps, each \$2.00 per day; corporals of infantry, cavalry and artillery, acting hospital stewards and first class privates of the signal corps, each \$1.75 per day. Musicians and privates of infantry, cavalry, artillery, hospital corps and signal corps, each \$1.50 per day. For each re-enlistment after serving a full term of three years there shall be added ten per cent., and service for a full term of enlistment with the regular or volunteer army of the United States, or with the First Washington Volunteer Infantry shall be considered equivalent to a full term of enlistment in the National Guard, and recruits proving such service shall be allowed ten per cent. additional on their pay: *Provided*, That this schedule of pay shall apply only to the first thirty days of any particular tour of duty, and after the thirtieth day of such tour officers and men alike shall receive the pay allowed officers and men in the regular army of corresponding grade and term of service. Necessary transportation, quartermaster's stores and subsistence for troops when ordered on duty, shall be contracted for by proper officers and paid for as other military bills. Enlisted men mounted and equipped shall be allowed \$1.50 per day, or as much thereof as may be necessary for each horse actually used by them. Commissioned officers will provide their own subsistence and horses. Extra duty pay to men detailed as clerks and on similar duty may be allowed by the commanding officer of troops on duty, but in no case shall such pay and extra duty pay exceed \$3.00 per day, and such extra pay shall not be allowed after thirty days of continuous service.

Contracts for necessary transportation.

Subsistence and extra duty.

SEC. 14. That section 2000 of said Code be amended to read as follows: Section 2000. Each and every company organized under the provisions of this act shall meet at least twice in each month for drill and inspection. In addition to such drills the commanding officer of any organization may require the officers and enlisted men of his organization to meet for drills and instruction at such times and places as he may appoint.

Sec. 2000 Ballinger's Code.

Drills and inspection.

SEC. 15. That section 2010 of said Code be amended to read as follows: Section 2010. The commander-in-chief shall have power in cases of insurrection, invasion, tumult, riot or breach of the peace, or imminent danger thereof, resistance to process, or in aid of the civil authorities, to order

Sec. 2010 Ballinger's Code.

Power of Commander-in-Chief in riots, etc.

into the actual service of the State, the National Guard, or any part thereof, or the reserve militia, or any part thereof, that he may deem proper; and all members thereof who shall be ordered out by any proper authority for such service shall not be subject to arrest, nor liable civilly or criminally for any act or acts done by them in pursuance of orders from their commanding officers. The commander-in-chief shall have power in case of war or imminent danger thereof, when called upon by the President of the United States for volunteers, to order out the National Guard of Washington for service of the United States, and in the event of such call the organized National Guard shall have precedence of all other volunteers, and shall be first taken.

Target prac-
tice.

SEC. 16. For the purpose of encouraging target practice the following schedule of payment is adopted for officers and men engaged in such work: For every shot fired upon a State range under direction of a commissioned officer, proper record of which is furnished to the adjutant general, to each officer and man firing same, three cents: *Provided*, No payment shall be made for less than fifty shots or more than two hundred and fifty shots in any one year.

Money de-
rived from
sales.

SEC. 17. That money derived from the sale of unserviceable or otherwise unavailable military stores belonging to the State of Washington, or directly or indirectly coming from any appropriation from the military fund, shall be deposited with the State Treasurer to the credit of the military fund.

Sec. 2068 Bal-
linger's Code.

SEC. 18. That section 2068 of said Code be amended to read as follows: Section 2068. For the purpose of raising revenue for the National Guard, there is hereby levied, and the proper officers shall collect, a tax of one-tenth of one mill upon all the property of the State subject to taxation for the present fiscal year and each fiscal year hereafter.

Levy for
revenue.

Emergency.

SEC. 19. An emergency exists and this act shall take effect immediately.

Passed the House February 26, 1903.

Passed the Senate March 11, 1903.

Approved by the Governor March 16, 1903.