

Assembly Bill No. 1410

Passed the Assembly May 16, 2013

Chief Clerk of the Assembly

Passed the Senate September 3, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 450 of, and to add Sections 455.1, 458.1, and 458.2 to, the Military and Veterans Code, relating to military courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1410, Committee on Veterans Affairs. Courts-Martial Appellate Panel.

Existing law provides that the military courts of this state are general courts-martial, special courts-martial, summary courts-martial, and courts of inquiry. Existing law provides that general, special, and summary courts-martial have the power to try and adjudge specified members of the military. The authority to adjudge includes specified types of punishment. Under existing law, the keepers or warden of any jail are required to receive the bodies of persons committed by a military court and confine them, as specified.

This bill would establish the Courts-Martial Appellate Panel. The panel would consist of 3 justices to be appointed by the Governor. The bill would require a justice to sit on the panel for a 4-year term or until his or her resignation. The bill would authorize the panel to be convened by the President of the United States, the Governor, or the Adjutant General. Under the bill, the panel would have power over the issuance of extraordinary writs relative to specified matters and adjudicating appeals of sentences of a court-martial. The bill would require precedential decisions of the Courts-Martial Appellate Panel to be posted in a conspicuous place. Because the establishment of a military court imposes new responsibilities on a local agency jail, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 450 of the Military and Veterans Code is amended to read:

450. The military courts of this state are: (a) general courts-martial; (b) special courts-martial; (c) summary courts-martial; (d) courts of inquiry; and (e) Courts-Martial Appellate Panel.

SEC. 2. Section 455.1 is added to the Military and Veterans Code, to read:

455.1. (a) The Courts-Martial Appellate Panel shall consist of three justices to hear matters described in Section 458.1. The Governor, by general order, shall appoint the three justices who have experience and training in the field of military law. The panel shall conduct itself as a three-justice court.

(1) A justice shall not be liable civilly or criminally for any act or acts done by them in the performance of his or her duty, as described in Section 472.

(2) A justice shall be subject to a code of judicial conduct in accordance with applicable the United States Army and the United States Air Force regulations.

(3) A justice shall sit for four years upon which his or her appointment shall be terminated or upon acceptance of his or her resignation by the Adjutant General, whichever occurs first.

(4) A justice shall be paid at the rate of a federal O-6, a military pay grade, only while in session.

(b) The Courts-Martial Appellate Panel may be convened by the President of the United States, the Governor, or the Adjutant General.

SEC. 3. Section 458.1 is added to the Military and Veterans Code, to read:

458.1. The Courts-Martial Appellate Panel shall have power over the following:

(a) The issuance of extraordinary writs relative to all matters arising under the following:

(1) The provisions of this code.

(2) The Uniform Code of Military Justice.

(3) Any regulation issued by the Governor pertaining to members of the California active militia.

(4) Court-martial actions pending before any military judge of the California Military Department.

(b) Adjudicating appeals of sentences of a court-martial that have been approved by the convening authority, as described in Section 455.1, and which include:

(1) Dismissal, in the case of a commissioned or warrant officer.

(2) Dishonorable discharge, in the case of an enlisted man or woman.

(3) Bad-conduct discharge, in the case of an enlisted man or woman.

(4) Forfeiture of all pay and allowances.

(5) Any confinement.

(c) The practices and procedures of the Courts-Martial Appellate Panel shall follow the federal Manual for Courts-Martial described in Section 102 and the California Manual for Courts-Martial.

SEC. 4. Section 458.2 is added to the Military and Veterans Code, to read:

458.2. With regard to any matter adjudicated by the Courts-Martial Appellate Panel, the reported decisions of the United States Court of Appeals for the Armed Forces shall have direct precedential authority to such matters unless otherwise directed by the Courts-Martial Appellate Panel. Precedential decisions of the Courts-Martial Appellate Panel shall be posted in a conspicuous place.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor