STATE OF NEW YORK

8776

2019-2020 Regular Sessions

IN ASSEMBLY

November 25, 2019

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the military law, in relation to establishing the civilian cyber security reserve forces

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 2 of the military law, as amended by chapter 731 of the laws of 1958, is amended to read as follows:

1. The militia of the state shall be divided into the organized militia, the state reserve list, the state retired list and the unorganized militia. The organized militia shall be composed of the New York army national guard; the New York air national guard; the inactive national guard; **the civilian cyber security reserve forces;** the New York naval militia; the New York guard whenever such a state force shall be duly organized and such additional forces as may be created by the governor.

§ 2. The military law is amended by adding a new article 14 to read as follows:

ARTICLE 14

CIVILIAN CYBER SECURITY RESERVE FORCES

Section 350. Civilian cyber security reserve forces.
351. Rules and regulations; civilian cyber security reserve forces.
352. Equipment.
353. Restrictions.
354. Membership.
355. New York code of military justice.
356. Resignation.
357. Governor's role.

§ 350. Civilian cyber security reserve forces. 1. The governor shall organize and maintain within this state, on a reserve basis, civilian cyber security reserve forces capable of being expanded and trained to

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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educate and protect state, county, and local government entities, critical infrastructure, including election systems, businesses, and citizens of this state from cyber attacks. In the case of an emergency proclaimed by the governor, or caused by illicit actors or imminent danger, the governor, as commander-in-chief, shall expand the reserve as the exigency of the occasion requires.

2. The reserve shall be a part of the New York organized militia under the adjutant general's department. The reserve shall be known as the New York cyber reserve. The adjutant general shall establish and may revise, the rates of pay for reserve members when called to state active duty. While performing any drill or training, reserve members shall serve in an unpaid volunteer status. When called to state active duty by the governor, reserve members shall function as civilian members of the organized militia.

§ 351. Rules and regulations; civilian cyber security reserve forces. The governor may adopt rules and regulations consistent with the provisions of law governing the membership, organization, administration, equipment, and maintenance of the New York cyber reserve. A copy of the rules and regulations shall be available to the public in the adjutant general's office.

§ 352. Equipment. The governor may requisition from the United States department of defense, for the use of the New York cyber reserve, equipment that may be in the possession and can be furnished by the department, and make available to the reserve the facilities of state armories and equipment and other state premises and property that may be available.

§ 353. Restrictions. This article shall not authorize the New York cyber reserve, or any part thereof, to be called or ordered into the military service of the Unites States. The reserve may become a civilian component of the New York national guard.

§ 354. Membership. 1. No person shall be accepted into the New York cyber reserve who is not a United States national or a lawful permanent resident, or who has been expelled or dishonorably discharged from the armed forces. Applicants shall be subject to an appropriate background check, in accordance with rules and regulations adopted by the governor and adjutant general before admittance into the reserve.

2. Notwithstanding any other provision of this chapter, no person shall be disqualified from acceptance into the New York cyber reserve on the basis that the person is an employee of the state or a political subdivision of the state, or an employee or proprietor of a private entity that conducts business with the state or a political subdivision of the state.

§ 355. New York code of military justice. Whenever the New York cyber reserve, or any part thereof, is ordered out for active service by the governor, the New York code of military justice shall be in full force with respect to those forces.

§ 356. Resignation. 1. The governor may accept the resignation of any New York cyber reserve member at any time. Reserve members serve at the pleasure of the governor and may be removed from the reserve in accordance with rules and regulations adopted under article seven of this chapter.

2. The governor may require reimbursement for training, equipment, and uniforms if a New York cyber reserve member does not serve the full term of the member's membership agreement and the inability to serve out the term of the membership agreement was not due to disability or similar disabling medical condition.

§ 357. Governor's role. 1. The governor, as commander-in-chief of the organized militia, may order individuals or units of the New York cyber reserve to state active duty to protect state, county, and local government entities and critical infrastructure, including election systems, or for training as the governor determines necessary. The governor, upon the request of a business or citizen, also may order individuals or units of the New York cyber reserve to state active duty to protect such business or citizen.

2. When ordered by the governor to perform duty or training under this article, members of the New York cyber reserve shall have the same protections afforded by the "Servicemembers Civil Relief Act," Pub. L. No. 108-189, 50 U.S.C. 3901-4043, and by the "Uniformed Services Employment and Reemployment Rights Act," 108 Stat. 3149, 38 U.S.C. 4301-4333.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.