

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 327

Senator LaRose

Cosponsors: Senators Uecker, Beagle, Hoagland

A BILL

To amend sections 5923.01, 5923.03, 5923.12, 1
5923.37, and 5924.01 and to enact sections 2
5922.01, 5922.02, 5922.03, 5922.04, 5922.05, 3
5922.06, 5922.07, and 5922.08 of the Revised 4
Code to create the civilian cyber security 5
reserve forces and to make an appropriation. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5923.01, 5923.03, 5923.12, 7
5923.37, and 5924.01 be amended and sections 5922.01, 5922.02, 8
5922.03, 5922.04, 5922.05, 5922.06, 5922.07, and 5922.08 of the 9
Revised Code be enacted to read as follows: 10

Sec. 5922.01. The governor shall organize and maintain 11
within this state, on a reserve basis, civilian cyber security 12
reserve forces capable of being expanded and trained to educate 13
and protect state, county, and local governmental agencies, 14
critical infrastructure, including election systems, businesses, 15
and citizens of this state from cyber attacks. In the case of an 16
emergency proclaimed by the governor, or caused by illicit 17
actors or imminent danger, the governor, as commander-in-chief, 18

shall expand the reserve as the exigency of the occasion 19
requires. 20

The reserve shall be a part of the Ohio organized militia 21
under the adjutant general's department. The reserve shall be 22
known as the Ohio cyber reserve. The adjutant general may 23
establish and revise, in the name of the governor, the rates of 24
pay for reserve members when called to state active duty. While 25
performing any drill or training, reserve members shall serve in 26
an unpaid volunteer status. When called to state active duty by 27
the governor, reserve members shall function as civilian members 28
of the Ohio organized militia. 29

Sec. 5922.02. The governor may adopt rules consistent with 30
the provisions of law governing the membership, organization, 31
administration, equipment, and maintenance of the Ohio cyber 32
reserve. A copy of the rules shall be available to the public in 33
the adjutant general's office. 34

Sec. 5922.03. The governor may requisition from the United 35
States department of defense, for the use of the Ohio cyber 36
reserve, equipment that may be in the possession and can be 37
furnished by the department, and make available to the reserve 38
the facilities of state armories and equipment and other state 39
premises and property that may be available. 40

Sec. 5922.04. Sections 5922.02 to 5922.08 of the Revised 41
Code do not authorize the Ohio cyber reserve, or any part 42
thereof, to be called or ordered into the military service of 43
the United States. The reserve may become a civilian component 44
of the Ohio national guard. 45

Sec. 5922.05. No person shall be accepted into the Ohio 46
cyber reserve who is not a United States citizen or a legal 47

permanent resident, or who has been expelled or dishonorably 48
discharged from the armed forces as defined in Section 5903.01 49
of the Revised Code. Reserve members shall be subject to an 50
appropriate background check, in accordance with rules adopted 51
by the governor and adjutant general, before admittance into the 52
reserve. 53

Sec. 5922.06. Whenever the Ohio cyber reserve, or any part 54
thereof, is ordered out for active service by the governor, the 55
Ohio code of military justice shall be in full force in respect 56
to those forces. 57

Sec. 5922.07. The governor may accept the resignation of 58
any Ohio cyber reserve member at any time. Reserve members serve 59
at the pleasure of the governor and may be removed from the 60
reserve in accordance with rules adopted under section 5922.02 61
of the Revised Code. 62

The governor may require reimbursement for training, 63
equipment, and uniforms if an Ohio cyber reserve member does not 64
serve the full term of the member's membership agreement and the 65
inability to serve out the term of the membership agreement was 66
not due to disability or a similar disabling medical condition. 67

Sec. 5922.08. The governor, as commander-in-chief of the 68
Ohio organized militia, may order individuals or units of the 69
Ohio cyber reserve to state active duty to perform duty or 70
training as the governor determines necessary. 71

When ordered by the governor to perform duty or training 72
under this section or section 5923.21 of the Revised Code, 73
members of the Ohio cyber reserve shall have the same 74
protections afforded by the "Servicemembers Civil Relief Act," 75
Pub. L. No. 108-189, 50 U.S.C. 3901-4043, and by the "Uniformed 76

Services Employment and Reemployment Rights Act," 108 Stat. 77

3149, 38 U.S.C. 4301-4333. 78

Sec. 5923.01. (A) The Ohio organized militia consists of 79
all citizens of the state who are not permanently handicapped, 80
as handicapped is defined in section 4112.01 of the Revised 81
Code, who are more than seventeen years, and not more than 82
sixty-seven years, of age unless exempted as provided in section 83
5923.02 of the Revised Code, and who are members of one of the 84
following: 85

(1) The Ohio national guard; 86

(2) The Ohio naval militia; 87

(3) The Ohio military reserve; 88

(4) The Ohio cyber reserve. 89

(B) The Ohio national guard, including both the Ohio air 90
national guard and the Ohio army national guard, the Ohio naval 91
militia, ~~and~~ the Ohio military reserve, and the Ohio cyber 92
reserve are known collectively as the Ohio organized militia. 93

(C) The Ohio naval militia and the Ohio military reserve 94
are known collectively as the state defense forces. 95

(D) The unorganized militia consists of those citizens of 96
the state as described in division (A) of this section who are 97
not members of the Ohio organized militia. 98

(E) No troops shall be maintained in time of peace other 99
than as authorized and prescribed under the "Act of August 10, 100
1956," 70A Stat. 596, 32 U.S.C.A. 101 to 716. This limitation 101
does not affect the right of the state to the use of its 102
organized militia within its borders in time of peace as 103
prescribed by the laws of this state. This section does not 104

prevent the organization and maintenance of police. 105

Sec. 5923.03. (A) The Ohio national guard consists of the 106
members of the Ohio organized militia who are enlisted, 107
commissioned, or warranted in the Ohio national guard, all as 108
prescribed by publications of the department of the army or air 109
force and the national guard bureau for the national guard as 110
prescribed by Chapter 5919. of the Revised Code. 111

(B) The Ohio military reserve consists of the members of 112
the Ohio organized militia who are enlisted, commissioned, or 113
warranted in the Ohio military reserve as prescribed by Chapter 114
5920. of Revised Code. 115

(C) The Ohio naval militia consists of the members of the 116
Ohio organized militia who are enlisted, commissioned, or 117
warranted in the Ohio naval militia as prescribed by Chapter 118
5921. of the Revised Code. 119

(D) The Ohio cyber reserve consists of the members of the 120
Ohio organized militia who are civilian volunteers under Chapter 121
5922. of the Revised Code. 122

Sec. 5923.12. When ordered to state active duty by the 123
governor, for which duty federal basic pay and allowances are 124
not authorized, members of the organized militia of Ohio shall 125
receive the same pay and allowances for each day's service as is 126
provided for commissioned officers, warrant officers, 127
noncommissioned officers, and enlisted personnel of like grade 128
and longevity in the armed forces of the United States, together 129
with the necessary transportation, housing, and subsistence 130
allowances as prescribed by the United States department of 131
defense pay manual, or an amount not less than seventy-five 132
dollars per day as base pay for each day's duty performed, 133

whichever is greater. Ohio cyber reserve members shall receive a 134
rate of pay determined and provided by rule by the adjutant 135
general, in the name of the governor. 136

When ordered by the governor to perform training or duty 137
under this section or section 5919.29 of the Revised Code, 138
members of the Ohio national guard shall have the protections 139
afforded to persons on federal active duty by "The 140
Servicemembers Civil Relief Act," 117 Stat. 2835, 50 U.S.C.A. 141
App. 501. 142

Sec. 5923.37. (A) No member of the organized militia 143
ordered to state active duty shall be liable in negligence for 144
any act performed within the scope of ~~his military~~ the member's 145
duties. Any action alleging that such a militia member's conduct 146
was outside the scope of ~~his~~ the member's employment, was 147
malicious, was in bad faith, or was wanton or reckless shall 148
first be filed against the state in the court of claims under 149
section 2743.02 of the Revised Code. 150

(B) Any member of the organized militia rendering medical, 151
nursing, or dental care, or assisting in rendering such care, 152
after being ordered to state active duty shall be deemed an 153
officer or employee of the state under section 109.36 of the 154
Revised Code. 155

(C) Any member of the organized militia ordered to state 156
active duty under section 5923.22 of the ~~revised~~ Revised Code or 157
ordered to duty under section 5919.29 of the Revised Code who is 158
qualified to perform on federal active duty under Title 10, 159
United States Code, in a particular profession, discipline, or 160
skill as a health care provider shall be exempt from the 161
statutes, regulations, and licensing requirements otherwise in 162
force under the laws of this state, with respect to ~~his~~ the 163

member's profession, specialty, or skill at such times as ~~he~~ the 164
member is serving in any military status, duly authorized under 165
the laws of this state or of the United States, or both, and is 166
performing ~~his~~ the member's profession, specialty, or skill 167
under regulations prescribed by the executive authority of the 168
United States or of this state, and is functioning within the 169
scope of ~~his~~ the member's employment. 170

Sec. 5924.01. As used in Chapter 5924. of the Revised Code 171
unless the context otherwise requires: 172

(A) "Organized militia" means the Ohio national guard, the 173
Ohio naval militia, ~~and~~ the Ohio military reserve, and the Ohio 174
cyber reserve. 175

(B) "Officer" means commissioned or warrant officer. 176

(C) "Commissioned officer" includes a commissioned warrant 177
officer. 178

(D) "Commanding officer" includes only commissioned or 179
warrant officers in command of a unit. 180

(E) "Superior commissioned officer" means a commissioned 181
officer superior in rank or command. 182

(F) "Enlisted member" means a person in an enlisted grade. 183

(G) "Grade" means a step or degree, in a graduated scale 184
of office or military rank, that is established and designated 185
as a grade by law or regulation. 186

(H) "Rank" means the order of precedence among members of 187
the armed forces. 188

(I) "State active duty" means full-time duty in the active 189
military service of the state under a proclamation of the 190

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| governor issued pursuant to authority vested in the governor by | 191 |
| law, and while going to and returning from such duty. | 192 |
| (J) "Duty status other than state active duty" means any | 193 |
| other types of duty and while going to and returning from such | 194 |
| duty. | 195 |
| (K) "Military court" means a court-martial, a court of | 196 |
| inquiry, or a provost court. | 197 |
| (L) "Military judge" means an official of a general or | 198 |
| special court-martial who is a commissioned officer, who has | 199 |
| been duly certified to be qualified for duty as a military judge | 200 |
| by the state judge advocate, and who has been properly detailed | 201 |
| in accordance with section 5924.26 of the Revised Code. | 202 |
| (M) "Law specialist" means a commissioned officer of the | 203 |
| organized naval militia of the state designated for special | 204 |
| duty. | 205 |
| (N) "Legal officer" means any commissioned officer of the | 206 |
| organized naval militia of the state designated to perform legal | 207 |
| duties for a command. | 208 |
| (O) "State judge advocate" means the commissioned officer | 209 |
| responsible for supervising the administration of military | 210 |
| justice in the organized militia. | 211 |
| (P) "Accuser" means a person who reports an offense | 212 |
| subject to trial by court-martial and who signs and swears to | 213 |
| charges, any person who directs that charges nominally be signed | 214 |
| and sworn to by another, or any other person who has an interest | 215 |
| other than an official interest in the prosecution of the | 216 |
| accused. | 217 |
| (Q) "Military" refers to any or all of the armed forces. | 218 |

(R) "Convening authority" includes, in addition to the 219
person who convened the court, a commissioned officer commanding 220
for the time being, or a successor in command. 221

(S) "May" is used in a permissive sense. The words "no 222
person may" mean that no person is required, 223
authorized, or permitted to do the act prescribed. 224

(T) "Shall" is used in an imperative sense. 225

(U) "Code" means the Ohio code of military justice, as set 226
forth in Chapter 5924. of the Revised Code. 227

(V) "Trial counsel" means the prosecuting attorney in a 228
general or special court-martial. 229

(W) "Detention facility" means any place that is owned or 230
operated by a municipal corporation, by a county, or by one or 231
more municipal corporations, counties, or both and that is used 232
for the confinement of persons charged with or convicted of any 233
crime in this state or another state or under the laws of the 234
United States. 235

(X) "Examiner" has the same meaning as in division (A) (2) 236
(a) of section 2945.37 of the Revised Code. 237

(Y) "Nonsecured status," "unsupervised, off-grounds 238
movement," "trial visit," "conditional release," and "licensed 239
clinical psychologist" have the same meanings as in section 240
2945.37 of the Revised Code. 241

Section 2. That existing sections 5923.01, 5923.03, 242
5923.12, 5923.37, and 5924.01 of the Revised Code are hereby 243
repealed. 244

Section 3. All items in this section are hereby 245
appropriated as designated out of any moneys in the state 246

treasury to the credit of the designated fund. For all 247
appropriations made in this act, those in the first column are 248
for fiscal year 2018 and those in the second column are for 249
fiscal year 2019. The appropriations made in this act are in 250
addition to any other appropriations made for the FY 2018-FY 251
2019 biennium. 252

ADJ ADJUTANT GENERAL 253

General Revenue Fund 254

GRF 745503 Ohio Cyber Reserve \$0 \$450,000 255

TOTAL GRF General Revenue Fund \$0 \$450,000 256

TOTAL ALL BUDGET FUND GROUPS \$0 \$450,000 257

OHIO CYBER RESERVE 258

Of the foregoing appropriation item 745503, Ohio Cyber 259
Reserve, \$50,000 in fiscal year 2019 shall be used to pay the 260
costs incurred by the Adjutant General's Department to activate 261
the Ohio Cyber Reserve in accordance with section 5922.01 of the 262
Revised Code. If it is determined by the Adjutant General that 263
any portion of the \$50,000 will not be used for activation 264
expenses of the Ohio Cyber Reserve, that portion may be used for 265
the Department's maintenance expenses. If the costs incurred to 266
activate the Ohio Cyber Reserve exceed \$50,000, the Adjutant 267
General may request the Controlling Board to transfer cash and 268
appropriations from appropriation item 911614, Controlling Board 269
Emergency Purposes/Contingencies, to reimburse any fund and 270
appropriation item used by the Adjutant General to fund these 271
costs. 272

Section 4. Within the limits set forth in this act, the 273
Director of Budget and Management shall establish accounts 274
indicating the source and amount of funds for each appropriation 275

made in this act, and shall determine the form and manner in 276
which appropriation accounts shall be maintained. Expenditures 277
from appropriations contained in this act shall be accounted for 278
as though made in Am. Sub. H.B. 49 of the 132nd General 279
Assembly. 280

The appropriations made in this act are subject to all 281
provisions of Am. Sub. H.B. 49 of the 132nd General Assembly 282
that are generally applicable to such appropriations. 283