

Submitter: Richard Burke

On Behalf Of:

Committee: Senate Committee On Veterans, Emergency
Management, Federal and World Affairs

Measure, Appointment or Topic: SB667

Dear Chair Senator Manning, Vice Chair Thatcher, and Members of the Committee,

My name is Richard P. Burke. I am the Director of the Freedom and Responsibility PAC (FaRPAC) and a member of the Libertarian Party of Oregon. I offer this testimony supporting Senate Bill 667 in the interests of: 1) Protecting the lives of those serving in the Oregon National Guard, 2) Supporting constitutional governance, 3) Supporting of the sovereignty of the State of Oregon within the framework of the U.S. Constitution and, 4) To minimizing the presence of American troops in foreign conflicts.

You all know that in Article I, Section 8, Clause 11 of the the U.S. Constitution, the power to declare war is vested in congress. Not everyone knows that, during the Constitutional Convention of 1787, the first draft used the words "make War." This was later changed to "declare War" in order to allow presidents to respond to sudden threats. According to the Supreme Court, congress has the power to define the boundary between congressional and executive powers concerning when American forces can be sent into conflicts.

The Insurrection Act of 1807, which was amended numerous times, grants the ability of executives to call out the "militia" under particular circumstances. After the Korean conflict, congress made specific concessions by authorizing presidents to unilaterally enter military conflicts taking place in the Middle East and Taiwan. In 1973 the War Powers Act, effectively granted presidents much more latitude in committing US forces to foreign conflicts.

While good cases can be made for empowering presidents to take unilateral military action under particular and limited circumstances, good cases can also be made that such powers have been abused by presidents in the modern era, both Republican and Democrat. As a Libertarian and a Director of the Freedom and Responsibility PAC, I hope congress may one day take action holding executives more accountable for unilaterally entering American troops into foreign conflicts. Until that happens, the enactment of SB667 in its current form may serve as a way to protect Oregonians serving in our state's national guard from constitutionally questionable actions which may be taken by presidents.

Senate Bill 667 will:

1. PROTECT THE LIVES OF THOSE SERVING IN THE OREGON NATIONAL GUARD. By raising a barrier to presidents deploying Oregon National Guard Units using constitutionally questionable means, it is likely that fewer members of the Oregon National Guard will be injured or killed in such deployments.

2. SUPPORT OF CONSTITUTIONAL GOVERNANCE. By raising a barrier to presidents deploying Oregon National Guard Units using constitutionally questionable means, presidents will be unable to deploy Oregon National Guard Units by any means other than those provided for in the constitution or by securing congressional approval in ways that our courts have determined to be consistent with the U.S. Constitution.

3. SUPPORT THE SOVEREIGNTY OF OREGON AS A STATE. The Tenth Amendment of the U.S. Constitution provides that powers not explicitly vested in the federal government devolve to the states. Making more likely that only Oregon's governor, by means provided for in the U.S. and Oregon constitutions, may exclusively deploy Oregon National Guard Units if a president is not doing so through clearly constitutional means.

4. PROTECT THE LIVES OF AMERICANS WHO MAY BE DEPLOYED IN FOREIGN CONFLICTS. While Oregon is a state with a relatively low population and a small number of its people serving in the Oregon National Guard relative to those serving in the forty-nine other states, SB667 may become a model for other states to follow.

For the reasons cited above, I urge the passage and enactment of SB667. Thank you.

Respectfully,

Richard P. Burke
Director, Freedom and Responsibility PAC
Member, Libertarian Party of Oregon