

HB 4091 STAFF MEASURE SUMMARY

House Committee On Emergency Management and Veterans

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Meeting Dates: 2/3, 2/12

WHAT THE MEASURE DOES:

The measure prohibits the militia or armed forces of another state, territory, or district from entering Oregon to perform military duties, unless approved by the Governor or they are in federal active-duty status under authority of the President. The Governor and other state officials are prohibited from helping to mobilize the Oregon National Guard (ONG) for law enforcement or immigration enforcement but allows participation in support, logistics, or surveillance roles related to border security. It declares an emergency, effective on its on passage.

Detailed Summary

- Defines “active service” in relation to this measure
- Specifies the circumstances under which the Adjutant General may facilitate, assist, or coordinate the mobilization of ONG members and units called into active service
- Prohibits the Governor, Adjutant General, or any officer or employee of the state government (defined in ORS 174.111) from facilitating, assisting or coordinating in the mobilization of ONG members or units called into active service if the service is for law enforcement or immigration enforcement activities. Specifies that “immigration duties” does not include support, logistics, or surveillance duties that are for border security operations
- Prohibits the Governor from consenting to and the Adjutant General from mobilizing ONG members into active service if it results in the ONG being effectively incapable of responding to statewide emergencies
- Allows the Adjutant General or any officer or state employee to carry out federal or state laws relating to the rights and privileges of ONG members
- Prohibits the militia or armed forces of another state, territory, or district from entering or performing military duties in Oregon, unless the Governor permits and authorizes the entry or if the militia or armed forces are in federal active-duty status under authority of the President

Fiscal impact: No fiscal impact

Revenue impact: No revenue impact

ISSUES DISCUSSED:

- Historic and current legal determinations regarding federalization of ONG members
- Role of ONG regarding law enforcement, border protection, and arrest powers
- Authority of the Adjunct General and the Governor to mobilize ONG members

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Oregon National Guard consists of the Army National Guard and Air National Guard, each of which is capable of performing both state and federal functions. Members may be called upon to respond to state-level incidents and natural disasters, and members can also be deployed to support missions or augment forces of the United States Armed Forces.

The President of the United States may activate National Guard members into federal active service under United States Code 10 U.S.C. § 12406 (2006). Activations under Title 10 are federally funded and federally controlled. The Governor of Oregon may activate members or units of the Oregon National Guard to active service under United

This summary has not been adopted or officially endorsed by action of the committee.

State Code 32 U.S.C. § 101–908 (2006). Activations under Title 32 law are federally funded if authorized, but are typically state controlled.

PRELIMINARY