

## HB 4091 STAFF MEASURE SUMMARY

### House Committee On Emergency Management and Veterans

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**Action Date:** 02/12/26

**Action:** Without recommendation as to passage and be referred to Rules.

**Vote:** 5-2-0-0

**Yeas:** 5 - Boice, Evans, Grayber, Tran, Watanabe

**Nays:** 2 - Lewis, Skarlatos

**Fiscal:** No fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Beverly Anderson, LPRO Analyst

**Meeting Dates:** 2/3, 2/12

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#### 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 in federal active duty status under the authority of the president. The measure prohibits the governor and other state officials 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 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, and specifies that “immigration duties” do 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 the authority of the president

#### ISSUES DISCUSSED:

- Historic and current legal determinations regarding the federalization of ONG members
- Role of the 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 ONG consists of the Army National Guard and Air National Guard, each of which is capable of performing state and federal functions. Members may be called upon to respond to state-level incidents and natural disasters and may also be deployed to support missions or augment forces of the U.S. Armed Forces.

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The president of the United States may activate National Guard members into federal active service under U.S. Code 10 U.S.C. § 12406 (2006). Activations under Title 10 are federally funded and federally controlled. The governor of Oregon may activate ONG members or units to active service under U.S. Code 32 U.S.C. § 101–908 (2006). Activations under Title 32 law are federally funded if authorized, but are typically state-controlled.