

2009 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3021

STATUS: B-Engrossed

SUBJECT: Clarifying definitions and revising laws relating to emergencies and emergency responders to clarify coverage under Oregon Tort Claims Act and workers' compensation for qualified emergency responders.

GOVERNMENT UNIT AFFECTED: Oregon Military Department, Oregon Judicial Department, Department of Administrative Services, Department of Consumer and Business Services, Department of Human Services, counties

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DATE: June 3, 2009

2009-2011

2011-2013

EXPENDITURES:

See Analysis

EFFECTIVE DATE: January 1, 2010

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: This measure clarifies definitions and revises laws relating to emergencies and emergency responders. The bill provides coverage under Oregon Tort Claims Act and workers' compensation for qualified emergency responders by specifying that:

1. a qualified emergency service volunteer performing emergency service activities under the direction of a public body during a state emergency or during a state of public health emergency is an agent of a public body for the purpose of coverage under Oregon Tort Claims Act. The bill requires the Office of Emergency Management to provide workers' compensation coverage to qualified emergency service volunteers who are injured in the course and scope of performing emergency service activities under the direction of a public body.
2. emergency health care providers who volunteer to perform health care services during a state of emergency or public health emergency are agents of the state for the purpose of coverage under Oregon Tort Claims Act.
3. any county in which a qualified search and rescue volunteer performs search and rescue activities under the direction of the sheriff of the county or the designee of must provide workers' compensation coverage for the qualified search and rescue volunteer. The bill allows a self-insured county to insure volunteers through assigned risk pool without having to insure all county employees.

Passage of this bill would have an indeterminate fiscal impact on Oregon Military Department, Oregon Judicial Department, Department of Administrative Services, Department of Consumer and Business Services, Department of Human Services, and counties. The multiple unknown variables that would determine the fiscal impact include: (1) the frequency and magnitude of declared emergency events; (2) the number of qualified and registered volunteers; (3) the number of volunteers injured; (4) the number of volunteers who might file a workers' compensation claim; (5) number of legal action against the state or county under Oregon Tort Claims Act; and (6) the amount of any awards for damages.

If this bill passes, the Office of Emergency Management (OEM) will have to engage in rulemaking to establish protocols and set up registry for non-medical volunteers in preparation for emergencies. The Oregon Military Department anticipates using existing staffing and resources for rulemaking, as well as establishment and maintenance of the registry.

Current law allows workers' compensation and coverage under Oregon Tort Claims Act for health care providers who volunteer to perform health care services *without compensation*. The inclusion of medical facility staff and operators as agents of the state in an emergency could expand the state's exposure to claims.

Note that typically workers' compensation and tort costs are not eligible for Federal Emergency Management Agency (FEMA) funding. If the bill results in an increase in workers' compensation payments or tort costs, future increases in General Fund risk management charges may be necessary to fund these costs.