

D R A F T

SUMMARY

Changes name of “Oregon State Defense Force” to “Oregon Civil Defense Force.”

Authorizes Superintendent of State Police to form volunteer Oregon State Police Civil Defense Force to provide emergency response and communications, medical assistance, logistical support and other aid.

Authorizes county sheriff to form volunteer County Civil Defense Force for emergency response and communications, medical assistance, logistical support and other aid authorized by sheriff.

A BILL FOR AN ACT

1
2 Relating to civil defense forces; amending ORS 240.015, 396.105, 396.160,
3 396.330, 398.012, 398.420, 399.035, 399.505 and 401.358.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 399.035 is amended to read:

6 399.035. (1) In addition to the federally recognized Oregon National Guard
7 subject to call or order to federal service under laws of the United States,
8 there shall be organized within the state a National Guard Reserve force.
9 Such force shall be known as the Oregon [*State*] **Civil** Defense Force, and
10 shall be composed principally of officers, warrant officers and enlisted per-
11 sons not eligible for general service under federal selective service laws.

12 (2) In time of peace the Oregon [*State*] **Civil** Defense Force shall be
13 maintained at cadre strength in numbers to be determined by the Governor.

14 (3) In time of peace the mission of the Oregon [*State*] **Civil** Defense Force
15 shall be to augment the Oregon National Guard as an internal security force.
16 In time of war, it shall replace the Oregon National Guard as a [*state*] force
17 when the National Guard is ordered into federal service.

1 (4) Whenever laws of the United States authorize the organization of such
2 [*state*] forces under federal recognition, the Governor shall promulgate such
3 regulations as are necessary to comply with such federal laws and obtain
4 federal recognition for the force authorized by this section.

5 **(5) Notwithstanding subsections (1) to (4) of this section:**

6 **(a) The Superintendent of State Police may form a volunteer**
7 **Oregon State Police Civil Defense Force for the purpose of providing**
8 **emergency response and communications, medical assistance, logis-**
9 **tical support and other aid authorized by the superintendent. The su-**
10 **perintendent, in collaboration with the Adjutant General, may assign**
11 **delegate members of the Oregon State Police Civil Defense Force to**
12 **command centers throughout this state.**

13 **(b) The sheriff of a county in this state may form a volunteer**
14 **County Civil Defense Force for the purpose of providing emergency**
15 **response and communications, medical assistance, logistical support**
16 **and other aid authorized by the sheriff.**

17 **(6) Volunteers in the Oregon State Police Civil Defense Force or a**
18 **County Civil Defense Force must possess and demonstrate experience**
19 **or training in the military, law enforcement, communications, rescue**
20 **operations or logistical support.**

21 **(7) Volunteers in the Oregon State Police Civil Defense Force or a**
22 **County Civil Defense Force are not, by virtue of volunteering in the**
23 **force, considered:**

24 **(a) Members of the Oregon Civil Defense Force;**

25 **(b) Employees or volunteers of the state; or**

26 **(c) In “state service,” as that term is defined in ORS 240.015.**

27 **SECTION 2. ORS 240.015 is amended to read:**

28 240.015. As used in this chapter, unless the context clearly requires oth-
29 erwise:

30 (1) “Administrator” means the Administrator of the Personnel Division.

31 (2) “Appointing authority” means an officer or agency having power to

1 make appointments to positions in the state service.

2 (3) "Board" means the Employment Relations Board.

3 (4) "Class" or "classification" means a group of positions in the state
4 classified service sufficiently alike in duties, authority and responsibilities
5 that the same qualifications may reasonably be required for, and the same
6 schedule of pay can be equitably applied to, all positions in the group.

7 (5) "Division" means, except in the phrase "division of the service," the
8 Personnel Division referred to in ORS 240.055.

9 (6) "Division of the service" means a state department or any division or
10 branch thereof, any agency of the state government, or any branch of the
11 state service, all the positions in which are under the same appointing au-
12 thority.

13 (7) "Job-sharing position" means a full-time position in the classified
14 service that is classified as one that may be held by more than one individual
15 on a shared time basis whereby the individuals holding the position work
16 less than full-time.

17 (8) "Regular employee" means an employee who has been appointed to a
18 position in the classified service in accordance with this chapter after com-
19 pleting the trial service period.

20 (9) "State service" means all offices and positions in the employ of the
21 state other than those of commissioned, warrant and enlisted personnel in
22 the military and naval services thereof. However, as provided in ORS
23 396.330, the term includes members of the Oregon National Guard or Oregon
24 [State] **Civil** Defense Force who are not serving pursuant to provisions of
25 Title 10 or 32 of the United States Code and who are employed as state em-
26 ployees in the Oregon Military Department.

27 **SECTION 3.** ORS 396.105 is amended to read:

28 396.105. (1) The militia of the state shall be divided into the organized
29 militia and the unorganized militia.

30 (2) The organized militia shall be composed of the Oregon Army National
31 Guard and the Oregon Air National Guard, which forces together with an

1 inactive National Guard shall comprise the Oregon National Guard; the
2 Oregon [State] **Civil** Defense Force whenever such a [state] force shall be
3 duly organized; and such additional forces as may be created by the Gover-
4 nor.

5 (3) The unorganized militia shall consist of all able-bodied residents of the
6 state between the ages of 18 and 45 who are not serving in any force of the
7 organized militia or who are not on the state retired list and who are or who
8 have declared their intention to become citizens of the United States; sub-
9 ject, however, to such exemptions from military duty as are created by the
10 laws of the United States.

11 **SECTION 4.** ORS 396.160 is amended to read:

12 396.160. (1) The Adjutant General shall be the Director of the Oregon
13 Military Department, and Chief of Staff to the Governor. The Adjutant
14 General shall be the Commander of the Oregon National Guard.

15 (2) The Adjutant General shall be charged, under the direction of the
16 Governor, with the supervision of all matters pertaining to the adminis-
17 tration, discipline, mobilization, organization and training of the Oregon
18 National Guard and the Oregon [State] **Civil** Defense Force, **and shall col-**
19 **laborate with the Superintendent of State Police and any county**
20 **sheriff that has formed a volunteer County Civil Defense Force under**
21 **ORS 399.035.**

22 (3) The Adjutant General shall perform all duties required by the laws
23 of the United States and of the State of Oregon, and the regulations issued
24 thereunder, now or hereafter promulgated.

25 (4) The Adjutant General may employ such deputies, assistants and other
26 personnel as the Adjutant General shall deem necessary to assist the Adju-
27 tant General in the performance of those duties required of the Adjutant
28 General as Director of the Oregon Military Department. The Adjutant Gen-
29 eral shall fix the compensation of such deputies, assistants and other per-
30 sonnel in accordance with then existing state laws, budgetary restrictions
31 and employment policies.

1 (5) The Adjutant General shall supervise the preparation and submission
2 of all returns and reports pertaining to the militia of the state as may be
3 required by the United States.

4 (6) The Adjutant General shall be the channel of official military corre-
5 spondence with the Governor, and shall, on or before November 1 of each
6 year, make a report to the Governor of the transactions, expenditures and
7 condition of the Oregon National Guard. The report shall include the report
8 of the United States Property and Fiscal Officer.

9 (7) The Adjutant General shall be the custodian of records of officers and
10 enlisted personnel and all other records and papers required by law or reg-
11 ulations to be filed in the office of the Adjutant General. The Adjutant
12 General may deposit with the State Archivist for safekeeping in the official
13 custody, records of the office of the Adjutant General that are used for his-
14 torical purposes rather than the administrative purposes assigned to the of-
15 fice of the Adjutant General by law.

16 (8) The Adjutant General shall attest and record all military commissions
17 issued by the Governor and keep a roll of all commissioned officers, with
18 dates of commission and all changes occurring in the commissioned forces.

19 (9) The Adjutant General shall record, authenticate and communicate to
20 troops and individuals of the militia all orders, instructions and regulations.

21 (10) The Adjutant General shall cause to be procured, printed and circu-
22 lated to those concerned all books, blank forms, laws, regulations or other
23 publications governing the militia needful to the proper administration, op-
24 eration and training thereof or to carry into effect the provisions of this
25 chapter and ORS chapters 398 and 399.

26 (11) The Adjutant General shall have an appropriate seal of office and
27 affix its impression to all certificates of record issued from the office of the
28 Adjutant General.

29 (12) The Adjutant General shall render such professional aid and assist-
30 ance and perform such military duties, not otherwise assigned, as may be
31 ordered by the Governor.

1 (13) The Adjutant General shall, in time of peace, perform the duties of
2 quartermaster general and chief of ordnance.

3 (14) The Adjutant General may issue regulations as described in ORS
4 396.125 (1) if authority is delegated to the Adjutant General by the Governor.

5 **SECTION 5.** ORS 396.330 is amended to read:

6 396.330. (1) State employees of the Oregon Military Department who are
7 not otherwise members of the Oregon National Guard may be required as a
8 condition of employment to obtain membership in the Oregon [*State*] **Civil**
9 **Defense Force** when in the judgment of the Adjutant General the membership
10 maintains or enhances the readiness and stability of the department to pro-
11 vide services if the need for Oregon [*State*] **Civil** Defense Force assistance
12 should arise. The decision of the Adjutant General shall be carried out by
13 written regulation and shall not be subject to collective bargaining.

14 (2) Members of the Oregon National Guard or Oregon [*State*] **Civil** De-
15 **fense Force** who are ordered to state active duty under the provisions of ORS
16 chapter 399 shall be considered as being in the military service of the state
17 and shall be considered temporary employees of the military department.

18 (3) State employees of the military department may be ordered to state
19 active duty under ORS chapter 399 without jeopardizing their status as reg-
20 ular employees. Employees so ordered must be in an authorized leave status
21 from their regular military department employment during the period served
22 on active duty.

23 (4) State employees of the military department shall be subject to ORS
24 chapter 240 or 243 when performing as regular employees.

25 (5) Members of the Oregon National Guard who are serving under Title
26 10 or Title 32 of the United States Code are not eligible, by reason of that
27 service, for the rights or benefits of public employees granted or authorized
28 by ORS chapter 236, 237, 238, 238A, 240 or 243. Except as required by federal
29 law or regulation, ORS chapters 652, 653, 654, 656, 657, 659, 659A, 661 and
30 663 do not apply to members of the Oregon National Guard who are serving
31 under Title 10 or Title 32 of the United States Code.

1 **SECTION 6.** ORS 398.012 is amended to read:

2 398.012. (1) The Governor, on the recommendation of the Adjutant Gen-
3 eral, shall appoint an officer of the organized militia as State Judge Adv-
4 cate. To be eligible for appointment as State Judge Advocate, an officer
5 must:

- 6 (a) Be a member in good standing of the Oregon State Bar;
- 7 (b) Have been a member of the Oregon State Bar for at least five years;
- 8 and
- 9 (c) Meet the qualifications for a judge advocate under the Uniform Code
10 of Military Justice, 10 U.S.C. 801 et seq.

11 (2) The Adjutant General may appoint an officer of the organized militia
12 as an Assistant State Judge Advocate. The Adjutant General may appoint
13 as many Assistant State Judge Advocates as the Adjutant General deems
14 necessary. To be eligible for appointment as an Assistant State Judge Adv-
15 cate, an officer must:

- 16 (a) Be a member in good standing of the Oregon State Bar; and
- 17 (b) Meet the qualifications for a judge advocate under the Uniform Code
18 of Military Justice, 10 U.S.C. 801 et seq.

19 (3)(a) The Adjutant General may appoint temporary Assistant State Judge
20 Advocates who are officers of the organized militia. An individual appointed
21 as a temporary Assistant State Judge Advocate has 12 months from the date
22 of appointment to become a member in good standing of the Oregon State
23 Bar and meet the qualifications for a judge advocate under the Uniform Code
24 of Military Justice, 10 U.S.C. 801 et seq.

25 (b) The legal services performed by a temporary Assistant State Judge
26 Advocate are limited to those legal services that may be performed by legal
27 assistants consistent with ORS 9.160.

28 (c) A temporary Assistant State Judge Advocate who has met the re-
29 quirements under this subsection is eligible for appointment as an Assistant
30 State Judge Advocate.

31 (d) The Adjutant General may extend, for an additional 12 months, the

1 time during which a temporary Assistant State Judge Advocate must meet
2 the qualifications described in paragraph (a) of this subsection.

3 (4) The Adjutant General may appoint State Judge Advocate Legal As-
4 sistants for a period not to exceed 12 months. An individual appointed as a
5 State Judge Advocate Legal Assistant shall be an officer of the Oregon
6 [State] **Civil** Defense Force and shall be legally trained but is not required
7 to be admitted to the practice of law by the Supreme Court of this state. The
8 legal services performed by a State Judge Advocate Legal Assistant are
9 limited to those legal services that may be performed by legal assistants
10 consistent with ORS 9.160.

11 (5) The State Judge Advocate, the Senior Force Judge Advocate, as de-
12 fined in the Oregon Code of Military Justice, or their assistants shall make
13 frequent inspections in the field for supervision of the administration of
14 military justice and general military legal matters.

15 (6)(a) Convening authorities shall at all times communicate directly with
16 their judge advocate in matters relating to the administration of military
17 justice and general military legal matters.

18 (b) The judge advocate of any command may communicate directly with
19 the judge advocate of a superior or subordinate command, or with the State
20 Judge Advocate or the Senior Force Judge Advocate, as defined in the
21 Oregon Code of Military Justice.

22 (7) A person who has acted as member, military judge, trial counsel, as-
23 sistant trial counsel, defense counsel, assistant defense counsel or investi-
24 gating officer, or who has been a witness for either the prosecution or
25 defense in any case, may not later act as judge advocate to any reviewing
26 authority upon the same case.

27 (8) A judicial officer, as defined by ORS 1.210, is not prohibited, by reason
28 of holding that office, from:

29 (a) Performing all acts necessary or incumbent to the authorized exercise
30 of duties as a judge advocate or as a member of the Military Council.

31 (b) Being assigned as a judge advocate by the Adjutant General as ap-

1 pointed by the Governor as Commander in Chief under the Oregon Consti-
2 tution.

3 **SECTION 7.** ORS 398.420 is amended to read:

4 398.420. (1) There is established within the Oregon Military Department
5 the Armed Forces Court of Appeals for Oregon.

6 (2) The court shall have exclusive jurisdiction over appeals properly
7 brought under this chapter, the Oregon Code of Military Justice and ORS
8 chapters 396 and 399.

9 (3) The Adjutant General shall appoint three persons who shall serve as
10 judges on the court. The persons appointed shall serve without compensation.

11 (4) One person shall be Chief Judge and two persons shall be Associate
12 Judges. The Chief Judge shall be selected by the three judges. The selection
13 shall be subject to the approval of the Adjutant General.

14 (5)(a) Appointments shall be for a term of six years, except that the initial
15 appointments of the judges shall be for the following terms:

16 (A) One judge shall serve a two-year term.

17 (B) One judge shall serve a four-year term.

18 (C) One judge shall serve a six-year term.

19 (b) The term of office of any successor judges shall be six years, but any
20 judge appointed to fill a vacancy occurring prior to the expiration of the
21 term for which the judge's predecessor was appointed shall be appointed only
22 for the unexpired term of the predecessor.

23 (c) Any person appointed to a full or partial term on the court, unless
24 otherwise disqualified, shall be eligible for reappointment.

25 (6) A person is eligible for appointment to the court if the person:

26 (a) Is a member of the Oregon State Bar and admitted to practice before
27 the highest court of this state;

28 (b) Is a former commissioned officer of the Armed Forces of the United
29 States or the reserve components, or is a former or current member of the
30 Oregon [*State*] Civil Defense Force; and

31 (c) Has at least:

1 (A) Five years' experience as an officer in the Judge Advocate General's
2 Corps; or

3 (B) Fifteen years' experience in the Judge Advocate Branch of the Oregon
4 [State] **Civil** Defense Force.

5 (7) Judges of the court may be removed by the Adjutant General, upon
6 notice and hearing, for neglect of duty or malfeasance in office or for mental
7 or physical disability, but for no other cause.

8 (8) If a judge of the court is temporarily unable to perform the judge's
9 duties due to mental or physical disability, the Adjutant General may des-
10 ignate another person eligible for appointment to the court to fill the office
11 for the period of disability.

12 (9) The Oregon Military Department shall be responsible for reimburse-
13 ment and funding of all usual travel and per diem expenses of the judges.

14 (10) The Adjutant General shall issue regulations to govern appellate
15 procedure before the court. The regulations shall be substantially similar to
16 the provisions for post-trial procedure and review of courts-martial under the
17 Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

18 (11) A party aggrieved by a decision of the Armed Forces Court of Ap-
19 peals for Oregon may petition the Supreme Court of this state for review
20 within 35 days after the date of the decision, in the manner provided by rules
21 of the Supreme Court.

22 (12) As used in this section, "component" includes the Army National
23 Guard, the Air National Guard and the Oregon [State] **Civil** Defense Force.

24 **SECTION 8.** ORS 399.505 is amended to read:

25 399.505. (1) The qualifications for enlistment and reenlistment, the periods
26 of enlistment, reenlistment and voluntary extension of enlistment, the period
27 of service, the form of oath to be taken and the manner and form of transfer
28 and discharge of enlisted personnel of the organized militia shall be those
29 prescribed by applicable federal and state laws and regulations.

30 (2) The Governor is authorized to extend the period of any enlistment,
31 reenlistment, voluntary extension of enlistment or the period of service of

1 enlisted personnel of the Oregon [*State*] **Civil** Defense Force for a period not
2 to exceed six months after the termination of an emergency declared by the
3 Governor, the legislature, the President or Congress.

4 (3) Whenever the period of enlistment, reenlistment, voluntary extension
5 of enlistment, and the period of service of enlisted personnel of the reserve
6 components of the Armed Forces of the United States are extended, the
7 Governor shall extend the period of any enlistment, reenlistment, voluntary
8 extension of enlistment or the period of service of enlisted personnel in the
9 corresponding force of the organized militia for the same period.

10 **SECTION 9.** ORS 401.358 is amended to read:

11 401.358. As used in ORS 401.358 to 401.368:

12 (1) “Emergency service activities” means:

13 (a) The provision of emergency services; and

14 (b) Engaging in training under the direction of a public body, whether
15 by reason of the training being conducted or approved by a public body, for
16 the purpose of preparing qualified emergency service volunteers to perform
17 emergency services.

18 (2) “Qualified emergency service volunteer” means a person who is:

19 (a) Registered with the Office of Emergency Management or other public
20 body to perform emergency service activities;

21 (b) Acknowledged in writing as a qualified emergency service volunteer,
22 at the time the person offers to volunteer during an emergency, by the Office
23 of Emergency Management or by another public body; or

24 (c) A member of the Oregon [*State*] **Civil** Defense Force.

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