

Enrolled
Senate Bill 1000

Sponsored by COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS

CHAPTER

AN ACT

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

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

SECTION 1. ORS 399.035 is amended to read:

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

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

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

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

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

(a) The Superintendent of State Police may form a volunteer Oregon State Police Civil Defense Force for the purpose of providing emergency response and communications, medical assistance, logistical support and other aid authorized by the superintendent. The superintendent, in collaboration with the Adjutant General, may assign delegate members of the Oregon State Police Civil Defense Force to command centers throughout this state.

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

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

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

(A) Members of the Oregon Civil Defense Force;

(B) Employees or volunteers of the state;

(C) In "state service," as that term is defined in ORS 240.015; or

(D) Agents of a public body under ORS 30.260 to 30.300 (Oregon Tort Claims Act) for the purpose of acts and omissions of the volunteer that are within the course and scope of the volunteer's duties.

(b) Unless entitled to compensation, reimbursement, benefits or coverage under any other provision of law, volunteers in the Oregon State Police Civil Defense Force or a County Civil Defense Force are not entitled to compensation, reimbursement for expenses, workers' compensation or other insurance coverage, public employment benefits or entitlements from the Oregon Military Department, the Office of Emergency Management or any other state or local agency or government.

SECTION 2. ORS 240.015 is amended to read:

240.015. As used in this chapter, unless the context clearly requires otherwise:

(1) "Administrator" means the Administrator of the Personnel Division.

(2) "Appointing authority" means an officer or agency having power to make appointments to positions in the state service.

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

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

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

(6) "Division of the service" means a state department or any division or branch thereof, any agency of the state government, or any branch of the state service, all the positions in which are under the same appointing authority.

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

(8) "Regular employee" means an employee who has been appointed to a position in the classified service in accordance with this chapter after completing the trial service period.

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

SECTION 3. ORS 396.105 is amended to read:

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

(2) The organized militia shall be composed of the Oregon Army National Guard and the Oregon Air National Guard, which forces together with an inactive National Guard shall comprise the Oregon National Guard; the Oregon [State] Civil Defense Force whenever such a [state] force shall be duly organized; and such additional forces as may be created by the Governor.

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

SECTION 4. ORS 396.160 is amended to read:

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

(2) The Adjutant General shall be charged, under the direction of the Governor, with the supervision of all matters pertaining to the administration, discipline, mobilization, organization and

training of the Oregon National Guard and the Oregon [State] **Civil Defense Force, and shall collaborate with the Superintendent of State Police and any county sheriff that has formed a volunteer County Civil Defense Force under ORS 399.035.**

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

(4) The Adjutant General may employ such deputies, assistants and other personnel as the Adjutant General shall deem necessary to assist the Adjutant General in the performance of those duties required of the Adjutant General as Director of the Oregon Military Department. The Adjutant General shall fix the compensation of such deputies, assistants and other personnel in accordance with then existing state laws, budgetary restrictions and employment policies.

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

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

(7) The Adjutant General shall be the custodian of records of officers and enlisted personnel and all other records and papers required by law or regulations to be filed in the office of the Adjutant General. The Adjutant General may deposit with the State Archivist for safekeeping in the official custody, records of the office of the Adjutant General that are used for historical purposes rather than the administrative purposes assigned to the office of the Adjutant General by law.

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

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

(10) The Adjutant General shall cause to be procured, printed and circulated to those concerned all books, blank forms, laws, regulations or other publications governing the militia needful to the proper administration, operation and training thereof or to carry into effect the provisions of this chapter and ORS chapters 398 and 399.

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

(12) The Adjutant General shall render such professional aid and assistance and perform such military duties, not otherwise assigned, as may be ordered by the Governor.

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

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

SECTION 5. ORS 396.330 is amended to read:

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

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

(3) State employees of the military department may be ordered to state active duty under ORS chapter 399 without jeopardizing their status as regular employees. Employees so ordered must be

in an authorized leave status from their regular military department employment during the period served on active duty.

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

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

SECTION 6. ORS 398.012 is amended to read:

398.012. (1) The Governor, on the recommendation of the Adjutant General, shall appoint an officer of the organized militia as State Judge Advocate. To be eligible for appointment as State Judge Advocate, an officer must:

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

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

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

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

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

(c) A temporary Assistant State Judge Advocate who has met the requirements under this subsection is eligible for appointment as an Assistant State Judge Advocate.

(d) The Adjutant General may extend, for an additional 12 months, the time during which a temporary Assistant State Judge Advocate must meet the qualifications described in paragraph (a) of this subsection.

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

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

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

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

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

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

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

(b) Being assigned as a judge advocate by the Adjutant General as appointed by the Governor as Commander in Chief under the Oregon Constitution.

SECTION 7. ORS 398.420 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Has at least:

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

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

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

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

(9) The Oregon Military Department shall be responsible for reimbursement and funding of all usual travel and per diem expenses of the judges.

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

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

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

SECTION 8. ORS 399.505 is amended to read:

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

(2) The Governor is authorized to extend the period of any enlistment, reenlistment, voluntary extension of enlistment or the period of service of enlisted personnel of the Oregon [State] Civil Defense Force for a period not to exceed six months after the termination of an emergency declared by the Governor, the legislature, the President or Congress.

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

SECTION 9. ORS 401.358 is amended to read:

401.358. As used in ORS 401.358 to 401.368:

(1) “Emergency service activities” means:

(a) The provision of emergency services; and

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

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

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

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

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

Passed by Senate April 27, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 13, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State