

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3091-01  
Bill No.: HB 1351  
Subject: Veterans; Military Affairs; National Guard  
Type: Original  
Date: January 2, 2020

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Bill Summary: This proposal extends the same liability protections granted to the National Guard to the state defense force.

**FISCAL SUMMARY**

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
State Legal Expense Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §41.500 - Liability protections to the state defense force

Officials from the **Office of Administration - General Services (OA/GS)** state this bill provides that the State Defense Force shall have the same “liability protections” as the National Guard while on duty or “under duty status as defined under §40.005.” The intent of these changes is unclear. Section 40.005 defines “duty status” as including “active state duty and any other type of state military duty, including travel to and from such duty[.]” It is uncertain whether this definition would expand coverage under the Legal Expense Fund to situations or persons not currently covered.

If these changes are interpreted to increase the number of people or situations covered by the Legal Expense Fund (LEF), there could be an increase in costs to the LEF. If a claim were successfully brought, the LEF could be required to pay such claim or claims. However, the number of potential claims, the severity of these claims, and the ultimate costs associated with any settlement or judgment resulting from those claims cannot be forecasted with any degree of assurance to their accuracy.

The state self-assumes its own liability under the state LEF, §105.711, RSMo. It is a self-funding mechanism whereby funds are available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General.

**Oversight** does not have any information contrary to that provided by OA/GS. Therefore, Oversight will reflect OA/GS’s unknown impact for fiscal note purposes to the State Legal Expense Fund.

**Oversight** notes the **Attorney General’s Office**, the **Department of Public Safety - Missouri National Guard** and the **Governor’s Office** have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

**Oversight** notes the Missouri State Defense Force (MSDF), formerly known as the Missouri Reserve Military Force, is the official state defense force of Missouri and is recognized under Missouri law as part of the organized militia of Missouri. The MSDF serves parallel to the Missouri National Guard. Unlike the National Guard, it cannot be federalized or deployed

ASSUMPTION (continued)

outside the borders of Missouri as it falls solely under the command of the state. The MSDF's primary scope is to work alongside the National Guard during state operations or in lieu of the National Guard when the Guard is deployed.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
<b>STATE LEGAL EXPENSE FUND (0692)</b>			
<u>Costs</u> - OA/GS (\$41.500) Potential increase in liability coverage	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE STATE LEGAL EXPENSE FUND</b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>	<b><u>\$0 to</u></b> <b><u>(Unknown)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill extends the liability protections of the National Guard to the state defense force while under duty status, as defined in this bill.


This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office  
Office of Administration -  
General Services  
Department of Public Safety -  
Missouri National Guard  
Governor's Office



Julie Morff  
Director  
January 2, 2020



Ross Strobe  
Assistant Director  
January 2, 2020