



# Senate

General Assembly

**File No. 480**

January Session, 2005

Substitute Senate Bill No. 1010

*Senate, April 21, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE INDEMNIFICATION OF MEMBERS OF THE ARMED FORCES OF THE STATE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-165 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) No state officer or employee shall be personally liable for  
4 damage or injury, not wanton, reckless or malicious, caused in the  
5 discharge of his or her duties or within the scope of his or her  
6 employment. Any person having a complaint for such damage or  
7 injury shall present it as a claim against the state under the provisions  
8 of this chapter.

9 (b) For the purposes of this section, (1) "scope of employment" [shall  
10 include,] includes but is not [be] limited to, (A) representation by an  
11 attorney appointed by the Public Defender Services Commission as a  
12 public defender, assistant public defender or deputy assistant public



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Comptroller - Adjudicated Claims Account	GF - Cost	Potential	Potential
Attorney General	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes the state legally liable for the actions of any member of the armed forces of the state while they are on state active duty. The state must provide legal representation to any one of these individuals in the event that he or she is subject to a civil action related to the discharge of his or her duties. It is anticipated that the Office of the Attorney General could handle any potential caseload increase under the bill without requiring additional resources. However, to the extent that any single action results in a settlement payment or payments, the state could incur a significant cost.

**OLR Bill Analysis**

sSB 1010

***AN ACT CONCERNING THE INDEMNIFICATION OF MEMBERS OF THE ARMED FORCES OF THE STATE*****SUMMARY:**

This bill immunizes state employee members of the state armed forces from personal liability for damage or injury caused when performing military duty on state active duty as long as their actions are not wanton, reckless, or malicious.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Armed Forces of the State***

The armed forces of the state consist of the National Guard, the Governor's Guards, the State Guard, and other military forces the governor designates. (They also include the Naval Militia and Marine Corps branch of the naval militia, but the state does not have a naval militia.)

***Personal Liability***

By law, state officers and employees are not personally liable for damages or injuries caused in the discharge or their duties or within the scope of their employment. This protection does not apply if the officer's or employee's conduct was wanton, reckless, or malicious. "State officers and employees" include every person elected or appointed to or employed in an office, position, or post in state government, regardless of title, classification, function, or compensation (CGS § 4-141).

**COMMITTEE ACTION**

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference  
Yea 13 Nay 0

Judiciary Committee

Joint Favorable Report  
Yea 38 Nay 0