~~Indicates Matter Stricken~~

Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE

May 13, 2009

**S. 225**

Introduced by Senators Knotts and Rose

S. Printed 5/13/09--S.

Read the first time January 13, 2009.

**THE GENERAL COMMITTEE**

To whom was referred a Bill (S. 225) to amend Section 25‑3‑10, Code of Laws of South Carolina, 1976, relating to the establishment of the South Carolina State Guard, so as to authorize, etc., respectfully

**REPORT:**

Has polled the Bill out majority favorable.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Adjutant General's Office and the State Accident Fund report this bill will have no direct fiscal impact on the agencies. However, this bill establishes an unknown liability to the General Fund of the State in the form of secondary liability on each airplane and workers’ compensation benefits for the members. Each participating airplane must have liability insurance of no less than one million dollars. Once this primary insurance has been fully applied, the State of South Carolina and the South Carolina National Guard will be liable under the South Carolina Tort Claims Act. Based on language in section 42-7-50 it is assumed workers’ compensation expenses would be paid directly from the General Fund of the State.

State Budget and Control Board

The board indicates there is no impact to the Insurance Reserve Fund with the adoption of this bill.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 25‑3‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF THE SOUTH CAROLINA STATE GUARD, SO AS TO AUTHORIZE THE ADJUTANT GENERAL TO ESTABLISH AN EMERGENCY AIR WING WITHIN THE STATE GUARD AND PROVIDE FOR THE ORGANIZATION AND DUTIES OF THE EMERGENCY AIR WING AND FOR THE LIABILITY OF AIRPLANES USED BY VOLUNTEER PARTICIPANTS IN THE EMERGENCY AIR WING; TO AMEND SECTION 15‑78‑60, AS AMENDED, RELATING TO EXCEPTIONS TO LIABILITY UNDER THE TORT CLAIMS ACT, SO AS TO PROVIDE THAT THE USE OF ANY VEHICLE OR AIRPLANE OPERATED FOR TRAINING OR DUTY BY THE EMERGENCY AIR WING OF THE STATE GUARD SHALL CONVEY LIABILITY UPON THE SOUTH CAROLINA NATIONAL GUARD, SOUTH CAROLINA STATE GUARD, OR STATE OF SOUTH CAROLINA ONLY AFTER THE REQUIRED LIABILITY INSURANCE ON THE VEHICLE OR AIRPLANE HAS BEEN FULLY APPLIED; AND TO AMEND SECTION 42‑7‑50, RELATING TO POLITICAL SUBDIVISIONS AND OTHER ENTITIES WHICH MAY PARTICIPATE IN THE WORKERS’ COMPENSATION INSURANCE PROGRAM, SO AS TO PROVIDE THAT RECOVERY OF WORKERS’ COMPENSATION BENEFITS BY MEMBERS OF THE EMERGENCY AIR WING OF THE SOUTH CAROLINA STATE GUARD SHALL BE PAYABLE FROM THE GENERAL FUND OF THE STATE OF SOUTH CAROLINA.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 25‑3‑10 of the 1976 Code is amended to read:

“Section 25‑3‑10. (A) A South Carolina State Guard is hereby established. ~~Such~~ This force ~~shall be~~ is additional to and distinct from the National Guard and ~~shall~~ must be known as the South Carolina State Guard. The Adjutant General shall organize and maintain within the State, under such regulations as the Secretary of the Army may prescribe for discipline and training, the South Carolina State Guard with such table of organization and equipment as the Adjutant General ~~may deem~~ considers necessary.

(B) The Adjutant General is further authorized to organize and maintain within the State an organization known as the Emergency Air Wing of the South Carolina State Guard. The organization shall consist of volunteer pilots and flight ground crews interested in providing emergency air support with airplanes owned by private citizens. The Adjutant General shall devise a table of organization, equipment, and regulations to facilitate the purposes of the Emergency Air Wing. The Adjutant General is responsible for training and deciding what duties, responsibilities, and activities the group shall provide in both planes and personnel. The Adjutant General is authorized to prescribe a distinct uniform for the Emergency Air Wing group separate from that of the State Guard. Each airplane participating in any activity of the Emergency Air Wing must have no less than one million dollars in liability insurance as primary coverage in the event of any claim resulting from any training or duty activity. Liability to the South Carolina National Guard and the State of South Carolina under the South Carolina Tort Claims Act is secondary.”

SECTION 2. Section 15‑78‑60(19) of the 1976 Code is amended to read:

“(19) emergency preparedness activities and activities of the South Carolina National Guard and South Carolina State Guard while engaged in state or federal training or duty. This exemption does not apply to vehicular accidents. The use of any vehicle or airplane operated for training or duty by the Emergency Air Wing of the State Guard shall convey liability upon the South Carolina National Guard, South Carolina State Guard, or the State of South Carolina only after the required liability insurance on the vehicle or airplane has been fully applied;”

SECTION 3. Section 42‑7‑50 of the 1976 Code is amended to read:

“Section 42‑7‑50. Any county or municipality in the State or any agency or institution ~~thereof~~ of the State ~~shall have~~ has the option of participating under the provisions of this article, but no county, municipality, agency, or institution ~~thereof~~ of the State ~~shall~~ may be covered by the workers’ compensation insurance provided in this article until payment of the annual charge provided in this title shall have been made to the fund, ~~nor shall any~~ and no county, municipality, agency, or institution ~~thereof~~ of the State may be covered by this insurance after the lapse of the period for which the annual charge has been paid. The director shall notify each county, municipality, agency, or institution ~~thereof~~ of the State at least thirty days before the expiration date of its coverage in order that the county, municipality, agency, or institution may keep its insurance in force continuously. Recovery of workers’ compensation benefits by members of the Emergency Air Wing of the South Carolina State Guard must be payable from the general fund of the State.”

SECTION 4. This act takes effect upon approval by the Governor.

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