

House Bill 2504

Sponsored by Representative THATCHER; Representatives GIROD, OLSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Retired Senior Volunteer Program within Department of Human Services. Permits retired nurses to volunteer their services to county governments or health districts providing local public health services in exchange for department providing health care insurance coverage to retired nurses and, when appropriate, to nurses' spouses.

A BILL FOR AN ACT

1
2 Relating to voluntary service by retired nurses; creating new provisions; and amending ORS 656.027.

3 Whereas many of our most experienced nurses are retiring at an early age; and

4 Whereas many retired nurses are willing and able to provide services to county governments
5 or health districts providing local public health services; and

6 Whereas many retired nurses are not yet eligible for Medicare health plans; and

7 Whereas many retired nurses need to acquire or maintain health care insurance coverage before
8 they are eligible for Medicare health plans; and

9 Whereas the Seventy-fourth Legislative Assembly finds that our state would benefit greatly from
10 a program that encourages retired nurses to make their services available to county governments
11 or health districts providing local public health services; now, therefore,

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

13 **SECTION 1. (1) As used in this section, "volunteer" when used as a noun means a retired**
14 **nurse who volunteers services to a county government or health district providing local**
15 **public health services as described in this section.**

16 **(2) There is established the Retired Senior Volunteer Program within the Department of**
17 **Human Services.**

18 **(3) The purpose of the program is to encourage and assist retired nurses to volunteer**
19 **their services to county governments or health districts providing local public health ser-**
20 **vices in exchange for the department providing health care insurance coverage to the retired**
21 **nurses and, when appropriate, to the nurses' spouses.**

22 **(4) Under the program, the department shall:**

23 **(a) Assist county governments and health districts in providing opportunities to retired**
24 **nurses to volunteer their services to the county governments and health districts.**

25 **(b) Establish and administer a volunteer referral service through which volunteers may**
26 **be registered and referred to county governments and health districts that request the ser-**
27 **vices of volunteers.**

28 **(5) Retired nurses who volunteer through the program may assist and mentor new**
29 **nurses, assist in health clinics and hospitals and provide services that supplement health**
30 **services provided by the county governments or health districts. A county government or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 health district may not use the services of a volunteer to replace or displace paid personnel.

2 (6) In exchange for the services provided by a volunteer, the department, if funds are
 3 available for this purpose and as provided in subsection (8) of this section, shall provide
 4 health care insurance coverage to the volunteer on the following bases:

5 (a) For eight hours per week of volunteer services, the department shall provide health
 6 care insurance coverage to the volunteer on the same terms as the department provides that
 7 coverage to full-time employees.

8 (b) For 12 hours per week of volunteer services, the department shall provide health care
 9 insurance coverage to the volunteer and the volunteer’s spouse on the same terms as the
 10 department provides that coverage to full-time employees and their spouses.

11 (c) A volunteer who provides services for more than 12 hours per week may accrue those
 12 hours and thereby become eligible for health care insurance coverage for up to three years
 13 in which the retired nurse does not provide volunteer services.

14 (d) Health care insurance coverage made available under this section is available only
 15 until the volunteer becomes eligible for Medicare coverage and, for the spouse of a volunteer,
 16 until the spouse becomes eligible for Medicare coverage.

17 (7)(a) A volunteer who provides services as provided in this section is not an employee
 18 of the department, county government or health district, is not employed for purposes of
 19 ORS 653.010 to 653.261, is not a subject worker for purposes of workers’ compensation cov-
 20 erage and is not eligible for unemployment insurance. The department, county government
 21 or health district may require the volunteer to waive any legal cause of action against the
 22 department, county government or health district for any injury or disease arising out of and
 23 in the course of providing the volunteer services.

24 (b) Notwithstanding the provisions of paragraph (a) of this subsection to the contrary,
 25 the department, county government or health district may elect to provide medical-only
 26 workers’ compensation coverage to a volunteer under ORS 656.039.

27 (8) If funds are available for this purpose, the department may provide health care in-
 28 surance coverage to volunteers and their spouses under ORS 243.105 to 243.285, and the vol-
 29 unteers and their spouses are considered “eligible employees” and “family members” as those
 30 terms are defined in ORS 243.105.

31 (9) The department may adopt rules to administer the Retired Senior Volunteer Program.

32 **SECTION 2.** ORS 656.027 is amended to read:

33 656.027. All workers are subject to this chapter except those nonsubject workers described in
 34 the following subsections:

35 (1) A worker employed as a domestic servant in or about a private home. For the purposes of
 36 this subsection “domestic servant” means any worker engaged in household domestic service by
 37 private employment contract, including, but not limited to, home health workers.

38 (2) A worker employed to do gardening, maintenance, repair, remodeling or similar work in or
 39 about the private home of the person employing the worker.

40 (3)(a) A worker whose employment is casual and either:

41 (A) The employment is not in the course of the trade, business or profession of the employer;

42 or

43 (B) The employment is in the course of the trade, business or profession of a nonsubject em-
 44 ployer.

45 (b) For the purpose of this subsection, “casual” refers only to employments where the work in

1 any 30-day period, without regard to the number of workers employed, involves a total labor cost
 2 of less than \$500.

3 (4) A person for whom a rule of liability for injury or death arising out of and in the course of
 4 employment is provided by the laws of the United States.

5 (5) A worker engaged in the transportation in interstate commerce of goods, persons or property
 6 for hire by rail, water, aircraft or motor vehicle, and whose employer has no fixed place of business
 7 in this state.

8 (6) Firefighter and police employees of any city having a population of more than 200,000 that
 9 provides a disability and retirement system by ordinance or charter.

10 (7)(a) Sole proprietors, except those described in paragraph (b) of this subsection. When labor
 11 or services are performed under contract, the sole proprietor must qualify as an independent con-
 12 tractor.

13 (b) Sole proprietors actively registered under ORS 671.525 or licensed under ORS 701.035. When
 14 labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (30),
 15 the sole proprietor must qualify as an independent contractor. Any sole proprietor registered under
 16 ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclusively
 17 presumed to be an independent contractor.

18 (8) Except as provided in subsection (23) of this section, partners who are not engaged in work
 19 performed in direct connection with the construction, alteration, repair, improvement, moving or
 20 demolition of an improvement on real property or appurtenances thereto. When labor or services
 21 are performed under contract, the partnership must qualify as an independent contractor.

22 (9) Except as provided in subsection (25) of this section, members, including members who are
 23 managers, of limited liability companies, regardless of the nature of the work performed. However,
 24 members, including members who are managers, of limited liability companies with more than one
 25 member, while engaged in work performed in direct connection with the construction, alteration,
 26 repair, improvement, moving or demolition of an improvement on real property or appurtenances
 27 thereto, are subject workers. When labor or services are performed under contract, the limited li-
 28 ability company must qualify as an independent contractor.

29 (10) Except as provided in subsection (24) of this section, corporate officers who are directors
 30 of the corporation and who have a substantial ownership interest in the corporation, regardless of
 31 the nature of the work performed by such officers, subject to the following limitations:

32 (a) If the activities of the corporation are conducted on land that receives farm use tax assess-
 33 ment pursuant to ORS chapter 308A, corporate officer includes all individuals identified as directors
 34 in the corporate bylaws, regardless of ownership interest, and who are members of the same family,
 35 whether related by blood, marriage or adoption.

36 (b) If the activities of the corporation involve the commercial harvest of timber and all officers
 37 of the corporation are members of the same family and are parents, daughters or sons, daughters-
 38 in-law or sons-in-law or grandchildren, then all such officers may elect to be nonsubject workers.
 39 For all other corporations involving the commercial harvest of timber, the maximum number of ex-
 40 empt corporate officers for the corporation shall be whichever is the greater of the following:

41 (A) Two corporate officers; or

42 (B) One corporate officer for each 10 corporate employees.

43 (c) When labor or services are performed under contract, the corporation must qualify as an
 44 independent contractor.

45 (11) A person performing services primarily for board and lodging received from any religious,

1 charitable or relief organization.

2 (12) A newspaper carrier utilized in compliance with the provisions of ORS 656.070 and 656.075.

3 (13) A person who has been declared an amateur athlete under the rules of the United States
 4 Olympic Committee or the Canadian Olympic Committee and who receives no remuneration for
 5 performance of services as an athlete other than board, room, rent, housing, lodging or other rea-
 6 sonable incidental subsistence allowance, or any amateur sports official who is certified by a re-
 7 cognized Oregon or national certifying authority, which requires or provides liability and accident
 8 insurance for such officials. A roster of recognized Oregon and national certifying authorities will
 9 be maintained by the Department of Consumer and Business Services, from lists of certifying or-
 10 ganizations submitted by the Oregon School Activities Association and the Oregon Park and Re-
 11 creation Society.

12 (14) Volunteer personnel participating in the ACTION programs, organized under the Domestic
 13 Volunteer Service Act of 1973, P.L. 93-113, known as the Foster Grandparent Program and the
 14 Senior Companion Program, whether or not the volunteers receive a stipend or nominal reimburse-
 15 ment for time and travel expenses.

16 (15) A person who has an ownership or leasehold interest in equipment and who furnishes,
 17 maintains and operates the equipment. As used in this subsection "equipment" means:

18 (a) A motor vehicle used in the transportation of logs, poles or piling.

19 (b) A motor vehicle used in the transportation of rocks, gravel, sand, dirt or asphalt concrete.

20 (c) A motor vehicle operated as a taxicab as defined in ORS 825.017.

21 (d) A motor vehicle used in the transportation of property by a for-hire motor carrier that is
 22 required under ORS 825.100 or 825.104 to possess a certificate or permit.

23 (16) A person engaged in the transportation of the public for recreational down-river boating
 24 activities on the waters of this state pursuant to a federal permit when the person furnishes the
 25 equipment necessary for the activity. As used in this subsection, "recreational down-river boating
 26 activities" means those boating activities for the purpose of recreational fishing, swimming or
 27 sightseeing utilizing a float craft with oars or paddles as the primary source of power.

28 (17) A person who performs volunteer ski patrol activities who receives no wage other than
 29 noncash remuneration.

30 (18) A person 19 years of age or older who contracts with a newspaper publishing company or
 31 independent newspaper dealer or contractor to distribute newspapers to the general public and
 32 perform or undertake any necessary or attendant functions related thereto.

33 (19) A person performing foster parent or adult foster care duties pursuant to ORS chapter 411,
 34 418, 430 or 443.

35 (20) A person performing services on a volunteer basis for a nonprofit, religious, charitable or
 36 relief organization, whether or not such person receives meals or lodging or nominal reimbursements
 37 or vouchers for meals, lodging or expenses.

38 (21) A person performing services under a property tax work-off program established under ORS
 39 310.800.

40 (22) A person who performs service as a caddy at a golf course in an established program for
 41 the training and supervision of caddies under the direction of a person who is an employee of the
 42 golf course.

43 (23)(a) Partners who are actively registered under ORS 671.525 or licensed under ORS 701.035
 44 and who have a substantial ownership interest in a partnership. If all partners are members of the
 45 same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-

1 in-law or grandchildren, all such partners may elect to be nonsubject workers. For all other part-
 2 nerships registered under ORS 671.510 to 671.710 or licensed under ORS chapter 701, the maximum
 3 number of exempt partners shall be whichever is the greater of the following:

4 (A) Two partners; or

5 (B) One partner for each 10 partnership employees.

6 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
 7 656.005 (30), the partnership qualifies as an independent contractor. Any partnership registered un-
 8 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-
 9 sively presumed to be an independent contractor.

10 (24)(a) Corporate officers who are directors of a corporation actively registered under ORS
 11 671.525 or licensed under ORS 701.035 and who have a substantial ownership interest in the corpo-
 12 ration, regardless of the nature of the work performed. If all officers of the corporation are members
 13 of the same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law
 14 or sons-in-law or grandchildren, all such officers may elect to be nonsubject workers. For all other
 15 corporations registered under ORS 671.510 to 671.710 or licensed under ORS chapter 701, the maxi-
 16 mum number of exempt corporate officers shall be whichever is the greater of the following:

17 (A) Two corporate officers; or

18 (B) One corporate officer for each 10 corporate employees.

19 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
 20 656.005 (30), the corporation qualifies as an independent contractor. Any corporation registered un-
 21 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-
 22 sively presumed to be an independent contractor.

23 (25)(a) Limited liability company members who are members of a company actively registered
 24 under ORS 671.525 or licensed under ORS 701.035 and who have a substantial ownership interest in
 25 the company, regardless of the nature of the work performed. If all members of the company are
 26 members of the same family and are parents, spouses, sisters, brothers, daughters or sons,
 27 daughters-in-law or sons-in-law or grandchildren, all such members may elect to be nonsubject
 28 workers. For all other companies registered under ORS 671.510 to 671.710 or licensed under ORS
 29 chapter 701, the maximum number of exempt company members shall be whichever is the greater
 30 of the following:

31 (A) Two company members; or

32 (B) One company member for each 10 company employees.

33 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
 34 656.005 (30), the company qualifies as an independent contractor. Any company registered under
 35 ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclusively
 36 presumed to be an independent contractor.

37 (26) A person serving as a referee or assistant referee in a youth or adult recreational soccer
 38 match whose services are retained on a match-by-match basis.

39 (27) A person performing language translator or interpreter services that are provided for others
 40 through an agent or broker.

41 **(28) A retired nurse who provides volunteer services under section 1 of this 2007 Act and**
 42 **who receives no compensation except health care insurance coverage.**