

House Bill 2505

Sponsored by Representative THATCHER; Representatives GIROD, KRIEGER, OLSON, Senator L GEORGE

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 State Police. Permits retired state police officers to volunteer their services to department in exchange for department providing health care insurance coverage to retired officers and, when appropriate, to officers' spouses.

A BILL FOR AN ACT

1
2 Relating to voluntary service by retired state police officers; creating new provisions; and amending
3 ORS 656.027.

4 Whereas many of our most experienced state police officers are retiring at an early age; and

5 Whereas many retired state police officers are willing and able to provide services to the De-
6 partment of State Police; and

7 Whereas many retired state police officers are not yet eligible for Medicare health plans; and

8 Whereas many retired state police officers need to acquire or maintain health care insurance
9 coverage before they are eligible for Medicare health plans; and

10 Whereas the Seventy-fourth Legislative Assembly finds that our state would benefit greatly from
11 a program that encourages retired state police officers to make their services available to the De-
12 partment of State Police; now, therefore,

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

14 **SECTION 1. (1) As used in this section, "volunteer" when used as a noun means a retired**
15 **state police officer who volunteers services to the Department of State Police as described**
16 **in this section.**

17 **(2) There is established the Retired Senior Volunteer Program within the department.**

18 **(3) The purpose of the program is to encourage and assist retired state police officers to**
19 **volunteer their services to the department in exchange for the department providing health**
20 **care insurance coverage to the officers and, when appropriate, to the officers' spouses.**

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

22 **(a) Provide opportunities to retired state police officers to volunteer their services to the**
23 **department.**

24 **(b) Establish and administer a volunteer referral service through which volunteers may**
25 **be registered and referred to department offices that request the services of volunteers.**

26 **(5) Retired state police officers who volunteer through the program may assist, mentor**
27 **and train new state police officers, accompany patrol officers, assist in the administration**
28 **of department programs and provide services that supplement services provided by the de-**
29 **partment. The department may not use the services of a volunteer to replace or displace paid**
30 **personnel.**

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

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

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

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

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

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

22 **(b) Notwithstanding the provisions of paragraph (a) of this subsection to the contrary,**
 23 **the department may elect to provide medical-only workers’ compensation coverage to a vol-**
 24 **unteer under ORS 656.039.**

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

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

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

31 656.027. All workers are subject to this chapter except those nonsubject workers described in
 32 the following subsections:

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

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

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

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

40 or

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

43 (b) For the purpose of this subsection, “casual” refers only to employments where the work in
 44 any 30-day period, without regard to the number of workers employed, involves a total labor cost
 45 of less than \$500.

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

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

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

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

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

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

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

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

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

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

39 (A) Two corporate officers; or

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

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

43 (11) A person performing services primarily for board and lodging received from any religious,
 44 charitable or relief organization.

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

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

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

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

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

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

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

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

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

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

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

31 (19) A person performing foster parent or adult foster care duties pursuant to ORS chapter 411,
 32 418, 430 or 443.

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

36 (21) A person performing services under a property tax work-off program established under ORS
 37 310.800.

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

41 (23)(a) Partners who are actively registered under ORS 671.525 or licensed under ORS 701.035
 42 and who have a substantial ownership interest in a partnership. If all partners are members of the
 43 same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-
 44 in-law or grandchildren, all such partners may elect to be nonsubject workers. For all other part-
 45 nerships registered under ORS 671.510 to 671.710 or licensed under ORS chapter 701, the maximum

1 number of exempt partners shall be whichever is the greater of the following:

- 2 (A) Two partners; or
- 3 (B) One partner for each 10 partnership employees.

4 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
5 656.005 (30), the partnership qualifies as an independent contractor. Any partnership registered un-
6 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-
7 sively presumed to be an independent contractor.

8 (24)(a) Corporate officers who are directors of a corporation actively registered under ORS
9 671.525 or licensed under ORS 701.035 and who have a substantial ownership interest in the corpo-
10 ration, regardless of the nature of the work performed. If all officers of the corporation are members
11 of the same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law
12 or sons-in-law or grandchildren, all such officers may elect to be nonsubject workers. For all other
13 corporations registered under ORS 671.510 to 671.710 or licensed under ORS chapter 701, the maxi-
14 mum number of exempt corporate officers shall be whichever is the greater of the following:

- 15 (A) Two corporate officers; or
- 16 (B) One corporate officer for each 10 corporate employees.

17 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
18 656.005 (30), the corporation qualifies as an independent contractor. Any corporation registered un-
19 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-
20 sively presumed to be an independent contractor.

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

- 29 (A) Two company members; or
- 30 (B) One company member for each 10 company employees.

31 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS
32 656.005 (30), the company qualifies as an independent contractor. Any company registered under
33 ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclusively
34 presumed to be an independent contractor.

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

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

39 **(28) A retired state police officer who provides volunteer services under section 1 of this**
40 **2007 Act and who receives no compensation except health care insurance coverage.**