

House Bill 2506

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 Education. Permits retired teachers to volunteer their services to public school districts in exchange for school districts or Department of Education providing health care insurance coverage to retired teachers and, when appropriate, to teachers' spouses.

A BILL FOR AN ACT

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

4 Whereas many of our most experienced teachers are retiring at an early age; and

5 Whereas many retired teachers are willing and able to provide services to our school districts
6 and students; and

7 Whereas many retired teachers are not yet eligible for Medicare health plans; and

8 Whereas many retired teachers need to acquire or maintain health care insurance coverage
9 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 teachers to make their services available our school districts and
12 students; 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 **teacher who volunteers services to a public school district as described in this section.**

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

18 **(3) The purpose of the program is to encourage and assist retired teachers to volunteer**
19 **their services to public school districts in exchange for the school districts or the depart-**
20 **ment providing health care insurance coverage to the retired teachers and, when appropri-**
21 **ate, to the teachers' spouses.**

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

23 **(a) Assist public school districts, including common school districts and union high**
24 **school districts, in providing opportunities to retired teachers to volunteer their services to**
25 **the school districts.**

26 **(b) Establish and administer a volunteer referral service through which volunteers may**
27 **be registered and referred to public school districts that request the services of volunteers.**

28 **(5) Retired teachers who volunteer through the program may assist and mentor new**
29 **teachers, assist in classrooms and provide services that supplement course offerings and**
30 **reduce class sizes. A school district may not use the services of a volunteer to replace 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 **displace paid personnel.**

2 **(6) In exchange for the services provided by a volunteer, a school district, or the de-**
 3 **partment if funds are available for this purpose, shall provide health care insurance coverage**
 4 **to the volunteer on the following bases:**

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

8 **(b) For 12 hours per week of volunteer services, the school district shall provide health**
 9 **care insurance coverage to the volunteer and the volunteer’s spouse on the same terms as**
 10 **the district provides that coverage to full-time teachers 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 teacher 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 school district or the department, is not employed for purposes of ORS 653.010 to**
 19 **653.261, is not a subject worker for purposes of workers’ compensation coverage and is not**
 20 **eligible for unemployment insurance. A school district may require the volunteer to waive**
 21 **any legal cause of action against the district for any injury or disease arising out of and in**
 22 **the course of providing the volunteer services.**

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

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

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

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

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

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

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

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

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

41 **or**

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

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

1 of less than \$500.

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

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

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

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

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

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

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

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

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

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

40 (A) Two corporate officers; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 nerships registered under ORS 671.510 to 671.710 or licensed under ORS chapter 701, the maximum
 2 number of exempt partners shall be whichever is the greater of the following:

3 (A) Two partners; or

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

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

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

16 (A) Two corporate officers; or

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

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

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

30 (A) Two company members; or

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

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

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

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

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

42