

# House Bill 2616

Sponsored by Representative G SMITH

## 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 Oregon Department of Administrative Services. Permits retired individuals to volunteer their services to certain public bodies and nonprofit organizations in eastern Oregon in exchange for department providing health care insurance coverage to volunteers and, when appropriate, to volunteers' spouses.

## A BILL FOR AN ACT

1  
2 Relating to voluntary service in eastern Oregon by retired individuals; creating new provisions; and  
3 amending ORS 656.027.

4 Whereas many of our most experienced residents, including teachers, nurses and police officers,  
5 are retiring at an early age; and

6 Whereas many retired individuals are willing and able to provide services to our schools and  
7 students, to our local governments and nonprofit agencies providing educational or public health  
8 services and to our law enforcement agencies; and

9 Whereas many retired individuals are not yet eligible for Medicare health plans; and

10 Whereas many retired individuals need to acquire or maintain health care insurance coverage  
11 before they are eligible for Medicare health plans; and

12 Whereas the Seventy-fourth Legislative Assembly finds that residents in eastern Oregon would  
13 benefit greatly from a program that encourages retired individuals to make their services available;  
14 now, therefore,

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

16 **SECTION 1. (1) As used in this section:**

17 (a) **"Nonprofit organization" means an organization, or group of organizations, described**  
18 **in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under**  
19 **section 501(a) of the Internal Revenue Code and that provides educational or public health**  
20 **services.**

21 (b) **"Public body" means a public body, as defined in ORS 174.109, that provides educa-**  
22 **tional, public health or public safety services.**

23 (c) **"Volunteer" when used as a noun means a retired individual who volunteers services**  
24 **as described in this section.**

25 (2) **There is established the Retired Senior Volunteer Program within the Oregon De-**  
26 **partment of Administrative Services.**

27 (3) **The purpose of the program is to encourage and help retired individuals to volunteer**  
28 **their services in eastern Oregon to schools, to local governments and nonprofit agencies**  
29 **providing educational or public health services and to law enforcement agencies in exchange**  
30 **for the department providing health care insurance coverage to the retired individuals and,**

**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 when appropriate, to the individuals' spouses.

2 (4) Under the program, the department shall:

3 (a) Assist public bodies and nonprofit organizations in eastern Oregon in providing op-  
4 portunities to retired individuals to volunteer their services.

5 (b) Establish and administer a volunteer referral service through which volunteers may  
6 be registered and referred to public bodies and nonprofit organizations that request the ser-  
7 vices of volunteers.

8 (5) The services that retired individuals who volunteer through the program may perform  
9 include, but are not limited to:

10 (a) Assisting, mentoring or training teachers, assisting in classrooms and providing ser-  
11 vices that supplement course offerings and reduce class sizes.

12 (b) Assisting, mentoring or training nurses, assisting in health clinics and hospitals and  
13 providing services that supplement health services provided by the public body or nonprofit  
14 organization.

15 (c) Assisting, mentoring or training law enforcement officers, accompanying patrol offi-  
16 cers, assisting in the administration of law enforcement programs and providing services  
17 that supplement law enforcement services provided by the public body.

18 (6) A public body or nonprofit organization may not use the services of a volunteer to  
19 replace or displace paid personnel.

20 (7) In exchange for the services provided by a volunteer, the department, if funds are  
21 available for this purpose, shall provide health care insurance coverage to the volunteer on  
22 the following bases:

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

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

30 (c) A volunteer who provides services for more than 12 hours per week may accumulate  
31 those hours and thereby become eligible for health care insurance coverage for up to three  
32 years during which the volunteer does not provide services.

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

36 (8)(a) A volunteer who provides services as provided in this section is not an employee  
37 of the department or the public body or nonprofit organization to which the volunteer pro-  
38 vides services, is not employed for purposes of ORS 653.010 to 653.261, is not a subject worker  
39 for purposes of workers' compensation coverage and is not eligible for unemployment insur-  
40 ance. The department may require the volunteer to waive any legal cause of action against  
41 the department or the public body or nonprofit organization to which the volunteer provides  
42 services for any injury or disease arising out of and in the course of providing the volunteer  
43 services.

44 (b) Notwithstanding the provisions of paragraph (a) of this subsection to the contrary,  
45 the department or the public body or nonprofit organization may elect to provide medical-

1 **only workers' compensation coverage to a volunteer under ORS 656.039.**

2 **(9) If funds are available for this purpose, the department may provide health care in-**  
 3 **surance coverage to volunteers and their spouses under ORS 243.105 to 243.285, and the vol-**  
 4 **unteers and their spouses are considered "eligible employees" and "family members" as those**  
 5 **terms are defined in ORS 243.105.**

6 **(10) The department may adopt rules to administer the Retired Senior Volunteer Pro-**  
 7 **gram.**

8 **(11) This section applies only to public bodies and nonprofit organizations that have of-**  
 9 **fices and provide services east of the summit of the Cascade Mountains. As used in this**  
 10 **subsection, "summit of the Cascade Mountains" means a line beginning at the intersection**  
 11 **of the northern boundary of the State of Oregon and the western boundary of Wasco County,**  
 12 **thence southerly along the western boundaries of the counties of Wasco, Jefferson,**  
 13 **Deschutes and Klamath to the southern boundary of the State of Oregon.**

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

15 656.027. All workers are subject to this chapter except those nonsubject workers described in  
 16 the following subsections:

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

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

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

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

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

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

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

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

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

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

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

45 (8) Except as provided in subsection (23) of this section, partners who are not engaged in work

1 performed in direct connection with the construction, alteration, repair, improvement, moving or  
2 demolition of an improvement on real property or appurtenances thereto. When labor or services  
3 are performed under contract, the partnership must qualify as an independent contractor.

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

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

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

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

23 (A) Two corporate officers; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (19) A person performing foster parent or adult foster care duties pursuant to ORS chapter 411,  
16 418, 430 or 443.

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

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

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

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

31 (A) Two partners; or

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

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

37 (24)(a) Corporate officers who are directors of a corporation actively registered under ORS  
38 671.525 or licensed under ORS 701.035 and who have a substantial ownership interest in the corpo-  
39 ration, regardless of the nature of the work performed. If all officers of the corporation are members  
40 of the same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law  
41 or sons-in-law or grandchildren, all such officers may elect to be nonsubject workers. For all other  
42 corporations registered under ORS 671.510 to 671.710 or licensed under ORS chapter 701, the maxi-  
43 mum number of exempt corporate officers shall be whichever is the greater of the following:

44 (A) Two corporate officers; or

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

1 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS  
2 656.005 (30), the corporation qualifies as an independent contractor. Any corporation registered un-  
3 der ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclu-  
4 sively presumed to be an independent contractor.

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

13 (A) Two company members; or

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

15 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS  
16 656.005 (30), the company qualifies as an independent contractor. Any company registered under  
17 ORS 671.525 or licensed under ORS 701.035 and involved in activities subject thereto is conclusively  
18 presumed to be an independent contractor.

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

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

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

25