

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Devlin, George G., Prozanski, Winters, Westlund
Nays:	0
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	2/18

WHAT THE MEASURE DOES: Exempts certain persons providing volunteer ski activity services from minimum wage standards, mandatory workers' compensation coverage and certain unemployment compensation taxation requirements. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Background behind Oregon Court of Appeals decision of *Mount Bachelor Sports Education Foundation v. Employment Department*
- Number of ski areas in Oregon affiliated with National Ski Patrol
- Types of activities performed by classes of volunteers identified in the measure
- Whether monetary value of ski passes is below the current federal threshold of \$50
- Difference between professional and nonprofessional ski patrollers

EFFECT OF COMMITTEE AMENDMENT: Clarifies that the minimum wage exemption includes nonprofessional ski patrollers who are registered with a similar nonprofit ski patrol organization to the National Ski Patrol. Clarifies within the minimum wage exemption that volunteers are performing services for races sponsored by nonprofit corporations.

BACKGROUND: House Bill 3632 B is a legislative response to the Oregon Court of Appeals decision for *Mount Bachelor Sports Education Foundation (MBSEF) v. Employment Department*. A MBSEF volunteer included in an unemployment benefits claim a ski pass received for providing volunteer services. The Employment Department issued a tax assessment for the same amount the foundation would have been assessed if the volunteer was an employee. MBSEF contested the tax assessment on the grounds that the volunteer was not an employee, which was upheld by the Employment Department's administrative law judge. The Court of Appeals upheld the ruling, stating that MBSEF had paid "wages" to the volunteer in the form of a season pass, making the foundation subject to unemployment tax.

The measure clarifies that nonprofessional ski patrollers and volunteers who perform services related to races sponsored by nonprofit corporations and receive no wages other than ski passes for performing these services are exempted from minimum wage statutes; these same classes of volunteers are also exempt from mandatory workers' compensation coverage if they receive no wages other than ski passes or other noncash remuneration; and volunteers who provide skiing services to a nonprofit entity and receive no wages other than ski passes are exempted from unemployment tax only if the value of the passes does not exceed the current federal threshold of \$50 in any calendar quarter, or the established threshold amount if the federal code changes.

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This summary has not been adopted or officially endorsed by action of the committee.