

# House Bill 2762

Sponsored by Representative THATCHER (Pre-session filed.)

## 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 Oregon Retired Senior Volunteer Program within Department of State Police.  
Permits retired state police officers to volunteer in exchange for health care insurance coverage for themselves and, when appropriate, their 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-sixth 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" means a retired state police officer**  
15 **who volunteers services to the Department of State Police as described in this section.**

16 **(2) There is established the Oregon Retired Senior Volunteer Program within the De-**  
17 **partment of State Police.**

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 health care insurance coverage**  
20 **for the volunteers and, when appropriate, the volunteers' 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; and**

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) Under the program, the department may use volunteers to assist, mentor and train**  
27 **new state police officers, accompany patrol officers, assist in the administration of depart-**  
28 **ment programs and provide services that supplement services provided by the department.**  
29 **The department may not use the services of a volunteer to replace or displace paid person-**  
30 **nel.**

31 **(6)(a) If funds are available for this purpose, the department may provide health care**

**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 insurance coverage to volunteers and their spouses under ORS 243.105 to 243.285, and the  
 2 volunteers and their spouses are considered “eligible employees” and “family members” as  
 3 those terms are defined in ORS 243.105.

4 (b) The department shall provide health care insurance coverage to volunteers under  
 5 paragraph (a) of this subsection on the following basis:

6 (A) For eight hours per week of volunteer services, coverage to volunteers on the same  
 7 terms as to full-time employees.

8 (B) For 12 hours per week of volunteer services, coverage to volunteers and their spouses  
 9 on the same terms as 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 the volun-  
 15 teer, 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 paragraph (a) of this subsection and ORS 656.027, the department  
 23 may make a volunteer a subject worker under ORS 656.039. However, if the department  
 24 makes a volunteer a subject worker under this paragraph, the volunteer is entitled to receive  
 25 only compensable medical services described in ORS 656.245.

26 (8) The department may adopt rules to administer the Oregon Retired Senior Volunteer  
 27 Program.

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

29 656.027. All workers are subject to this chapter except those nonsubject workers described in  
 30 the following subsections:

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

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

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

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

38 or

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

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

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

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

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

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

9 (b) Sole proprietors actively licensed under ORS 671.525 or 701.021. When labor or services are  
10 performed under contract for remuneration, notwithstanding ORS 656.005 (30), the sole proprietor  
11 must qualify as an independent contractor. Any sole proprietor licensed under ORS 671.525 or  
12 701.021 and involved in activities subject thereto is conclusively presumed to be an independent  
13 contractor.

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

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

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

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

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

37 (A) Two corporate officers; or

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

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

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

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

44 (13) A person who has been declared an amateur athlete under the rules of the United States  
45 Olympic Committee or the Canadian Olympic Committee and who receives no remuneration for

1 performance of services as an athlete other than board, room, rent, housing, lodging or other rea-  
2 sonable incidental subsistence allowance, or any amateur sports official who is certified by a re-  
3 cognized Oregon or national certifying authority, which requires or provides liability and accident  
4 insurance for such officials. A roster of recognized Oregon and national certifying authorities will  
5 be maintained by the Department of Consumer and Business Services, from lists of certifying or-  
6 ganizations submitted by the Oregon School Activities Association and the Oregon Park and Re-  
7 creation Society.

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

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

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

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

16 (c) A motor vehicle used in the transportation of property by a for-hire motor carrier that is  
17 required under ORS 825.100 or 825.104 to possess a certificate or permit or to be registered.

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

23 (17) A person who receives no wage other than ski passes or other noncash remuneration for  
24 performing volunteer:

25 (a) Ski patrol activities; or

26 (b) Ski area program activities sponsored by a ski area operator, as defined in ORS 30.970, or  
27 by a nonprofit corporation or organization.

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 412.001 to*  
32 *412.161 and 412.991 or*] ORS chapter [*411,*] 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 licensed under ORS 671.525 or 701.021 and who have a sub-  
42 stantial ownership interest in a partnership. If all partners are members of the same family and are  
43 parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchil-  
44 dren, all such partners may elect to be nonsubject workers. For all other partnerships licensed un-  
45 der ORS 671.510 to 671.760 or 701.021, the maximum number of exempt partners shall be whichever

1 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 licensed under  
6 ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an  
7 independent contractor.

8 (24)(a) Corporate officers who are directors of a corporation actively licensed under ORS 671.525  
9 or 701.021 and who have a substantial ownership interest in the corporation, regardless of the na-  
10 ture of the work performed. If all officers of the corporation are members of the same family and  
11 are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grand-  
12 children, all such officers may elect to be nonsubject workers. For all other corporations licensed  
13 under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt corporate officers shall  
14 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 licensed under  
19 ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an  
20 independent contractor.

21 (25)(a) Limited liability company members who are members of a company actively licensed un-  
22 der ORS 671.525 or 701.021 and who have a substantial ownership interest in the company, regard-  
23 less of the nature of the work performed. If all members of the company are members of the same  
24 family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law  
25 or grandchildren, all such members may elect to be nonsubject workers. For all other companies  
26 licensed under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt company members  
27 shall be whichever is the greater of the following:

28 (A) Two company members; or

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

30 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS  
31 656.005 (30), the company qualifies as an independent contractor. Any company licensed under ORS  
32 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an in-  
33 dependent contractor.

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

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

38 (28) A person who operates, and who has an ownership or leasehold interest in, a passenger  
39 motor vehicle that is operated as a taxicab or for nonemergency medical transportation. As used in  
40 this subsection:

41 (a) "Lease" means a contract under which the lessor provides a vehicle to a lessee for consid-  
42 eration.

43 (b) "Leasehold" includes, but is not limited to, a lease for a shift or a longer period.

44 (c) "Passenger motor vehicle that is operated as a taxicab" means a vehicle that:

45 (A) Has a passenger seating capacity that does not exceed seven persons;

- 1 (B) Is transporting persons, property or both on a route that begins or ends in Oregon; and
  - 2 (C)(i) Carries passengers for hire when the destination and route traveled may be controlled by
  - 3 a passenger and the fare is calculated on the basis of any combination of an initial fee, distance
  - 4 traveled or waiting time; or
  - 5 (ii) Is in use under a contract to provide specific service to a third party to transport designated
  - 6 passengers or to provide errand services to locations selected by the third party.
  - 7 (d) "Passenger motor vehicle that is operated for nonemergency medical transportation" means
  - 8 a vehicle that:
    - 9 (A) Has a passenger seating capacity that does not exceed seven persons;
    - 10 (B) Is transporting persons, property or both on a route that begins or ends in Oregon; and
    - 11 (C) Provides medical transportation services under contract with or on behalf of a mass transit
    - 12 or transportation district.
  - 13 **(29) A retired state police officer who provides volunteer services under section 1 of this**
  - 14 **2011 Act and who receives no compensation other than health care insurance coverage.**
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