

House Bill 3383

Sponsored by Representatives CLEM, VIAL; Representatives BARKER, BOONE, BUEHLER, DOHERTY, ESQUIVEL, EVANS, GOMBERG, GORSEK, HACK, HAYDEN, HEARD, HUFFMAN, JOHNSON, KENNEMER, LEWIS, LIVELY, MCKEOWN, MCLANE, NEARMAN, NOBLE, OLSON, PARRISH, POST, REARDON, RESCHKE, SMITH DB, SMITH G, SOLLMAN, SPRENGER, STARK, WHISNANT, WILSON

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 refundable tax credit against income or corporate excise taxes for employers in specified industrial sectors for wages paid to employees at or below specified rate. Modifies amount of credit based on year in which wages are paid. Disallows credit if employer is penalized for failing to comply with Oregon occupational safety and health laws and rules. Prohibits employer from receiving credit if employer has reduced wages with intention to qualify for credit. Limits total amount of credit that may be claimed per fiscal year.

Applies to tax years beginning on or after January 1, 2017, and before January 1, 2027.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to minimum wage tax credits; creating new provisions; amending ORS 314.752, 316.502,
3 317.850 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **“Fair Labor Standards Act” means the federal Fair Labor Standards Act of 1938 (29**
8 **U.S.C. 201 et seq.), as amended and in effect on the effective date of this 2017 Act.**

9 (b) **“Qualifying employer” means an employer that operates in the following industries**
10 **as categorized by the North American Industry Classification System:**

11 (A) **Animal production and aquaculture;**

12 (B) **Crop production and support activities for crop production;**

13 (C) **Fishing, hunting and trapping; or**

14 (D) **Food manufacturing.**

15 (2) **A credit against the taxes that are otherwise due under ORS chapter 316, or, if the**
16 **employer is a corporation, under ORS chapter 317 or 318, shall be allowed to a qualifying**
17 **employer. The credit under this section shall be allowed for wages paid to employees of the**
18 **qualifying employer based on every paid hour worked by an employee:**

19 (a) **Who earns \$15.10 or less per hour under ORS 653.025 (1); or**

20 (b) **Who earns \$14.10 or less per hour under ORS 653.025 (3).**

21 (3) **A credit under this section may not be claimed for employees who earn wages de-**
22 **scribed in ORS 653.025 (2).**

23 (4)(a) **The credit allowed under this section for employees described in subsection (2) of**
24 **this section shall be calculated by multiplying the number of employee hours worked by:**

25 (A) **For wages paid during 2017, 10 cents.**

26 (B) **For wages paid during 2018, 40 cents.**

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 (C) For wages paid during 2019, 65 cents.
- 2 (D) For wages paid during 2020, 90 cents.
- 3 (E) For wages paid during 2021, \$1.15.
- 4 (F) For wages paid during 2022, \$1.40.
- 5 (G) For wages paid during 2023, \$1.60.
- 6 (H) For wages paid during 2024, \$1.20.
- 7 (I) For wages paid during 2025, 80 cents.
- 8 (J) For wages paid during 2026, 40 cents.
- 9 (b) For wages paid on or after January 1, 2027, no credit is allowed under this section.
- 10 (5) The amount in effect for a year under subsection (4) of this section shall be reduced
- 11 by the percentage of the increase in the minimum wage provided by section 6(a)(1) of the
- 12 Fair Labor Standards Act (29 U.S.C. 206 (a)(1)) for the respective year over the minimum
- 13 wage provided by section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206 (a)(1)) for the
- 14 immediately preceding year.
- 15 (6) Notwithstanding subsection (4) of this section, the credit allowed to a qualifying em-
- 16 ployer under this section shall be limited to the first 208,000 hours worked in the tax year
- 17 by the employees of the qualifying employer.
- 18 (7) The Department of Revenue may disallow a credit otherwise allowed under this sec-
- 19 tion if:
- 20 (a) A penalty of \$1,000 or more has been imposed on the qualifying employer due to a
- 21 failure of the qualifying employer to comply with ORS chapter 654 or any rules adopted under
- 22 ORS chapter 654; or
- 23 (b) More than one separate court judgment or final agency order has imposed a penalty
- 24 of \$1,000 or more on the qualifying employer based on a finding that the qualifying employer
- 25 has violated a wage and hour standard under ORS chapter 652 or 653.
- 26 (8) The Department of Consumer and Business Services and the Bureau of Labor and
- 27 Industries shall provide the Department of Revenue with any information necessary for the
- 28 Department of Revenue to make a determination on whether to disallow a credit under
- 29 subsection (7) of this section.
- 30 (9) A qualifying employer may not receive a credit under this section if the qualifying
- 31 employer has reduced employee wages with the intention of qualifying for a credit under this
- 32 section.
- 33 (10) A taxpayer may qualify for the credit allowed under this section if the taxpayer pays
- 34 the taxpayer's employees in accordance with all applicable federal, state and local laws.
- 35 (11) If the amount allowable as a credit under this section, when added to the sum of the
- 36 amount of estimated tax paid under ORS 314.515 and any other tax prepayment amounts,
- 37 exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year (reduced by any
- 38 nonrefundable credits allowable for purposes of ORS chapter 317 for the tax year), the
- 39 amount of the excess shall be refunded to the taxpayer as provided in ORS 314.415.
- 40 (12) The credit shall be claimed on a form prescribed by the Department of Revenue that
- 41 contains the information required by the department.
- 42 (13) A nonresident shall be allowed the credit under this section. The credit shall be
- 43 computed in the same manner and be subject to the same limitations as the credit granted
- 44 to a resident.
- 45 (14) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,

1 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
 2 the credit allowed by this section shall be prorated or computed in a manner consistent with
 3 ORS 314.085.

4 (15) If a change in the status of a taxpayer from resident to nonresident or from non-
 5 resident to resident occurs, the credit allowed by this section shall be determined in a man-
 6 ner consistent with ORS 316.117.

7 (16) The total amount of credits allowed to all taxpayers under this section may not ex-
 8 ceed \$50 million for tax years that begin on or after July 1 of the fiscal year and before June
 9 30 of that fiscal year. The Department of Revenue shall by rule prescribe the methods and
 10 procedures used to implement the limitations established under this subsection.

11 (17) The Department of Revenue and the Employment Department may share with each
 12 other information as necessary to perform their duties under this section.

13 (18) The Department of Revenue and the Employment Department may adopt rules for
 14 carrying out the provisions of this section.

15 (19) A qualifying employer who may claim a credit during 2017 may claim the credit only
 16 for wages paid to an employee on or after July 1, 2017.

17 **SECTION 3.** ORS 316.502 is amended to read:

18 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and
 19 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held
 20 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation
 21 of the State of Oregon lawfully incurred.

22 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
 23 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
 24 exceed the sum of \$1 million.

25 (3) Moneys are continuously appropriated to the Department of Revenue to make:

26 (a) The refunds authorized under subsection (2) of this section; and

27 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264
 28 and 315.266 and section 17, chapter 906, Oregon Laws 2007, and **section 2 of this 2017 Act.**

29 **SECTION 4.** ORS 317.850 is amended to read:

30 317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds,
 31 shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts
 32 available generally to meet any expense or obligation of the State of Oregon lawfully incurred. A
 33 working balance of unreceipted revenue from the tax imposed by this chapter may be retained for
 34 the payment of refunds, but such working balance shall not at the close of any fiscal year exceed
 35 the sum of \$500,000.

36 (2) Moneys are continuously appropriated to the Department of Revenue to make:

37 (a) The refunds authorized under subsection (1) of this section; and

38 (b) The refund payments in excess of tax liability authorized under section 2 of this 2017
 39 **Act.**

40 **SECTION 5.** Section 2 of this 2017 Act and the amendments to ORS 316.502 and 317.850
 41 by sections 3 and 4 of this 2017 Act apply to tax years beginning on or after January 1, 2017,
 42 and before January 1, 2027.

43 **SECTION 6.** ORS 314.752 is amended to read:

44 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 45 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The

1 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 2 allowable to the shareholders of the S corporation.

3 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 4 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 5 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 6 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 7 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 8 manner prescribed under section 1377(a) of the Internal Revenue Code.

9 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
 10 of this section shall be determined as if such item were realized directly from the source from which
 11 realized by the corporation, or incurred in the same manner as incurred by the corporation.

12 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 13 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 14 316.117, then that provision shall apply to the nonresident shareholder.

15 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 16 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 17 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 18 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 19 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 20 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 21 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 22 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
 23 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
 24 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
 25 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
 26 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
 27 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
 28 merce) and ORS 315.533 (low income community jobs initiative) **and section 2 of this 2017 Act**
 29 **(minimum wage).**

30 **SECTION 7.** ORS 318.031 is amended to read:

31 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 32 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 33 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 34 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
 35 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2017**
 36 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

37 **SECTION 8. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 38 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**