

Requested by Representative HOLVEY

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4002**

1 On page 3 of the printed A-engrossed bill, delete lines 37 through 45 and
2 delete page 4.

3 On page 5, delete lines 1 through 40 and insert:

4 **“SECTION 6a. (1) No later than November 30, 2026, and every six**
5 **years thereafter, the Employment Department, in consultation with**
6 **the Bureau of Labor and Industries, the Department of Revenue and**
7 **the State Department of Agriculture, shall submit a report, in the**
8 **manner provided in ORS 192.245, to the interim committees of the**
9 **Legislative Assembly related to agriculture, on the identified economic**
10 **impacts of the overtime compensation requirements under section 2**
11 **of this 2022 Act.**

12 **“(2) The report must consider all available relevant data related to**
13 **the overtime compensation requirements under section 2 of this 2022**
14 **Act for calendar years 2023, 2024, 2025 and 2026 and must include, but**
15 **need not be limited to, an examination of the following:**

16 **“(a) The impacts on the number of hours worked by agricultural**
17 **workers.**

18 **“(b) The amount of wages paid to agricultural workers, including**
19 **the amount of wages paid as overtime compensation to agricultural**
20 **workers.**

21 **“(c) The impacts on employers affected by the overtime compen-**

1 sation requirements, including the costs associated with the
2 employers' compliance with the requirements.

3 “(d) The economic impacts of the overtime requirements on the
4 agricultural sector, including impacts on job opportunities within the
5 agricultural sector.

6 “(e) The impacts on eligible employers that may claim a tax credit
7 under section 8 of this 2022 Act, separated by size of employer and
8 agricultural sector.

9 “(f) The impacts on Oregon’s relative competitiveness in the agri-
10 cultural marketplace.

11 “(g) Recent national and regional trends related to the agricultural
12 workforce, including wages, employment and labor costs.

13 **“SECTION 6b.** The division of the Oregon Department of Adminis-
14 trative Services that serves as the office of economic analysis shall
15 include in the economic forecast for a biennium any available relevant
16 economic and wage data that relates to the agricultural economy in
17 this state as impacted by the operation of sections 2 and 8 of this 2022
18 Act.

19 **“SECTION 6c.** No later than September 30, 2022, the State Depart-
20 ment of Agriculture and the Oregon Business Development Depart-
21 ment shall make recommendations for legislation to a regular or
22 interim committee of the Legislative Assembly related to agriculture
23 regarding available options for establishing a grant program, loan
24 program or lending program to which \$10 million will be allocated for
25 the purpose of providing financial assistance to employers to mitigate
26 the costs associated with compliance with the overtime compensation
27 requirements under section 2 of this 2022 Act.

28 **“SECTION 7.** Sections 8 to 11 of this 2022 Act are added to and made
29 a part of ORS chapter 315.

30 **“SECTION 8.** (1) As used in this section and sections 9 and 10 of this

1 **2022 Act:**

2 “(a) ‘Agricultural worker’ has the meaning given that term in sec-
3 tion 1 of this 2022 Act.

4 “(b) ‘Eligible employer’ means an employer doing business in 2017
5 North American Industry Classification System code 111, crop pro-
6 duction, or code 112, animal production and aquaculture.

7 “(c) ‘Full-time equivalent employee’ means an employee or a com-
8 bination of employees that perform at least 2,080 hours of work for an
9 employer in a calendar year.

10 “(2)(a) A credit against taxes that are otherwise due under ORS
11 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317
12 or 318 is allowed for overtime compensation required under section 2
13 of this 2022 Act to be paid by an eligible employer to agricultural
14 workers on an hourly basis. The amount of the credit shall equal a
15 percentage of the actual excess paid to agricultural workers during the
16 calendar year in which the tax year begins, as determined under sec-
17 tion 9 of this 2022 Act.

18 “(b) A labor contractor licensed under ORS 658.410 may not claim
19 a credit under this section. An eligible employer may claim a credit
20 under this section for wages paid to workers recruited, solicited, sup-
21 plied or employed by a labor contractor on behalf of the eligible em-
22 ployer.

23 “(c) Notwithstanding ORS 317.090 (3), a credit under this section is
24 allowed against the tax imposed under ORS 317.090.

25 “(d) A credit is not allowed under this section for any overtime
26 wages paid to an employee who is exempt from the provisions of sec-
27 tion 2 of this 2022 Act as a member of the immediate family of the
28 employer.

29 “(3) Prior to claiming the credit allowed under this section, a tax-
30 payer is required to receive a notice of acknowledgment from the De-

1 department of Revenue, as provided in section 10 of this 2022 Act, stating
2 the maximum amount of credit that the taxpayer may claim for the
3 calendar year.

4 “(4) If the amount allowable:

5 “(a) As a credit under this section against taxes imposed under ORS
6 chapter 316, when added to the sum of the amounts allowable as pay-
7 ment of tax under ORS 316.187 or 316.583, other tax prepayment
8 amounts and other refundable credit amounts, exceeds the taxes im-
9 posed by ORS chapters 314 and 316 for the tax year after application
10 of any nonrefundable credits allowable for purposes of ORS chapter
11 316 for the tax year, the amount of the excess shall be refunded to the
12 taxpayer as provided in ORS 316.502.

13 “(b) As a credit under this section against taxes imposed under ORS
14 chapter 317 or 318, when added to the sum of the amount of estimated
15 tax paid under ORS 314.515 and any other tax prepayment amounts,
16 exceeds the taxes imposed by ORS chapters 314 and 317 for the tax year
17 (reduced by any nonrefundable credits allowable for purposes of ORS
18 chapter 317 for the tax year), the amount of the excess shall be re-
19 funded to the taxpayer as provided in ORS 314.415.

20 “(5) Any amount that is refunded to the taxpayer under this section
21 and that is in excess of the tax liability of the taxpayer does not bear
22 interest.

23 “(6) If a change in the taxable year of the taxpayer occurs as de-
24 scribed in ORS 314.085, or if the Department of Revenue terminates the
25 taxpayer’s taxable year under ORS 314.440, the credit allowed under
26 this section shall be prorated or computed in a manner consistent with
27 ORS 314.085.

28 “(7) The Department of Revenue shall adopt rules for the purposes
29 of sections 8 to 11 of this 2022 Act, including policies and procedures
30 for providing notice to taxpayers regarding the credit allowed under

1 **this section as required in section 10 of this 2022 Act.**

2 **“SECTION 9. (1) The amount of credit allowed under section 8 of**
3 **this 2022 Act shall be equal to a percentage of the additional wages**
4 **paid as required overtime pay to agricultural workers by an eligible**
5 **employer, in excess of regular pay, as set forth in subsections (2) to**
6 **(5) of this section.**

7 **“(2) If during the calendar year the taxpayer employs more than 50**
8 **full-time equivalent employees and is not primarily engaged in the**
9 **business of dairying, the following percentages of excess wages paid**
10 **by the employer in a calendar year shall apply, for the following cal-**
11 **endar years:**

12 **“(a) 60 percent, for 2023 or 2024.**

13 **“(b) 45 percent, for 2025.**

14 **“(c) 30 percent, for 2026.**

15 **“(d) 15 percent, for 2027 or 2028.**

16 **“(3) If during the calendar year the taxpayer employs more than 25**
17 **but not more than 50 full-time equivalent employees, or employs more**
18 **than 25 full-time equivalent employees and is primarily engaged in the**
19 **business of dairying, the following percentages of excess wages paid**
20 **by the employer in a calendar year shall apply, for the following cal-**
21 **endar years:**

22 **“(a) 75 percent, for 2023.**

23 **“(b) 60 percent, for 2024 or 2025.**

24 **“(c) 50 percent, for 2026, 2027 or 2028.**

25 **“(4) If during the calendar year the taxpayer employs not more than**
26 **25 full-time equivalent employees and is not primarily engaged in the**
27 **business of dairying, the following percentages of excess wages paid**
28 **by the employer in a calendar year shall apply, for the following cal-**
29 **endar years:**

30 **“(a) 90 percent, for 2023.**

1 **“(b) 80 percent, for 2024 and 2025.**

2 **“(c) 60 percent, for 2026, 2027 and 2028.**

3 **“(5) If during the calendar year the taxpayer employs not more than**
4 **25 full-time equivalent employees and is primarily engaged in the**
5 **business of dairying, the credit shall equal 100 percent of excess wages**
6 **paid by the employer.**

7 **“SECTION 10. (1) In order to receive a notice of acknowledgment**
8 **from the Department of Revenue in support of a tax credit allowed**
9 **under section 8 of this 2022 Act, a taxpayer shall submit to the de-**
10 **partment an application under this section. The application shall be**
11 **made in the form and manner prescribed by the department and must**
12 **be submitted by the taxpayer no later than January 31 following the**
13 **calendar year for which the taxpayer seeks credit.**

14 **“(2) The taxpayer must include with the application required under**
15 **this section the following:**

16 **“(a) The address and tax identification number of the taxpayer.**

17 **“(b) A statement by the taxpayer of the overtime hours worked and**
18 **overtime wages paid, on an hourly basis, to agricultural workers em-**
19 **ployed by the taxpayer and the amount of overtime wages paid by or**
20 **on behalf of the taxpayer as compensation to agricultural workers**
21 **during the calendar year. The taxpayer shall provide aggregate data**
22 **as to employees of the taxpayer who received overtime pay from the**
23 **taxpayer and those who did not.**

24 **“(c) The number of the license issued under ORS 658.410 to any la-**
25 **bor contractor used to recruit, solicit, supply or employ workers on**
26 **behalf of the taxpayer, or other permit or registration numbers issued**
27 **to the labor contractor.**

28 **“(d) If applicable, any license required under ORS 475C.065 or 571.281**
29 **or registration required under ORS 475C.792.**

30 **“(e) Any other information required by the department to verify the**

1 identity of the taxpayer or the potential maximum amount of credit
2 allowed to the taxpayer under section 8 of this 2022 Act.

3 “(3) Upon receipt of an application under this section, the depart-
4 ment shall immediately allow an extension, from the next applicable
5 due date, for filing of the taxpayer’s income or corporate excise tax
6 return.

7 “(4) Not later than June 1 of the year in which the application un-
8 der subsection (1) of this section is filed, the department shall issue
9 written notice to taxpayers that meet the application requirements of
10 this section. The notice of acknowledgment shall state the maximum
11 amount of credit for which the taxpayer is eligible for the tax year.
12 The credit claimed may not exceed the actual amount of excess paid
13 as overtime wages to agricultural workers during the calendar year
14 by the taxpayer.

15 “SECTION 11. The total amount allowed for tax credits for overtime
16 wages under section 8 of this 2022 Act, as acknowledged in notices
17 provided by the Department of Revenue under section 10 of this 2022
18 Act, may not exceed \$55 million for all taxpayers for any calendar
19 year.

20 “SECTION 12. Section 8 of this 2022 Act applies to tax years begin-
21 ning on or after January 1, 2023.

22 “SECTION 12a. Following receipt of a report required under section
23 6a of this 2022 Act and submitted to a regular or interim committee
24 of the Legislative Assembly, the Legislative Assembly shall consider
25 making adjustments to the structure of the credit allowed under sec-
26 tion 8 of this 2022 Act and shall revise the credit rate amounts provided
27 in section 9 of this 2022 Act, if deemed appropriate by the Legislative
28 Assembly.

29 “SECTION 12b. Notwithstanding any provision of ORS 314.835 or
30 314.840, the Department of Revenue and the Bureau of Labor and In-

1 **dustries may share information necessary for the effective adminis-**
2 **tration of sections 2 and 8 of this 2022 Act, for the purpose of carrying**
3 **out the provisions of sections 2 and 8 of this 2022 Act, provided that**
4 **the department and the bureau do not disclose personally identifiable**
5 **information.”.**

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