

HB 3940-A9
(LC 4758)
4/25/25 (DFY/ps)

Requested by Representative MARSH

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3940**

On page 1 of the printed A-engrossed bill, delete lines 9 through 19 and delete page 2.

On page 3, delete lines 1 and 2 and insert:

“PAYROLL TAX

“SECTION 1. (1) As used in this section:

“(a) ‘Employer’ has the meaning given that term in ORS 316.162.

“(b) ‘Resident of this state’ has the meaning given that term in ORS 316.027.

“(c) ‘Wages’ has the meaning given that term in ORS 316.162.

“(2) A tax is imposed at the rate of one-tenth of one percent of the wages of an employee who is:

“(a) A resident of this state, regardless of where services are performed.

“(b) Not a resident of this state, for services performed in this state.

“(3) Every employer at the time of the payment of wages shall deduct and withhold from the total amount of the wages paid for services described under subsection (2) of this section an amount equal to the total amount of wages multiplied by the rate of tax imposed under subsection (2) of this section.

1 “(4) An employer shall report and pay the tax imposed under this
2 section to the Department of Revenue at the time and in the manner
3 determined by the department by rule.

4 “(5) For purposes of the tax imposed under this section, an em-
5 ployer is considered a taxpayer.

6 “(6) If a lender, surety or other person who supplies funds to or for
7 the account of an employer for the purpose of paying wages of the
8 employees of such employer has actual notice or knowledge that such
9 employer does not intend to or will not be able to make timely pay-
10 ment or deposit of the tax required to be deducted and withheld, such
11 lender, surety or other person shall be liable to the State of Oregon
12 in a sum equal to the taxes, together with interest, that are not timely
13 paid over to the Department of Revenue. Such liability shall be limited
14 to the principal amount supplied by the lender, surety or other person,
15 and any amounts so paid to the department shall be credited against
16 the liability of the employer.

17 “(7)(a) An employer shall submit an annual return pursuant to ORS
18 316.202 to the Department of Revenue. The amounts deducted from the
19 wages during any calendar year in accordance with this section shall
20 be considered to be in payment of the tax imposed under subsection
21 (2) of this section.

22 “(b) The return submitted by the employer shall be accepted by the
23 Department of Revenue as evidence in favor of the employee of the
24 amounts so deducted from the employee’s wages.

25 “(8) Nothing in this section prohibits the Department of Revenue
26 from including the tax imposed under this section in the combined
27 quarterly tax report required under ORS 316.168.

28 “(9) An employer that fails to deduct and withhold the tax required
29 under this section:

30 “(a) Is deemed responsible for the payment of the tax obligation in

1 an amount equal to the amount required to be withheld from the
2 employee's wages and remitted to the Department of Revenue; and

3 “(b) Is subject to a penalty of \$250 per employee, up to a maximum
4 penalty of \$25,000, if the employer knowingly fails to deduct and with-
5 hold the tax.

6 “(10) Residents subject to the tax imposed under this section on
7 wages earned outside this state from an employer not doing business
8 within this state shall report and pay the tax in an amount not to
9 exceed one-tenth of one percent of the wages earned outside this state,
10 and at the time and in the manner determined by the Department of
11 Revenue by rule.

12 “SECTION 2. Except as otherwise provided in section 1 of this 2025
13 Act or where the context requires otherwise, the provisions of ORS
14 chapters 305 and 314 as to the audit and examination of returns, peri-
15 ods of limitation, determination of and notices of deficiencies, assess-
16 ments, collections, liens, delinquencies, claims for refund and refunds,
17 conferences, appeals to the Oregon Tax Court, stays of collection
18 pending appeal, confidentiality of returns and the penalties and pro-
19 cedures relating thereto, apply to the determinations of taxes, penal-
20 ties and interest under section 1 of this 2025 Act.

21 “SECTION 3. (1) All moneys received by the Department of Revenue
22 from the tax imposed under section 1 of this 2025 Act shall be deposited
23 in the State Treasury and credited to a suspense account established
24 under ORS 293.445. The department may pay expenses for the admin-
25 istration and enforcement of section 1 of this 2025 Act out of moneys
26 received from the tax imposed under section 1 of this 2025 Act.
27 Amounts necessary to pay administrative and enforcement expenses
28 are continuously appropriated to the department from the suspense
29 account.

30 “(2) After the payment of administrative and enforcement expenses

1 and refunds or credits arising from erroneous overpayments, the de-
2 partment shall transfer the balance of the moneys received by the
3 department in equal shares to the Department of the State Fire Mar-
4 shal for deposit in the State Fire Marshal Mobilization Fund estab-
5 lished under ORS 476.565 and to the State Forestry Department for
6 deposit in the State Forestry Department Large Wildfire Fund estab-
7 lished under section 10 of this 2025 Act.

8 “**NOTE:** Sections 4 and 5 were deleted by amendment. Subsequent
9 sections were not renumbered.”.

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