House Bill 4096

Sponsored by Representative CAMERON; Representatives BREWER, ESQUIVEL, LINDSAY, PARRISH, G SMITH, WAND, WHISNANT, WINGARD (Presession 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.**

Creates income tax credit for hiring of qualified employee by taxpayer with fewer than 100 employees.

Applies to tax years beginning on or after January 1, 2013, and prior to January 1, 2014.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to a hiring incentive tax credit; creating new provisions; amending ORS 314.752 and 318.031; and prescribing an effective date.

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

SECTION 1. Section 3 of this 2012 Act shall be known and may be cited as the Rehire Oregon Act of 2012.

SECTION 2. Section 3 of this 2012 Act is added to and made a part of ORS chapter 315.

SECTION 3. (1) As used in this section, "qualified employee" means an individual who:

(a) Is first employed on or after June 1, 2012, and prior to January 1, 2013, by a taxpayer claiming the credit allowed under this section;

(b) Remains employed by the taxpayer for at least 12 consecutive months;

(c) During the first 12 months of employment by the taxpayer, receives monthly compensation from the taxpayer in an amount equal to or greater than the average monthly unemployment insurance compensation benefit received by unemployed persons in this state; and

(d) Was unemployed for a period of at least four weeks immediately prior to being first employed by the taxpayer.

(2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that hires a qualified employee. The amount of the credit is $3,000 for each qualified employee hired by the taxpayer. For each qualified employee, the credit is allowed for the tax year in which the 12th calendar month of employment of the qualified employee by the taxpayer is completed.

(3) In order to qualify for the credit allowed under this section, a taxpayer must demonstrate:

(a) That the taxpayer has done business in this state for at least two years prior to the hiring of any qualified employee for which the credit is claimed;

(b) That the commencement of employment of the qualified employee creates a net increase in the number of employees compared to the taxpayer's payroll as of May 31, 2012;

(c) That at no point during the first three months of 2012 did the taxpayer's payroll exceed 99 employees; and

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.

(d) That any employee for whom the taxpayer is claiming a credit has been unemployed for the period required under subsection (1) of this section. This must be demonstrated by documentation from the Employment Department or from a previous employer of the employee.

(4) Prior to claiming the credit allowed under this section, a taxpayer is required to receive written certification of eligibility from the Employment Department.

(5) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year but may not be carried forward for any tax year thereafter.

(7) A nonresident shall be allowed the credit under this section. The credit shall be computed in the same manner and be subject to the same limitations as the credit granted to a resident. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(8) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(9) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(10) The Employment Department shall adopt rules for the purposes of this section, including policies and procedures for:

(a) Providing documentation that may be required under subsection (3) of this section; and

(b) Certifying taxpayers as eligible for the credit allowed under this section as provided in subsection (4) of this section.

SECTION 4. ORS 314.752 is amended to read:

314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are allowable to the shareholders of the S corporation.

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

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

(4) If the shareholder is a nonresident and there is a requirement applicable for the business tax

credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS 316.117, then that provision shall apply to the nonresident shareholder.

(5) As used in this section, "business tax credit" means a tax credit granted to personal income taxpayers to encourage certain investment, to create employment, economic opportunity or incentive or for charitable, educational, scientific, literary or public purposes that is listed under this subsection as a business tax credit or is designated as a business tax credit by law or by the Department of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic commerce), ORS 315.533 (low income community jobs initiative) and ORS 317.115 (fueling stations necessary to operate an alternative fuel vehicle) **and section 3 of this 2012 Act (hiring of qualified employees)**.

SECTION 5. ORS 318.031 is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 3 of this 2012 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

SECTION 6. Section 3 of this 2012 Act and the amendments to ORS 314.752 and 318.031 by sections 4 and 5 of this 2012 Act apply to tax years beginning on or after January 1, 2013, and prior to January 1, 2014.

SECTION 7. This 2012 Act takes effect on the 91st day after the date on which the 2012 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.