

# House Bill 2630

Sponsored by Representative SCHAUFLER (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**.

Establishes payroll tax and net earnings from self-employment tax. Continuously appropriates moneys to Department of Revenue to cover expenses of administration of taxes. Establishes income and corporate excise tax credit for health benefit plan coverage premium costs incurred by employers in providing health benefit coverage to employees and dependents. Limits amount of credit.

Establishes Oregon Healthcare Payroll Tax Fund. Continuously appropriates moneys in fund to Department of Human Services for provision of medical assistance programs.

Applies to withholding tax reporting periods beginning on or after January 1, 2012.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to increasing access to health care; creating new provisions; amending ORS 316.168; ap-  
3 propriating money; and prescribing an effective date.

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

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

6 (a) **"Employer" includes:**

7 (A) **Any person employing any individual in this state;**

8 (B) **This state or an agency or political subdivision of this state;**

9 (C) **A city, county, school district or other municipal corporation or taxing district in this**  
10 **state; and**

11 (D) **The federal government, if the federal government consents to be subject to the tax**  
12 **imposed by this section.**

13 (b) **"Internal Revenue Code" means the federal Internal Revenue Code, as amended and**  
14 **in effect on December 31, 2010.**

15 (c) **"Net earnings from self-employment" has the meaning given that term in section 1402**  
16 **of the Internal Revenue Code.**

17 (d) **"Wages" has the meaning given that term in ORS 316.162.**

18 (2) **An excise tax is imposed on each employer equal to \_\_\_\_\_ percent of the wages paid**  
19 **by the employer for the employment of individuals in this state.**

20 (3) **An excise tax is imposed on each individual with net earnings from self-employment**  
21 **that is allocated and apportioned to this state under ORS 314.280 and 314.605 to 314.675 at the**  
22 **rate of \_\_\_\_\_ percent of the net earnings from self-employment that is allocated and ap-**  
23 **portioned to this state.**

24 (4) **An employer may not make a deduction from the wages of an employee to pay all or**  
25 **a portion of the tax imposed under this section.**

26 (5)(a) **An employer shall report and pay the tax imposed under this section at the time**  
27 **and in the manner in which other withholding taxes are reported and paid under ORS 316.162**  
28 **to 316.221.**

**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 (b)(A) An individual with net earnings from self-employment shall report and pay the tax  
 2 imposed under this section at the time and in the manner in which other withholding taxes  
 3 are reported and paid under ORS 316.162 to 316.221. For purposes of this paragraph, net  
 4 earnings from self-employment shall be considered wages and the individual earning net  
 5 earnings from self-employment shall be considered an employer.

6 (B) Notwithstanding subparagraph (A) of this paragraph, if an individual has net earnings  
 7 from self-employment that do not exceed \$\_\_\_\_\_ for the calendar year, the individual may  
 8 elect to report and pay the tax imposed under this section annually, at the time and in the  
 9 manner prescribed by the Department of Revenue by rule.

10 **SECTION 2.** (1) If an employer or individual fails to remit the amount of taxes imposed  
 11 under section 1 of this 2011 Act when due, the Department of Revenue may enforce collection  
 12 by the issuance of a distraint warrant for the collection of the delinquent amount and all  
 13 penalties, interest and collection charges accrued thereon. The warrant shall be issued,  
 14 docketed and proceeded upon in the same manner and have the same force and effect as  
 15 prescribed with respect to warrants for the collection of delinquent state income taxes.

16 (2) Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and  
 17 316 as to the audit and examination of reports and returns, determination of deficiencies,  
 18 assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants,  
 19 confidentiality and disclosure of reports and returns, conferences and appeals to the Oregon  
 20 Tax Court, and procedures relating thereto, apply to the taxes imposed under section 1 of  
 21 this 2011 Act as if the tax were a tax imposed upon or measured by net income.

22 **SECTION 3.** (1) Revenues raised from the tax imposed under section 1 of this 2011 Act  
 23 shall be deposited in a suspense account established under ORS 293.445.

24 (2) The following amounts are continuously appropriated from the suspense account to  
 25 the Department of Revenue for the following purposes:

26 (a) Amounts necessary to make refunds of the tax imposed under section 1 of this 2011  
 27 Act;

28 (b) Amounts necessary to make reimbursement grants under section 9 of this 2011 Act;  
 29 and

30 (c) Amounts necessary to reimburse the Department of Revenue for the expenses of the  
 31 department in administering the tax.

32 (3) Amounts necessary to annually reimburse the General Fund for the costs of the tax  
 33 credit allowed under section 8 of this 2011 Act shall be transferred from the suspense ac-  
 34 count to the General Fund.

35 (4) After payment of the amounts described in subsections (2) and (3) of this section, the  
 36 net revenues from the tax imposed under section 1 of this 2011 Act shall be paid over to the  
 37 State Treasurer and deposited in the Oregon Healthcare Payroll Tax Fund established under  
 38 section 10 of this 2011 Act.

39 **SECTION 4.** ORS 316.168 is amended to read:

40 316.168. (1) Except as otherwise provided by law, every employer subject to the provisions of  
 41 ORS 316.162 to 316.221, 656.506 and ORS chapter 657 and section 1 of this 2011 Act, or a  
 42 payroll-based tax imposed by a mass transit district and administered by the Department of Revenue  
 43 under ORS 305.620, shall make and file a combined quarterly tax and assessment report upon a form  
 44 prescribed by the department.

45 (2) The report shall be filed with the Department of Revenue on or before the last day of the

1 month following the quarter to which the report relates and shall be deemed received on the date  
 2 of mailing, as provided in ORS 305.820.

3 (3) The report shall be accompanied by payment of any tax or assessment due and a combined  
 4 tax and assessment payment coupon prescribed by the department. The employer shall indicate on  
 5 the coupon the amount of the total payment and the portions of the payment to be paid to each of  
 6 the tax or assessment programs.

7 (4) The Department of Revenue shall credit the payment to the tax or assessment programs in  
 8 the amounts indicated by the employer on the coupon and shall promptly remit the payments to the  
 9 appropriate taxing or assessing body.

10 (5) If the employer fails to allocate the payment on the coupon, the department shall allocate  
 11 the payment to the proper tax or assessment programs on the basis of the percentage the payment  
 12 bears to the total amount due.

13 (6) The Department of Revenue shall distribute copies of the combined quarterly tax and as-  
 14 sessment report and the necessary tax or assessment payment information to each of the agencies  
 15 charged with the administration of a tax or assessment covered by the report.

16 (7) The Department of Revenue, the Employment Department and the Department of Consumer  
 17 and Business Services shall develop a system of account numbers and assign to each employer a  
 18 single account number representing all of the tax and assessment programs included in the combined  
 19 quarterly tax and assessment report.

20 **SECTION 5. Sections 1 and 2 of this 2011 Act and the amendments to ORS 316.168 by**  
 21 **section 4 of this 2011 Act apply to withholding tax reporting periods beginning on or after**  
 22 **January 1, 2012.**

23 **SECTION 6. Sections 7 to 9 of this 2011 Act are added to and made a part of ORS chapter**  
 24 **315.**

25 **SECTION 7. As used in sections 7 to 9 of this 2011 Act, unless the context requires oth-**  
 26 **erwise:**

27 (1) **“Employer” includes a self-employed individual.**

28 (2) **“Health benefit plan” has the meaning given that term in ORS 743.730.**

29 **SECTION 8. (1) A credit against the taxes otherwise due under ORS chapter 316 (or, if**  
 30 **the taxpayer is a corporation that is an employer, under ORS chapter 317 or 318) is allowed**  
 31 **to an employer for providing health benefit plan coverage to employees and dependents that**  
 32 **meets or exceeds the requirements for a baseline plan as established by the Oregon Health**  
 33 **Authority pursuant to ORS 413.011 (1)(j) and 413.064 (5).**

34 (2) **The amount of the credit allowed under this section shall equal the lesser of:**

35 (a) **The health benefit plan premiums paid by the employer to provide health benefit plan**  
 36 **coverage to employees and dependents in this state during the tax year; or**

37 (b) **The tax liability of the taxpayer.**

38 (3)(a) **If the taxpayer has a tax year that is less than 12 months or if the taxpayer did**  
 39 **not pay health benefit plan premiums for a full 12-month period, the limit on the amount of**  
 40 **credit established under subsection (2)(b) of this section shall be proportionally reduced to**  
 41 **reflect the shortened period.**

42 (b) **The Department of Revenue may adopt rules for determining proration under this**  
 43 **subsection when family members are added to or dropped from health benefit plan coverage**  
 44 **during the course of the tax year, including calculating an annual average number of covered**  
 45 **individuals and a threshold level of coverage change below which proration is not needed.**

1 (4) A credit that is not used in the tax year and that, except for the provisions of sub-  
2 section (2)(b) of this section, is otherwise allowable under this section may be carried for-  
3 ward and offset against the taxpayer's tax liability for the next succeeding tax year. Any  
4 credit remaining unused in the next succeeding tax year may be carried forward and used  
5 in the second succeeding tax year, and likewise any credit not used in that second succeeding  
6 tax year may be carried forward and used in the third succeeding tax year, but may not be  
7 carried forward for any tax year thereafter.

8 (5) A credit under this section may be claimed by a nonresident or part-year resident  
9 without proration under ORS 316.117.

10 (6) The credit under this section shall be claimed by the taxpayer on a form prescribed  
11 by the Department of Revenue and shall contain the information required by the Department  
12 of Revenue.

13 **SECTION 9.** (1) If an employer that is subject to tax under section 1 of this 2011 Act is  
14 one described in section 1 (1)(a)(B) to (D) of this 2011 Act, the employer may annually claim  
15 a reimbursement grant under this section. The amount of the grant shall equal the amount  
16 of tax credit the employer would have been allowed if the employer were subject to tax under  
17 ORS chapter 316, 317 or 318, computed without regard to section 8 (2)(b) of this 2011 Act.

18 (2) A reimbursement grant may be claimed by filing a claim form with the Department  
19 of Revenue at the time, in the manner and containing the information required by the de-  
20 partment.

21 (3) The department shall make reimbursement grants from the amounts continuously  
22 appropriated to the department under section 3 (2)(b) of this 2011 Act.

23 **SECTION 10.** There is established the Oregon Healthcare Payroll Tax Fund in the Oregon  
24 Health Authority Fund established under ORS 413.031. All moneys in the Oregon Healthcare  
25 Payroll Tax Fund are continuously appropriated to the Department of Human Services for  
26 the provision of medical assistance programs as provided under ORS 414.350 to 414.415.

27 **SECTION 11.** This 2011 Act takes effect on the 91st day after the date on which the 2011  
28 session of the Seventy-sixth Legislative Assembly adjourns sine die.

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