

A-Engrossed
Senate Bill 219

Ordered by the Senate April 25
Including Senate Amendments dated April 25

Sponsored by Senator DEVLIN, Representative READ; Senators EDWARDS, HASS, MONNES ANDERSON (Pre-session 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.

Requires Oregon Business Development Department to administer Oregon Business Retention and Expansion Program to lend incremental Oregon Business Retention and Expansion Program tax revenues to certified employers. Specifies provisions of forgivable loan program.

Establishes Oregon Business Retention and Expansion Program Fund. Continuously appropriates moneys in fund to Oregon Business Development Department.

Requires department to estimate amount of personal income tax revenue generated by program. Specifies percentages of estimated amount to be deposited in Oregon Business Retention and Expansion Program Fund and General Fund for next 10 tax years.

Appropriates moneys from [*General Fund*] **Oregon State Lottery Fund** to department for purposes of administering program.

[*Specifies rate of withholding on taxable income of person employed by certified employer.*]

Applies to tax years beginning on or after January 1, 2012, and before January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to incentives for business hiring; appropriating money; and prescribing an effective date.

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

4 **SECTION 1. As used in sections 1 to 10 of this 2011 Act:**

5 (1) "Certified employer" means an eligible employer certified under section 3 of this 2011
6 Act.

7 (2) "Compensation" has the meaning given that term in ORS 314.610.

8 (3) "Eligible employer" means an employer that, in the month in which the employer
9 submits an application under section 4 of this 2011 Act:

10 (a) Has at least 150 employees;

11 (b) Averages 150 percent of the county or state average in annual per-employee com-
12 pensation, whichever is lesser;

13 (c) Plans to hire at least 50 new full-time employees in this state;

14 (d) Operates in an industry in the traded sector, as that term is defined in ORS 285A.010;
15 and

16 (e) Is not a retailer, as that term is defined in ORS 72.8010.

17 (4) "Estimated incremental Oregon Business Retention and Expansion Program tax re-
18 venues" means the Oregon personal income tax revenues that are estimated pursuant to
19 section 7 of this 2011 Act to be generated from the Oregon personal income tax liabilities
20 shown on the income tax returns filed by persons hired by eligible employers in the two
21 consecutive tax years beginning with the tax year following the tax year in which the em-

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 **ployer receives certification under section 3 of this 2011 Act.**

2 **(5) "Tax liabilities" means the tax determined under ORS chapter 316 for the tax year,**
3 **less the credits allowed for purposes of ORS chapter 316 for the tax year.**

4 **SECTION 2. The Oregon Business Development Department may adopt rules that the**
5 **department determines are necessary to:**

6 **(1) Further define the terms defined in section 1 of this 2011 Act in a manner consistent**
7 **with section 1 of this 2011 Act;**

8 **(2) Implement the duties of the department under sections 1 to 10 of this 2011 Act; and**

9 **(3) Carry out the purposes of sections 1 to 10 of this 2011 Act.**

10 **SECTION 3. (1) Subject to standards and procedures that the Oregon Business Develop-**
11 **ment Department shall establish by rule, the department shall certify eligible employers to**
12 **participate in the Oregon Business Retention and Expansion Program established in section**
13 **6 of this 2011 Act. The department may establish certification standards regarding:**

14 **(a) Employers maintaining certain levels of payroll or per-employee compensation in-**
15 **cluding benefits;**

16 **(b) Employers consulting with vendors in this state before entering into contracts;**

17 **(c) Eligible employers not laying off current employees in order to achieve hiring goals;**

18 **(d) Specifying the types and amounts of employer expenses that are the reasonable costs**
19 **of financing, developing, furnishing and operating a facility to be used by the certified em-**
20 **ployer in the course of business under section 6 of this 2011 Act; and**

21 **(e) Verifying that an employer is an eligible employer.**

22 **(2) The department must approve or deny an application submitted under section 4 of this**
23 **2011 Act within 120 days after the date a complete application is filed.**

24 **SECTION 4. (1) An employer may apply to the Oregon Business Development Department**
25 **for certification under section 3 of this 2011 Act.**

26 **(2) The application shall be made in writing in a form prescribed by the department.**

27 **(3) The application must include a verified statement by the employer that the employer**
28 **would not plan on hiring 50 or more new full-time employees in this state but for the avail-**
29 **ability of the loans provided by the Oregon Business Retention and Expansion Program es-**
30 **tablished under section 6 of this 2011 Act.**

31 **SECTION 5. (1) The Oregon Business Development Department may revoke a certificate**
32 **issued under section 3 of this 2011 Act if the department finds that:**

33 **(a) The certificate was obtained by fraud or misrepresentation; or**

34 **(b) The certified employer fails to meet the requirements of section 3 of this 2011 Act.**

35 **(2) If the certificate is revoked pursuant to subsection (1) of this section, the department**
36 **shall proceed to recoup any loan moneys disbursed to the employer pursuant to section 6 of**
37 **this 2011 Act.**

38 **SECTION 6. (1) In consultation with the Department of Revenue, the Oregon Business**
39 **Development Department shall establish and administer the Oregon Business Retention and**
40 **Expansion Program. The purpose of the program is to provide forgivable loans to certified**
41 **employers to allow for expanded operations and increased hiring.**

42 **(2) The Oregon Business Development Department shall enter into agreements with**
43 **certified employers. Agreements must contain:**

44 **(a) Detailed performance measures, established by the department by rule, with which**
45 **certified employers must comply; and**

1 (b) The requirement that the certified employer pay to the Oregon Business Development
2 Department the amount of any loan made under this section where the certified employer
3 did not meet established performance measures.

4 (3) The total loan amount distributed to a certified employer under this section may not
5 exceed the total amount of the estimated incremental Oregon Business Retention and Ex-
6 pansion Program tax revenues for the certified employer:

7 (a) For the tax year following the tax year in which the employer receives certification
8 under section 3 of this 2011 Act; and

9 (b) For the tax year following the tax year described in paragraph (a) of this subsection.

10 (4) Moneys loaned under this section must be distributed to the certified employer no
11 later than 120 days following certification under section 3 of this 2011 Act.

12 **SECTION 7.** The Director of the Oregon Business Development Department, in consul-
13 tation with the Director of the Department of Revenue, shall:

14 (1) Specify the methodology for estimating incremental Oregon Business Retention and
15 Expansion Program tax revenues; and

16 (2) Estimate incremental Oregon Business Retention and Expansion Program tax reven-
17 ues.

18 **SECTION 8.** The Oregon Business Retention and Expansion Program Fund is established
19 in the State Treasury, separate and distinct from the General Fund. The Oregon Business
20 Retention and Expansion Program Fund consists of amounts deposited in the fund as re-
21 quired by section 9 of this 2011 Act and other moneys transferred to the fund. Amounts in
22 the fund are continuously appropriated to the Oregon Business Development Department for
23 the purposes of making the loans provided by the agreements entered into under section 6
24 of this 2011 Act and paying the costs and expenses of the Oregon Business Development
25 Department in connection with the implementation and administration of sections 1 to 10
26 of this 2011 Act.

27 **SECTION 9.** (1) The Oregon Business Development Department, in consultation with the
28 Department of Revenue, shall determine the estimated amount of Oregon personal income
29 tax revenues that will be generated from the Oregon personal income tax liabilities of per-
30 sons hired by eligible employers in the two consecutive tax years beginning with the tax year
31 following the tax year in which the employer receives certification under section 3 of this
32 2011 Act.

33 (2) The Department of Revenue shall:

34 (a) For the first tax year following the tax year in which an employer receives certif-
35 ication, transfer the amount estimated under subsection (1) of this section to the Oregon
36 Business Retention and Expansion Program Fund established in section 8 of this 2011 Act.

37 (b) For the second through fifth tax years following the tax year in which an employer
38 receives certification, transfer the amount estimated under subsection (1) of this section as
39 follows:

40 (A) Fifty percent to the Oregon Business Retention and Expansion Program Fund es-
41 tablished in section 8 of this 2011 Act.

42 (B) Fifty percent to the General Fund.

43 (c) For the sixth through tenth tax years following the tax year in which an employer
44 receives certification, transfer the amount estimated under subsection (1) of this section as
45 follows:

1 (A) Twenty percent to the Oregon Business Retention and Expansion Program Fund es-
2 tablished in section 8 of this 2011 Act.

3 (B) Eighty percent to the General Fund.

4 SECTION 10. The Oregon Business Development Department may adopt rules that the
5 department determines are necessary to:

6 (1) Implement the duties of the department under sections 1 to 10 of this 2011 Act; and

7 (2) Carry out the purposes of sections 1 to 10 of this 2011 Act.

8 SECTION 11. The Oregon Business Development Department shall report to the com-
9 mittees of the Legislative Assembly with authority over the subject area of economic devel-
10 opment during the 2013 regular session of the Legislative Assembly as specified in ORS
11 171.010.

12 SECTION 12. There is appropriated to the Oregon Business Development Department, for
13 the biennium beginning July 1, 2011, out of the Oregon State Lottery Fund, the amount of
14 \$_____ for the purpose of carrying out the provisions of section 6 of this 2011 Act.

15 SECTION 13. Sections 1 to 10 of this 2011 Act apply to tax years beginning on or after
16 January 1, 2012, and before January 1, 2022.

17 SECTION 14. This 2011 Act takes effect on the 91st day after the date on which the 2011
18 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

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