

Senate Bill 683

Sponsored by Senator ATKINSON

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 or corporate excise tax credit for taxpayer that creates or maintains employment positions.

Applies to tax years beginning on or after January 1, 2012, and before January 1, 2015.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to an employer tax credit; creating new provisions; amending ORS 314.752 and 318.031; and
3 prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) A credit against taxes that are otherwise due under ORS chapter 316 or,**
7 **if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that**
8 **creates or maintains employment positions during the tax year.**

9 (2) **The amount of the credit is:**

10 (a) **Five percent of the taxpayer's gross revenue for the tax year for each full-time posi-**
11 **tion that:**

12 (A) **Is created and remains filled for at least 12 months; and**

13 (B) **Creates a net increase in the number of full-time equivalent positions of the taxpayer**
14 **compared to the taxpayer's payroll as of June 1, 2011; and**

15 (b) **One percent of the taxpayer's gross revenue for the tax year for each full-time posi-**
16 **tion that:**

17 (A) **Was filled as of the first day of the tax year; and**

18 (B) **Remains filled throughout the tax year.**

19 (3) **The amount allowed under subsection (2)(b) of this section may be claimed only if the**
20 **taxpayer's total payroll on the last day of the tax year, less any new employees for whom**
21 **credits are claimed under this section, is equal to or larger than the total payroll on the first**
22 **day of the tax year.**

23 (4) **If any newly created positions are part-time, the applicable percentage shall be pro-**
24 **rated.**

25 (5) **Prior to claiming the credit allowed under this section, a taxpayer is required to re-**
26 **ceive written certification of eligibility from the Department of Revenue.**

27 (6) **The credit allowed under this section may not exceed the tax liability of the taxpayer**
28 **for the tax year.**

29 (7) **Any tax credit otherwise allowable under this section that is not used by the taxpayer**
30 **in a particular tax year may be carried forward and offset against the taxpayer's tax liability**

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 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
2 year may be carried forward and used in the second succeeding tax year, and likewise any
3 credit not used in that second succeeding tax year may be carried forward and used in the
4 third succeeding tax year but may not be carried forward for any tax year thereafter.

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

8 (9) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
9 or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit
10 allowed by this section shall be prorated or computed in a manner consistent with ORS
11 314.085.

12 (10) If a change in the status of a taxpayer from resident to nonresident or from non-
13 resident to resident occurs, the credit allowed by this section shall be determined in a man-
14 ner consistent with ORS 316.117.

15 (11) The department shall adopt rules for the purposes of this section, including policies
16 and procedures for certifying taxpayers as eligible for the credit allowed under this section
17 as required by subsection (5) of this section.

18 **SECTION 3.** ORS 314.752, as amended by section 26, chapter 76, Oregon Laws 2010, is amended
19 to read:

20 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
21 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
22 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
23 allowable to the shareholders of the S corporation.

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

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

33 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
34 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
35 316.117, then that provision shall apply to the nonresident shareholder.

36 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
37 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
38 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
39 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
40 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
41 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
42 station and reforestation), ORS 315.134 (fish habitat improvement), ORS 315.138 (fish screening, by-
43 pass devices, fishways), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker housing),
44 ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-
45 tributions for child care), ORS 315.304 (pollution control facility), ORS 315.324 (plastics recycling),

1 ORS 315.354 and 469.207 (energy conservation facilities), ORS 315.507 (electronic commerce), ORS
2 315.511 (advanced telecommunications facilities), ORS 315.604 (bone marrow transplant expenses),
3 ORS 317.115 (fueling stations necessary to operate an alternative fuel vehicle) and ORS 315.141
4 (biomass production for biofuel) **and section 2 of this 2011 Act (employer credit).**

5 **SECTION 4.** ORS 318.031 is amended to read:

6 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
7 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
8 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
9 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.134, 315.141, 315.156,
10 315.204, 315.208, 315.213, 315.304, 315.507, 315.511 and 315.604 **and section 2 of this 2011 Act** (all
11 only to the extent applicable to a corporation) and ORS chapter 317.

12 **SECTION 5.** **Section 2 of this 2011 Act and the amendments to ORS 314.752 and 318.031**
13 **by sections 3 and 4 of this 2011 Act apply to tax years beginning on or after January 1, 2012,**
14 **and before January 1, 2015.**

15 **SECTION 6.** **This 2011 Act takes effect on the 91st day after the date on which the 2011**
16 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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