

Senate Bill 400

Sponsored by Senator FERRIOLI (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 certain employers that provide paid family leave to employees, including paid sick time taken to care for family members of employees.

Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a paid family leave tax credit for employers; creating new provisions; amending ORS
3 314.752 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Family leave" has the meaning given that term in ORS 659A.150.

8 (b) "Paid sick time" has the meaning given that term in ORS 653.601.

9 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
10 payer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that provides
11 paid leave to employees to care for family members. The amount of the credit shall equal the
12 total amount of compensation paid by the taxpayer to the taxpayer's employees during the
13 tax year:

14 (a) For any family leave granted with pay during the tax year to employees of the tax-
15 payer under ORS 659A.150 to 659A.186; and

16 (b) For any paid sick time taken during the tax year by an employee of the taxpayer
17 under ORS 653.616 (2) or (3) for care of a family member of the taxpayer's employee.

18 (3) A taxpayer may qualify for the credit allowed under this section if the taxpayer:

19 (a) Employs not more than 50 full-time employees at any time during the tax year;

20 (b) Is in compliance with all applicable federal, state and local laws; and

21 (c) Has paid to the taxpayer's employees the full amount of wages due for paid sick time
22 taken during the most recent calendar year.

23 (4) A taxpayer must obtain a written certification of eligibility from the Department of
24 Consumer and Business Services prior to claiming the credit allowed under this section.

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

27 (6) A nonresident shall be allowed the credit under this section. The credit shall be
28 computed in the same manner and be subject to the same limitations as the credit granted
29 to a resident.

30 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,

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 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
2 the credit allowed under this section shall be prorated or computed in a manner consistent
3 with ORS 314.085.

4 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
5 ident to resident occurs, the credit allowed under this section shall be determined in a
6 manner consistent with ORS 316.117.

7 (9) The Department of Consumer and Business Services, in consultation with the Bureau
8 of Labor and Industries, shall adopt rules for the purposes of this section, including rules
9 establishing policies and procedures for providing written certification to taxpayers eligible
10 for the credit allowed under this section, as required by subsection (4) of this section.

11 **SECTION 3.** ORS 314.752 is amended to read:

12 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
13 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
14 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
15 allowable to the shareholders of the S corporation.

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

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

25 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
26 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
27 316.117, then that provision shall apply to the nonresident shareholder.

28 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
29 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
30 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
31 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
32 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
33 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
34 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
35 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
36 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
37 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
38 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
39 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
40 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
41 merce) and ORS 315.533 (low income community jobs initiative) **and section 2 of this 2017 Act**
42 **(family leave paid by employer).**

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

44 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
45 317 shall be administered as uniformly as possible (allowance being made for the difference in im-

1 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
2 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
3 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2017**
4 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

5 **SECTION 5. Section 2 of this 2017 Act and the amendments to ORS 314.752 and 318.031**
6 **by sections 3 and 4 of this 2017 Act apply to tax years beginning on or after January 1, 2018,**
7 **and before January 1, 2024.**

8 **SECTION 6. This 2017 Act takes effect on the 91st day after the date on which the 2017**
9 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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