

Senate Bill 543

Sponsored by Senator THATCHER (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, with restrictions.
Applies to tax years beginning on or after January 1, 2018, and before January 1, 2028.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a paid family leave tax credit; creating new provisions; amending ORS 314.752 and
3 318.031; 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, "paid family leave" means family medical leave**
7 **provided under any federal, state or local law or similar leave of absence that is granted by**
8 **an employer with pay.**

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 family leave as defined in this section. The amount of the credit is 50 percent of the**
12 **qualified paid family leave wages that are paid by the taxpayer during the tax year.**

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

14 **(a) Employs not more than 50 employees at any time during the tax year;**

15 **(b) Provides paid family leave in accordance with all applicable federal, state and local**
16 **laws; and**

17 **(c) Has paid to its employees the full amount of wages due for paid family leave taken**
18 **during the tax year not later than December 31 of the tax year.**

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

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

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

29 **(7) A nonresident shall be allowed the credit under this section. The credit shall be**
30 **computed in the same manner and be subject to the same limitations as the credit granted**
31 **to a resident.**

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

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

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

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

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

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

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

26 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 27 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 28 316.117, then that provision shall apply to the nonresident shareholder.

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

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

45 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter

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

6 **SECTION 5. Section 2 of this 2017 Act and the amendments to ORS 314.752 and 318.031**
7 **by sections 3 and 4 of this 2017 Act apply to tax years beginning on or after January 1, 2018,**
8 **and before January 1, 2028.**

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

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