

DRAFT

SUMMARY

Establishes certain requirements for employer who hires homeless day-laborer to perform work for employer. Allows employer to qualify for subtraction from federal taxable income.

Permits employer to apply for federal waiver for exemption from federal payroll tax requirements.

Excludes wages paid to homeless day laborers from definition of “wages” for purposes of state income tax withholding. Exempts wages from employee income tax withholding.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to homeless day-laborers; creating new provisions; amending ORS
3 316.162; and prescribing an effective date.

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

5 **SECTION 1. As used in this section and section 2 of this 2019 Act:**

6 (a) **“Employer” means an entity or individual who hires a day-**
7 **laborer who is a homeless individual to perform work for the entity**
8 **or individual.**

9 (b) **“Family member” means any individual related by blood, mar-**
10 **riage or adoption to an employer who hires homeless day laborers**
11 **under section 2 of this 2019 Act.**

12 (c) **“Homeless day laborer” means a homeless individual who is**
13 **employed and paid wages by an employer on a day-to-day basis.**

14 (d) **“Homeless individual” has the meaning given that term in 42**
15 **U.S.C. 11302, as in effect on the effective date of this 2019 Act.**

16 (e) **“Wages” means remuneration that is paid on a cash basis for**

1 **services performed by a homeless day laborer.**

2 **SECTION 2. (1) An employer who hires a homeless day laborer:**

3 **(a) Shall pay wages to the homeless day laborer at a rate that is**
4 **not less than the minimum hourly wage rate required in ORS 653.025.**

5 **(b) Shall document and keep records of the following information:**

6 **(A) The name of the homeless day laborer who is hired by the em-**
7 **ployer.**

8 **(B) A copy of the homeless day laborer's driver license or an iden-**
9 **tification card issued by any state or the federal government, if**
10 **available.**

11 **(C) The last known address of the homeless day laborer, if available.**

12 **(D) The actual hours worked by the homeless day laborer each day.**

13 **(E) A signed, written agreement between the employer and the**
14 **homeless day laborer documenting the hours worked by the day la-**
15 **borer and the amount of wages paid by the employer to the day la-**
16 **borer.**

17 **(c) May hire only homeless day laborers who are not family mem-**
18 **bers of the employer.**

19 **(d) May not refuse to hire a homeless day laborer on the basis of a**
20 **day laborer's race, color, religion, sex, sexual orientation, national**
21 **origin, marital status or age if the homeless day laborer is 18 years**
22 **old or older.**

23 **(2) Homeless day laborers who are hired by employers under this**
24 **section may not be counted toward the number of employees employed**
25 **by the employer for purposes of ORS 653.601 to 653.661 or 659A.150 to**
26 **659A.186.**

27 **(3) The Bureau of Labor and Industries may adopt rules to enforce**
28 **the prohibition against discrimination under subsection (1) of this**
29 **section.**

30 **(4)(a) An employer who complies with the requirements under sub-**
31 **section (1) of this section may qualify for a deduction from federal**

1 **taxable income under sections 5 or 7 of this 2019 Act.**

2 **(b) The Department of Revenue shall adopt employer reporting re-**
3 **quirements including rules substantiating an employer’s eligibility for**
4 **a subtraction under section 5 or 7 of this 2019 Act.**

5 **(5) An employer may seek from the Internal Revenue Service a**
6 **waiver from federal payroll tax requirements.**

7 **(6) The wages paid to a homeless day laborer under this section are**
8 **not wages for the purposes of ORS 316.162.**

9 **SECTION 3.** ORS 316.162 is amended to read:

10 316.162. As used in ORS 316.162 to 316.221:

11 (1) “Number of withholding exemptions claimed” means the number of
12 withholding exemptions claimed in a withholding exemption certificate in
13 effect under ORS 316.182, except that if no such certificate is in effect, the
14 number of withholding exemptions claimed is considered to be zero.

15 (2) “Wages” means remuneration for services performed by an employee
16 for an employer, including the cash value of all remuneration paid in any
17 medium other than cash, except that “wages” does not include remuneration
18 paid:

19 (a) For active service in the Armed Forces of the United States as to
20 which no withholding is required by the Internal Revenue Code.

21 (b) To an employee of a common carrier to the extent that 49 U.S.C. 14503
22 and 40116 prohibit the remuneration from withholding for state income taxes.

23 (c) For domestic service in a private home, a local college club or a local
24 chapter of a college fraternity or sorority.

25 (d) For casual labor not in the course of the employer’s trade or business.

26 (e) To an employee whose services to the employer consist solely of labor
27 in connection with the planting, cultivating or harvesting of seasonal agri-
28 cultural crops if the total amount paid to such employee is less than \$300
29 annually.

30 (f) To seamen who are exempt from garnishment, attachment or execution
31 under title 46 of the United States Code.

1 (g) To persons temporarily employed as emergency forest fire fighters.

2 (h) To employees' trusts exempt from tax under provisions of the federal
3 Internal Revenue Code.

4 (i) For services performed by a duly ordained, commissioned or licensed
5 minister of a church in the exercise of the minister's ministry or by a mem-
6 ber of a religious order in the exercise of religious duties required by such
7 order, which duties are not commercial in nature.

8 (j) For services provided by an independent contractor, as defined in ORS
9 670.600.

10 (k) To or on behalf of an employee, a beneficiary of an employee or an
11 alternate payee under or to an eligible deferred compensation plan that, at
12 the time of the payment, is a plan described in section 457(b) of the Internal
13 Revenue Code and that is maintained by an eligible employer described in
14 section 457(e)(1)(A) of the Internal Revenue Code.

15 (L) When the remuneration is exempt from taxation under this chapter.

16 **(m) For services performed under section 2 of this 2019 Act.**

17 (3) "Employer" means:

18 (a) A person who is in such relation to another person that the person
19 may control the work of that other person and direct the manner in which
20 it is to be done; or

21 (b) An officer or employee of a corporation, or a member or employee of
22 a partnership, who as such officer, employee or member is under a duty to
23 perform the acts required of employers by ORS 316.167, 316.182, 316.197,
24 316.202 and 316.207.

25 **SECTION 4. Section 5 of this 2019 Act is added to and made a part**
26 **of ORS chapter 316.**

27 **SECTION 5. There shall be subtracted from federal taxable income**
28 **the total aggregate wages paid by a taxpayer under section 2 of this**
29 **2019 Act, less any amount deducted on the taxpayer's federal return**
30 **under section 162 of the Internal Revenue Code. The total subtraction**
31 **under this section may not exceed \$5,000.**

1 **SECTION 6.** Section 7 of this 2019 Act is added to and made a part
2 of ORS chapter 317.

3 **SECTION 7.** There shall be subtracted from federal taxable income
4 the total aggregate wages paid by a taxpayer under section 2 of this
5 2019 Act, less any amount deducted on the taxpayer's federal return
6 under section 162 of the Internal Revenue Code. The total subtraction
7 under this section may not exceed \$5,000.

8 **SECTION 8.** Section 9 of this 2019 Act is added to and made a part
9 of ORS chapter 316.

10 **SECTION 9.** Wages paid to a taxpayer under section 2 of this 2019
11 Act are exempt from taxes imposed under this chapter.

12 **SECTION 10.** Sections 5, 7 and 9 apply to tax years beginning on or
13 after January 1, 2020.

14 **SECTION 11.** This 2019 Act takes effect on the 91st day after the
15 date on which the 2019 regular session of the Eightieth Legislative
16 Assembly adjourns sine die.

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