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.

Requires employers who are authorized to pay subminimum wages to individuals with disabilities to pay certain wage rates until June 30, 2023. Requires employers to pay individuals with disabilities at minimum wage rate by July 1, 2023.

Lowers percentage of work hours of direct labor required for nonprofit organization to meet definition of "qualified nonprofit agency for individuals with disabilities."

Requires Oregon Department of Administrative Services to promote public agency compliance with requirements and objectives of provisions regarding qualified nonprofit agencies for individuals with disabilities.

Creates income tax credit for certain employers to defray costs of increasing wages paid to employees with disabilities.

Applies to tax years beginning on or after January 1, 2019, and before January 1, 2024, and to wages paid before July 1, 2023.

Makes conforming changes.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT
Relating to employees with disabilities; creating new provisions; amending ORS 279.835, 279.840, 279.845, 314.752 and 318.031; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 653.010 to 653.261.

SECTION 2. (1) An employer who is authorized to employ individuals with disabilities at subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in accordance with rules under ORS 653.030 or of the Department of Human Services may not employ or agree to employ individuals with disabilities at an hourly rate lower than:

(a) From July 1, 2020, to June 30, 2021, $9.25.
(b) From July 1, 2021, to June 30, 2022, $10.75.
(c) From July 1, 2022, to June 30, 2023, $12.50.

(2) After June 30, 2023, an employer who is authorized to employ individuals with disabilities at subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in accordance with rules under ORS 653.030 or of the Department of Human Services may not employ or agree to employ individuals with disabilities at a rate lower than the hourly rate required under ORS 653.025.

SECTION 3. ORS 279.835 is amended to read:

(1) “Department” means the Oregon Department of Administrative Services.

(2) “Direct labor” includes [all work required for preparation, processing and packing] all hours directly related to the performance of a service or manufacture of a product, but not supervision, administration, inspection and shipping.
(3) “Disability” means a physical or mental impairment that substantially limits one or more major life activities.

[(3)] (4) “Individual with a disability” means an individual who, because of the nature of disabilities, is not able to participate fully in competitive employment, and for whom specialized employment opportunities must be provided relies upon specialized employment services to find, secure and maintain employment.

[(4)] (5) “Public agency” or “public contracting agency” means any agency of the State of Oregon or any political subdivision thereof authorized by law to enter into public contracts and any public body created by intergovernmental agreement.

[(5)] (6) “Qualified nonprofit agency for individuals with disabilities” means a nonprofit [activity center or rehabilitation facility] organization:

(a) Organized under the laws of the United States or of this state and operated in the interest to provide training or employment for individuals with disabilities in this state, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(b) That complies with any applicable occupational health and safety standard required by the laws of the United States [or] and of this state; and

(c) That in the manufacture of products and in the provision of services, whether or not the products or services are procured under ORS 279.835 to 279.855, during the fiscal year employs individuals with disabilities for not less than 75 percent of the work hours of direct labor required for the manufacture or provision of the products or services.

SECTION 4. ORS 279.840 is amended to read:

279.840. The purpose of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 is to further the policy of this state to encourage and assist individuals with disabilities to achieve maximum personal independence within their communities through [useful and] productive gainful employment by assuring an expanded and constant market for [sheltered workshop and activity center] products and services produced by qualified nonprofit agencies for individuals with disabilities, thereby enhancing their dignity and capacity for self-support [and minimizing their dependence on welfare and need for costly institutionalization].

SECTION 5. ORS 279.845 is amended to read:

279.845. (1) It is the duty of the Oregon Department of Administrative Services to:

(a) Determine the price of all products manufactured and services offered for sale to the various public agencies by any qualified nonprofit agency for individuals with disabilities. The price shall recover [for the workshops] the cost of raw materials, labor, overhead, delivery costs and a margin held in reserve for inventory and equipment replacement;

(b) To revise such prices from time to time in accordance with changing cost factors; [and]

(c) To make such rules regarding specifications, time of delivery and other relevant matters of procedure as shall be necessary to carry out the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335[.]; and

(d) To promote the requirements under ORS 279.835 to 279.855.

(2) The department shall establish and publish a list of sources or potential sources of products produced by any qualified nonprofit agency for individuals with disabilities and the services provided by any such agency, which that the department determines are suitable for procurement by public agencies pursuant to ORS 279.835 to 279.855, 279A.025 (4) and 279C.335. This procurement list and revisions thereof shall be distributed to all public purchasing officers.
(3) The department may not delegate any duty imposed under this section to any person or
public agency outside of the department.

SECTION 6. Section 7 of this 2019 Act is added to and made a part of ORS chapter 315.

SECTION 7. (1) A credit against all taxes that are otherwise due under ORS chapter 316,
or if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer
who pays wages in accordance with section 2 of this 2019 Act. The amount of the credit in
any one tax year is computed by multiplying the total hours worked per year by employees
of an employer described under section 2 of this 2019 Act by $2.

(2) A taxpayer may qualify for the credit allowed under this section if the taxpayer pays
the taxpayer’s employees in accordance with all applicable federal, state and local laws and
section 2 of this 2019 Act.

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

(4) Any tax credit otherwise allowable under this section that is not used by the taxpayer
in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
year may be carried forward and used in the second succeeding tax year, and likewise any
credit not used in that second succeeding tax year may be carried forward and used in the
third succeeding tax year but may not be carried forward for any tax year thereafter.

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

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

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

SECTION 8. ORS 314.752, as amended by section 7, chapter 108, Oregon Laws 2018, is amended
to read:

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

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

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

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

(5) As used in this section, “business tax credit” means the following credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon Laws 2018 (Opportunity Grant Fund contributions), and section 7 of this 2019 Act (elimination of subminimum wage for employees with disabilities).

SECTION 9. ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section 2, chapter 108, Oregon Laws 2018, (all only to the extent applicable to a corporation) and section 7 of this 2019 Act and ORS chapter 317.

SECTION 10. Section 7 of this 2019 Act and the amendments to ORS 314.752 and 318.031 by section 8 and 9 of this 2019 Act apply to tax years beginning on or after January 1, 2019, and before January 1, 2024, and to wages paid before July 1, 2023.

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