

House Bill 2871

Sponsored by Representative EVANS (Pre-session 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 are required to provide paid sick leave.
Applies to tax years beginning on or after January 1, 2022, and before January 1, 2026.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a paid sick leave tax credit; creating new provisions; amending ORS 314.772 and 318.031;
3 and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section, "paid sick leave" means sick leave required by**
7 **federal, state or local law.**

8 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
9 payer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that provides
10 paid sick leave. The amount of the credit is as follows:

11 (a) For tax years beginning on or after January 1, 2022, and before January 1, 2023, the
12 amount of the tax credit is 75 percent of the qualified paid sick leave wages that are paid by
13 the taxpayer during the tax year.

14 (b) For tax years beginning on or after January 1, 2023, and before January 1, 2024, the
15 amount of the tax credit is 50 percent of the qualified paid sick leave wages that are paid by
16 the taxpayer during the tax year.

17 (c) For tax years beginning on or after January 1, 2024, and before January 1, 2025, the
18 amount of the tax credit is 35 percent of the qualified paid sick leave wages that are paid by
19 the taxpayer during the tax year.

20 (d) For tax years beginning on or after January 1, 2025, and before January 1, 2026, the
21 amount of the tax credit is 25 percent of the qualified paid sick leave wages that are paid by
22 the taxpayer during the tax year.

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

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

25 (b) Provides paid sick leave in accordance with all applicable federal, state and local laws;
26 **and**

27 (c) Has paid to the taxpayer's employees the full amount of wages due for paid sick leave
28 taken during the tax year not later than the last day of the tax year.

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

31 (5) The credit allowed under this section may not exceed the tax liability of the taxpayer

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 tax year.

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

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

11 (8) If a change in the tax year of the taxpayer occurs as described in ORS 314.085, or if
 12 the Department of Revenue terminates the taxpayer’s tax year under ORS 314.440, the credit
 13 allowed by this section shall be prorated or computed in a manner consistent with ORS
 14 314.085.

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

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

22 **SECTION 3.** ORS 314.772 is amended to read:

23 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a
 24 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 25 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 26 allowable to the shareholders of the S corporation.

27 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on
 28 income of the shareholder of an S corporation, there shall be taken into account the shareholder’s
 29 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 30 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 31 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 32 manner prescribed under section 1377(a) of the Internal Revenue Code.

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

36 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 37 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 38 316.117, then that provision shall apply to the nonresident shareholder.

39 (5) As used in this section, “business tax credit” means the following credits: ORS 315.104
 40 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 41 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
 42 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
 43 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
 44 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
 45 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy

1 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
 2 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
 3 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
 4 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
 5 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS
 6 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643
 7 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account
 8 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone
 9 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research
 10 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,
 11 Oregon Laws 2013 (alternative fuel vehicle contributions), **and section 2 of this 2021 Act (paid**
 12 **sick leave).**

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

14 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 15 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 16 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 17 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
 18 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and
 19 315.643 **and section 2 of this 2021 Act** (all only to the extent applicable to a corporation) and ORS
 20 chapter 317.

21 **SECTION 5.** **Section 2 of this 2021 Act and the amendments to ORS 314.772 and 318.031**
 22 **by sections 3 and 4 of this 2021 Act apply to tax years beginning on or after January 1, 2022,**
 23 **and before January 1, 2026.**

24 **SECTION 6.** **This 2021 Act takes effect on the 91st day after the date on which the 2021**
 25 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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