

## HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4002

By JOINT COMMITTEE ON FARM WORKER OVERTIME

February 25

1 On page 3 of the printed A-engrossed bill, delete lines 37 through 45 and delete page 4.

2 On page 5, delete lines 1 through 40 and insert:

3 **“SECTION 6a. (1) No later than November 30, 2026, and every six years thereafter, the**  
4 **Employment Department, in consultation with the Bureau of Labor and Industries, the De-**  
5 **partment of Revenue and the State Department of Agriculture, shall submit a report, in the**  
6 **manner provided in ORS 192.245, to the interim committees of the Legislative Assembly re-**  
7 **lated to agriculture, on the identified economic impacts of the overtime compensation re-**  
8 **quirements under section 2 of this 2022 Act.**

9 **“(2) The report must consider all available relevant data related to the overtime com-**  
10 **penetration requirements under section 2 of this 2022 Act for calendar years 2023, 2024, 2025**  
11 **and 2026 and must include, but need not be limited to, an examination of the following:**

12 **“(a) Employment, wages and hours worked by agricultural workers whose employment**  
13 **is subject to ORS chapter 657.**

14 **“(b) The total amount of wages paid to agricultural workers whose employment is subject**  
15 **to ORS chapter 657.**

16 **“(c) Employment, wages and hours worked in the agricultural sector by quarter, includ-**  
17 **ing job vacancies available in natural resources, by quarter.**

18 **“(d) Employment, wages and hours worked, separated by size of employer and agricul-**  
19 **tural sector.**

20 **“(e) Recent national and regional trends related to the agricultural workforce, including**  
21 **wages, employment and labor costs.**

22 **“SECTION 6b. The division of the Oregon Department of Administrative Services that**  
23 **serves as the office of economic analysis shall include in the economic forecast for a**  
24 **biennium any available relevant economic and wage data that relates to the agricultural**  
25 **economy in this state as impacted by the operation of sections 2 and 8 of this 2022 Act.**

26 **“SECTION 6c. No later than September 30, 2022, the State Department of Agriculture and**  
27 **the Oregon Business Development Department shall make recommendations for legislation**  
28 **to a regular or interim committee of the Legislative Assembly related to agriculture re-**  
29 **garding available options for establishing a grant program, loan program or lending program**  
30 **to which \$10 million will be allocated for the purpose of providing financial assistance to**  
31 **employers to mitigate the costs associated with compliance with the overtime compensation**  
32 **requirements under section 2 of this 2022 Act.**

33 **“SECTION 7. Sections 8 to 11 of this 2022 Act are added to and made a part of ORS**  
34 **chapter 315.**

35 **“SECTION 8. (1) As used in this section and sections 9 and 10 of this 2022 Act:**

1           “(a) ‘Agricultural worker’ has the meaning given that term in section 1 of this 2022 Act.  
2           “(b) ‘Eligible employer’ means an employer doing business in 2017 North American In-  
3           dustry Classification System code 111, crop production, or code 112, animal production and  
4           aquaculture.  
5           “(c) ‘Full-time equivalent employee’ means an employee or a combination of employees  
6           that perform at least 2,080 hours of work for an employer in a calendar year.  
7           “(2)(a) A credit against taxes that are otherwise due under ORS chapter 316 or, if the  
8           taxpayer is a corporation, under ORS chapter 317 or 318 is allowed for overtime compen-  
9           sation required under section 2 of this 2022 Act to be paid, for work performed in Oregon,  
10          by an eligible employer to agricultural workers on an hourly basis. The amount of the credit  
11          shall equal a percentage of the actual excess paid to agricultural workers during the calendar  
12          year in which the tax year begins, as determined under section 9 of this 2022 Act.  
13          “(b) A labor contractor licensed under ORS 658.410 may not claim a credit under this  
14          section. An eligible employer may claim a credit under this section for wages paid to workers  
15          recruited, solicited, supplied or employed by a labor contractor on behalf of the eligible em-  
16          ployer.  
17          “(c) Notwithstanding ORS 317.090 (3), a credit under this section is allowed against the  
18          tax imposed under ORS 317.090.  
19          “(d) A credit is not allowed under this section for any overtime wages paid to an em-  
20          ployee who is exempt from the provisions of section 2 of this 2022 Act as a member of the  
21          immediate family of the employer.  
22          “(3) Prior to claiming the credit allowed under this section, a taxpayer is required to  
23          receive a notice of acknowledgment from the Department of Revenue, as provided in section  
24          10 of this 2022 Act, stating the maximum amount of credit that the taxpayer may claim for  
25          the calendar year.  
26          “(4) If the amount allowable:  
27          “(a) As a credit under this section against taxes imposed under ORS chapter 316, when  
28          added to the sum of the amounts allowable as payment of tax under ORS 316.187 or 316.583,  
29          other tax prepayment amounts and other refundable credit amounts, exceeds the taxes im-  
30          posed by ORS chapters 314 and 316 for the tax year after application of any nonrefundable  
31          credits allowable for purposes of ORS chapter 316 for the tax year, the amount of the excess  
32          shall be refunded to the taxpayer as provided in ORS 316.502.  
33          “(b) As a credit under this section against taxes imposed under ORS chapter 317 or 318,  
34          when added to the sum of the amount of estimated tax paid under ORS 314.515 and any other  
35          tax prepayment amounts, exceeds the taxes imposed by ORS chapters 314 and 317 for the tax  
36          year (reduced by any nonrefundable credits allowable for purposes of ORS chapter 317 for the  
37          tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS  
38          314.415.  
39          “(5) Any amount that is refunded to the taxpayer under this section and that is in excess  
40          of the tax liability of the taxpayer does not bear interest.  
41          “(6) A nonresident shall be allowed the credit under this section. The credit shall be  
42          computed in the same manner and be subject to the same limitations as the credit granted  
43          to a resident. However, the credit shall be prorated using the proportion provided in ORS  
44          316.117.  
45          “(7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,

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 non-  
5 resident 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 Revenue shall adopt rules for the purposes of sections 8 to 11 of  
8 this 2022 Act, including policies and procedures for providing notice to taxpayers regarding  
9 the credit allowed under this section as required in section 10 of this 2022 Act.

10 “**SECTION 9.** (1) The amount of credit allowed under section 8 of this 2022 Act shall be  
11 equal to a percentage of the additional wages paid as required overtime pay to agricultural  
12 workers by an eligible employer, in excess of regular pay, as set forth in subsections (2) to  
13 (5) of this section.

14 “(2) If during the calendar year the taxpayer employs more than 50 full-time equivalent  
15 employees and is not primarily engaged in the business of dairying, the following percentages  
16 of excess wages paid by the employer in a calendar year shall apply, for the following calen-  
17 dar years:

18 “(a) 60 percent, for 2023 or 2024.

19 “(b) 45 percent, for 2025.

20 “(c) 30 percent, for 2026.

21 “(d) 15 percent, for 2027 or 2028.

22 “(3) If during the calendar year the taxpayer employs more than 25 but not more than  
23 50 full-time equivalent employees, or employs more than 25 full-time equivalent employees  
24 and is primarily engaged in the business of dairying, the following percentages of excess  
25 wages paid by the employer in a calendar year shall apply, for the following calendar years:

26 “(a) 75 percent, for 2023.

27 “(b) 60 percent, for 2024 or 2025.

28 “(c) 50 percent, for 2026, 2027 or 2028.

29 “(4) If during the calendar year the taxpayer employs not more than 25 full-time equiv-  
30 alent employees and is not primarily engaged in the business of dairying, the following per-  
31 centages of excess wages paid by the employer in a calendar year shall apply, for the  
32 following calendar years:

33 “(a) 90 percent, for 2023.

34 “(b) 80 percent, for 2024 and 2025.

35 “(c) 60 percent, for 2026, 2027 and 2028.

36 “(5) If during the calendar year the taxpayer employs not more than 25 full-time equiv-  
37 alent employees and is primarily engaged in the business of dairying, the credit shall equal  
38 100 percent of excess wages paid by the employer.

39 “**SECTION 10.** (1) In order to receive a notice of acknowledgment from the Department  
40 of Revenue in support of a tax credit allowed under section 8 of this 2022 Act, a taxpayer  
41 shall submit to the department an application under this section. The application shall be  
42 made in the form and manner prescribed by the department and must be submitted by the  
43 taxpayer no later than January 31 following the calendar year for which the taxpayer seeks  
44 credit.

45 “(2) The taxpayer must include with the application required under this section the fol-

1    **lowing:**

2       “(a) The address and tax identification number of the taxpayer.

3       “(b) A statement by the taxpayer of the overtime hours worked and overtime wages paid,  
4    on an hourly basis, to agricultural workers employed by the taxpayer and the amount of  
5    overtime wages paid by or on behalf of the taxpayer as compensation to agricultural workers  
6    during the calendar year. The taxpayer shall provide aggregate data as to employees of the  
7    taxpayer who received overtime pay from the taxpayer and those who did not.

8       “(c) The number of the license issued under ORS 658.410 to any labor contractor used to  
9    recruit, solicit, supply or employ workers on behalf of the taxpayer, or other permit or reg-  
10   istration numbers issued to the labor contractor.

11       “(d) If applicable, any license required under ORS 475C.065 or 571.281 or registration re-  
12   quired under ORS 475C.792.

13       “(e) Any other information required by the department to verify the identity of the tax-  
14   payer or the potential maximum amount of credit allowed to the taxpayer under section 8  
15   of this 2022 Act.

16       “(3) Upon receipt of an application under this section, the department shall immediately  
17   allow an extension, from the next applicable due date, for filing of the taxpayer’s income or  
18   corporate excise tax return.

19       “(4) Not later than June 1 of the year in which the application under subsection (1) of this  
20   section is filed, the department shall issue written notice to taxpayers that meet the appli-  
21   cation requirements of this section. The notice of acknowledgment shall state the maximum  
22   amount of credit for which the taxpayer is eligible for the tax year. The credit claimed may  
23   not exceed the actual amount of excess paid as overtime wages to agricultural workers  
24   during the calendar year by the taxpayer.

25       “SECTION 11. The total amount allowed for tax credits for overtime wages under section  
26   8 of this 2022 Act, as acknowledged in notices provided by the Department of Revenue under  
27   section 10 of this 2022 Act, may not exceed \$55 million for all taxpayers for any calendar  
28   year. If the department receives applications for the credit sufficient to exceed this amount,  
29   the department shall by rule proportionately reduce the amount of certified credits among  
30   all taxpayers applying for the credit.

31       “SECTION 12. Section 8 of this 2022 Act applies to tax years beginning on or after Jan-  
32   uary 1, 2023.

33       “SECTION 12a. Following receipt of a report required under section 6a of this 2022 Act  
34   and submitted to a regular or interim committee of the Legislative Assembly, the Legislative  
35   Assembly shall consider making adjustments to the structure of the credit allowed under  
36   section 8 of this 2022 Act and shall revise the credit rate amounts provided in section 9 of  
37   this 2022 Act, if deemed appropriate by the Legislative Assembly.

38       “SECTION 12b. Notwithstanding any provision of ORS 314.835 or 314.840, the Department  
39   of Revenue and the Bureau of Labor and Industries may share information necessary for the  
40   effective administration of sections 2 and 8 of this 2022 Act, for the purpose of carrying out  
41   the provisions of sections 2 and 8 of this 2022 Act, provided that the department and the  
42   bureau do not disclose personally identifiable information.”.