

House Bill 2058

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor for Representative Paul Holvey)

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**.

Directs Oregon Business Development Department to develop and administer loan program to provide financial assistance to eligible employers to mitigate costs associated with compliance with agricultural overtime compensation requirements under section 2, chapter 115, Oregon Laws 2022 (Enrolled House Bill 4002).

Sunsets program on January 2, 2027.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to financial assistance for agricultural overtime compensation payments; and declaring an
3 emergency.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Department" means the Oregon Business Development Department, except when the**
7 **Department of Revenue is referred to by its full title.**

8 (b) **"Eligible employer" means an employer doing business in 2017 North American In-**
9 **dustry Classification System code 111, crop production, or code 112, animal production and**
10 **aquaculture.**

11 (c) **"Tax credit" means the tax credit for agricultural overtime pay allowed under section**
12 **8, chapter 115, Oregon Laws 2022.**

13 (2) **The Oregon Business Development Department shall develop and administer a loan**
14 **program for the purpose of providing financial assistance to eligible employers to mitigate**
15 **the costs associated with compliance with the agricultural overtime compensation require-**
16 **ments under section 2, chapter 115, Oregon Laws 2022.**

17 (3)(a) **An eligible employer may apply for a loan under the program administered under**
18 **this section if the eligible employer:**

19 (A) **Is eligible to apply for the tax credit; and**

20 (B) **Anticipates earning not more than \$1,500,000 in gross revenue in the current year.**

21 (b) **An eligible employer may apply for a loan with respect to workers recruited, solicited,**
22 **supplied or employed on behalf of the eligible employer by a labor contractor licensed under**
23 **ORS 658.410. A labor contractor may not apply for a loan.**

24 (4)(a) **A loan to any eligible employer may not be made under this section in an amount**
25 **exceeding the lesser of:**

26 (A) **The amount of overtime pay the employer anticipates incurring in the current year;**

27 **or**

28 (B) **\$15,000.**

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 (b) The department may withhold from each loan an origination fee in an amount not
2 greater than 1.5 percent of the principal loan amount.

3 (5)(a) The department shall prescribe an application process for loans made under this
4 section, including forms and deadlines.

5 (b) The application must include affirmations that the eligible employer anticipates:

6 (A) Earning not more than \$1,500,000 in gross revenue in the current year;

7 (B) Having overtime costs in the current year;

8 (C) Being an eligible employer for purposes of the tax credit; and

9 (D) Applying for the tax credit.

10 (c) The application shall be signed under penalties for false swearing.

11 (6)(a) The department shall prescribe an application period to open not later than 30 days
12 following the effective date of this 2023 Act and to remain open for not less than 30 days.

13 (b) The department may consult with an applicant about the application and the appli-
14 cant, after such consultation, may amend the application at any time within the application
15 period.

16 (c) Not later than 30 days following the close of the application period, the department
17 shall:

18 (A) Review all timely and complete applications in accordance with the process prescribed
19 by the department;

20 (B) Approve or reject each application; and

21 (C) Make a loan offer to each approved applicant.

22 (d) The department shall promptly notify all applicants of the approval or rejection of
23 their applications and the principal loan amount of any loan offer. The principal loan amount
24 offered and the rejection of an application may not be appealed.

25 (7)(a) If the total of all approved principal loan amounts for an application period exceeds
26 the amount of moneys available in the Agricultural Overtime Loan Fund established under
27 section 2 of this 2023 Act, the amounts shall be reduced proportionally until the total of all
28 principal loan amounts does not exceed the amount of moneys available.

29 (b) If the total of all approved principal loan amounts for an application period does not
30 exceed the amount of moneys available in the fund, the department shall prescribe another
31 application period, of not less than 30 days, to be administered in accordance with subsection
32 (6) of this section.

33 (c) The loan application and review process shall continue until the earliest of:

34 (A) The date on which all moneys in the Agricultural Overtime Loan Fund have been
35 obligated under loan agreements;

36 (B) The date on which the balance in the Agricultural Overtime Loan Fund is less than
37 \$1,500; or

38 (C) June 30, 2025.

39 (d) If the balance in the Agricultural Overtime Loan Fund is less than \$1,500, all moneys
40 in the fund shall be transferred to the General Fund.

41 (8)(a) The department shall seek to enter into a loan agreement with each approved ap-
42 plicant based on the offer made pursuant to subsection (6) of this section.

43 (b) Loans shall be made interest-free for a term not to exceed two years.

44 (c) The loan agreement must require the debtor to:

45 (A) Use the loan proceeds to mitigate the costs associated with compliance with the ag-

1 ricultural overtime compensation requirements under section 2, chapter 115, Oregon Laws
2 2022;

3 (B) Notify the department promptly if the debtor:

4 (i) Decides not to apply for the tax credit; or

5 (ii) Is notified by the Department of Revenue that the debtor is ineligible for the tax
6 credit; and

7 (C) Repay the full principal amount of the loan:

8 (i) Within 30 days following the date on which the debtor notifies the department that
9 the debtor will not apply for the tax credit;

10 (ii) Within 30 days following the date on which the debtor notifies the department that
11 the Department of Revenue has determined that the debtor is ineligible for the tax credit;
12 or

13 (iii) Upon a breach of the loan agreement by the debtor that is not cured within a rea-
14 sonable period prescribed by the department according to the circumstances.

15 (9)(a) The department may bring a civil action to secure repayment of any amount of
16 loan proceeds not paid within 30 days following the date on which any obligation to repay
17 under the loan agreement or this section arises.

18 (b) If the department discovers that a person willfully made a false statement or mis-
19 representation, or willfully failed to report a material fact, to obtain a loan under this sec-
20 tion, the department may add to the amount the person is obligated to repay a penalty not
21 to exceed 20 percent of the principal amount of the loan so obtained.

22 (10) All amounts repaid to the department under this section, including principal amount
23 of loans and penalties, shall be transferred to the General Fund.

24 (11) Notwithstanding any provision of ORS 314.835 or 314.840, the Department of Revenue
25 and the department may share information that is related to an eligible employer's applica-
26 tion for the tax credit, the sharing of which is necessary for the effective administration of
27 this section.

28 SECTION 2. (1) The Agricultural Overtime Loan Fund is established in the State Treas-
29 ury, separate and distinct from the General Fund. Interest earned by the Agricultural
30 Overtime Loan Fund shall be credited to the fund.

31 (2) Moneys in the fund consist of:

32 (a) Amounts appropriated or otherwise transferred or credited to the fund by the Legis-
33 lative Assembly;

34 (b) Earnings received on moneys in the fund; and

35 (c) Other amounts from any source transferred or otherwise credited to the fund.

36 (3) Moneys in the Agricultural Overtime Loan Fund are continuously appropriated to the
37 Oregon Business Development Department for the following purposes:

38 (a) Paying the actual costs incurred by the department in developing and administering
39 section 1 of this 2023 Act; and

40 (b) Carrying out the provisions of section 1 of this 2023 Act in accordance with section
41 447 (1), chapter 110, Oregon Laws 2022.

42 (4) Any moneys remaining in the fund on June 30, 2025, shall be transferred to the Gen-
43 eral Fund.

44 SECTION 3. Sections 1 and 2 of this 2023 Act are repealed on January 2, 2027.

45 SECTION 4. (1) There is appropriated to the Oregon Business Development Department,

1 for the biennium beginning July 1, 2023, out of the General Fund, the lesser of the following
2 amounts:

3 (a) \$10,150,000; or

4 (b) \$10,150,000 less any moneys allocated to the department by the Emergency Board
5 from moneys appropriated to the Emergency Board under section 447 (1), chapter 110,
6 Oregon Laws 2022.

7 (2)(a) Moneys appropriated to the department under this section shall be deposited in the
8 Agricultural Overtime Loan Fund established under section 2 of this 2023 Act.

9 (b) Of the moneys so appropriated:

10 (A) The Oregon Business Development Department may withhold \$150,000 for the actual
11 costs it incurs in developing and administering section 1 of this 2023 Act; and

12 (B) The balance may be used solely for the purposes set forth in section 1 of this 2023
13 Act.

14 SECTION 5. This 2023 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
16 on its passage.

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