

Senate Bill 398

Sponsored by Senator STEINER HAYWARD; Representative KENY-GUYER (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**.

Requires pay stub summary to include notice of potential availability of earned income tax credit to employee. Requires Department of Revenue, Bureau of Labor and Industries and Employment Department to promulgate rules to increase employee awareness of earned income tax credit.

A BILL FOR AN ACT

1
2 Relating to increased employee awareness of the earned income tax credit; creating new provisions;
3 and amending ORS 652.610.

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

5 **SECTION 1.** ORS 652.610, as amended by section 1, chapter 115, Oregon Laws 2016, is amended
6 to read:

7 652.610. (1)(a) All persons, firms, partnerships, associations, cooperative associations, corpo-
8 rations, municipal corporations, the state and its political subdivisions, except the federal govern-
9 ment and its agencies, employing, in this state, during any calendar month one or more persons,
10 shall provide the employee on regular paydays and at other times payment of wages, salary or
11 commission is made, with an itemized statement as described in paragraph (b) of this subsection.

12 (b) The statement required under this subsection must be a written statement, sufficiently
13 itemized to show:

14 (A) The date of the payment;

15 (B) The dates of work covered by the payment;

16 (C) The name of the employee;

17 (D) The name and business registry number or business identification number;

18 (E) The address and telephone number of the employer;

19 (F) The rate or rates of pay;

20 (G) Whether the employee is paid by the hour, shift, day or week or on a salary, piece or com-
21 mission basis;

22 (H) Gross wages;

23 (I) Net wages;

24 (J) The amount and purpose of each deduction made during the respective period of service that
25 the payment covers;

26 (K) Allowances, if any, claimed as part of minimum wage;

27 (L) Unless the employee is paid on a salary basis and is exempt from overtime compensation as
28 established by local, state or federal law, the regular hourly rate or rates of pay, the overtime rate
29 or rates of pay, the number of regular hours worked and pay for those hours, and the number of
30 overtime hours worked and pay for those hours; and

31 (M) If the employee is paid a piece rate, the applicable piece rate or rates of pay, the number

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 of pieces completed at each piece rate and the total pay for each rate.

2 (c) Notwithstanding paragraph (b) of this subsection, the employer may provide the statement
3 required under this subsection to the employee in electronic form pursuant to ORS 84.001 to 84.061
4 if:

5 (A) The statement contains the information described in paragraph (b) of this section;

6 (B) The employee expressly agrees to receive the statement in electronic form; and

7 (C) The employee has the ability to print or store the statement at the time of receipt.

8 **(d) The itemized statement must include notice that the recipient may be entitled to an**
9 **earned income tax credit under the federal tax laws with an Internet address and telephone**
10 **number for further information.**

11 (2)(a) The statement may be attached to or be a part of the check, draft, voucher or other in-
12 strument by which payment is made, or may be delivered separately from the instrument.

13 (b) The statement shall be provided electronically at the time payment is made to all state offi-
14 cers and employees paid electronically under the state payroll system as provided by ORS 292.026.

15 (c) State agencies shall provide access to electronic statements to employees who do not have
16 regular access to computers in their workplace.

17 (d) Notwithstanding paragraph (b) of this subsection, if an officer or employee paid under the
18 state payroll system as provided by ORS 292.026 wants to receive payment of net salary and wages
19 by check or to receive a paper statement of itemized payroll deductions, the officer or employee
20 shall request paper statements or payment by check in accordance with the procedures adopted by
21 rule by the Oregon Department of Administrative Services.

22 (3) An employer may not withhold, deduct or divert any portion of an employee's wages unless:

23 (a) The employer is required to do so by law;

24 (b) The deductions are voluntarily authorized in writing by the employee, are for the employee's
25 benefit and are recorded in the employer's books;

26 (c) The employee has voluntarily signed an authorization for a deduction for any other item,
27 provided that the ultimate recipient of the money withheld is not the employer and that the de-
28 duction is recorded in the employer's books;

29 (d) The deduction is authorized by a collective bargaining agreement to which the employer is
30 a party;

31 (e) The deduction is authorized under ORS 18.736; or

32 (f) The deduction is made from the payment of wages upon termination of employment and is
33 authorized pursuant to a written agreement between the employee and employer for the repayment
34 of a loan made to the employee by the employer, if all of the following conditions are met:

35 (A) The employee has voluntarily signed the agreement;

36 (B) The loan was paid to the employee in cash or other medium permitted by ORS 652.110;

37 (C) The loan was made solely for the employee's benefit and was not used, either directly or
38 indirectly, for any purpose required by the employer or connected with the employee's employment
39 with the employer;

40 (D) The amount of the deduction at termination of employment does not exceed the amount
41 permitted to be garnished under ORS 18.385; and

42 (E) The deduction is recorded in the employer's books.

43 (4) When an employer deducts an amount from an employee's wages as required or authorized
44 by law or agreement, the employer shall pay the amount deducted to the appropriate recipient as
45 required by the law or agreement. The employer shall pay the amount deducted within the time re-

1 quired by the law or the agreement or, if the time for payment is not specified by the law or
 2 agreement, within seven days after the date the wages from which the deductions are made are due.
 3 Failure to pay the amount as required constitutes an unlawful deduction.

4 (5) This section does not:

5 (a) Prohibit the withholding of amounts authorized in writing by the employee to be contributed
 6 by the employee to charitable organizations, including contributions made pursuant to ORS 243.666
 7 and 663.110;

8 (b) Prohibit deductions by checkoff dues to labor organizations or service fees when the de-
 9 ductions are not otherwise prohibited by law; or

10 (c) Diminish or enlarge the right of any person to assert and enforce a lawful setoff or
 11 counterclaim or to attach, take, reach or apply an employee's compensation on due legal process.

12 **SECTION 2. (1) The Department of Revenue, the Bureau of Labor and Industries and the**
 13 **Employment Department shall promulgate rules to increase employee awareness of the**
 14 **earned income tax credit under the federal tax laws.**

15 **(2) An employer shall keep summaries of all rules promulgated by any agency for the**
 16 **purposes described in subsection (1) of this section posted in a conspicuous and accessible**
 17 **place in or about the premises where the employees of the employer are employed. An em-**
 18 **ployer may obtain the summaries from the website of the Bureau of Labor and Industries**
 19 **or upon the employer's request from the bureau, the first copy of which shall be furnished**
 20 **without charge. In addition, upon request from the employer, the bureau shall furnish the**
 21 **complete text of all rules promulgated pursuant to subsection (1) of this section to any em-**
 22 **ployer without charge.**

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