

# Senate Bill 406

Sponsored by Senator FERRIOLI (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 to defray costs of increase in minimum wage.  
Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to a tax credit for employer costs of increase in minimum wage; creating new provisions;  
3 amending ORS 314.752 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) A credit against taxes that are otherwise due under ORS chapter 316 or,**  
7 **if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that**  
8 **is an employer with employees who are paid the minimum wage during the tax year. The**  
9 **amount of the credit shall be computed by:**

10 (a) **Subtracting \$9.25 from the minimum hourly wage rate applicable under ORS 653.025**  
11 **for work performed on July 1 of the tax year; and**

12 (b) **Multiplying the result in paragraph (a) of this subsection by the product of:**

13 (A) **The total number of full-time employees of the taxpayer on July 1 of the tax year;**

14 (B) **The median number of hours worked in the tax year by full-time employees of the**  
15 **taxpayer; and**

16 (C) **A ratio, the numerator of which is the number of full-time employees of the taxpayer**  
17 **paid the minimum wage on July 1, 2016, and the denominator of which is the total number**  
18 **of full-time employees of the taxpayer on July 1, 2016.**

19 (2) **A taxpayer may qualify for the credit allowed under this section if the taxpayer:**

20 (a) **Employs not more than 50 full-time employees at any time during the tax year; and**

21 (b) **Obtains written certification of eligibility from the Bureau of Labor and Industries**  
22 **prior to claiming the credit.**

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

25 (4) **A nonresident shall be allowed the credit under this section in the same manner and**  
26 **subject to the same limitations as a resident. However, the credit shall be prorated using the**  
27 **proportion provided in ORS 316.117.**

28 (5) **If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,**  
29 **or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,**  
30 **the credit allowed by this section shall be prorated or computed in a manner consistent with**  
31 **ORS 314.085.**

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

4       **(7) The Bureau of Labor and Industries shall adopt rules for the purposes of this section,**  
5 **including rules establishing policies and procedures for providing written certifications to**  
6 **taxpayers that qualify for the credit allowed under this section, as required by subsection (2)**  
7 **of this section.**

8       **SECTION 3.** ORS 314.752 is amended to read:

9       314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a  
10 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
11 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
12 allowable to the shareholders of the S corporation.

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

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

22       (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
23 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
24 316.117, then that provision shall apply to the nonresident shareholder.

25       (5) As used in this section, "business tax credit" means a tax credit granted to personal income  
26 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive  
27 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-  
28 section as a business tax credit or is designated as a business tax credit by law or by the Depart-  
29 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309  
30 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-  
31 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
32 (biomass production for biofuel), ORS 315.156 (crop gleanings), ORS 315.164 and 315.169 (agriculture  
33 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-  
34 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326  
35 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS  
36 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing  
37 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-  
38 merce) and ORS 315.533 (low income community jobs initiative) **and section 2 of this 2017 Act**  
39 **(minimum wage paid by employer).**

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

41       318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
42 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
43 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
44 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,  
45 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2017**

1 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

2 **SECTION 5. Section 2 of this 2017 Act and the amendments to ORS 314.752 and 318.031**  
3 **by sections 3 and 4 of this 2017 Act apply to tax years beginning on or after January 1, 2018,**  
4 **and before January 1, 2024.**

5 **SECTION 6. This 2017 Act takes effect on the 91st day after the date on which the 2017**  
6 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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