

Introduced by Senator GroveFebruary 20, 2025

An act to add Division 6.1 (commencing with Section 13200) to the Unemployment Insurance Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 628, as introduced, Grove. Employment: employer contributions: employee withholdings: credit: agricultural employees.

The Personal Income Tax Law imposes taxes on taxable income, as provided. Under existing law, every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state, is required to deduct and withhold from those wages, except as provided, for each payroll, a tax computed in an amount substantially equivalent to the amount reasonably estimated to be due under the Personal Income Tax Law. Under existing law, every employer required to withhold those taxes is required to, for each calendar quarter, file a withholding report, a quarterly return, and a report of wages in a form prescribed by the Employment Development Department, and pay over the taxes required to be withheld.

This bill would authorize an employer to claim a credit in an amount equal to the amount of overtime wages, as defined, paid during that quarter to specified agricultural employees covered by a certain wage order. The bill would require the credit to be claimed on the employer's report of contributions, quarterly return, and report of wages, or in an electronic funds transfer, as specified. The bill would prohibit the total amount claimed in any given quarter from exceeding the amount that would have been remitted for that quarter to the Employment Development Department for employee withholdings.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 6.1 (commencing with Section 13200)
2 is added to the Unemployment Insurance Code, to read:

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DIVISION 6.1. OVERTIME FOR AGRICULTURAL
WORKERS ACT OF 2016 CREDIT

7 13200. (a) An employer whose employees are covered by
8 Wage Order No. 14-2001 of the Industrial Welfare Commission
9 may claim a credit in accordance with this section.

10 (b) (1) Subject to paragraph (2), the amount of the credit shall
11 be equal to the amount of overtime wages paid for that quarter
12 under Chapter 6 (commencing with Section 857) of Part 2 of
13 Division 2 of the Labor Code to employees who are covered by
14 Wage Order No. 14-2001.

15 (2) For any employer, the total amount claimed pursuant to
16 paragraph (1) in any given quarter shall not exceed the amount
17 that would have been remitted for that quarter to the Employment
18 Development Department for employee withholdings pursuant to
19 Division 6 (commencing with Section 13000) but for the operation
20 of this section.

21 (c) The credit shall be claimed, in a form and manner prescribed
22 by the department, pursuant to either of the following:

23 (1) On the report of contributions, quarterly return, and report
24 of wages required under Section 1088.

25 (2) In an electronic funds transfer pursuant to subdivision (f) of
26 Section 1110 or Section 13021.

27 (d) (1) This section does not change the amount of taxes
28 required to be withheld from employees pursuant to Division 6
29 (commencing with Section 13000) and required to be reported to
30 the employee, the Employment Development Department, the
31 Franchise Tax Board, and the Internal Revenue Service.

32 (2) This section does not require additional taxes to be paid by
33 the employee or otherwise alter the employee’s tax liability under
34 Part 10 (commencing with Section 17001) of Division 2 of the
35 Revenue and Taxation Code.

1 (3) It is the intent of the Legislature that the operation of this
2 section does not require an appropriation of moneys by reducing
3 moneys remitted by the employer to the Employment Development
4 Department that would otherwise be deposited in the General Fund.

5 (e) The Employment Development Department may adopt rules
6 and regulations that are necessary or appropriate to implement this
7 section.

8 (f) For purposes of this section, the following definitions apply:

9 (1) “Employee” has the same meaning as that term is used in
10 Sections 3205, 3205.1, 3205.2, and 3205.3 of Title 8 of the
11 California Code of Regulations, as those sections read on January
12 1, 2023.

13 (2) “Overtime wages” means the difference between the
14 employees’ overtime rate of pay and their regular rate of pay.

15 (3) “Quarterly return” means the form on which the employer
16 reports its employer contributions and employee withholdings
17 pursuant to this code.