

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended, Be Printed Engrossed, and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:	8 - 0 - 0
Yeas:	Conger, Doherty, Esquivel, Hoyle, Johnson, Matthews, Kennemer, Schauffer
Nays:	0
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	4/8, 4/18, 4/20

WHAT THE MEASURE DOES: Prohibits the Public Employees Retirement Board from paying increased benefits by reason of state income taxation of payments made by the Board if the person receiving payments does not pay Oregon income tax on their retirement benefits. Clarifies that the measure does not apply to certain retirees whose retirement date is on or before January 1, 2012. Establishes procedures for enforcement and compliance. Provides for expedited review by the Oregon Supreme Court upon petition by an adversely affected party. Establishes an operative date of January 1, 2012. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:

- Background of chapter 569, Oregon Laws 1995 (House Bill 3349)
- Level of expected savings due to the measure's provisions
- What could happen if increased benefits were eliminated altogether
- Chance of the original measure's provisions holding up in litigation
- Method in which affected PERS members would be notified of the measure's provisions

EFFECT OF COMMITTEE AMENDMENT: Replaces the original measure.

BACKGROUND: Until the late 1980s, Public Employees Retirement System (PERS) retirees' pensions were exempt from state income taxes, while federal retirement benefits had partial exemptions and no exemptions for private retirement benefits. However, a 1989 federal Supreme Court ruling required that states must treat federal and state retirement benefits in the same manner. For nearly a decade, the state courts and the Legislative Assembly addressed this issue. One of the major enacted measures was House Bill 3349 (1995), which provided a one-time retroactive payment to PERS retirees as compensation for the taxation of benefits since 1991 and provided for increases in all future benefit payments adequate to compensate retirees to the extent required by *Hughes v. State of Oregon*, which determined that imposing income taxes was a breach on workers' contractual rights and that PERS retirees must be compensated for taxes paid on benefits that were attributable to service before September 28, 1991, the effective date of House Bill 2352 (1991).

House Bill 2456-A establishes that the increased benefit provided by House Bill 3349 (1995) will not be paid to affected Tier One retirees whose payments are not subject to Oregon personal income tax on or after January 1, 2012. Upon applying for retirement payments, a PERS member must provide a written statement to the Public Employees Retirement Board (PERB) that indicates whether the payments are subject to Oregon personal income tax, and must notify the Board when that status changes. If the member fails to submit the written statement, or indicates that payments are not subject to Oregon personal income tax, PERB may not pay the increased benefit. The measure also requires the Department of Revenue to provide an annual report to PERB with information identifying persons to whom payments have been made, including information on personal income tax returns that the Board deems necessary for determining whether the retiree's payments are subject to Oregon personal income tax. The Board is required to provide written notification regarding the measure's provisions to all affected PERS members that are applying for or receiving payments. House Bill 2456-A also extends similar provisions to public employers that provide its employees retirement benefits for police officers and firefighters other than by participation in PERS.

4/25/2011 4:53:00 PM

This summary has not been adopted or officially endorsed by action of the committee.