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# MEMORANDUM

Legislative Fiscal Office  
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**To:** *General Government Subcommittee*

**From:** *John Borden, Legislative Fiscal Office*  
(503) 986-1842

**Date:** May 21st, 2013

**Subject:** *HB 3436*  
Public Hearing

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House Bill 3436 is related to retirement investments. The measure has an emergency clause and is effective on passage.

The measure was referred to the Joint Committee on Ways and Means from the House Committee on Business and Labor.

House Bill 3436-A creates the Oregon Retirement Savings Investment Board comprised of the State Treasurer or designee and six members appointed by the Governor, two representatives of employers, two people with experience in the financial industry, and two public members. The measure directs the Board to develop recommendations for establishing an Oregon Secure Retirement Plan to offer retirement investment plans to employees in the private sector who have no retirement option through an employer. The measure requires the Board to report to the Legislative Assembly by December 1, 2013, describing the progress of the Board and, among other items, an analysis of whether the plan complies with federal law and a review of similar plans in other states. The Board must report again by September 2014 on specific recommendations for establishing the plan.

The measure and policy committee staff measure summary are available on the Oregon Legislative Information System (OLIS). The measure has no revenue impact and a fiscal impact has been issued. These material are also attached.

**FISCAL IMPACT OF PROPOSED LEGISLATION**

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office

**Measure: HB 3436 - A**

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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Prepared by: Matt Stayner  
Reviewed by: Daron Hill, John Borden  
Date: 5/20/13

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**Measure Description:**

Creates Oregon Retirement Savings Investment Board.

**Government Unit(s) Affected:**

Legislative Administration Committee (LAC), Office of the Governor, Oregon State Treasurer

**Summary of Expenditure Impact:**

Please see analysis

**Local Government Mandate:**

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**Analysis:**

The measure creates a seven member board for the purpose of developing recommendations for the establishment of a state-operated retirement investment plan to be offered to private sector employees who have no retirement plan option through their employer. The membership of the board includes the State Treasurer and six other members appointed by the Governor. The measure requires the Legislative Administration Committee (LAC) to provide staff support to the board.

LAC staff support for the Board is dependent on requirements placed on staff and the type, frequency, and location of board meetings.

The report required by the measure is to be based on a legal analysis of federal and state retirement law, a review of similar plans in other states, a review of investment products and services, and a review of industry best practices. The Legislative Fiscal Office assumes that analyses of this type would likely require contracting with private firms rather than be provided by state agencies, especially given the relatively short timeframe for completion of the report. The cost of such analyses is indeterminate and LAC does not have budgeted resources for such contracting.

The funding source for the measure is from gifts, grants or contributions received by the Board, if available. The lack of an identified source of funding could delay completion of the report.

The measure would have no fiscal impact on the State Treasurer or the Governor's Office. The measure would have an indeterminate on LAC.

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

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<b>Action:</b>	Do Pass as Amended, Be Printed Engrossed, and be Referred to the Committee on Ways and Means
<b>Vote:</b>	6 - 4 - 0
<b>Yeas:</b>	Barton, Fagan, Holvey, Matthews, Witt, Doherty
<b>Nays:</b>	Kennemer, Thatcher, Thompson, Weidner
<b>Exc.:</b>	0
<b>Prepared By:</b>	Jan Nordlund, Administrator
<b>Meeting Dates:</b>	3/15, 3/22, 4/15, 4/17

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**WHAT THE MEASURE DOES:** Establishes Oregon Retirement Savings Investment Board to develop recommendations for establishing Oregon Secure Retirement Plan to offer retirement investment plans to employees in private sector who have no retirement option through employer. Requires Board to report to the Legislative Assembly by December 1, 2013, and September 1, 2014. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Reasons why people do not save for retirement and extent of problem when retirement income is insufficient
- Experience and expertise of Oregon Investment Council to improve investment returns
- Voluntary, not mandatory, participation by employees
- Potential burden on employers if they must offer plan to employees and make withholdings
- Whether federal Employee Retirement Income Security Act (ERISA) requirements will be triggered if employer offers plan and makes withholdings
- Whether State's credit rating could be effected
- Board membership
- Potential impact on private investment industry

**EFFECT OF COMMITTEE AMENDMENT:** Deletes requirement that plan include specific features, including requirement that employers offer plan through voluntary payroll deduction. Requires Board develop recommendations for plan directed at private sector employees who have no retirement option through an employer. Modifies specifics to be included in Board's report to Legislative Assembly. Specifies Legislative Administration Committee will provide staff support.

**BACKGROUND:** California enacted legislation in 2012 (Senate Bill 1234) establishing a retirement savings program for private employees who do not participate in an employer-sponsored retirement savings plan. The legislation calls for a market analysis to determine factors regarding how the plan would be implemented. Once operational, administrative costs will be paid from investment earnings and are capped at one percent of total fund assets. Pooled contributions and professional management are expected to reduce the investing errors that individual savers are subject to make, thus increasing the returns beyond what an individual saver would experience. Eleven other states have considered similar legislation in recent years to provide place to invest without the considerable expense and market risks to which individual savers are exposed.

House Bill 3436-A creates the Oregon Retirement Savings Investment Board comprised of the State Treasurer or designee and six members appointed by the Governor (two representatives of employers, two people with experience in the financial industry, and two public members). The measure directs the Board to develop recommendations for establishing an Oregon Secure Retirement Plan to offer retirement investment plans to employees in the private sector who have no retirement option through an employer. The measure requires the Board to report to the Legislative Assembly by December 1, 2013, describing the progress of the Board and, among other items, an analysis of whether the plan complies with federal law and a review of similar plans in other states. The Board must report again by September 2014 on specific recommendations for establishing the plan.

4/22/2013 3:20:00 PM

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

**A-Engrossed  
House Bill 3436**

Ordered by the House April 24  
Including House Amendments dated April 24

Sponsored by Representative BAILEY, Senator BEYER; Representatives BARTON, CLEM, READ, VEGA  
PEDERSON

**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.

Creates Oregon Retirement Savings Investment Board. Directs board to develop recommendations for establishing Oregon Secure Retirement Plan for individuals and employees in private sector and report to interim committee of Legislative Assembly on recommendations.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to retirement investments; and declaring an emergency.

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

4 **SECTION 1. (1) The Oregon Retirement Savings Investment Board is established. The**  
5 **board consists of seven members as follows:**

6 (a) **The State Treasurer or the designee of the State Treasurer.**

7 (b) **The following members appointed by the Governor:**

8 (A) **Two representatives of employers.**

9 (B) **Two members who have experience in the financial industry or in pension plans.**

10 (C) **Two public members.**

11 (2) **The term of office of a member of the board is three years, but a member serves at**  
12 **the pleasure of the Governor. A member is eligible for reappointment. If there is a vacancy**  
13 **for any cause, the Governor shall make an appointment to become immediately effective for**  
14 **the unexpired term.**

15 (3) **The Governor shall select one of the members of the board as chairperson.**

16 (4) **A majority of the members of the board constitutes a quorum for the transaction of**  
17 **business.**

18 (5) **Members of the board are entitled to compensation and expenses as provided in ORS**  
19 **292.495.**

20 (6) **The board may accept gifts, grants or contributions from any source for the purposes**  
21 **of carrying out the duties of the board.**

22 (7) **The Legislative Administration Committee shall provide staff support to the board.**

23 (8) **All agencies, departments and officers of this state are directed to assist the board**  
24 **in the performance of its functions and to furnish such information and advice as the**  
25 **members of the board consider necessary to perform their functions.**

26 **SECTION 2. (1) For purposes of the reports required by section 3 of this 2013 Act, the**

**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 Oregon Retirement Savings Investment Board shall develop recommendations for establish-  
2 ing an Oregon Secure Retirement Plan to offer retirement investment plans to employees in  
3 the private sector who have no retirement option through an employer. In developing the  
4 plan, the board shall consider including the following features:

5 (a) Pooled individual retirement accounts.

6 (b) Using best business practices to expand participation in retirement savings and build  
7 enrollment to a level at which market efficiencies can lower costs to participants.

8 (c) Enabling employees to contribute to individual retirement accounts through payroll  
9 deduction.

10 (d) Making the plan's individual retirement accounts accessible on a voluntary basis to  
11 all private sector employees and individuals.

12 (e) Providing for the plan to be administered by the Oregon Retirement Savings Invest-  
13 ment Board, which may contract with one or more appropriate third party contractors, in-  
14 cluding but not limited to the Oregon Investment Council, for administration or investment  
15 management services.

16 (f) Providing options for individual retirement accounts or individual retirement annui-  
17 ties under section 408(a) or 408(b) of the Internal Revenue Code.

18 (g) Providing for the plan to accept rollover contributions from a participant in the plan  
19 or from an eligible retirement plan from which the participant is entitled to an eligible  
20 rollover contribution.

21 (2) The plan may not:

22 (a) Include any guarantee by the State of Oregon or cause the State of Oregon to incur  
23 any liability or obligation for payment of savings or benefits earned by plan participants.

24 (b) Impose any financial obligation or liability on private sector employers whose em-  
25 ployees participate in the plan with regard to investment or investment performance of the  
26 plan.

27 SECTION 3. (1) On or before December 1, 2013, the Oregon Retirement Savings Invest-  
28 ment Board shall report to an appropriate interim committee of the Legislative Assembly.  
29 The report must include:

30 (a) A description of the board's progress in developing recommendations with regard to  
31 the Oregon Secure Retirement Plan.

32 (b) An analysis, based on available legal advice, of how the plan will comply with federal  
33 law, including the Employee Retirement Income Security Act of 1974, and how the plan would  
34 be treated under existing state and federal tax law.

35 (c) An analysis of whether any adjustments are needed to the plan or to state or federal  
36 law to facilitate compliance with the law.

37 (d) A review of similar plans in other states.

38 (e) A review of available information relating to retirement investment products and  
39 services, including but not limited to retirement plans, retirement accounts and annuities.  
40 The information must include all expenses paid directly or indirectly by retirement planning  
41 product participants, including but not limited to penalties for early withdrawals, declining  
42 or fixed withdrawal charges, surrender or deposit charges, management fees and annual fees.

43 (f) A discussion of the governance of the board.

44 (g) A review of best industry practices and recommendations for representation of plan  
45 participants on the board.

1       (2) On or before September 1, 2014, the board shall report to an appropriate interim  
2 committee of the Legislative Assembly. The report must include recommendations for es-  
3 tablishing the Oregon Secure Retirement Plan as described in section 2 of this 2013 Act, in-  
4 cluding:

- 5       (a) Compliance and enforcement measures.
- 6       (b) Minimum or maximum investment levels.
- 7       (c) Enrollment procedures.
- 8       (d) Appropriate types of investment vehicles.
- 9       (e) Whether to insure or reinsure the invested funds against losses or poor returns.
- 10      (f) Procedures for account owners to withdraw funds from their accounts.
- 11      (g) Whether to contract with a private provider to assist with administration of the plan.
- 12      (h) Recommendations for necessary legislation to implement the plan.
- 13      (i) Any proposed rules the board considers necessary for the administration of the plan.
- 14      (3) The board may work with, contract with and enter into agreements with private  
15 sector entities to develop its recommendations under this section.

16       **SECTION 4.** Notwithstanding the term of office specified by section 1 of this 2013 Act,  
17 of the members first appointed to the Oregon Retirement Savings Investment Board:

- 18       (1) Two shall serve for a term ending January 1, 2014.
- 19       (2) Two shall serve for a term ending January 1, 2015.
- 20       (3) Three shall serve for a term ending January 1, 2016.

21       **SECTION 5.** Sections 3 and 4 of this 2013 Act are repealed on January 2, 2017.

22       **SECTION 6.** This 2013 Act being necessary for the immediate preservation of the public  
23 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect  
24 on its passage.  
25