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# MEMORANDUM

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**To:** *General Government Subcommittee*

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

**Date:** June 12th, 2013

**Subject:** *HB 3436-A*  
*Work Session*

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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 had a public hearing in this Subcommittee on May 21st, 2013.

The Work Session packet includes a preliminary staff measure summary, the –A6 amendment and a fiscal impact statement. This packet is available on the Oregon Legislative Information System (OLIS). The measure has no revenue impact and an indeterminate fiscal impact.

## Amendment

The –A6 amendment replaces the measure.

**Motion #1: Move the –A6 amendment to HB 3436.**

## Measure as Modified

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

**Motion #2: Move HB 3436 to the full committee with a “do pass” recommendation, as modified.**

Chair to assign carriers:

Full: \_\_\_\_\_  
2<sup>nd</sup> Chamber: \_\_\_\_\_

Joint Committee on Ways and Means

Carrier – House: Rep.

Carrier – Senate: Sen.

**Revenue:** No Revenue Impact

**Fiscal:** Fiscal Impact has been issued

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**Action:**

**Vote:**

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

**Prepared By:** John F. Borden, Legislative Fiscal Office

**Meeting Date:** June 12th, 2013

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**WHAT THE MEASURE DOES:** Establishes Oregon Retirement Savings Investment establishes nine member Oregon Retirement Savings Investment Task Force; Legislative Administration Committee to provide staff support for the Taskforce; Taskforce to report to during the interim to the Legislature on or before December 1, 2013 on recommendations for increasing the percentage of Oregonians saving for retirement or enrolled in a retirement plan, and for increasing the amount of those individual savings; develop recommendations for establishing an Oregon Secure Retirement Plan to offer retirement investment plans to individuals; the Task Force may not include in the plan any state guarantee, any financial obligation or liability on private sector employers whose employees participate in the plan with regard to investment or investment performance of the plan, or implement a plan without further consent of the Legislative Assembly; the report is to include: barriers to retirement; analysis of compliance with ERISA/state law; review of other states plan; review of retirement products and services; review of best practices for creating a plan; Taskforce to submit a final report to during the interim to the Legislature on or before September 1, 2014 to include: recommendations for establishing the Oregon Secure Retirement Plan, including compliance and enforcement measures, investment levels; investment vehicles, insure against investment poor returns; contracting with private third party administrator; Taskforce may work with and contract with private sector entities to develop its recommendation; recommended legislation; the Task Force and reporting requirements repealed on March 31, 2016; Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

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**EFFECT OF COMMITTEE AMENDMENT:** –A6 replaces the measure.

**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.

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 3436 - A6**

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

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

Prepared by: John Borden  
Reviewed by: Daron Hill, Matt Stayner  
Date: June 12, 2013

**Measure Description:**

Creates Oregon Retirement Savings Investment Task Force.

**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 establishes a nine member Oregon Retirement Savings Investment Task Force. Members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force. The Legislative Administration Committee (LAC) is to provide staff support for the Taskforce. The Taskforce is to report to during the interim to the Legislature on or before December 1, 2013 and then submit a final report to during the interim to the Legislature on or before September 1, 2014. The Taskforce may work with and contract with private sector entities to develop its recommendation. The Task Force and reporting requirements repealed on March 31, 2016.

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

The reports 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. These types of analyses and reviews would likely require contracting with private firms rather than be provided by LAC or state agencies, especially given the relatively short timeframe for completion of the first report. The cost of such analyses is indeterminate and LAC does not have budgeted resources for such contracting.

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

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 3436**

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 26 and  
2 delete pages 2 and 3 and insert:

3 **SECTION 1. (1) The Oregon Retirement Savings Investment Task**  
4 **Force is established. The task force consists of nine members as fol-**  
5 **lows:**

6 **“(a) The State Treasurer or the designee of the State Treasurer,**  
7 **who shall serve as chairperson of the task force.**

8 **“(b) One member of the Senate, appointed by the President of the**  
9 **Senate.**

10 **“(c) One member of the House of Representatives, appointed by the**  
11 **Speaker of the House of Representatives.**

12 **“(d) The following members appointed by the Governor:**

13 **“(A) Two representatives of employers.**

14 **“(B) Two members who have experience in the financial services**  
15 **industry or in pension plans.**

16 **“(C) Two public members.**

17 **“(2) If there is a vacancy for any cause, the appointing authority**  
18 **shall make an appointment to become immediately effective.**

19 **“(3) A majority of the members of the task force constitutes a**  
20 **quorum for the transaction of business.**

21 **“(4) Notwithstanding ORS 171.072, members of the task force who**  
22 **are members of the Legislative Assembly are not entitled to mileage**

1 expenses or a per diem and serve as volunteers on the task force.  
2 Other members of the task force are not entitled to compensation or  
3 reimbursement for expenses and serve as volunteers on the task force.

4 “(5) The Legislative Administration Committee shall provide staff  
5 support to the task force.

6 “(6) All agencies, departments and officers of this state are directed  
7 to assist the task force in the performance of its functions and to  
8 furnish such information and advice as the members of the task force  
9 consider necessary to perform their functions.

10 **“SECTION 2. (1) For purposes of the reports required by section 3**  
11 **of this 2013 Act, the Oregon Retirement Savings Investment Task**  
12 **Force shall:**

13 “(a) Develop recommendations for increasing the percentage of  
14 Oregonians saving for retirement or enrolled in a retirement plan and  
15 for increasing the amount of those individual savings. In developing  
16 its recommendations, the task force shall consider the following fac-  
17 tors and any other factors the task force finds relevant:

18 “(A) The barriers to retirement that individuals face, including but  
19 not limited to lack of education, lack of financial advice, lack of fi-  
20 nancial planning, issues related to gender and the complexity of re-  
21 tirement planning choices.

22 “(B) Possible approaches to alleviating the barriers to retirement  
23 that individuals face.

24 “(C) Possible approaches to encouraging individuals to save for re-  
25 tirement, including:

26 “(i) Specific educational and marketing strategies that the State of  
27 Oregon and private entities can pursue to encourage businesses and  
28 residents of this state to increase awareness of and participation in  
29 retirement savings plans; and

30 “(ii) Adoption and expansion of successful approaches used to in-

1 **crease participation in both employer-sponsored retirement plans and**  
2 **individual retirement products.**

3 **“(D) The access residents of this state have to employer-sponsored**  
4 **retirement plans and individual retirement products.**

5 **“(E) The types of employer-sponsored retirement plans and indi-**  
6 **vidual retirement products offered in this state.**

7 **“(F) Estimates of the average amount of savings and other financial**  
8 **resources residents of this state have upon retirement.**

9 **“(G) Estimates of the average amount of savings and other finan-**  
10 **cial resources that are recommended for a financially secure retire-**  
11 **ment in this state.**

12 **“(b) Develop recommendations for establishing an Oregon Secure**  
13 **Retirement Plan to offer retirement investment plans to individuals.**  
14 **In developing the plan, the task force shall consider including the**  
15 **following features:**

16 **“(A) Pooling individual retirement accounts.**

17 **“(B) Using best business practices to expand participation in re-**  
18 **tirement savings and to build enrollment to a level at which market**  
19 **efficiencies can lower costs to participants.**

20 **“(C) Enabling individuals to contribute to individual retirement**  
21 **accounts through payroll deductions.**

22 **“(D) Making the plan’s individual retirement accounts accessible**  
23 **on a voluntary basis to all individuals.**

24 **“(E) Providing for a plan that may contract for administration or**  
25 **investment management services with one or more appropriate pro-**  
26 **viders, including but not limited to the Oregon Investment Council.**

27 **“(F) Providing options for individual retirement accounts or indi-**  
28 **vidual retirement annuities.**

29 **“(G) Providing for the plan to accept rollover contributions from a**  
30 **participant in the plan or from an eligible retirement plan from which**

1 the participant is entitled to an eligible rollover contribution.

2 “(2) The task force may not:

3 “(a) Include in the plan any guarantee by the State of Oregon or  
4 cause the State of Oregon to incur any liability or obligation for pay-  
5 ment of savings or benefits earned by plan participants.

6 “(b) Include in the plan any financial obligation or liability on pri-  
7 vate sector employers whose employees participate in the plan with  
8 regard to investment or investment performance of the plan.

9 “(c) Implement a plan without further consent of the Legislative  
10 Assembly.

11 “SECTION 3. (1) On or before December 1, 2013, the Oregon Retire-  
12 ment Savings Investment Task Force shall report to an appropriate  
13 interim committee of the Legislative Assembly on the recommen-  
14 dations developed under section 2 of this 2013 Act. The report must  
15 include:

16 “(a) A discussion of the barriers to retirement that individuals face,  
17 and possible approaches to alleviating those barriers and encouraging  
18 individuals to save for retirement.

19 “(b) A description of the task force’s progress in developing rec-  
20 ommendations with regard to the Oregon Secure Retirement Plan.

21 “(c) An analysis, based on available legal advice, of how the plan  
22 will comply with federal law, including the Employee Retirement In-  
23 come Security Act of 1974, and how the plan would be treated under  
24 existing state and federal tax law.

25 “(d) An analysis of whether any adjustments are needed to the plan  
26 or to state or federal law to facilitate compliance with the law.

27 “(e) A review of similar plans in other states.

28 “(f) A review of available information relating to retirement in-  
29 vestment products and services, including but not limited to retire-  
30 ment plans, retirement accounts and annuities. The information must

1 include all expenses paid directly or indirectly by retirement planning  
2 product participants, including but not limited to penalties for early  
3 withdrawals, declining or fixed withdrawal charges, surrender or de-  
4 posit charges, management fees and annual fees.

5 “(g) A discussion of the governance of the task force.

6 “(h) A review of best industry practices and recommendations for  
7 representation of plan participants in creating the plan.

8 “(2) On or before September 1, 2014, the task force shall issue its  
9 final report to an appropriate interim committee of the Legislative  
10 Assembly. The report must include recommendations for encouraging  
11 individuals to plan for retirement and recommendations for establish-  
12 ing the Oregon Secure Retirement Plan as described in section 2 of  
13 this 2013 Act, including:

14 “(a) Compliance and enforcement measures.

15 “(b) Minimum or maximum investment levels.

16 “(c) Enrollment procedures.

17 “(d) Appropriate types of investment vehicles.

18 “(e) Whether to insure or reinsure the invested funds against losses  
19 or poor returns.

20 “(f) Procedures for account owners to withdraw funds from their  
21 accounts.

22 “(g) Whether to contract with a private provider to assist with ad-  
23 ministration of the plan or to provide investment management ser-  
24 vices.

25 “(h) Recommendations for legislation necessary to implement the  
26 plan.

27 “(i) Any proposed rules the task force considers necessary for the  
28 administration of the plan.

29 “(3) The task force may work with, contract with and enter into  
30 agreements with private sector entities to develop its recommen-

1 dations under this section.

2 **“SECTION 4. Sections 1 to 3 of this 2013 Act are repealed on March**  
3 **31, 2016.**

4 **“SECTION 5. This 2013 Act being necessary for the immediate**  
5 **preservation of the public peace, health and safety, an emergency is**  
6 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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