SB 201 -1 STAFF MEASURE SUMMARY

Senate Committee On Workforce

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Meeting Dates: 3/6, 4/10

WHAT THE MEASURE DOES:

Establishes that remuneration paid to eligible employee who was hired in qualifying position by university with governing board on or after August 29, 2003, and on or before December 31, 2017, and who was living and performing services within United States, is taxable income under Oregon law during period of employment with university.

ISSUES DISCUSSED:

- Legal and economic consequences from university's misapplication of OPSRP definition of salary, which excludes income earned outside of Oregon
- Number of public employees affected
- Cost to universities for accrued retirement benefits of affected employees

EFFECT OF AMENDMENT:

-1 Makes technical changes that clarify proposed statutory text. Establishes that remuneration paid to member of Public Employees Retirement System (PERS) for services to a university during a continuous period of employment is taxable income under Oregon law if the member was hired by a university with a governing board in a qualifying position between August 29, 2003, and December 31, 2016, inclusive, and member resided and performed those services for that university in the United States.

BACKGROUND:

Oregon's Public Employees Retirement System (PERS) enables public employers to provide their employees with retirement benefits. State government, public schools, community colleges, and many local governments (cities, counties, and special districts) participate in PERS. Public employers currently participating in PERS cover about 95 percent of all public employees in Oregon.

Senate Bill 201 addresses a limited group of employees who were hired by an Oregon public university on or between August 29, 2003, and December 31, 2016, including Eastern Oregon University, Oregon Institute of Technology, Oregon State University, Portland State University, Southern Oregon University, the University of Oregon, and Western Oregon University.

For Tier 1 and Tier 2 PERS members, salary is defined as including all "remuneration paid [to] an employee in cash out of the funds of a public employer in return for services to the employer." The Legislative Assembly provided a different definition of salary when it enacted the Oregon Public Service Retirement Plan (OPSRP). Salary under OPSRP includes "remuneration [that] is includable in the employee's taxable income under Oregon law." This definition excludes compensation paid to Oregon public employees who reside and work outside of Oregon.

Oregon public universities continued to make OPSRP contributions for all employees, including out-of-state employees whose compensation was not taxable in Oregon. Oregon public universities also continued communicating to prospective and newly-hired employees that they could receive benefits under OPSRP without informing them that compensation not taxable in Oregon would not be taken into account for OPSRP benefit purposes. Consequently, out-of-state employees were not able to make informed decisions regarding their retirement options and their financial future. This pattern continued until recently, when the error was discovered by PERS staff.

Senate Bill 201 provides retirement benefits to the group of employees described above, whose income is not taxable in Oregon and who have been mistakenly lead to believe that they would receive such benefits on all compensation earned, whether taxable in Oregon or not. Since January 1, 2017, the Oregon public universities have stopped making OPSRP contributions for out-of-state employees whose compensation was not taxable in Oregon and is notifying employees that they will not earn any OPSRP benefit on compensation that is not taxable in Oregon. If Senate Bill 201 is not adopted, the universities may need to examine whether they have any duty to provide a separate source of compensation or retirement benefits to out-of-state employees who believed they would receive benefits under OPSRP. Also, the public universities may seek a credit or refund for prior contributions to PERS on behalf of those employees.