

HB 4046 -1, -2, -3 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Jan Nordlund, LPRO Analyst

Meeting Dates: 2/12, 2/14, 2/14

WHAT THE MEASURE DOES:

Provides that outside compensation of employee of public university, Oregon Health and Science University, or community college is not included in employee's salary for purposes of Public Employees Retirement System (PERS).

ISSUES DISCUSSED:

- Proposal is not retroactive
- PERS does not verify sources of reported salary

EFFECT OF AMENDMENT:

- 1 Narrows scope of application to compensation paid on or after the effective date of the Act.
- 2 Clarifies that compensation to employees paid by Oregon Health and Science University is not excluded from employee's salary for purposes of PERS.
- 3 Clarifies that compensation paid by the community college employing the faculty member is not excluded from employee's salary for purposes of PERS. Clarifies that compensation paid by public university employing the officer or employee is not excluded from employee's salary for purposes of PERS.

BACKGROUND:

Oregon law allows university and community college employees to earn income from private or public resources including, but not limited to, consulting, appearances, speeches, and intellectual property. These external compensation laws for employees of public universities (ORS 352.232) and the Oregon Health and Sciences University (ORS 353.270) were enacted many years ago, and a similar law was passed during the 2017 legislative session (Senate Bill 206) for community college faculty members. Each law specifies that compensation is considered official compensation in accordance with state ethics laws (ORS 244.040), and not an honorarium.

The Public Employee Retirement System (PERS) calculates PERS benefits based on the salaries reported by PERS employers. The salaries of PERS Tier One/Tier Two members are defined as the cash remuneration paid to an employee out of the funds of a public employer in return for services to the employer under ORS 238.005(26). This definition would exclude outside payments from PERS calculations since the moneys would not have been paid out of the funds of a public employer or be paid in return for services to the employer. By contrast, the salaries of Oregon Public Service Retirement Plan (OPSRP) members are defined as the remuneration paid to an active member in return for services to the participating employer under ORS 238A.005. The OPSRP salary definition does not as clearly exclude outside payments as part of an employee's compensation package as the PERS Tier One/Tier Two definition. For OPSRP and Tier Two PERS calculations, final average salary is currently capped at \$275,000 per calendar year. ORS 238A.005(17)(a)(J).

House Bill 4046 clarifies that outside compensation of community college, public university, and Oregon Health and Science University employees is not included in the employee's salary that is reported to PERS.