

HB 4108 B STAFF MEASURE SUMMARY**Carrier:** Sen. Manning Jr**Senate Committee On Labor and Business****Action Date:** 02/20/20**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 5-0-0-0**Yeas:** 5 - Hansell, Hass, Knopp, Monnes Anderson, Taylor**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Tyler Larson, LPRO Analyst**Meeting Dates:** 2/20**WHAT THE MEASURE DOES:**

Defines "salary" for purposes of Oregon Public Service Retirement Plan to include housing allowance paid to member in exchange for service as a prison chaplain rendered to a public employer.

ISSUES DISCUSSED:

- Impact of current statute
- Change in payroll reporting practices by Department of Corrections (DOC) in 2016

EFFECT OF AMENDMENT:

Removes separate definition of "salary" and includes housing allowance paid to member in exchange for service as a prison chaplain rendered to a public employer under existing definition.

BACKGROUND:

Eligible employees of a participating employer in the Public Employees Retirement System (PERS) who were hired after August 28, 2003, are designated as members of the Oregon Public Service Retirement Plan (OPSRP). Employees hired prior to that date are either in the Tier 1 or Tier 2 PERS plan. For OPSRP members, their pension and Individual Account Program benefits are based on salary. Statute defines "salary" as the remuneration paid to an active member in return for services to the participating public employer, including remuneration in the form of living quarters, board, or other items of value, to the extent the remuneration is includable in the employee's taxable income under Oregon law. The housing allowance, according to IRS regulations, can be up to 35 percent of the prison chaplain's salary. The Department of Corrections (DOC) does not pay a housing allowance above the agreed-upon salary, but up to 35 percent of the salary can be designated as nontaxable income under the federal chaplain housing allowance.

Before 2016, DOC recorded housing allowance paid to prison chaplains as part of the chaplain's gross salary on IRS form W-2. While this ensured that housing allowance was included in the calculation of salary for the purposes of the OPSRP, it undermined a chaplain's ability to claim the federal chaplain housing allowance. Beginning in 2016, DOC began to record up to 35 percent of a chaplain's monthly salary, as identified by each chaplain, as a housing allowance rather than gross salary on IRS form W-2. In 2017, DOC learned that PERS was not including the housing allowance recorded separately on IRS form W-2 in the calculation of salary for OPSRP members because that income was no longer taxable under Oregon law. Current statute effectively forces OPSRP chaplains to choose between having their housing allowance included in the calculation of their PERS benefits, or taking the federal chaplain housing allowance.

House Bill 4108-B includes the housing allowance paid to a prison chaplain in the definition of salary for the purposes of the OPSRP. The measure will allow OPSRP chaplains to claim the federal chaplain housing allowance without reducing their PERS benefits.