HB 4010 -14, -15 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 2/6, 2/19, 2/20

WHAT THE MEASURE DOES:

Requires an addback of amounts excluded from federal taxable income under the federal Opportunity Zone program during the year in which the gain is excluded from federal taxable income. Provides a subtraction for gain initially excluded at the time of inclusion in federal income. Disallows basis adjustments related to the original deferred gain under the Opportunity Zone program. Directs the Legislative Revenue Officer to study the operation and effectiveness of the program while consulting with stakeholders. Requires the Legislative Revenue Officer provide a report to the legislature by November 1, 2020. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Current and ongoing development related to the Opportunity Zone program
- Oregon opportunity zone projects

EFFECT OF AMENDMENT:

-14 Removes from the bill the disconnect to deferral present in federal program. Adds to statute, for corporate and personal income filings, a provision requiring taxpayers selling or exchanging opportunity zone property to compute basis for Oregon as 50% of the fair market value (FMV) of the investment at the time of sale or exchange, in lieu of the federal basis adjustment under the program. Slightly adjusts language relating to the study the bill requires the Legislative Revenue Office (LRO) to complete. Adds to statute requirement that Qualified Opportunity Funds (QOFs) submit a report to the Department of Consumer and Business Services (DCBS) in Oregon within six months of receiving investment dollars from an investor domiciled in Oregon or making an investment in a qualified Opportunity Zone in Oregon. Details reporting requirements and frequency of required reporting. Takes effect on the 91st day following adjournment sine die.

-15 Replaces the bill. Adjusts Oregon's connection to the federal Opportunity Zone program. Adds to statute, for corporate and personal income filings, a provision that requires taxpayers selling or exchanging opportunity zone property to compute basis for Oregon as 50% of the fair market value (FMV) of the investment at the time of sale or exchange, in lieu of the federal basis adjustment under the program. Requires the Legislative Revenue Office (LRO) to study the federal Opportunity Zone program and its relation to Oregon. Details a list of stakeholders LRO will consult during the study. Requires LRO to present the findings of the report to the interim committees related to revenue and economic development by November 1, 2020. Adds to statute requirement that Qualified Opportunity Funds (QOFs) submit a report to the Department of Consumer and Business Services (DCBS) in Oregon within six months of receiving investment dollars from an investor domiciled in Oregon or making an investment in a qualified Opportunity Zone in Oregon. Details reporting requirements and frequency of required reporting. Takes effect on the 91st day following adjournment sine die.

BACKGROUND:

As part of the Tax Cuts and Jobs Act (TCJA), the federal government designated low-income communities eligible to receive investments through the Opportunity Zone program. A low-income community is generally defined as a census tract with a poverty rate of at least 20% or a median family income to state median family income ratio of 80% or less. Census tracts may also qualify based on low population or being a rural area with high migration. These tracts were designated using data from Census' American Community Survey (ACS) 2011-2015. The federal government used these criteria to identify eligible O-Zones throughout the country. From the list of designated zones, Governors designated zones within their states and were limited in the number of zones they could select. Oregon designated 86 O-Zones. To participate in the program, investors must invest capital gains income into a Qualified Opportunity Fund (QOF), which then may make investments into O-Zones in the form of stock, partnership interest, or business property. A QOF could also invest in a Qualified Opportunity Zone Business (QOZB). In that case, the QOZB manages the investment in the qualified O-Zone.

Opportunity Zones provide investors with three tax incentives. First, upon investing capital gains income into a QOF, the investor excludes the amount of the capital gains investment in the QOF from their federal taxable income in the year of the investment. This initial capital gains income is deferred from taxation until the sale of the investment or 2026, whichever comes earlier. The second tax incentive provides for investors a tiered increase in basis on the initial capital gains investment. After the investment into the zone has been held for 5 years, the basis on the initial capital gain is increased by 10%. That basis increase increases to 15% if the investment is held 7 years. Finally, investors holding investments in O-Zones for 10 years or more experience an increase in basis equal to the fair market value of the asset at the time of sale. Effectively, the investor has no capital gain income from the O-Zone investment.