

HB 2867 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Jan Nordlund, LPRO Analyst

Sub-Referral To: House Committee On Revenue

Meeting Dates: 3/22, 3/29

WHAT THE MEASURE DOES:

Allows retiree to submit evidence to PERS that prior benefits paid were subject to Oregon income tax, upon which PERS must retroactively pay the tax remedy. Requires PERS to initiate, resume, or suspend the tax remedy payment on first day of calendar quarter following retiree's notice that they are subject to Oregon income tax. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces the measure. Requires PERS to pay tax remedy no later than the first day of the second calendar month following notice by the retiree that their retirement benefits are subject to Oregon taxes if notice is received between January 1 and April 15.

BACKGROUND:

A U.S. Supreme Court ruling in 1989 (*Davis v. Michigan Department of Treasury*) directed states to tax federal and state retirement benefits in the same manner. Legislation enacted in Oregon in 1991 (Senate Bill 656) and in 1995 (House Bill 3349) established a "tax remedy" payment to retirees of the Public Employees Retirement System (PERS) to offset the effect of subjecting their benefits to state income tax. Only Tier 1 members are eligible to receive the tax remedy, and only if the following conditions are met:

- PERS membership was established prior to July 14, 1995;
- Service time accrued prior to October 1, 1991, or at least 10 years of creditable service; and
- Benefits are subject to Oregon income tax.

Legislation in 2011 (House Bill 2456) eliminated the tax remedy for members retiring on or after January 1, 2012, who do not pay Oregon income tax because they are not Oregon residents. In 2013, Senate Bill 822 was enacted to eliminate the tax remedy for all non-resident retirees regardless of their retirement date.

PERS receives information each fall from the Oregon Department of Revenue to determine whether the retiree filed an Oregon income tax return as a resident. If there is no indication that a return was filed, PERS sends a letter to the retiree asking them to certify, under penalty of perjury, that their benefit is subject to Oregon taxes as a resident. A second letter is sent to those who have not yet certified, explaining that the tax remedy benefit will not be paid beginning in the next calendar year if certification is not made by the end of the year. For those who certify after the start of the calendar year, the tax remedy will not be restored until the next calendar year.

House Bill 2867 requires PERS to retroactively pay the tax remedy if retiree submits evidence that prior benefits paid were subject to Oregon income tax. Directs PERS to initiate, resume, or suspend the tax remedy payment on first day of calendar quarter following retiree's notice that they are subject to Oregon income tax.