SB 112   STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By:	Jan Nordlund, LPRO Analyst
Meeting Dates:	5/3, 5/10

WHAT THE MEASURE DOES:

Amends definition of "employee" and "eligible employee" for purposes of PERS membership to include persons who perform services for participating employer including persons considered employees under federal common law rules.

Fiscal: Minimal impact

Revenue: No impact

Senate vote: 22-6 (Nays: Boquist, Girod, Heard, Linthicum, Robinson, Thatcher)

ISSUES DISCUSSED:

- Intent to eliminate confusion regarding definition of "employee" after Supreme Court ruling

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Public Employees Retirement System (PERS) provides retirement benefits for state agencies and approximately 900 units of local government. PERS is overseen by a five-member board that appoints an executive director to manage the agency's daily operations including the management of benefits for more than 378,000 active, inactive, and retired members and beneficiaries.

In a 2019 decision, the Oregon Supreme Court interpreted current law to exclude from PERS membership a person who works for a PERS employer but is paid by a third party. *See Eugene Water and Electric Board v. Public Employees Retirement Board*, 365 Or. 59, 442 P.3d 596 (2019). The decision reversed a longstanding PERS practice to treat common law employees, who work under the direction and control of a PERS employer but who may or may not be on that employer's payroll, as employees for the purpose of PERS membership and benefits.

Senate Bill 112 aligns the definitions of "employee" and "eligible employee" for the purposes of PERS eligibility with the definition of "employee" under the Federal Insurance Contributions Act. That definition includes any individual who, under the usual common law rules, has the status of an employee. An individual is considered a common law employee if the individual works under the direction and control of an employer.