HB 3389 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

Prepared By: Tyler Larson, LPRO Analyst
Meeting Dates: 5/11

WHAT THE MEASURE DOES:
Modifies requirements regarding calculation and payment of unemployment insurance taxes. Extends from 10 years to 20 years the look-back period used to determine Unemployment Compensation Trust Fund solvency level. Provides that 2020 and 2021 are not included as the high benefit cost period in the 20-year look-back period. Provides that experience rating used to determine an employer's 2020 tax rate will also be used in 2022, 2023, and 2024. Allows employers to defer payment until June 30, 2022, of up to one-third of tax owed in 2021 if their tax rate increased by at least 0.5 percentage points between 2020 and 2021. Provides that tax deferrals do not accrue interest or penalties. Forgives a percentage of deferred 2021 taxes depending on amount employer's tax rate increased in 2021 and if employer is in good standing. Reduces fund adequacy percentages used to determine tax rate schedules. Takes effect on 91st day following adjournment sine die.

House vote: Ayes, 56; Excused, 4--Levy, Morgan, Smith G, Wallan

Fiscal impact issued; revenue impact issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:
No amendment.

BACKGROUND:
Oregon employers pay an unemployment insurance (UI) payroll tax that is held in the Unemployment Compensation Trust Fund (Fund) to pay benefits to eligible unemployed workers. The balance of the Fund was $5.1 billion in March 2020. With a record high number of claims for unemployment benefits due to the COVID pandemic, the balance dropped to $3.79 billion as reported in mid-January 2021. The impact to the Fund would have been greater had the federal government not covered many of the UI benefits paid in 2020. If the Fund becomes insolvent, the state will have to borrow from the federal government. There are at least 19 states currently borrowing to pay UI benefits. Oregon's Fund weathered the Great Recession without having to borrow, though the balance dipped below $1 billion.

The fund adequacy ratio determines which of eight tax schedules will be in place for the calendar year. Schedule I contains the lowest rates; Schedule IV is the equilibrium schedule; and Schedule VIII contains the highest tax rates. In 2020, Schedule II was in place. Now in 2021, Schedule IV is in place. Oregon is projected to be in higher tax schedules for several years and based on forecasts, Schedule VIII will be in effect for 2024.

Within each schedule are a range of tax rates. An employer's experience rating determines which tax rate within the schedule will be imposed. The experience rate is based on the employer's charges and payroll over the past 12 quarters. In 2021, 85 percent of employers are paying a higher tax rate than in 2020; 11 percent saw their rate fall; and rates have held steady for four percent of employers. The 2021 tax rate changes affect the following percentage and number of employers:

- Increase of more than 3 percentage points: 2,300 employers (1.6%);
- Increase of 2.1 – 3 percentage points: 10,700 employers (7.4%);
- Increase of 1.1 – 2 percentage points: 14,600 employers (10.1%);

- Increase of up to 1 percentage point: 96,400 employers, (66.3%);
- No change: 5,300 employers (3.6%); Decrease of up to 1 percentage point: 14,400 employers (9.9%); and
- Decrease of more than 1 percentage point: 1,500 employers (1.1%).

To provide immediate relief, the Oregon Employment Department is allowing employers to defer up to one-third of their 2021 tax obligation without accruing interest or penalties until June 30, 2022. The deferral is allowed for employers in good standing who saw their rates increase by 0.5 percentage points or more.

House Bill 3389 modifies requirements regarding the calculation and payment of unemployment insurance taxes to provide employers immediate and longer-term relief, and makes adjustments to the long-term solvency and stability of the Fund.

PRELIMINARY