



2007 ASSEMBLY BILL 681

January 10, 2008 – Introduced by Representatives FRISKE, LOTHIAN, MURSAU, HAHN, MUSSEY and SCHNEIDER, cosponsored by Senators DARLING, SCHULTZ and ROESSLER. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 71.05 (1) (am), 71.05 (1) (an), 71.05 (6) (b) 4. and 71.83 (1) (a)
2 6.; and **to create** 71.05 (1) (ae) of the statutes; **relating to:** exempting from
3 taxation the pension benefits of certain retired federal employees.

Analysis by the Legislative Reference Bureau

Under current law, the pension benefits of certain public employees are exempt from state taxation. The pensions that are exempt include payments received from the U.S. Civil Service Retirement System (CSRS), the U.S. Military Employee Retirement System, the Milwaukee City and County Retirement Systems, the police officer's annuity and benefit fund of Milwaukee, the Milwaukee public school teachers' retirement fund, the Wisconsin state teachers' retirement fund, and the sheriff's annuity and benefit fund of Milwaukee County. For most of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963, although this limitation does not apply to retirement payments received from the U.S. Military Employee Retirement System or from payments received from the U.S. government that relate to service with the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the U.S. Public Health Service.

Under federal law, until 1984, employment by the federal government was covered under CSRS and not by social security. In 1984, the federal government created the Federal Employees Retirement System (FERS). Federal employees who began working for the federal government in 1984 or later are covered by FERS instead of CSRS. Some federal employees who had been covered by CSRS switched

ASSEMBLY BILL 681

to the FERS, and some stayed in CSRS. Work under the FERS is covered by social security. Federal employees who remained in CSRS after 1983 are still not covered by social security.

This bill exempts from taxation all payments received from CSRS, to the extent that such payments are not already exempt.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (1) (ae) of the statutes is created to read:

2 71.05 (1) (ae) *Federal employee pension income.* All payments received from
3 the U.S. civil service retirement system, to the extent that such payments are not
4 exempt under par. (a) or (an).

5 **SECTION 2.** 71.05 (1) (am) of the statutes is amended to read:

6 71.05 (1) (am) *Military retirement systems.* All retirement payments received
7 from the U.S. military employee retirement system, to the extent that such payments
8 are not exempt under par. (a) or (ae).

9 **SECTION 3.** 71.05 (1) (an) of the statutes is amended to read:

10 71.05 (1) (an) *Uniformed services retirement benefits.* All retirement payments
11 received from the U.S. government that relate to service with the coast guard, the
12 commissioned corps of the national oceanic and atmospheric administration, or the
13 commissioned corps of the public health service, to the extent that such payments are
14 not exempt under par. (a), (ae), or (am).

15 **SECTION 4.** 71.05 (6) (b) 4. of the statutes is amended to read:

16 71.05 (6) (b) 4. Disability payments other than disability payments that are
17 paid from a retirement plan, the payments from which are exempt under sub. (1) (ae),

ASSEMBLY BILL 681

1 (am), and (an), if the individual either is single or is married and files a joint return,
2 to the extent those payments are excludable under section 105 (d) of the ~~internal~~
3 ~~revenue code~~ Internal Revenue Code as it existed immediately prior to its repeal in
4 1983 by section 122 (b) of P.L. 98-21, except that if an individual is divorced during
5 the taxable year that individual may subtract an amount only if that person is
6 disabled and the amount that may be subtracted then is \$100 for each week that
7 payments are received or the amount of disability pay reported as income, whichever
8 is less. If the exclusion under this subdivision is claimed on a joint return and only
9 one of the spouses is disabled, the maximum exclusion is \$100 for each week that
10 payments are received or the amount of disability pay reported as income, whichever
11 is less.

12 **SECTION 5.** 71.83 (1) (a) 6. of the statutes is amended to read:

13 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a
14 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
15 4974, 4975, or 4980A of the ~~internal revenue code~~ Internal Revenue Code is liable
16 for 33% of the federal penalty unless the income received is exempt from taxation
17 under s. 71.05 (1) (a) or (ae). The penalties provided under this subdivision shall be
18 assessed, levied, and collected in the same manner as income or franchise taxes.

19 **SECTION 6. Initial applicability.**

20 (1) This act first applies to taxable years beginning on January 1 of the year
21 in which this subsection takes effect, except that if this subsection takes effect after
22 July 31 this act first applies to taxable years beginning on January 1 of the year
23 following the year in which this subsection takes effect.

24 (END)