State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3301/3
MES:lmk:rs

2007 ASSEMBLY BILL 861

February 21, 2008 – Introduced by Representatives WIECKERT, KERKMAN, MUSSER, TOWNSEND, MURSAU, GUNDERSON, OWENS, PETROWSKI, ALBERS, LOTHIAN and VOS, cosponsored by Senator COGGS. Referred to Committee on Ways and Means.

AN ACT ***to amend*** 71.05 (1) (ae) (intro.), 71.05 (1) (am), 71.05 (1) (an), 71.05 (6) (b) 4. and 71.83 (1) (a) 6.; and ***to create*** 71.05 (1) (af) of the statutes; **relating to:** exempting from taxation retirement plan income received by individuals who worked as hazardous duty personnel and creating a committee to study the taxation of pension income.

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, 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.

For taxable years beginning after December 31, 2008, current law, as created in 2007 Wisconsin Act 20 (the biennial budget bill), also exempts from taxation up to $5,000 of payments or distributions received each year by an individual from a qualified retirement plan under the Internal Revenue Code or from an individual retirement account, subject to a number of conditions, if such payments are not already exempt from taxation. The conditions include a requirement that the claimant must be at least 65 years old, that a claimant filing as single or head of household have federal adjusted gross income (FAGI) of less than $15,000 in the year to which the claim relates, and that a claimant who is married and a joint filer have FAGI of less than $30,000.

For taxable years beginning after December 31, 2008, this bill exempts from taxation a certain amount of payments or distributions received each year by individuals from a qualified retirement plan under the Internal Revenue Code, if such payments are not already exempt from taxation, and if the payments or distributions relate to the individuals' service as hazardous duty personnel. The bill defines "hazardous duty personnel" as a police officer, fire fighter, sheriff, sheriff's deputy, state trooper, or emergency medical technician. For taxable year 2009, the amount that is exempt from taxation is $1,000. The exemption amount increases by $1,000 each year until the amount reaches $30,000 for taxable years beginning after December 31, 2037.

This bill also creates a committee to determine whether it is in the best interest of this state to reduce or eliminate the income taxation on some or all pension income and, if so, what the best method is to achieve this goal. The committee is made up of the governor and the majority and minority leaders of each house of the legislature, or each such person's designee. The committee must issue a report on its findings to both houses of the legislature no later than December 15, 2008, and the committee does not exist after its report is issued.

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:

SECTION 1. 71.05 (1) (ae) (intro.) of the statutes, as created by 2007 Wisconsin Act 20, is amended to read:

71.05 **(1)** (ae) (intro.) *Pension, individual retirement income.* Except for a payment that is exempt under par. (a), (af), (am), or (an), or that is exempt as a railroad retirement benefit, ~~for taxable years beginning after December 31, 2008,~~ up to $5,000 of payments or distributions received each year, for taxable years beginning after December 31, 2008, by an individual from a qualified retirement plan under the Internal Revenue Code or from an individual retirement account established under 26 USC 408, if all of the following conditions apply:

SECTION 2. 71.05 (1) (af) of the statutes is created to read:

71.05 **(1)** (af) *Hazardous duty pension, individual retirement income.* Except for a payment that is exempt under par. (a), (ae), (am), or (an), or that is exempt as a railroad retirement benefit, one of the following amounts of payments or distributions received each year by individuals from a qualified retirement plan under the Internal Revenue Code if the payments or distributions relate to the individuals' service as hazardous duty personnel. In this paragraph, "hazardous duty personnel" means service as a police officer, fire fighter, sheriff, sheriff's deputy, state trooper, or emergency medical technician, as that term is defined in s. 146.50 (1) (e):

1. For taxable years beginning after December 31, 2008, and before January 1, 2010, $1,000.

2. For taxable years beginning after December 31, 2009, and before January 1, 2011, $2,000.

3. For taxable years beginning after December 31, 2010, and before January 1, 2012, $3,000.

4. For taxable years beginning after December 31, 2011, and before January 1, 2013, $4,000.

5. For taxable years beginning after December 31, 2012, and before January 1, 2014, $5,000.

6. For taxable years beginning after December 31, 2013, and before January 1, 2015, $6,000.

7. For taxable years beginning after December 31, 2014, and before January 1, 2016, $7,000.

8. For taxable years beginning after December 31, 2015, and before January 1, 2017, $8,000.

9. For taxable years beginning after December 31, 2016, and before January 1, 2018, $9,000.

10. For taxable years beginning after December 31, 2017, and before January 1, 2019, $10,000.

11. For taxable years beginning after December 31, 2018, and before January 1, 2020, $11,000.

12. For taxable years beginning after December 31, 2019, and before January 1, 2021, $12,000.

13. For taxable years beginning after December 31, 2020, and before January 1, 2022, $13,000.

14. For taxable years beginning after December 31, 2021, and before January 1, 2023, $14,000.

15. For taxable years beginning after December 31, 2022, and before January 1, 2024, $15,000.

16. For taxable years beginning after December 31, 2023, and before January 1, 2025, $16,000.

17. For taxable years beginning after December 31, 2024, and before January 1, 2026, $17,000.

18. For taxable years beginning after December 31, 2025, and before January 1, 2027, $18,000.

19. For taxable years beginning after December 31, 2026, and before January 1, 2028, $19,000.

20. For taxable years beginning after December 31, 2027, and before January 1, 2029, $20,000.

21. For taxable years beginning after December 31, 2028, and before January 1, 2030, $21,000.

22. For taxable years beginning after December 31, 2029, and before January 1, 2031, $22,000.

23. For taxable years beginning after December 31, 2030, and before January 1, 2032, $23,000.

24. For taxable years beginning after December 31, 2031, and before January 1, 2033, $24,000.

25. For taxable years beginning after December 31, 2032, and before January 1, 2034, $25,000.

26. For taxable years beginning after December 31, 2033, and before January 1, 2035, $26,000.

27. For taxable years beginning after December 31, 2034, and before January 1, 2036, $27,000.

28. For taxable years beginning after December 31, 2035, and before January 1, 2037, $28,000.

29. For taxable years beginning after December 31, 2036, and before January 1, 2038, $29,000.

30. For taxable years beginning after December 31, 2037, $30,000.

SECTION 3. 71.05 (1) (am) of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

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

SECTION 4. 71.05 (1) (an) of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

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

SECTION 5. 71.05 (6) (b) 4. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

71.05 **(6)** (b) 4. Disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under sub. (1) (ae), (af), (am), and (an), if the individual either is single or is married and files a joint return, to the extent those payments are excludable under section 105 (d) of the Internal Revenue Code as it existed immediately prior to its repeal in 1983 by section 122 (b) of P.L. 98–21, except that if an individual is divorced during the taxable year that individual may subtract an amount only if that person is disabled and the amount that may be subtracted then is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less. If the exclusion under this subdivision is claimed on a joint return and only one of the spouses is disabled, the maximum exclusion is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less.

SECTION 6. 71.83 (1) (a) 6. of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

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

SECTION 7. Nonstatutory provisions.

(1) TAXATION OF PENSIONS COMMITTEE.

(a) There is created a committee on taxation of pensions, which shall consist of the governor and the majority and minority leaders of each house of the legislature, or each such person's designee.

(b) The committee shall meet periodically and shall determine whether it is in the best interest of this state to reduce or eliminate the income taxation on some or all pension income. If the committee determines that it is in the best interest of this state to do so, the committee shall determine the best way to accomplish this goal.

(c) The committee shall complete its work and submit a written report on its determinations not later than December 15, 2008, to the chief clerk of each house of the legislature, for distribution to the legislature, under section 13.172 (2) of the statutes.

(d) Any reasonable expenses incurred by the committee members shall be paid from the appropriation under section 20.505 (1) (ka) of the statutes.

(e) The committee shall cease to exist upon the submission of its report under paragraph (c).

(END)