



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRBa0778/1  
JK:cdc

**SENATE AMENDMENT 2,  
TO ASSEMBLY BILL 438**

November 14, 2023 - Offered by Senator NASS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 9, line 14: before that line insert:

3 **“SECTION 3n.** 71.05 (1) (am) of the statutes is amended to read:

4 71.05 (1) (am) *Military retirement systems.* All retirement payments received  
5 from the U.S. military employee retirement system, to the extent that such payments  
6 are not exempt under par. (a) ~~or sub. (6) (b) 54.~~

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

8 71.05 (1) (an) *Uniformed services retirement benefits.* All retirement payments  
9 received from the U.S. government that relate to service with the coast guard, the  
10 commissioned corps of the national oceanic and atmospheric administration, or the  
11 commissioned corps of the public health service, to the extent that such payments are  
12 not exempt under par. (a) or (am) ~~or sub. (6) (b) 54.~~

13 **SECTION 3p.** 71.05 (6) (b) 4. (intro.) of the statutes is amended to read:

1           71.05 (6) (b) 4. (intro.) Disability payments other than disability payments that  
2 are paid from a retirement plan, the payments from which are exempt under subd.  
3 ~~54.~~ and sub. (1) (am) and (an), if the individual either is single or is married and files  
4 a joint return and is under 65 years of age before the close of the taxable year to which  
5 the subtraction relates, retired on disability, and, when the individual retired, was  
6 permanently and totally disabled. In this subdivision, “permanently and totally  
7 disabled” means an individual who is unable to engage in any substantial gainful  
8 activity by reason of any medically determinable physical or mental impairment that  
9 can be expected to result in death or which has lasted or can be expected to last for  
10 a continuous period of not less than 12 months. An individual shall not be considered  
11 permanently and totally disabled for purposes of this subdivision unless proof is  
12 furnished in such form and manner, and at such times, as prescribed by the  
13 department. The exclusion under this subdivision shall be determined as follows:

14           **SECTION 3q.** 71.05 (6) (b) 54. (intro.) of the statutes is amended to read:

15           71.05 (6) (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a),  
16 (am), or (an), or that is exempt as a railroad retirement benefit, and except as  
17 provided under subds. 54m. and 54mn., for taxable years beginning after December  
18 31, 2020, up to \$5,000 of payments or distributions received each year by an  
19 individual from a qualified retirement plan under the Internal Revenue Code or from  
20 an individual retirement account established under 26 USC 408, if all of the  
21 following conditions apply:

22           **SECTION 3r.** 71.05 (6) (b) 54m. of the statutes is created to read:

23           71.05 (6) (b) 54m. a. Except for a payment that is exempt under sub. (1) (a),  
24 (am), or (an), or that is exempt as a railroad retirement benefit, and except as  
25 provided under subd. 54mn., for taxable years beginning after December 31, 2022,

1 the amount, up to the limit specified in subd. 54m. b., c., or d., whichever is  
2 applicable, of the payments or distributions received each year from a qualified  
3 retirement plan under the Internal Revenue Code or from an individual retirement  
4 account established under 26 USC 408.

5 b. If the individual is at least 67 years of age before the close of the taxable year  
6 to which the subtraction relates, the amount claimed by the individual under this  
7 subdivision may not exceed \$100,000 for that taxable year.

8 c. If the individual is married and is a joint filer, and both spouses are at least  
9 67 years of age before the close of the taxable year to which the subtraction relates,  
10 the total amount claimed by the spouses under this subdivision may not exceed  
11 \$150,000 for that taxable year.

12 d. If the individual is married and files a separate return and is at least 67 years  
13 of age before the close of the taxable year to which the subtraction relates, the  
14 amount claimed by each spouse as a subtraction under this subdivision may not  
15 exceed \$75,000 for that taxable year.

16 e. The individual has not claimed any credit listed under s. 71.10 (4) for the  
17 same taxable year for which the individual claimed the subtraction under this  
18 subdivision.

19 **SECTION 3s.** 71.05 (6) (b) 54mn. of the statutes is created to read:

20 71.05 (6) (b) 54mn. For taxable years beginning after December 31, 2022, for  
21 an individual who is a part-year resident of this state, the amount that is calculated  
22 by multiplying the applicable amount under subd. 54m. b., c., or d. by a fraction the  
23 numerator of which is the individual's wages, salary, tips, unearned income, and net  
24 earnings from a trade or business that are taxable by this state and the denominator  
25 of which is the individual's total wages, salary, tips, unearned income, and net

1 earnings from a trade or business. A nonresident of this state is not eligible to claim  
2 the subtraction under subd. 54m.

3 **SECTION 3t.** 71.06 (1q) (c) of the statutes is amended to read:

4 71.06 **(1q)** (c) On all taxable income exceeding \$15,000 but not exceeding  
5 \$225,000, 6.27 percent, except that for taxable years beginning after December 31,  
6 2020, and before January 1, 2023, 5.30 percent, and for taxable years beginning after  
7 December 31, 2022, 4.40 percent.

8 **SECTION 3u.** 71.06 (2) (i) 3. of the statutes is amended to read:

9 71.06 **(2)** (i) 3. On all taxable income exceeding \$20,000 but not exceeding  
10 \$300,000, 6.27 percent, except that for taxable years beginning after December 31,  
11 2020, and before January 1, 2023, 5.30 percent, and for taxable years beginning after  
12 December 31, 2022, 4.40 percent.

13 **SECTION 3v.** 71.06 (2) (j) 3. of the statutes is amended to read:

14 71.06 **(2)** (j) 3. On all taxable income exceeding \$10,000 but not exceeding  
15 \$150,000, 6.27 percent, except that for taxable years beginning after December 31,  
16 2020, and before January 1, 2023, 5.30 percent, and for taxable years beginning after  
17 December 31, 2022, 4.40 percent.

18 **SECTION 3w.** 71.83 (1) (a) 6. of the statutes is amended to read:

19 71.83 **(1)** (a) 6. 'Retirement plans.' Any natural person who is liable for a  
20 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,  
21 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the  
22 federal penalty unless the income received is exempt from taxation under s. 71.05  
23 (1) (a) or (6) (b) 54., 54m., or 54mn. The penalties provided under this subdivision

1 shall be assessed, levied, and collected in the same manner as income or franchise  
2 taxes.”.

3 (END)