



2023 ASSEMBLY BILL 1136

March 6, 2024 - Introduced by Representatives ANDRACA, JACOBSON, RATCLIFF, JOERS, SHANKLAND, SUBECK, EMERSON, CONLEY, SINICKI, MOORE OMOKUNDE, HONG, BARE, OHNSTAD and PALMERI, cosponsored by Senators AGARD and SMITH. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 71.05 (6) (b) 4. (intro.), 71.05 (6) (b) 54. (intro.) and 71.83 (1)
2 (a) 6.; and *to create* 71.05 (1) (ad) of the statutes; **relating to:** tax exemption
3 for certain retirement benefits received from the Wisconsin Retirement
4 System.

Analysis by the Legislative Reference Bureau

This bill provides an income tax exemption for pension payments received from the Wisconsin Retirement System by protective occupation participants, as defined under current law with respect to the WRS, correctional officers, and frontline workers. The bill defines “frontline worker” to mean an individual who was a state, county, or municipal employee with regular job duties that, as determined by the Employment Relations Commission in consultation with the Department of Revenue, included interacting with members of the public or with large populations of people or directly involved the maintenance of public works. Elected state officials, constitutional officers, agency heads, and legislative staff are excluded from the definition of “frontline worker.”

Under the bill, 25 percent of the pension payment received in 2024 is exempt; 50 percent of the payment received in 2025 is exempt; 75 percent of the payment received in 2026 is exempt; and 100 percent of the payment received in 2027 and thereafter is exempt. The bill provides that the amount exempted may not exceed the portion of the pension payment that is attributable to the period of time during which the individual was a protective occupation participant or frontline worker.

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Under current law, payments received from the U.S. Civil Service 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 are exempt from tax for individuals who were members of or retired from the systems as of December 31, 1963. Current law also provides an exemption for payments received from the U.S. Military Employee Retirement System and retirement payments that relate to service with the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the U.S. Public Health Service. Also under current law, an individual may subtract up to \$5,000 of payments or distributions received from a qualified retirement plan or individual retirement account if the individual is at least 65 years old and has federal adjusted gross income of less than \$15,000, or \$30,000 if married.

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) (ad) of the statutes is created to read:

2 71.05 (1) (ad) *Certain payments from the Wisconsin Retirement System.* 1.

3 Subject to the limitation in subd. 5., one of the following amounts of payments or
4 distributions received each year by a frontline worker, correctional officer, or
5 protective occupation participant from the Wisconsin Retirement System as an
6 annuity:

7 a. For taxable years beginning after December 31, 2023, and before January
8 1, 2025, 25 percent of the amount received.

9 b. For taxable years beginning after December 31, 2024, and before January
10 1, 2026, 50 percent of the amount received.

11 c. For taxable years beginning after December 31, 2025, and before January
12 1, 2027, 75 percent of the amount received.

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1 d. For taxable years beginning after December 31, 2026, 100 percent of the
2 amount received.

3 2. In this paragraph, “correctional officer” has the meaning given in s. 102.475
4 (8) (a).

5 3. In this paragraph, “frontline worker” means an individual who was a state,
6 county, or municipal employee with regular job duties that, as determined by the
7 employment relations commission in consultation with the department of revenue,
8 included interacting with members of the public or with large populations of people
9 or directly involved the maintenance of public works. “Frontline worker” does not
10 include any elected state official, constitutional officer, agency head, or person
11 employed under s. 13.20.

12 4. In this paragraph, “protective occupation participant” has the meaning given
13 in s. 40.02 (48).

14 5. The amount exempted under subd. 1. in a taxable year may not exceed the
15 portion of the payment or distribution received from the Wisconsin Retirement
16 System as an annuity that is attributable to the period of time during which the
17 individual was a frontline worker, correctional officer, or protective occupation
18 participant.

19 **SECTION 2.** 71.05 (6) (b) 4. (intro.) of the statutes is amended to read:

20 71.05 (6) (b) 4. (intro.) Disability payments other than disability payments that
21 are paid from a retirement plan, the payments from which are exempt under subd.
22 54. and sub. (1) (ad), (am), and (an), if the individual either is single or is married and
23 files a joint return and is under 65 years of age before the close of the taxable year
24 to which the subtraction relates, retired on disability, and, when the individual
25 retired, was permanently and totally disabled. In this subdivision, “permanently

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1 and totally disabled” means an individual who is unable to engage in any substantial
2 gainful activity by reason of any medically determinable physical or mental
3 impairment that can be expected to result in death or which has lasted or can be
4 expected to last for a continuous period of not less than 12 months. An individual
5 shall not be considered permanently and totally disabled for purposes of this
6 subdivision unless proof is furnished in such form and manner, and at such times,
7 as prescribed by the department. The exclusion under this subdivision shall be
8 determined as follows:

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

10 71.05 **(6)** (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a),
11 (ad), (am), or (an), or that is exempt as a railroad retirement benefit, for taxable years
12 beginning after December 31, 2020, up to \$5,000 of payments or distributions
13 received each year by an individual from a qualified retirement plan under the
14 Internal Revenue Code or from an individual retirement account established under
15 26 USC 408, if all of the following conditions apply:

16 **SECTION 4.** 71.83 (1) (a) 6. of the statutes is amended to read:

17 71.83 **(1)** (a) 6. ‘Retirement plans.’ Any natural person who is liable for a
18 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,
19 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
20 federal penalty unless the income received is exempt from taxation under s. 71.05
21 (1) (a) or (ad) or (6) (b) 54. The penalties provided under this subdivision shall be
22 assessed, levied, and collected in the same manner as income or franchise taxes.

23 **SECTION 5. Initial applicability.**

24 (1) This act first applies to taxable years beginning on January 1, 2024.

25 (END)