

1999 DRAFTING REQUEST

Bill

Received: 10/08/1999

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Alice Clausing (608) 266-7745**

By/Representing: **Julia**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

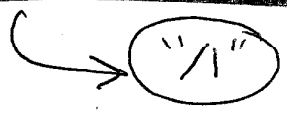
Individual income tax exemption for pension benefits of teachers who taught in other states

Instructions:

See Attached. Redraft 1997 SB 104, LRB -2216/1, whcih exempts from income taxation pension benefits received by persons who taught school in other states.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Required</u>
/?	shoveme 10/08/1999	jgeller 10/11/1999		_____		State Tax
/1			jfrantze 10/11/1999	_____	lrh_docadmin 10/11/1999	lrh_docadmin 10/12/1999



<END>

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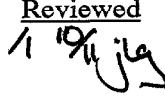
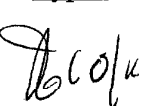
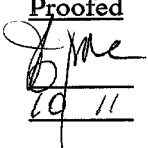
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1?	shoveme						

11 MES 10/8/99

FE Sent For:

<END>

Shovers, Marc

From: Sherman, Julia
Sent: Friday, October 08, 1999 11:10 AM
To: Shovers, Marc
Subject: Draft

Senator Clausing would like a re-draft of her 1997 SB 104 (LRB2216/1). She would like an identical redraft. You prepared the 1997 draft, could you help us out again? Thank you.

Julia Sherman

1999 ~~1997~~ SENATE BILL 104

(RMR)

D. NOTE

March 4, 1997 - Introduced by Senator CLAUSING, cosponsored by Representatives HARSDORF, RYBA and KREIBICH. Referred to Joint survey committee on Tax Exemptions.

regen

1 AN ACT to renumber 71.05 (1) (a); and to create 71.05 (1) (a) 2. of the statutes;
2 relating to: exempting from income taxation the pension benefits of certain
3 teachers who taught in other states.

Analysis by the Legislative Reference Bureau

Under current law, the pension benefits of certain public employes 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 employe 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 all of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963.

on December 31, 1963

This bill creates a similar exemption for certain public school teachers who taught in other states. Under the bill, if a teacher lived in Wisconsin on December 31, 1963, and taught at a public elementary or secondary school in another state, the pension income received by that teacher from the state in which he or she taught is exempt from taxation by this state.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

SENATE BILL 104

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) (a) of the statutes is renumbered 71.05 (1) (a) 1.

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

3 71.05 (1) (a) 2. All payments received from the retirement system of another
4 state, or from the retirement system of a local unit of government that is in another
5 state, by a retired public elementary or secondary school teacher who taught at a
6 public elementary or secondary school in another state ^{on December 31, 1963,} and resided in Wisconsin on
7 December 31, 1963, to the extent that the payments relate to the retired teacher's
8 work as a public elementary or secondary school teacher in another state, but such
9 exemption shall not exclude from gross income tax sheltered annuity benefits.

10 **SECTION 3. Initial applicability.**

11 (1) This act first applies to pension payments that are made on the effective
12 ~~date of this subsection.~~

(END)

*(NO #) Taxable years beginning on January 1
of the year in which this subsection takes effect,
except that ⁽²⁾ if this subsection takes effect after July
31, this act first applies to taxable years
beginning on January 1 of the year following
the year in which this subsection takes effect.*

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

3733/ldn
LRB-2216/ldn
MES: ~~AWA~~ jg:jf
↑
stays

new date { Saturday, January 25, 1997

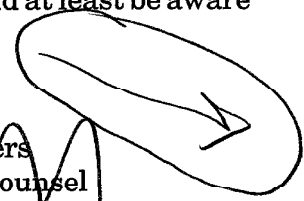
Senator Clausing:

I believe that this bill reflects your instructions, but you should be aware that the bill, if it is enacted, could be challenged as a violation of the Equal Protection clause of the U.S. Constitution. The bill treats retired public school teachers who worked in another state and lived in Wisconsin on December 31, 1963, differently from all other retirees who worked for public or private employers in another state and lived in Wisconsin on December 31, 1963. If this bill becomes law, it may be difficult for the state to demonstrate that it has a rational basis to discriminate on this basis.

Although the pension benefits of certain teachers and certain Milwaukee County and City of Milwaukee employes are exempt from taxation under current law, it is my understanding that these exemptions were created when several small local pension systems were consolidated into the Wisconsin retirement system. If the payments from the small pensions were already exempt from taxation under a contract, it would have been unconstitutional under article I, section 12, of the state constitution to change their tax-exempt status. Contractual rights in a municipal retirement system cannot be impaired by subsequent legislation. *State ex. rel. Bartelt v. Thompson* 246 Wis. 11, appeal dismissed 324 U.S. 828, 65 S. Ct. 868 (1944). It is also my understanding that the state may have been able to demonstrate a rational basis for consolidating the small pension systems which already exempted from taxation the pension benefits of their participants.

It is difficult to predict whether this bill would be challenged if it became law and what the result of such a challenge would be, but I thought you should at least be aware of the issue.

Marc E. Shovers
Senior Staff Counsel
266-0129



D-Note

-3733/ldn

In addition, SD added an additional "December 31, 1963" after "in another state" on page 2, and changed the initial applicability section to "taxable years beginning on January 1..." to address concerns raised by the department of revenue in its comments on 1997 SB 104.

MZJ

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3733/1dn
MES:jlg:jf

October 11, 1999

Senator Clausing:

I believe that this bill reflects your instructions, but you should be aware that the bill, if it is enacted, could be challenged as a violation of the Equal Protection clause of the U.S. Constitution. The bill treats retired public school teachers who worked in another state and lived in Wisconsin on December 31, 1963, differently from all other retirees who worked for public or private employers in another state and lived in Wisconsin on December 31, 1963. If this bill becomes law, it may be difficult for the state to demonstrate that it has a rational basis to discriminate on this basis.

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Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 10/11/1999

To: Senator Clausing

Relating to LRB drafting number: LRB-3733

Topic

Individual income tax exemption for pension benefits of teachers who taught in other states

Subject(s)

Tax - individual income

1. **JACKET** the draft for introduction Alvie Clausing
in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Alvie Clausing
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney
Telephone: (608) 266-0129