

2001 DRAFTING REQUEST

Bill

Received: 11/09/2001

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Timothy Carpenter (608) 266-1707**

By/Representing: **Rex**

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

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Tax - individual income**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Exempting from income taxation national guard technician pensions; interest and penalty waivers

Instructions:

See Attached. Based on 1999 LRB -3001/1, which was a redraft of 1997 AB 176 with modifications from DOR and includes substance of AA 1 to AB 177

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 11/09/2001	rschluet 11/13/2001		_____			State Tax
/1			jfrantze 11/13/2001	_____	lrb_docadmin 11/13/2001	lrb_docadmin 12/26/2001	

FE Sent For:

<END>

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1?	shoveme	<i>[Signature]</i> 11-9-1	<i>[Signature]</i> 11/10	<i>[Signature]</i> 11/13			

11 MES 11/9/01 / 11/13 JLD

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **04/29/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

By/Representing: **Mike**

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

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income**

Extra Copies: **RAC**

Pre Topic:

No specific pre topic given

Topic:

Tax exemption and interest and penalty waivers for certain payments made to national guard technicians

Instructions:

Clarify that civil service pension payments received by national guard technicians who were recognized as fed. employees are exempt from taxation and waive interest and penalties imposed on such persons that relate to payments received from the US civil service retirement system. Redraft 1997 AB 176, with changes suggested by DOR and include substance of AA 1 to AB 177.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 04/29/99	wjackson 04/29/99		_____			State Tax
/1			martykr 04/30/99	_____	lrb_docadmin 04/30/99		

FE Sent For:

<END>

STATE OF WISCONSIN

To Joe Kreye

Date 11/6/01 Time _____

WHILE YOU WERE OUT

M Rex Loehle

of Rep. Tim Carpenter's

Phone 6-1707

Telephoned		Please Call	
Called to See You		Rush	
Returned Your Call		Will Call Again	

Message Joe - please give me a call if you need any additional information for bill draft. Thanks!



Party Receiving Call Rex

2. H. Joseph Slater of Lake City, MN claims \$4,607.12 for income tax refunds for the years 1992, 1994 and 1995, which were withheld by the DOR to satisfy assessments for the years 1977-1985. The claimant states that he late filed his 1977-1985 returns in 1995. The claimant has a copy of a certified mail receipt dated 11/26/95 for 12 pages sent to E. Munson at the DOR. The claimant also has a copy of the signed, certified mail return receipt, showing that the returns were received by the DOR and a letter from E. Munson at the DOR dated several days after receipt of the certified mail, stating "(w)e have received your late filed 1977 through 1988 Wisconsin income tax returns." Despite this acknowledgement, the DOR withheld the claimant's 1992, 1994 and 1995 income tax returns to satisfy allegedly delinquent assessments for the years 1977-1985. The claimant states that he contacted the DOR and offered them the above evidence that he had indeed filed the returns in question. The claimant states that in March 2000, he received a letter from the DOR stating that the returns had never been received and that E. Munson "inadvertently listed having received late filed returns for tax years 1977 through 1988 when, in fact he meant 1986 through 1992." The claimant believes that this statement, issued by another auditor five years after Mr. Munson clearly stated he had received the returns, has no credible basis in fact.

DOR records show that the claimant has not filed 1977-1981 income tax returns. The DOR alleges that the claimant was incorrectly informed by E. Munson that DOR had received the 1977-1981 returns. The DOR states that it informed the claimant of the error in its March 2000 letter and that his refunds were held to satisfy the delinquent assessments for these years. DOR states that it has also issued an estimated assessment for 1996 that is now delinquent.

Based on additional DOR testimony at hearing, the Board concludes the claim should be paid in the reduced amount of \$1,702.50 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Revenue appropriation s. 20.566 (1)(a), Stats.

3. Thomas F. Bailey of Milwaukee, WI claims \$21,955.29+ for refund of an assessment made by the DOR. The claimant alleges that in 1989 the DOR took the position that civil service pension benefits for National Guard technicians were tax exempt. The DOR published this position in a newsletter, which it distributed to federal retirees in 1989. In 1995, the DOR reversed its position and mailed assessments to over 400 National Guard technicians for back taxes on pension benefits from 1989 to 1995, plus 12% interest. In August 1995, the claimant received an assessment for \$20,644.37 tax and interest on his pension for the years 1989-1993. The claimant paid DOR \$21,955.29 (the original assessment plus interest) in November 1995. The claimant states that shortly after the DOR's position reversal, over 400 retired National Guard Technicians protested and objected to the DOR's action. The claimant states that this protest was so clear an unequivocal that then Revenue Secretary Bugher held meetings with representatives of the Retired National Guard community to address the issue. The claimant believes that Secretary Bugher was put on notice that the Retired National Guard community as a whole objected to and protested this action. A "test case" was presented to the Wisconsin Tax Appeals Commission, which upheld DOR's position. WTAC's decision was appealed in Dane County Circuit Court in November 1999. The court affirmed that the pensions were taxable but found that some of the petitioners had relied on DOR's advice to their detriment and ruled that DOR was estopped from seeking assessments against those individuals for tax years 1989 and after. The claimant states that he contacted the DOR but was told that he did not qualify for refund of the taxes because he had not appealed the original assessment issued in 1995. The claimant believes that it is unconscionable for the DOR to refuse to refund his money and that it was grossly unfair of DOR to issue backdated assessments to begin with, when the retired technicians had relied on DOR's 1989 statement that their pensions were tax exempt. The claimant believes that it is clear that all the retired National Guard Technicians protested this overwhelming financial burden when it was placed upon them and that this protest was clearly conveyed to both Secretary Bugher and the State Legislature by leaders of the Retired National Guard community.

The DOR recommends denial of this claim. A notice of appeal rights accompanied the assessment sent to the claimant in August 1995. No notice of appeal or letter of objection was filed when the claimant paid the assessment. The last date the claimant could have timely filed a claim for refund of the assessment was January 19, 1996. In February 2000, the DOR offered a settlement to the named litigants in the WTAC appeal (the "test case"). The terms of the settlement provided that for the years 1989-1995 the DOR would withdraw assessments and pay timely, properly appealed refund claims. In March 2000, the DOR began to offer the same settlement to other individuals in similar situations as the named litigants; provided that the individuals had timely pending appeals or timely refund claims. Since the claimant did not appeal the original assessment for 1989-1993, DOR has no authority to issue the refund he is requesting and it is DOR's position that the assessment is final and conclusive.

The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. However, Representative Albers and Senator Shibilski have indicated that, despite the Board's decision, they will be introducing legislation that will provide for payment of this claim and other like claims.

4. **Anthony Gray** of Madison, WI claims \$7,318.24 for refund of monies garnished from his wages to satisfy estimated income tax assessments for 1994-1996. The claimant states that he did not live in WI until 1995 and that he therefore believes the 1994 assessment to be illegal. The claimant's wages were garnished from 7/99 through 8/00. The claimant states that these estimated assessments were incorrect and that he was actually due tax refunds for 1995 and 1996. The claimant further alleges that he was not properly notified of the assessments by certified mail. The claimant states that he was never told that funds would not be returned to him if the assessments were found to be unjustified. The claimant also believes that the two-year statute of limitation has not actually elapsed. The claimant points to the fact that his wages were not certified until 7/13/99. He feels that the two-year time limit should begin on that date, which would extend the deadline until 7/13/01. The claimant does not believe that the two-year statute of limitations applies to his case at all. He states that, according to the notice he received, the two-year limit applies to assessments that are paid in full without objection. He alleges that he did not pay these assessments voluntarily and that the total amount was never collected in full. Finally, the claimant states that he was involved in a serious car accident on 8/17/00, which caused him to miss an appointment with his accountant and has also caused him great financial difficulty.

The DOR states that it originally contacted the claimant after receiving from his employer a copy of his Wisconsin withholding exemption certificate in which he claimed 14 exemptions. The certificate was signed by the claimant and his current address was given. According to DOR records, a DOR auditor wrote the claimant in 7/97, requesting verification of his 14 exemptions. No reply was received. The DOR states that in 9/97, the auditor notified both the claimant and his employer by mail that the DOR was voiding the exemption claim based on the claimant's failure to respond. No reply was received. The DOR states that in December 1997, the auditor sent a letter to the claimant requesting filing of 1994-1996 income tax returns. No reply was received. Another request was sent in 2/98, without reply. The DOR alleges that all of the above correspondence was sent directly to the same address at which the claimant currently resides. DOR records further indicate that in 5/98, the DOR issued estimated assessments for the delinquent tax years. In 7/98, DOR sent the claimant a request to file 1994-1997 income tax returns. The claimant called DOR and indicated that he was not a resident in 1994. He promised to file the required returns by 11/1/98. DOR records indicate that from 9/98-4/99, the claimant periodically contacted DOR and requested three extensions to file the returns, which he promised to do by 4/30/99. On 6/18/99 DOR initiated certification of the claimant's wages. The promised returns were filed on 8/24/00. The DOR states that there is not requirement that the claimant be served by certified mail. The DOR believes that all evidence indicates that he received the correspondence and assessments, since his address has not changed since the DOR first contacted him

The Board concludes:

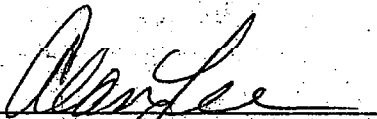
1. The claims of the following claimants should be denied:

Thomas F. Bailey
Anthony Gray
Brian J. Friedman
S.R. and James Spitz
Kim Bown
Alvernest Kennedy
David J. Devney
Christopher J. Kratcha
Eleanor A. White

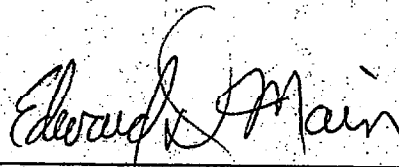
2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats:

Braeger Chevrolet	\$2,700.00
H. Joseph Slater	\$1,702.50
Burton A. Weisbrod	\$5,000.00
Jeral Khachi	\$2,000.00
Jay M. Johnson	\$118.29
Sandra C. Eselby	\$613.32


Dated at Madison, Wisconsin this 12TH day of February 2001.



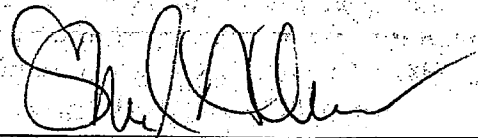
Alan Lee, Chair
Representative of the Attorney General



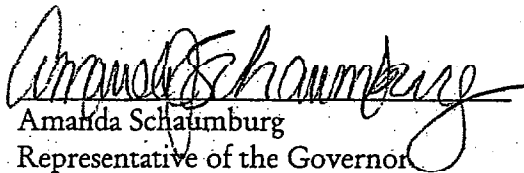
Edward D. Main, Secretary
Representative of the Secretary of Administration



Kevin Shibilski
Senate Finance Committee



Sheryl Albers
Assembly Finance Committee



Amanda Schaumburg
Representative of the Governor

DEPARTMENT OF ADMINISTRATION
CLAIMS BOARD

CLAIM FOR DAMAGES AGAINST THE STATE

Submit one notarized copy of this form to the Claims Board, P.O. Box 7864, Madison, Wisconsin 53707-7864. Attach proof of loss; copies of all bills, receipts and insurance proceeds; and copies of medical and/or police reports, if applicable. If you have insurance coverage, complete the insurance portion of this form, regardless of whether or not you have submitted claim to your insurance company. Do not request reimbursement for damages paid by your insurance company on this form. If your insurance company wishes to file a claim for reimbursement, they must file on a separate form. If more space is needed for comments, continue on another page and attach. This information will be sent to the appropriate department or agency.

Claimant's Name, Address and Phone Thomas F. Bailey 200 West Bolivar Ave. Milwaukee, WI 53207 Phone: (414) 483-6910	Date of Occurrence Spring, 2000
	State Agency Claim is Against Wisconsin Department of Revenue

Statement of Circumstances-Explain how claim arose.

Please see attached.

Dollar Amount of Claim. Itemize all losses incurred. Attach copies of all bills and/or receipts.

\$21,900.00 plus interest (the precise number with interest calculations is available from the Wisconsin Department of Revenue).

Insurance Coverage on above losses: yes no. If yes, state amount: \$ _____ Amount of Deductible: \$ _____
Vehicle Insurance Company _____ Policy No. _____
Homeowner Insurance Company _____ Policy No. _____
Medical Insurance Company _____ Policy No. _____

I hereby certify that all statements contained herein and on any attachments hereto are true and that the losses claimed were actually incurred.

Signature of Claimant Date

The above-named claimant personally came before me this day and is known to me to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public Date

_____ County, Wisconsin My Commission Expires: _____

CLAIM FOR DAMAGE (CONT'D) OF THOMAS F. BAILEY

As a retired federal employee, I am claiming a refund of Wisconsin Income Taxes paid on my civil service annuity for years 1984 to 1995. Consistent with the decision in the case of *Davis v. Michigan Dep't of Treasury*, 489 U.S. 803 (1989), the Department of Revenue originally recognized my legal entitlement to exempt my civil service pension benefits from Wisconsin taxable income. As a consequence, I received refunds and had recognized exemption from taxes in the approximate total amount of \$21,000.00. Then, as a result of a change in its published position in 1995, the Wisconsin Department of Revenue demanded that I pay approximately \$21,900 in back taxes and interest on my civil service annuity.

This change in position was contrary to the Department's published position, which expressly advised me and over 400 similarly situated retired National Guard Technicians that our civil service annuities were exempt from taxation. The official position of the Department of Revenue was published in its I.S.I. & E. newsletter, *Taxation of Federal Retirement Benefits*, No. 137, August 7, 1989, which was distributed to federal retirees in 1989 by the Wisconsin Department of Revenue.

After the Department of Revenue's 1995 change in position, the over 400 affected retired National Guard Technicians immediately, including me, objected to and protested the Department of Revenue's action. This protest was so clear and unequivocal that one immediate response was a face to face meeting between the then Secretary of Revenue, Secretary Mark Bugher and representatives of the Retired National Guard community in Wisconsin. At that meeting, Secretary Bugher attempted to explain and justify the basis upon which the Department of Revenue had acted in reversing its published position. At the same time, Secretary Bugher learned of the extraordinary hardship that was imposed upon several hundred elderly citizens as the result of the Department's unjustified change in position. The protest communicated by the leadership of the Retired National Guard group was unequivocal. Secretary Bugher was put on notice that each retired Technician objected to the Department of Revenue's unjust action.

Several committees of the legislature also undertook an examination of the Department's conduct and the number of persons adversely affected by the Department's course of conduct. This effort was lead by several members of the legislature. Two of those legislative leaders included Representative Sheryl Alpers and Senator Chuck Chvala. Again, as the result of the inquires of both the Assembly and Senate, the Department of Revenue was put on formal notice of the objections of each affected federal retiree in this matter.

After years of litigation, the attorney representing retired National Guard Technicians was finally able to establish the illegality of the Department's attempt to retroactively change a published position. Such acts are plainly forbidden by a long line of Wisconsin Supreme Court decisions. As a result of that effort, the Department has finally been forced to recognize its refund liability to retired National Guard Technicians for years 1995 and before.

CLAIM FOR DAMAGE (CONT'D) OF THOMAS F. BAILEY

After not receiving any contact from the Wisconsin Department of Revenue with respect to the calculation of my refund as the result of the settlement reached this past winter, I contacted the Wisconsin Department of Revenue. To my surprise, the representative of the Department of Revenue told me that I would not be receiving any settlement documents or any refunds because allegedly I had failed to protest when the Department of Revenue changed its position in 1995. In addition, the representative of the Department of Revenue stated that I had no other remedy.

I am a very elderly person and live modestly. I have dedicated my working life to the service of my country. Words cannot adequately express the disgust and disappointment that I feel as the result of the deplorable attitude of the Department of Revenue in this matter. It is beyond dispute that each of us protested the Department's action at the time this overwhelming financial burden was imposed upon us. In addition, the Department of Revenue received notice a second time as the result of the actions of the legislative leadership of both the Senate and the Assembly. The position of the Department of Revenue when it purports to tell me that now I am barred from participating in the settlement because I did not protest is without merit.

It is indisputable that each of us protested the Department of Revenue's action in 1995. Consequently, notwithstanding the position of the Department of Revenue, I am entitled to a refund, with interest, of the taxes unlawfully collected from me for the period in issue. Therefore, I respectfully request that this honorable board pay me the approximately \$21,900.00 plus interest, owed to me as the result of the Department of Revenue's wrongful action in my case. The public policy of Wisconsin is that taxpayers are to receive fair play from tax officials. *Dep't of Revenue v. Moebius Printing Co., Inc.*, 89 Wis. 2d 610, 279 N.W.2d 213 (1979). From the outset of its change in position, the Department of Revenue knew that its action was contrary to law. See *Dep't of Revenue v. Family Hospital*, 105 Wis. 2d 250, 313 N.W.2d 828 (1982). Consequently, fundamental fairness requires that the Department of Revenue return to me, with interest, the taxes it was never authorized by law to collect in the first instance because it had changed position.

To the extent that the amount of my claim exceeds this Board's payment authority, I request that this Board authorize payment to the extent of its payment authority and recommend to the legislature that the legislature pay the balance of my claim.



State of Wisconsin • CLAIMS BOARD

101 E. Wilson Street • Post Office Box 7864 • Madison, Wisconsin 53707-7864 • 608-264-9595 • Patricia.Reardon@doa.state.wi.us

September 14, 2000

Thomas F. Bailey
200 W. Bolivar Ave.
Milwaukee, WI 53207

RE: Your Claim Against the Department of Revenue

Dear Mr. Bailey:

The attached recommendation was received from the Department of Revenue in response to your claim. You should note that the attached is only a recommendation of the agency. The final decision regarding payment of your claim will be made by the Claims Board members.

Do you wish to request a hearing before the Claims Board? If a hearing is requested, you or your representative will need to appear before the Board. A representative of the state agency will also appear at the hearing. Both the claimant and the agency will be given an opportunity to briefly summarize their position on the claim. The average hearing takes about 10 minutes. All hearings take place in Madison.


If you do not wish to have a hearing, the Board can make its decision based on the written information that has been submitted by the claimant and the state agency, without appearances by either the claimant or the state agency.

Regardless of whether or not you choose to have hearing, the Board's decision is final; there is no appeal.

If you wish to submit any additional information for the Board's consideration, it is important that do so as soon as possible, so the Claims Board members will have an opportunity to review the materials before the meeting.

The Claims Board only meets four times a year. In order to ensure that your claim is scheduled for the next available meeting, *please let me know whether or not you want a hearing as soon as possible.* Your claim will not be scheduled until you contact me.

Sincerely,


Patricia Reardon
Program Assistant



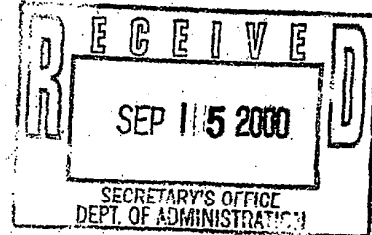
State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

September 08, 2000



Patricia A. Reardon
State Claims Board
P.O. Box 7864
Madison, Wisconsin 53707-7864

Dear Ms. Reardon:

The Department of Revenue (DOR) has reviewed the claim of Thomas Bailey and recommends that it be denied.

The claim involves the tax years 1989 through 1993. The facts in this case are outlined as follows:

- August 21, 1995 - The Audit Bureau issued an assessment against Thomas and Maxine Bailey in the amount of \$20,644.37 for the years 1989 through 1993. The assessment taxed pension income Thomas Bailey received for his service as a National Guard technician. The pension was paid through the federal civil service retirement system (CSRS). A notice of appeal rights accompanied the assessment.
- November 24, 1995 Thomas and Maxine Bailey submitted a check for \$21,955.29 in full payment of the August 21, 1995 assessment (additional interest had accrued beyond the October 23, 1995 assessment due date). They submitted a letter with the check indicating that he was submitting the check under protest. Since the letter was submitted after the expiration of the 60 day appeal period provided by sec. 71.88(1)(a), Wis. Stats., the letter was accepted as a claim for refund. Per s. 71.75(5), Wis. Stats., a claim for refund may be made within two years (this was amended to four years beginning with the 2000 tax year) after the assessment to recover tax, interest and penalties assessed and paid if the assessment was not protested by the filing of a petition for redetermination (appeal). ✓
- November 19, 1996 In accordance with s. 71.75(7), Wis. Stats., which requires the DOR to act on claims for refund within one year after receipt, the DOR denied the Baileys' refund claim. A notice of appeal rights was included in the notice of refund denial. ✓
- January 19, 1997 This is the last day the Baileys could timely file an appeal of the November 19, 1996 notice of refund denial. Per s. 71.88(1), Wis. Stats., any person feeling aggrieved by a notice of refund denial may, within 60 days after receipt of the notice, petition the DOR for redetermination. Per s. 71.88(2), Wis. Stats., if no petition for redetermination is made within the time period provided, the denial of refund shall be final and conclusive. The Baileys did not file a timely appeal.

September 08, 2000

Page 2

Patricia Reardon re: Thomas Bailey

- November 23, 1998 The Wisconsin Tax Appeals Commission (WTAC) issued a ruling in Melvin M. and Diane D. Maves, et al., vs. Wisconsin Department of Revenue, regarding the Wisconsin income taxation of National Guard technician pension income. The WTAC ruled that s. 71.05(1)(a), Wis. Stats., does not exempt CSRS payments (for service as National Guard technicians) to Maves, et al., from Wisconsin income taxation because they were not members of the CSRS as of December 31, 1963, as a matter of historical fact. The WTAC ruled that the National Guard Technicians Act of 1968 conferred creditable service to certain National Guard technicians for computation of a federal pension benefit, but it did not confer a Wisconsin income tax exemption.
- December 28, 1998 The WTAC decision in Melvin M. and Diane D. Maves, et al., vs. Wisconsin Department of Revenue, was appealed to the Dane County Circuit Court.
- November 30, 1999 The Dane County Circuit Court issued an order affirming in part and reversing in part the WTAC decision in Melvin M. and Diane D. Maves, et al., vs. Wisconsin Department of Revenue. The Court affirmed the WTAC's ruling that s. 71.05(1)(a), Wis. Stats., does not exempt CSRS payments to Maves, et al., from Wisconsin income taxation. However, the court concluded that two of the four petitioners relied on DOR advice to their detriment and ruled that DOR was estopped from seeking assessments against those individuals for tax years 1989 and after.
- February 4, 2000 The DOR offered a settlement to the named litigants in Melvin M. and Diane D. Maves, et al., vs. Wisconsin Department of Revenue. The basic terms of the settlement relating to the taxation of National Guard technician pension income were (1) for years 1984 - 1988 the individuals withdrew refund claims and the DOR withdrew assessments, (2) for years 1989 - 1995 the DOR withdrew assessments and paid timely, properly appealed refund claims, (3) for years 1996 and 1997 the individuals withdrew refund claims and agreed to pay tax, exclusive of interest and penalties, (4) for 1998 the individuals withdrew refund claims and agreed to pay tax, regular (12%) interest and underpayment interest, if applicable, (5) for 1999 and thereafter individuals agreed to include the pension in taxable income.
- March 2000 The DOR began offering the same settlement presented to the Maves, et al. litigants to other individuals in similar fact situations as the named litigants provided the individuals had timely pending appeals or timely refund claims.
- May 5, 2000 Thomas Bailey contacted the DOR to inquire about the settlement. The DOR checked its records and found that he had no pending appeals or timely refund claims. The DOR explained that he did not qualify for the settlement.

September 08, 2000


Page 3

Patricia Reardon re: Thomas and Maxine Bailey

In accordance with the provisions of s. 71.88(1), Wis. Stats., the DOR's position is that the November 19, 1996 notice of refund denial issued to the Baileys is final and conclusive. Thus, the DOR has no authority to issue the refund Thomas Bailey is claiming for the years 1989 - 1993. ✓

Although I have enumerated the facts of the case in this letter, the department does seek representation at the hearing because of the issues involved. Please notify me as to the time and place of the hearing.

Sincerely,


Cate Zeuske
Secretary of Revenue

CZ:MN:mn

March 12, 2001

Governor Scott McCallum
State Capitol
Madison, WI 53702-0100

Dear Governor McCallum;

How can Wisconsin allow huge bonuses to be paid to W-2 staff people and deny me money that is rightfully mine? The Wisconsin Department of Revenue is dictatorial in denying my claim because of minor errors that I may have made in pursuing my claim. If I owed the state money, I'm sure I would be chased around the earth and a lien put against my property to collect.

I am 79 years old. I fought and was wounded in WWII and I served in Korea. Never have I been treated so shabbily in my life as I have been by the Wisconsin Department of Revenue.

Recently the State settled a class action lawsuit with employees of the Wisconsin National Guard and our pension fund. I was a member of the Air National Guard for 30 years. For some unknown reason my name was excluded from the suit. It is thought that I failed to submit the proper forms, perhaps due to my macular degeneration. I've been told that had my name been included, I would have received approximately \$68,000.

I respectfully request your assistance to help me recover the retirement funds I feel I deserve. I have been in contact with Representative Tim Carpenter. Mr. Carpenter has more information regarding this matter. Thank you for your help.

Sincerely,

Col. Thomas F. Bailey (Ret.)
200 W. Bolivar Ave.
Milwaukee, WI 53207

1-414-483-6910

-4228/1

6-5-99
LMMK

2001 ~~1999~~ BILL

D-note

[Handwritten signature]

1 AN ACT to amend 71.05 (1) (a), and to create 71.85 (4) of the statutes; relating
 2 to: exempting from income taxation the pension benefits of certain national
 3 guard technicians and interest and penalty waivers for certain payments made
 4 to national guard technicians.

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, which are paid on the account of persons who were members of or retired from the plans as of December 31, 1963.

This bill exempts from taxation payments received from the U.S. civil service retirement system on the account of a person who has a U.S. office of personnel management service computation date as of December 31, 1963, if the person was a national guard technician who worked as a technician for the Wisconsin national guard as of December 31, 1963, and was later recognized as a federal employee under the National Guard Technician Act of 1968.

Also under this bill, such technicians, or the surviving spouses of such technicians, are not liable for any interest or penalties on any outstanding tax liabilities owed on certain payments received from the U.S. civil service retirement

BILL

system and may claim a refund for any interest or penalty payments that were made before the effective date of the bill if the claim is filed within one year after the bill takes effect.

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.

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) (a) ^X of the statutes is amended to read:

71.05 (1) (a) *Retirement systems.* All payments received from the U.S. civil service retirement system, the U.S. military employe^e retirement system, the employe^e's retirement system of the city of Milwaukee, Milwaukee county employe^e's retirement system, sheriff's annuity and benefit fund of Milwaukee county, police officer's annuity and benefit fund of Milwaukee, fire fighter's annuity and benefit fund of Milwaukee, or the public employe^e trust fund as successor to the Milwaukee public school teachers' annuity and retirement fund and to the Wisconsin state teachers retirement system, which are paid on the account of any person who was a member of the paying or predecessor system or fund as of December 31, 1963, or was retired from any of the systems or funds as of December 31, 1963, or who has a U.S. office of personnel management service computation date as of December 31, 1963, if the person was a national guard technician who worked as a technician for the Wisconsin national guard as of December 31, 1963, and was later recognized as a federal employe^e under the National Guard Technician Act[✓] of 1968, but such exemption shall not exclude from gross income tax sheltered annuity benefits.

SECTION 2. 71.85 (4) ^X of the statutes is created to read:

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1 71.85 (4) [✓] ABATEMENT OF INTEREST AND PENALTIES; NATIONAL GUARD TECHNICIANS.

2 No penalty or interest that has been imposed under this subchapter for taxable years
3 beginning after December 31, 1988, and before January 1, ~~1998~~²⁰⁰⁰, on a taxpayer who
4 was an employe^e of the Wisconsin national guard, who worked as a technician and
5 who was recognized as a federal employe^e under P.L. 90-486, or who is the surviving
6 spouse of such a person, to the extent that the penalty or interest or both relate to
7 payments received from the U.S. civil service retirement system by such a person,
8 is due and may not be collected or imposed by the department of revenue on or after
9 the effective date of this subsection [revisor inserts date]. A person to whom this
10 subsection applies, who has paid interest or penalties or both on payments that are
11 described under this subsection before the effective date of this subsection [revisor
12 inserts date], is eligible to claim a refund for the payment that he or she has made
13 if the claim is filed within one year of the effective date of this subsection [✓].... [revisor
14 inserts date].

15 **SECTION 3. Initial applicability.**

16 (1) The treatment of section 71.05 (1) (a) [✓] of the statutes first applies to pension
17 payments that are made on the effective date of this subsection.

18 (END)

D-note



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4228/2dn

MES.....

rs + jld

Representative Carpenter:

This ^{bill} draft is based on 1997 AB¹ 176 and on assembly amendment 1 to 1997 AB¹ 177, and also contains some suggestions made by the department of revenue that relate to those bills. You may want DOR to again review this bill.

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

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

LRB-4228/1dn
MES:rs&jld:jf

November 13, 2001

Representative Carpenter:

This bill is based on 1997 AB-176 and on assembly amendment 1 to 1997 AB-177, and also contains some suggestions made by the department of revenue that relate to those bills. You may want DOR to again review this bill.

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State of Wisconsin

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LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

November 13, 2001

MEMORANDUM

To: Representative Carpenter

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-4228/1 Exempting from income taxation national guard technician pensions;
interest and penalty waivers

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

Basford, Sarah

From: Basford, Sarah
Sent: Thursday, January 24, 2002 2:21 PM
To: Rep.Carpenter
Subject: LRB -4228/1 (attached)



01-4228/1

Sarah Basford
Program Assistant
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