

**2003 DRAFTING REQUEST**

**Bill**

Received: **02/14/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-2635**

By/Representing: **Sen. Kedzie**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax (indiv) - deduct/subtract**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kedzie@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Individual income tax exemption for all pension income, phased in

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**Instructions:**

See attached. Redraft 2001 AB 454 (LRB -3369/3) w/ attached phase-in changes.

---

**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>
/?	mshovers 04/15/2003	kgilfoy 04/15/2003		_____			State Tax
/1			jfrantze 04/15/2003	_____	lemery 04/15/2003	amentkow 04/17/2003	

FE Sent For:

↑  
At intro

<END>

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Pre Topic:

No specific pre topic given

Topic:

Individual income tax exemption for all pension income, phased in

Instructions:

See attached. Redraft 2001 AB 454 (LRB -3369/3) w/ attached phase-in changes.

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1?	mshovers	11-4/15 Kmcg	J 4/15	J/cph 4/15			
11	MES	4/15/03					

FE Sent For:

<END>

**Shovers, Marc**

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**From:** Sen.Kedzie  
**Sent:** Wednesday, February 12, 2003 4:23 PM  
**To:** Shovers, Marc  
**Subject:** redraft request of 2001 AB 454

Dear Mark,

Please accept this e-mail as my formal request to redraft 2001 Assembly Bill 454, with some modifications. I have discussed with Representative Owens the bill draft your created for her, which is currently LRB 0561/1. The DOR technical changes are acceptable and I would like to incorporate them into the draft.

In addition, it is my intent to 1. change the initial applicability date; and 2. gradually phase the exemption in. That "phase in" may be accomplished by allowing for a certain dollar amount exemption in the first year, and then increasing that amount in subsequent years:

First year: \$2500 exempt  
Second year: \$5000 exempt  
Third year: \$10,000 exempt  
Fourth year: \$15,000 exempt  
Fifth year: \$20,000 exempt

The \$20,000 exemption, then, would continue into perpetuity. I would like to set the initial applicability for tax year 2005. Thank you and if you have any questions, please contact Dan Johnson in my office.

Sincerely,

**Neal Kedzie**  
State Senator  
11th Senate District  
6-2635

## 2001 ASSEMBLY BILL 454

June 26, 2001 - Introduced by Representatives KEDZIE, KRAWCZYK, WALKER, MONTGOMERY, SUDER, J. FITZGERALD, JENSEN, HUEBSCH, GUNDRUM, KREIBICH, STARZYK, JESKEWITZ, MUSSER, PLALE, TOWNSEND, WADE, LADWIG, OWENS, KESTELL, LASSA, RHOADES, SYKORA, HOVEN, KREUSER, URBAN, GRONEMUS and FREESE, cosponsored by Senators ROESSLER and LAZICH. Referred to Committee on Ways and Means. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT** to create 71.05 (1) (am) of the statutes; **relating to:** exempting from  
2 taxation retirement plan income received by an individual.

---

### *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 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.

This bill exempts from taxation any amount of payments received each year by an individual from a retirement plan, if such payments are not already exempt from taxation. The exemption in the bill includes all qualified pension, profit-sharing, and stock bonus plans under the Internal Revenue Code (IRC), deferred compensation plans offered by state and local governments and tax-exempt organizations under the IRC, self-employed plans, tax-sheltered annuities, plans that are not qualified under the IRC, and individual retirement accounts. The exemption in the bill also applies to a distribution from a retirement plan that is used for certain medical expenses, first-time home buyer expenses, certain higher education expenses, and amounts needed to prevent eviction from a principal residence or mortgage foreclosure.

**ASSEMBLY BILL 454**

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:*

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

2           71.05 (1) (am) *Pension income.* Except for a payment that is exempt under par.  
3 (a) or that is exempt as a railroad retirement benefit, any amount of payments  
4 received each year by an individual from a retirement plan, including a plan that is  
5 included in sections 401 to 409 or section 457 of the Internal Revenue Code and any  
6 amount that is withdrawn from a retirement plan for one or more of the following  
7 reasons:

8           1. The payment of medical expenses of the plan's participant, his or her spouse,  
9 or his or her dependent who is claimed under section 151 (c) of the Internal Revenue  
10 Code, to the extent that the payments exceed 7.5% of the participant's federal  
11 adjusted gross income.

12           2. Amounts used to pay for first-time home buyer expenses, up to \$10,000, if  
13 the distribution is used within 120 days to pay the costs of acquiring, constructing,  
14 or reconstructing the first-time home buyer's principal residence.

15           3. Qualified higher education expenses, as that term is used in section 72 (t)  
16 (7) of the Internal Revenue Code, for the plan's participant, his or her spouse, or his  
17 or her dependent who is claimed under section 151 (c) of the Internal Revenue Code.

18           4. Amounts that are necessary to prevent eviction from the participant's  
19 principle residence or mortgage foreclosure.

20           **SECTION 2. Initial applicability.**





RMNR

Wanted:  
Thursday

2003 BILL

The bill first applies to taxable year 2005, and the maximum allowable exemption is \$2,500. The exemption amount increases each year from \$2,500 to \$5,000 in 2006, \$10,000 in 2007, \$15,000 in 2008, and \$20,000 in 2009 and thereafter.

1 AN ACT to amend <sup>repeal</sup> 71.05 (6) (b) 4. and 71.83 (1) (a) 6.; and to create 71.05 (1) (am)  
2 of the statutes; relating to: exempting from taxation retirement plan income  
3 received by an individual.

**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 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.

This bill exempts from taxation <sup>certain</sup> ~~any~~ amount of payments <sup>relates to</sup> or distributions received each year by an individual from a retirement plan, if such payments are not already exempt from taxation. The exemption in the bill ~~includes~~ all qualified pension, profit-sharing, and stock bonus plans under the Internal Revenue Code (IRC), deferred compensation plans offered by state and local governments and tax-exempt organizations under the IRC, self-employed plans, tax-sheltered annuities, plans that are not qualified under the IRC, and individual retirement accounts.

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.

**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) (am) of the statutes is created to read:

2           71.05 (1) (am) *Pension income.* Except for a payment that is exempt under par.  
3 (a) or that is exempt as a railroad retirement benefit, <sup>one of the following</sup> ~~any~~ amount of payments or  
4 distributions received each year by an individual from a retirement plan, including  
5 a plan that is included in sections 401 to 409 or section 457 of the Internal Revenue

6           Code~~s~~ : →

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

8           71.05 (6) (b) 4. Disability payments other than disability payments that are  
9 paid from a retirement plan, the payments from which are exempt under sub. (1)  
10 (am), if the individual either is single or is married and files a joint return, to the  
11 extent those payments are excludable under section 105 (d) of the ~~internal revenue~~  
12 ~~code~~ Internal Revenue Code as it existed immediately prior to its repeal in 1983 by  
13 section 122 (b) of P.L. 98-21, except that if an individual is divorced during the  
14 taxable year that individual may subtract an amount only if that person is disabled  
15 and the amount that may be subtracted then is \$100 for each week that payments  
16 are received or the amount of disability pay reported as income, whichever is less.  
17 If the exclusion under this subdivision is claimed on a joint return and only one of  
18 the spouses is disabled, the maximum exclusion is \$100 for each week that payments  
19 are received or the amount of disability pay reported as income, whichever is less.

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



2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2065/?ins  
MES.....

INS. 2-6

1. For taxable years beginning after December 31, 2004, and before January 1, 2006, \$2,500.
2. For taxable years beginning after December 31, 2005, and before January 1, 2007, \$5,000.
3. For taxable years beginning after December 31, 2006, and before January 1, 2008, \$10,000.
4. For taxable years beginning after December 31, 2007, and before January 1, 2009, \$15,000.
5. For taxable years beginning after December 31, 2008, \$20,000.

**Mentkowski, Annie**

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**From:** Johnson, Dan (Legislature)  
**Sent:** Thursday, April 17, 2003 3:56 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-2065/1 Topic: Individual income tax exemption for all pension income, phased in

It has been requested by <Johnson, Dan (Legislature)> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2065/1 Topic: Individual income tax exemption for all pension income, phased in



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-8522  
REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

June 5, 2003

## MEMORANDUM

**To:** Senator Kedzie

**From:** Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

**Subject:** Technical Memorandum to **2003 SB 160** (LRB 03-2065/1)

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

With regard to the department of revenue's first point, this is a policy question.

With regard to DOR's second point, the Revisor of Statutes would correct the statutory citations should this bill become law.

With regard to DOR's third point, I agree that the analysis could be a little more precise in its references to a certain distinct class of individuals who are covered by the U.S. military employee retirement system. In any event, the analysis does not become law, only the statutes affected by the bill do. If the statutory language reflects your intent, no changes are needed to the analysis.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

May 28, 2003

**TO:** Marc Shovers  
Legislative Reference Bureau

**FROM:** Dennis Collier  
Department of Revenue

**SUBJECT:** Technical Memorandum on SB 160: Individual Income Tax Exemption for All Pension Income, Phased In

The proposed bill states that the exclusion is allowed for payments or distributions from retirement plans included in sections 401 to 409 and 457 of the Internal Revenue Code (IRC). This could allow the exclusion for distributions from plans that are not IRC qualified plans. The sponsor may wish to clarify whether or not a payment from an employer's nonqualified deferred compensation plan or a nonqualified retirement plan is considered an excludable payment from a retirement plan.

The bill creates sec. 71.05(1)(am), Wis. Stats., that would need to be renumbered because a section numbered 71.05(1)(am) already exists. References to this created section in secs. 71.05(6)(b)4 and 71.83(1)(a)6 should also be adjusted.

Under current law, retirement benefits received from the military employee retirement system or 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 are exempt regardless of whether or not the person was a member of the retirement plan as of December 31, 1963. The analysis states that these pensions are exempt only for recipients who were members of the system as of this date.

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>	<u>FTE</u>
one-time	s. 20.566 (1) (a)	\$32,000	
annual	s. 20.566 (1) (a)	\$198,700	3.5

If you have any questions regarding this technical memorandum, please contact Karyn Kriz at



(608) 261-8984; for administrative costs contact Julie Feavel at (608) 267-9892.