

**2003 DRAFTING REQUEST**

**Bill**

Received: **11/18/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Wirch (608) 267-8979**

By/Representing: **Amber**

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.Wirch@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Exempt from taxation the first \$5,000 of pension income

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**Instructions:**

Redraft 2001 SB 36, LRB -1368/1

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**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 11/18/2003	kgilfoy 11/18/2003		_____			State Tax
/1			rschluet 11/20/2003	_____	lemery 11/20/2003	lnorthro 01/26/2004	

FE Sent For:

↳ At  
Intro.

<END>

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*Jacket for senate per Amber at office*

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**<END>**

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FE Sent For:

Handwritten notes and signatures:

- Large signature over 'Typed' and 'Proofed' columns.
- Handwritten numbers: 11, 19, 3, 3f.
- Handwritten text: <END>

2003 2001 SENATE BILL 36

GOOD

D-NOTE

January 31, 2001 - Introduced by Senators PLACHE, WIRCH, ROBSON, MOEN, BURKE, ROESSLER, SCHULTZ, BRESKE, LAZICH, BAUMGART, SHIBILSKI, DARLING and M. MEYER, cosponsored by Representatives JESKEWITZ, RYBA, J. LEHMAN, TURNER, LASSA, LADWIG, CARPENTER, KREUSER, MORRIS-TATUM, WILLIAMS, TRAVIS, ALBERS and REYNOLDS. Referred to Joint survey committee on Tax Exemptions.

gen

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

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.

This bill exempts from taxation up to \$5,000 of pension payments received each year by an individual, if such payments are not already exempt from taxation.

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:

INS  
ANL

e

SENATE BILL 36

ap

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

2 71.05 (1) (~~am~~) <sup>ap</sup> Pension income. Except for a payment that is exempt under par.

3 (a) <sup>(am), or (an),</sup> for that is exempt as a railroad retirement benefit, up to \$5,000 of payments  
4 received each year by an individual from a retirement plan offered by an employer.

5 SECTION 2. Initial applicability.

6 (1) This act first applies to taxable years beginning on January 1 of the year  
7 in which this subsection takes effect, except that if this subsection takes effect after  
8 July 31 this act first applies to taxable years beginning on January 1 of the year  
9 following the year in which this subsection takes effect.

10 (END)

¶ To the extent that they are not currently exempt from taxation, current law also exempts all retirement payments received from the U.S. Military Employee Retirement System and all retirement payments received from the U.S. <sup>federal</sup> government related to service ~~at the~~ with the Coast Guard or the Commissioned Corps <sup>either</sup> of the National Oceanic and Atmospheric Administration, or the Public Health Service.



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

LRB-1968/1dn  
MES:kmg:jf

3768/1



December 12, 2000

ap

Please review this bill very carefully to ensure that it captures your intent. There are a number of different pensions that exist and the language in created s. 71.05 (1) (as) is very broad, but I'm not sure if it is too broad or too narrow. IRAs, for example, would not be covered by the bill because they are not payments received from a retirement plan offered by an employer. You may want the Department of Revenue to review the bill to see how it would interpret the bill.

Also, there is no requirement under the bill that the exemption be available only to retired persons. For example, an individual could have worked someplace for 30 years, retired, and started collecting his or her pension and then decided to go back to work full time at age 59. Under the bill, his or her pension would be eligible for the exemption even though he or she is working full time. Is this consistent with your intent?

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-3768/1dn  
MES:kmg:rs

November 19, 2003

Please review this bill very carefully to ensure that it captures your intent. There are a number of different pensions that exist and the language in created s. 71.05 (1) (ap) is very broad, but I'm not sure if it is too broad or too narrow. IRAs, for example, would not be covered by the bill because they are not payments received from a retirement plan offered by an employer. You may want the Department of Revenue to review the bill to see how it would interpret the bill.

Also, there is no requirement under the bill that the exemption be available only to retired persons. For example, an individual could have worked someplace for 30 years, retired, and started collecting his or her pension and then decided to go back to work full time at age 59. Under the bill, his or her pension would be eligible for the exemption even though he or she is working full time. Is this consistent with your intent?

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



# 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

February 22, 2004

## MEMORANDUM

**To:** Senator Wirch

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

**Subject:** Technical Memorandum to **2003 SB 453** (LRB 03-3768/1)

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

I believe that the Department of Revenue's first point is correct, and you may wish to have an amendment drafted to prevent such double counting.

DOR's second point may be valid, and the department currently has the authority to promulgate rules on this issue if it believes that rules would assist in their interpretation of the statute, should this bill become law.

DOR's third point, relating to married couples, states that it is unclear whether both spouses could take the \$5,000 subtraction if they are both eligible. I disagree. I think that the statute is clear and that both spouses could take the \$5,000 subtraction if they are both eligible. If this is not your intent, an amendment will need to be drafted.

DOR's fourth point concerns the bill's lack of funding for DOR's costs. This is a policy issue for you to decide, but in over 15 years I have only drafted one bill that provides such funding.

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

## MEMORANDUM

February 13, 2004

**TO:** Marc Shovers  
Legislative Reference Bureau

**FROM:** Dennis Collier  
Department of Revenue

**SUBJECT:** Technical Memorandum on SB 453: Exempt From Taxation the First \$5,000 of Pension Income

It appears that disability income paid from a retirement plan would qualify for the \$5,000 subtraction. To prevent a double deduction, sec. 71.05(6)(b)4, which provides a disability income exclusion of up to \$5,200 should be amended.

It is unclear what is included in the term "retirement plan" in proposed sec. 71.05(1)(ap). It is unclear whether or not the term includes nonqualified deferred compensation plans or other deferred compensation plans under the IRC, such as IRC sec. 403(b) and sec. 457 plans.

In the case of married joint filers, it is unclear whether each spouse could take the \$5,000 subtraction for pension income taxable under current law. If the intent is not to allow the subtraction for each spouse, a provision should be added in proposed sec. 71.05(1)(ap).

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.