

2019 DRAFTING REQUEST

Bill

For: **Tod Ohnstad (608) 266-0455** Drafter: **mshovers**
 By: **Alex** Secondary Drafters:
 Date: **12/11/2018** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Ohnstad@legis.wisconsin.gov**
 Carbon copy (CC) to: **Erika.Lunder@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Individual income tax exemption for federal civil service pension income

Instructions:

See attached. Redraft 2017 LRB -3342/P2, which was based on Indiana law that was phased in over 2 years

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 12/11/2018	anienaja 12/12/2018			
/P1			mbarman 12/12/2018		State Tax Exempt
/1			jmurphy 4/9/2019	jmurphy 4/9/2019	State Tax Exempt

FE Sent For:

12/19/2018

" /P1 "

<END>

At Intro.
 (" /1 ")

Shovers, Marc

From: Madorsky, Alex
Sent: Tuesday, December 11, 2018 11:26 AM
To: Shovers, Marc
Subject: RE: Tax equivalency for federal retirees

Please feel free to transfer the drafting instructions. Advancing the dates to taxable year 2020 per your description also makes sense. Thanks as always Marc!

Alex Madorsky
Research Assistant
Office of State Representative Tod Ohnstad
65th Assembly District
State Capitol, Room 128 North
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0455
Toll-free: (888) 534-0065

From: Shovers, Marc <Marc.Shovers@legis.wisconsin.gov>
Sent: Tuesday, December 11, 2018 11:14 AM
To: Madorsky, Alex <Alex.Madorsky@legis.wisconsin.gov>
Subject: FW: Tax equivalency for federal retirees

Hi Alex:

I just want to let you know that I'll be redrafting this bill. On this topic, Rep. Ohnstad had LRB - 3342/P2 drafted last session; it was based on the Indiana law described in the background document you submitted.

For this session, I advanced the year to which the bill first applies from taxable year 2018 to taxable year 2019 but, if the bill is not enacted by approximately August 1, 2019, you may wish to have the dates in bill advanced again so it first applies to taxable year 2020.

Also, is it OK to transfer the bill drafting instructions from last session's draft to this session's file?

Thanks, Alex!

Marc

Marc Shovers
Senior Legislative Attorney
Legislative Reference Bureau
608-504-5876
marc.shovers@legis.wisconsin.gov

From: Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>
Sent: Monday, December 10, 2018 9:12 AM
To: Shovers, Marc <Marc.Shovers@legis.wisconsin.gov>
Cc: Lunder, Erika <Erika.Lunder@legis.wisconsin.gov>
Subject: FW: Tax equivalency for federal retirees

Hi Marc,

This one's for you. You'll can work with Erika on this if she's not swamped.

Thanks,

Joe

Joseph T. Kreye
Legal Services Manager
Legislative Reference Bureau
608 504-5857

From: Madorsky, Alex <Alex.Madorsky@legis.wisconsin.gov>
Sent: Monday, December 10, 2018 8:47 AM
To: Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>
Subject: Tax equivalency for federal retirees

Hi Joe,

I'm hoping for a P draft consistent with the attached talking points assembled my staff predecessor. Tod seems to think he got this drafted as a bill in the past, but I'm not seeing it in the archives. You may want to double-check; if we have drafted this in the past, it can be a straight re-draft. Tod plans on discussing the proposal with some colleagues on Tuesday, January 8th, so if we can have a draft by then, that would be great. Thanks as always.

Alex Madorsky
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65th Assembly District
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Toll-free: (888) 534-0065

Wisconsin State Tax Treatment of Federal Retirees

Proposal: Increase Wisconsin state tax exemption for federal Civil Service retirees

- Keep retirees in WI – Increasing the state tax deduction would keep retirees in Wisconsin and attract new retirees who are considering relocation.
 - Fairness – Wisconsin workers under Social Security, receive far greater state tax benefits than Wisconsin workers who retired under the Civil Service Retirement System (CSRS), who receive no such benefits.
 - Demographics – the number of CSRS annuitants in the state is decreasing, will eventually be zero.
-

Tax Treatment for Federal Retirees

- Civil Service Retirement System (CSRS) – a defined-benefit plan.
 - Organized in 1920. Has provided retirement, disability, and survivor benefits for most civilian employees in the U.S. federal government.
 - When FERS was created in 1987, new hires participate in FERS only, not CSRS. Employees first enrolled in CSRS though generally continue to receive retirement benefits through CSRS.
 - CSRS employees do not participate in Social Security (unless they worked in the private sector beforehand)
- Federal Employees Retirement System (FERS)
 - Three tier system
 - Smaller defined benefit (pension)
 - Social Security
 - 401(k)-style system called the Thrift Savings Plan (TSP)
 - Employees hired after 1983 are generally required to be covered by FERS.

Wisconsin

- Current State Law exempts federal civil service pension income, but only for folks who retired prior to January 1, 1964, and exempts up to \$5,000 in certain circumstances if the claimant is at least 65 years of age and has a federal AGI of \$15,000 or less (or \$30,000 if MFJ).
- Retired WI workers receive an average of \$16,000 in annual Social Security benefits. This is exempt from state income tax. However, CSRS employees receive no such benefits. Thus, CSRS employees receive no such exemption.

Other States

- 9 states have no personal income tax whatsoever
- 9 states totally exempt federal Civil Service annuities from state taxes
- 5 states partially exempt federal Civil Service annuities
- Neighboring states
 - Illinois – totally exempts federal Civil Service annuities
 - Michigan – totally exempts federal Civil Service annuities for taxpayers born before 1946
 - Minnesota – taxpayers age 65 and older may be eligible for subtraction based on income
 - Iowa – taxpayers age 55 and over may exclude up to \$6,000 if single for \$12,000 if MFJ of pension or annuity income including civil service annuities

Recent proposals

- Related Wisconsin Proposals
 - 2011 Assembly Bill 52 & 2013 Assembly Bill 87 – would have eliminated the age and income restrictions for the \$5,000 exemption as well as increased the exemption amount over the course of four years to a maximum \$20,000
- Missouri Legislation – provided tax relief to federal annuitants AND to all social security recipients
 - Taxpayers with AGI under \$85,000 (single, HH, MFS, QW) or \$100,000 (MFJ) may exempt the greater of \$6,000 or 100% of any federal, state, or local pension income up to a maximum of \$36,976 per taxpayer.
 - Taxpayers with AGI exceeding the limitation may qualify for a partial exemption.
 - Taxpayers with AGI under \$25,000 (single, HH, QW) or \$32,000 (MJF) or \$16,000 (MFS) may exempt \$6,000 of private pension income.
- Indiana Legislation – provided tax relief to federal annuitants
 - Prior to 2015, retirees could claim a \$2,000 deduction. Surviving spouses could claim nothing.
 - Then, new legislation was signed into law.
 - Lead author of standalone bill: State Rep. Ed Clere
 - Ultimately, provision was included in omnibus tax bill (SB 441) signed into law by then-Gov. Mike Pence.
 - Provided an \$8,000 deduction for filing of 2015 state taxes
 - Provided a \$16,000 deduction for tax year 2016 and thereafter



RESEARCH APPENDIX

Drafting History Reproduction Request Form

Drafting Attorneys: Please complete form below and give to Mike Barman (lead PA).

Requested by	MES
Date	12-11-2018

*Note: Except for companion bills, both drafts should have same requester.

<input checked="" type="checkbox"/>	Please transfer the drafting file for:
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2017 LRB	-3342/P2	For <u>Rep.</u> /Sen.	Ohnstad
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To the drafting file for:

2019 LRB	-1030	For <u>Rep.</u> /Sen.	Ohnstad
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OR

<input type="checkbox"/>	Please copy the drafting file for:
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2019 LRB	/	For Rep./Sen.
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And place it in the drafting file for:

2019 LRB		For Rep./Sen.
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Companion bills?	<input type="checkbox"/> YES*	<input type="checkbox"/> NO
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*If yes, the transfer or copy of the file was authorized by whom in the original requester's office?



RmNA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*SA ✓
XPF ✓
PWF*

*wed
or
Thurs.*

gen

- 1 AN ACT *to amend* 71.05 (1) (ae) (intro.), 71.05 (1) (an), 71.05 (6) (b) 4. and 71.83
- 2 (1) (a) 6.; and *to create* 71.05 (1) (ad) of the statutes; **relating to:** exempting
- 3 from taxation the pension benefits of certain retired federal employees.

Analysis by the Legislative Reference Bureau

This bill exempts from taxation up to \$8,000 in payments received by an individual from the U.S. Civil Service Retirement System, for taxable year ~~2018~~ and up to \$16,000 of such payments received in ~~2019~~ and beyond, to the extent that such payments are not currently subject to an exemption. *2020*

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 CSRS, 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 most of these pension plans, the exemption applies only to persons who were members of or retired from the plans as of December 31, 1963, although this limitation does not apply to retirement payments received from the U.S. Military Employee Retirement System or from payments received from the U.S. government that relate to service with the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the U.S. Public Health Service. Also under current law, up to \$5,000 of payments or distributions received by certain individuals from a qualified retirement plan under the Internal Revenue Code, or from certain individual retirement accounts,

2019

are exempt from taxation. To be eligible, the individual must be at least 65 years old and have federal adjusted gross income under \$15,000, or under \$30,000 if married.

Under federal law, until 1984, employment by the federal government was covered under CSRS and not by social security. In 1984, the federal government created the Federal Employees Retirement System. Federal employees who began working for the federal government in 1984 or later are covered by FERS instead of CSRS. Some federal employees who had been covered by CSRS switched to FERS, and some stayed in CSRS. Work under FERS is covered by social security. Federal employees who remained in CSRS after 1983 are still not covered by social security.

This bill exempts from taxation \$8,000 for ~~2018~~ or \$16,000 for ~~2019~~ and thereafter, of payments received from CSRS, to the extent that such payments are not already exempt, and without regard to whether the former employee was a member of or retired from CSRS as of December 31, 1963.

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)~~ *Federal employee pension income.* One of the following amounts
3 of payments received from the U.S. civil service retirement system, to the extent that
4 such payments are not exempt under par. (a), (ae), or (an):

5 1. For taxable years beginning after December 31, ~~2017~~, and before January
6 1, ~~2019~~, \$8,000.

7 2. For taxable years beginning after December 31, ~~2018~~, \$16,000.

8 SECTION 2. 71.05 (1) (ae) (intro.) of the statutes is amended to read:

9 ~~71.05 (1) (ae)~~ *Pension, individual retirement income.* (intro.) Except for a
10 payment that is exempt under par. (a), (ad), (am), or (an), or that is exempt as a
11 railroad retirement benefit, for taxable years beginning after December 31, 2008, up
12 to \$5,000 of payments or distributions received each year by an individual from a

1 qualified retirement plan under the Internal Revenue Code or from an individual
2 retirement account established under 26 USC 408, if all of the following conditions
3 apply:

4 **SECTION 3.** 71.05 (1) (an) of the statutes is amended to read:

5 ×71.05 (1) (an) *Uniformed services retirement benefits.* All retirement payments
6 received from the U.S. government that relate to service with the coast guard, the
7 commissioned corps of the national oceanic and atmospheric administration, or the
8 commissioned corps of the public health service, to the extent that such payments are
9 not exempt under par. (a), (ad), (ae), or (am).

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

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

23 **SECTION 5.** 71.83 (1) (a) 6. of the statutes is amended to read:

24 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a
25 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,

1 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
2 federal penalty unless the income received is exempt from taxation under s. 71.05
3 (1) (a), (ad), or (ae). The penalties provided under this subdivision shall be assessed,
4 levied, and collected in the same manner as income or franchise taxes.

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1, ~~2018~~ ²⁰¹⁹.

7 (END)

Barman, Mike

From: Shovers, Marc
Sent: Wednesday, December 19, 2018 12:04 PM
To: Barman, Mike
Subject: FW: Draft review: LRB -1030/P1

Hi Mike:

Could you please request a fiscal estimate for this draft?

Thanks,

Marc

From: Madorsky, Alex <Alex.Madorsky@legis.wisconsin.gov>
Sent: Wednesday, December 19, 2018 11:47 AM
To: Shovers, Marc <Marc.Shovers@legis.wisconsin.gov>
Subject: RE: Draft review: LRB -1030/P1

Rep. Ohnstad is hoping to get a fiscal estimate for this draft when possible. Thanks again and Happy Holidays!

Alex Madorsky
Research Assistant
Office of State Representative Tod Ohnstad
65th Assembly District
State Capitol, Room 128 North
PO Box 8953, Madison, WI 53708
Phone: (608) 266-0455
Toll-free: (888) 534-0065

From: LRB.Legal <lrblegal@legis.wisconsin.gov>
Sent: Wednesday, December 12, 2018 10:22 AM
To: Rep.Ohnstad <Rep.Ohnstad@legis.wisconsin.gov>
Subject: Draft review: LRB -1030/P1

Following is the PDF version of draft LRB -1030/P1.

Shovers, Marc

From: Walker, Dan
Sent: Tuesday, April 09, 2019 11:45 AM
To: Shovers, Marc
Subject: FW: Draft review: LRB -1030/P1

From: Rep.Ohnstad <Rep.Ohnstad@legis.wisconsin.gov>
Sent: Tuesday, April 09, 2019 11:44 AM
To: LRB.Legal <lrblegal@legis.wisconsin.gov>
Subject: RE: Draft review: LRB -1030/P1

Please draft this as an introducible version and jacket the bill.

From: LRB.Legal <lrblegal@legis.wisconsin.gov>
Sent: Wednesday, December 12, 2018 10:22 AM
To: Rep.Ohnstad <Rep.Ohnstad@legis.wisconsin.gov>
Subject: Draft review: LRB -1030/P1

Following is the PDF version of draft LRB -1030/P1.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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2 (1) (a) 6.; and **to create** 71.05 (1) (ad) of the statutes; **relating to:** exempting
3 from taxation the pension benefits of certain retired federal employees.

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1 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the
2 federal penalty unless the income received is exempt from taxation under s. 71.05
3 (1) (a), (ad), or (ae). The penalties provided under this subdivision shall be assessed,
4 levied, and collected in the same manner as income or franchise taxes.

5 **SECTION 6. Initial applicability.**

6 (1) This act first applies to taxable years beginning on January 1, 2019.

7 (END)

Barman, Mike

From: Barman, Mike
Sent: Friday, April 19, 2019 10:17 AM
To: Egerer, Matt
Cc: Shovers, Marc
Subject: -1030draftingfile from Marc Shovers - LRB Attorney



-1030draftingfil...

Mike Barman (Lead Program Assistant)

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office
1 East Main Street, Suite 200, Madison, WI 53703
(608) 504-5801 / mike.barman@legis.wisconsin.gov