2023 ASSEMBLY BILL 285

May 17, 2023 – Introduced by Representatives ARMSTRONG, OHNSTAD, MCGUIRE, BROOKS, CABRERA, DITTRICH, DOYLE, GREEN, JOERS, KITCHENS, MURSAU, O'CONNOR, ORTIZ-VELEZ, PALMERI, SHANKLAND, SINICKI, SNODGRASS, SPIROS, STUBBS, SUBECK and VANDERMEER, cosponsored by Senators WANGGAARD, WIRCH, HESSELBEIN, NASS, SPREITZER and TAYLOR. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to amend*** 71.05 (1) (an), 71.05 (6) (b) 4. (intro.), 71.05 (6) (b) 54. (intro.) and 71.83 (1) (a) 6.; and ***to create*** 71.05 (1) (ad) of the statutes; **relating to:** exempting from taxation the pension benefits of certain federal employees.

Analysis by the Legislative Reference Bureau

This bill exempts from taxation up to $8,000 in payments received in 2023 by an individual from the U.S. Civil Service Retirement System and the full amount of such payments received in 2024 and beyond. Under the bill, the exemption applies without regard to when the individual became a member of or retired under CSRS, which was the retirement system used by the federal government until 1984. In 1984, the federal government established a new retirement system, but federal employees covered by CSRS were allowed to choose to stay in CSRS.

Under current law, payments received from CSRS are exempt from Wisconsin income taxes but generally only if the individual was a member of or retired under CSRS as of December 31, 1963. Similarly, payments received from other retirement systems, such as payments received from Milwaukee city and county retirement systems, are exempt from taxation for individuals who were members of or retired from the systems as of December 31, 1963. Current law also provides a tax exemption for payments received from the U.S. Military Employee Retirement System and retirement payments that relate to service with the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the U.S. Public Health Service. Also under current law, an individual may subtract up to $5,000 of payments or distributions received from a qualified retirement plan or individual retirement account if the individual is at least 65 years old and has federal adjusted gross income of less than $15,000, or $30,000 if married.

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:

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

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

1. For taxable years beginning after December 31, 2022, and before January 1, 2024, up to $8,000 of the payments received during the taxable year.

2. For taxable years beginning after December 31, 2023, the amount of the payments received during the taxable year.

SECTION 2. 71.05 (1) (an) of the statutes is amended to read:

71.05 **(1)** (an) *Uniformed services retirement benefits.* All retirement payments received 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, to the extent that such payments are not exempt under par. (a), (ad), or (am) or sub. (6) (b) 54.

SECTION 3. 71.05 (6) (b) 4. (intro.) of the statutes is amended to read:

71.05 **(6)** (b) 4. (intro.) Disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under subd. 54. and sub. (1) (ad), (am), and (an), if the individual either is single or is married and files a joint return and is under 65 years of age before the close of the taxable year to which the subtraction relates, retired on disability, and, when the individual retired, was permanently and totally disabled. In this subdivision, "permanently and totally disabled" means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered permanently and totally disabled for purposes of this subdivision unless proof is furnished in such form and manner, and at such times, as prescribed by the department. The exclusion under this subdivision shall be determined as follows:

SECTION 4. 71.05 (6) (b) 54. (intro.) of the statutes is amended to read:

71.05 **(6)** (b) 54. (intro.) Except for a payment that is exempt under sub. (1) (a), (ad), (am), or (an), or that is exempt as a railroad retirement benefit, for taxable years beginning after December 31, 2020, up to $5,000 of payments or distributions received each year by an individual from a qualified retirement plan under the Internal Revenue Code or from an individual retirement account established under 26 USC 408, if all of the following conditions apply:

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

71.83 **(1)** (a) 6. 'Retirement plans.' Any natural person who is liable for a penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973, 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33 percent of the federal penalty unless the income received is exempt from taxation under s. 71.05

(1) (a) <u>or (ad)</u> or (6) (b) 54. The penalties provided under this subdivision shall be assessed, levied, and collected in the same manner as income or franchise taxes.

(END)