Bill Analysis

Bethany Boyd *Legislative Service Commission*

S.B. 191

127th General Assembly
(As Introduced)

Sens. Coughlin, Schuler, Mumper, Buehrer, Schaffer

BILL SUMMARY

- Beginning in 2007, phases in an Ohio income tax exemption, ultimately up to $10,000, for state or federal government, or military, retirement benefits.

CONTENT AND OPERATION

Deduction for public employee or military retirement benefits

(R.C. 5747.01(A)(25))

The bill permits individuals receiving pensions, annuities, allowances, benefits, or other retirement payments from one of the following retirement systems to deduct up to a specific dollar amount in those retirement benefits when computing their Ohio income tax liability:

- Federal Employees' Retirement System (5 U.S.C. §§ 8410-8425)
- Civil Service Retirement System (5 U.S.C. §§ 8331-8351)
- Public Employees Retirement System (R.C. Chapter 145.)
- State Teachers Retirement System (R.C. Chapter 3307.)
- School Employees Retirement System (R.C. Chapter 3309.)
- State Highway Patrol Retirement System (R.C. Chapter 5505.)
- Ohio Police and Fire Pension Fund (R.C. Chapter 742.)

In addition, the bill permits taxpayers to deduct payments made to them as retired military personnel pay for service in the United States Army, Navy, Air

Force, Coast Guard, or Marine Corps, or reserve components thereof, or the National Guard (see **COMMENT**, below).

Specifically, taxpayers may deduct these retirement benefits in an amount up to $4,000 for taxable years beginning in 2007, $7,000 for taxable years beginning in 2008, and $10,000 for taxable years beginning in or after 2009.

The payments are deductible only to the extent they were included in the taxpayer's federal adjusted gross income (which is the base upon which a taxpayer's Ohio taxable income is determined). These payments currently are taxable in their entirety when received because contributions to the retirement systems were not taxable at the time contributions were made. Disability and survivor's benefits paid to a taxpayer, which are currently deductible for Ohio income tax purposes, would not be affected by the bill.

For some taxpayers claiming the bill's income tax deduction, the deduction would, to some extent, offset the tax credit for retirement income taxpayers may claim under continuing law (R.C. 5747.055). The credit is based on the amount of retirement income a taxpayer receives, up to $200 per return for taxpayers whose retirement income is $8,000 or more. The bill's deduction would reduce, dollar-for-dollar, the amount of retirement income on which the credit is based. For example, under the bill, a taxpayer with $15,000 of retirement income in 2009 would be able to take a $10,000 deduction. For the remaining $5,000 in retirement income, the taxpayer's tax credit would be $80. Without the bill's tax deduction, the taxpayer's retirement income would be $15,000 and the tax credit would be $200. But if a taxpayer's retirement income is at least $18,000 (in 2009 or thereafter), the deduction would not reduce the credit: after the $10,000 deduction, the taxpayer would still have at least $8,000 in retirement income to qualify for the maximum $200 credit.

COMMENT

Federal law prohibits states from discriminating between federal and state employees in taxing their compensation: "The United States consents to the taxation of pay or compensation [of a federal officer or employee] . . . by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation" (4 U.S.C. § 111). This federal law has been construed by the United States Supreme Court to apply to retirement benefits paid for government service, in effect requiring a state that permits state and local government employees to claim an income tax deduction for retirement benefits to permit federal government employees to claim the same deduction. See, e.g., *Davis v. Michigan Dept. of the Treasury*, 489 U.S. 803 (1989). The Court also has held that a state income tax on military retirement benefits, but not on state and local government retirement benefits, is inconsistent with the 4 U.S.C. § 111 prohibition against discriminatory taxes. *Barker v. Kansas*, 503 U.S. 594 (1992).

HISTORY

ACTION	DATE
Introduced	06-26-07

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