

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1010

H.P. 731

House of Representatives, February 25, 2003

An Act To Exempt Military Pensions from State Income Tax

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McLAUGHLIN of Cape Elizabeth.
Under suspension of the rules, cosponsored by Representatives: CRESSEY of Baldwin, HEIDRICH of Oxford, Senator DOUGLASS of Androscoggin and Representatives: BARSTOW of Gorham, BIERMAN of Sorrento, BLISS of South Portland, CANAVAN of Waterville, CARR of Lincoln, COLLINS of Wells, CROSTHWAITE of Ellsworth, DAVIS of Falmouth, EDER of Portland, GERZOFKY of Brunswick, GLYNN of South Portland, GREELEY of Levant, LANDRY of Sanford, LAVERRIERE-BOUCHER of Biddeford, LERMAN of Augusta, MAKAS of Lewiston, McCORMICK of West Gardiner, McKEE of Wayne, McKENNEY of Cumberland, McNEIL of Rockland, NORBERT of Portland, O'BRIEN of Lewiston, PERCY of Phippsburg, SMITH of Monmouth, THOMPSON of China, WATSON of Bath, Senators: BROMLEY of Cumberland, DAMON of Hancock, EDMONDS of Cumberland, HALL of Lincoln, MAYO of Sagadahoc, ROTUNDO of Androscoggin.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 36 MRSA §5122, sub-§2, ¶M,** as amended by PL 2001, c.
396, §34 and affected by §50, is further amended to read:

6 M. An amount, for each recipient of benefits under an
employee retirement plan, that is the lesser of:

8 (1) Six thousand dollars reduced by the total amount
10 of the primary recipient's social security benefits and
railroad retirement benefits paid by the United States,
12 but not less than \$0, ~~---The reduction does not apply to
benefits paid under a military retirement plan;~~ or

14 (2) The aggregate of benefits received by the primary
16 recipient under employee retirement plans and included
in federal adjusted gross income.

18 For purposes of this paragraph, "employee retirement plan"
20 means a state, or federal ~~or military~~ retirement plan or any
other retirement benefit plan established and maintained by
22 an employer for the benefit of its employees under Section
401(a), Section 403 or Section 457(b) of the Code.
24 "Employee retirement plan" does not include an individual
retirement account under Section 408 of the Code, a Roth IRA
26 under Section 408A of the Code, a rollover individual
retirement account, a simplified employee pension under
28 Section 408(k) of the Code, a military retirement plan as
defined in paragraph T or an ineligible deferred
30 compensation plan under Section 457(f) of the Code. ~~---For
purposes of this paragraph, "military retirement plan" means
32 benefits received as a result of service in the active or
reserve components of the Army, Navy, Air Force, Marines or
34 Coast Guard;~~

36 **Sec. 2. 36 MRSA §5122, sub-§2, ¶¶R and S,** as enacted by PL
2001, c. 714, Pt. AA, §4, are amended to read:

38 R. For tax years beginning in 2005, 2006 or 2007, an amount
40 equal to 1/3 of any amount added back to federal adjusted
gross income by the taxpayer for the 2003 tax year pursuant
42 to subsection 1, paragraph N, except with respect to 3-year
property, in which case this paragraph does not apply to
44 2006 or 2007 tax years and the amount to be subtracted
pursuant to this paragraph in the 2005 tax year is an amount
46 equal to the amount added back pursuant to subsection 1,
paragraph N for tax years beginning in 2003; and

48 S. For tax years beginning in 2006, 2007 or 2008, an amount
50 equal to 1/3 of any amount added back to federal adjusted

2 gross income by the taxpayer for the 2004 tax year pursuant
to subsection 1, paragraph N, except with respect to 3-year
4 property, in which case this paragraph does not apply to
2007 or 2008 tax years and the amount to be subtracted
6 pursuant to this paragraph in the 2006 tax year is in an
amount equal to the amount added back pursuant to subsection
1, paragraph N for tax years beginning in 2004.; and

8 **Sec. 3. 36 MRSA §5122, sub-§2, ¶T** is enacted to read:

10 T. For tax years beginning on or after January 1, 2004, an
12 amount equal to benefits paid under a military retirement
14 plan. For purposes of this paragraph, "military retirement
16 plan" means benefits received as a result of service in the
active or reserve components of the Army, Navy, Air Force,
Marines or Coast Guard.

18 **SUMMARY**

20 This bill exempts from the state income tax all military
22 pension benefits received by a Maine resident as a result of
24 service in the active or reserve components of the Army, Navy,
Air Force, Marines or Coast Guard. Since the effect of this bill
is to totally exempt military pension benefits, the express
26 exclusion of military pension benefits from the offset for social
security and railroad retirement benefits from the \$6,000
28 deduction allowed for other pension plans is removed.