

House Bill 2716

Sponsored by Representative HUFFMAN; Representatives ESQUIVEL, GILMAN, THOMPSON (at the request of Del Cesar)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates subtraction from taxable income for local government pension income from certain retirement plans not within Public Employees Retirement System. Limits subtraction to income attributable to local government creditable service occurring before October 1, 1991.

Applies to tax years beginning on or after January 1, 2010.

A BILL FOR AN ACT

1
2 Relating to income tax subtractions for local government pension income; creating new provisions;
3 and amending ORS 316.680.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 316.680 is amended to read:

6 316.680. (1) There shall be subtracted from federal taxable income:

7 (a) The interest or dividends on obligations of the United States and its territories and pos-
8 sessions or of any authority, commission or instrumentality of the United States to the extent
9 includable in gross income for federal income tax purposes but exempt from state income taxes un-
10 der the laws of the United States. However, the amount subtracted under this paragraph shall be
11 reduced by any interest on indebtedness incurred to carry the obligations or securities described in
12 this paragraph, and by any expenses incurred in the production of interest or dividend income de-
13 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,
14 are deductible in determining federal taxable income.

15 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as
16 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for
17 which a tax benefit was received.

18 (c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this para-
19 graph, compensation (other than pension or retirement pay) received for active service performed
20 by a member of the Armed Forces of the United States in an amount not to exceed \$6,000 per an-
21 num.

22 (B) For the tax year of initial draft or enlistment into the Armed Forces of the United States
23 or for the tax year of discharge from or termination of full-time active duty for the Armed Forces
24 of the United States, compensation (other than pension or retirement pay or pay for service when
25 on military reserve duty) paid by the Armed Forces of the United States for services performed
26 outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the
27 Armed Forces of the United States.

28 (d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the
29 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce
30 federal taxable income by those amounts.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

2 (f)(A) Federal pension income that is attributable to federal employment occurring before Octo-
 3 ber 1, 1991. Federal pension income that is attributable to federal employment occurring before
 4 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for
 5 the tax year by the ratio of the number of months of federal creditable service occurring before
 6 October 1, 1991, over the total number of months of federal creditable service.

7 (B) The subtraction allowed under this paragraph applies only to federal pension income re-
 8 ceived at a time when:

9 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

10 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,
 11 are exempt from state income tax.

12 (C) As used in this paragraph:

13 (i) "Federal creditable service" means those periods of time for which a federal employee earned
 14 a federal pension.

15 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-
 16 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-
 17 aries.

18 (g) Any amount included in federal taxable income for the tax year that is attributable to the
 19 conversion of a regular individual retirement account into a Roth individual retirement account
 20 described in section 408A of the Internal Revenue Code, to the extent that:

21 (A) The amount was subject to the income tax of another state or the District of Columbia in
 22 a prior tax year; and

23 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax
 24 year.

25 (h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS
 26 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-
 27 termining the taxpayer's federal taxable income for the tax year.

28 (i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax
 29 year in qualified withdrawals from a college savings network account established under ORS 348.841
 30 to 348.873.

31 **(j)(A) Qualified local government pension income that is attributable to local government**
 32 **employment occurring before October 1, 1991. Qualified local government pension income**
 33 **that is attributable to local government employment occurring before October 1, 1991, shall**
 34 **be determined by multiplying the total amount of qualified local government pension income**
 35 **for the tax year by the ratio of the number of months of local government creditable service**
 36 **occurring before October 1, 1991, over the total number of months of local government**
 37 **creditable service.**

38 **(B) The subtraction allowed under this paragraph applies only to qualified local govern-**
 39 **ment pension income received at a time when:**

40 **(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or**

41 **(ii) Public Employees Retirement System benefits received for service prior to October**
 42 **1, 1991, are exempt from state income tax.**

43 **(C) As used in this paragraph:**

44 **(i) "Local government" means a municipal corporation or political subdivision of this**
 45 **state.**

1 (ii) **“Local government creditable service” means those periods of time for which a local**
 2 **government employee earned a qualified local government pension.**

3 (iii) **“Qualified local government pension” means any form of retirement allowance pro-**
 4 **vided by a local government of this state that is not a Public Employees Retirement System**
 5 **retirement benefit or a retirement benefit from a plan or system that is subject to ORS**
 6 **237.635 or 237.637.**

7 [(j)] (k) Any amount paid by the TRICARE military health care system to a health care provider
 8 during the first two years that the health care provider participates in the TRICARE system.

9 [(k)] (L) Any amounts included in the federal taxable income that are attributable to income
 10 earned by an employee of the Oregon Military Department for performing duties for the Oregon
 11 National Guard Youth Challenge Program in an amount not to exceed \$6,000 per annum.

12 (2) There shall be added to federal taxable income:

13 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any
 14 foreign state or of a political subdivision or authority of any foreign state. However, the amount
 15 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the
 16 obligations or securities described in this paragraph and by any expenses incurred in the production
 17 of interest or dividend income described in this paragraph.

18 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-
 19 torial possession of the United States that by the laws of the United States are exempt from federal
 20 income tax but not from state income taxes. However, the amount added under this paragraph shall
 21 be reduced by any interest on indebtedness incurred to carry the obligations or securities described
 22 in this paragraph and by any expenses incurred in the production of interest or dividend income
 23 described in this paragraph.

24 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not
 25 taxable by Oregon.

26 (d) The amount of any allowance for depletion in excess of the taxpayer’s adjusted basis in the
 27 property depleted, deducted on the taxpayer’s federal income tax return for the taxable year, pur-
 28 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

29 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under
 30 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

31 (f) The amount taken as a deduction on the taxpayer’s federal return for unused qualified busi-
 32 ness credits under section 196 of the Internal Revenue Code.

33 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
 34 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,
 35 Oregon Laws 1991, that is not includable in the taxpayer’s federal taxable income under the Internal
 36 Revenue Code.

37 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer
 38 during the tax year if:

39 (A) The amount is taken into account as a deduction on the taxpayer’s federal return for the
 40 tax year; and

41 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

42 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-
 43 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right
 44 income repayment adjustment under ORS 315.068.

45 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college

1 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal
 2 that is attributable to contributions that were subtracted from federal taxable income under ORS
 3 316.699.

4 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-
 5 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this
 6 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the
 7 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-
 8 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

9 **SECTION 2.** ORS 316.680, as amended by section 2a, chapter 843, Oregon Laws 2007, is
 10 amended to read:

11 316.680. (1) There shall be subtracted from federal taxable income:

12 (a) The interest or dividends on obligations of the United States and its territories and pos-
 13 sessions or of any authority, commission or instrumentality of the United States to the extent
 14 includable in gross income for federal income tax purposes but exempt from state income taxes un-
 15 der the laws of the United States. However, the amount subtracted under this paragraph shall be
 16 reduced by any interest on indebtedness incurred to carry the obligations or securities described in
 17 this paragraph, and by any expenses incurred in the production of interest or dividend income de-
 18 scribed in this paragraph to the extent that such expenses, including amortizable bond premiums,
 19 are deductible in determining federal taxable income.

20 (b) The amount of any federal income taxes accrued by the taxpayer during the taxable year as
 21 described in ORS 316.685, less the amount of any refunds of federal taxes previously accrued for
 22 which a tax benefit was received.

23 (c)(A) If the taxpayer does not qualify for the subtraction under subparagraph (B) of this para-
 24 graph, compensation (other than pension or retirement pay) received for active service performed
 25 by a member of the Armed Forces of the United States in an amount not to exceed \$6,000 per an-
 26 num.

27 (B) For the tax year of initial draft or enlistment into the Armed Forces of the United States
 28 or for the tax year of discharge from or termination of full-time active duty for the Armed Forces
 29 of the United States, compensation (other than pension or retirement pay or pay for service when
 30 on military reserve duty) paid by the Armed Forces of the United States for services performed
 31 outside this state, if the taxpayer is on active duty as a full-time officer, enlistee or draftee, with the
 32 Armed Forces of the United States.

33 (d) Amounts allowable under sections 2621(a)(2) and 2622(b) of the Internal Revenue Code to the
 34 extent that the taxpayer does not elect under section 642(g) of the Internal Revenue Code to reduce
 35 federal taxable income by those amounts.

36 (e) Any supplemental payments made to JOBS Plus Program participants under ORS 411.892.

37 (f)(A) Federal pension income that is attributable to federal employment occurring before Octo-
 38 ber 1, 1991. Federal pension income that is attributable to federal employment occurring before
 39 October 1, 1991, shall be determined by multiplying the total amount of federal pension income for
 40 the tax year by the ratio of the number of months of federal creditable service occurring before
 41 October 1, 1991, over the total number of months of federal creditable service.

42 (B) The subtraction allowed under this paragraph applies only to federal pension income re-
 43 ceived at a time when:

44 (i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or

45 (ii) Public Employees Retirement System benefits received for service prior to October 1, 1991,

1 are exempt from state income tax.

2 (C) As used in this paragraph:

3 (i) "Federal creditable service" means those periods of time for which a federal employee earned
4 a federal pension.

5 (ii) "Federal pension" means any form of retirement allowance provided by the federal govern-
6 ment, its agencies or its instrumentalities to retirees of the federal government or their benefici-
7 aries.

8 (g) Any amount included in federal taxable income for the tax year that is attributable to the
9 conversion of a regular individual retirement account into a Roth individual retirement account
10 described in section 408A of the Internal Revenue Code, to the extent that:

11 (A) The amount was subject to the income tax of another state or the District of Columbia in
12 a prior tax year; and

13 (B) The taxpayer was a resident of the other state or the District of Columbia for that prior tax
14 year.

15 (h) Any amounts awarded to the taxpayer by the Public Safety Memorial Fund Board under ORS
16 243.954 to 243.974 to the extent that the taxpayer has not taken the amount as a deduction in de-
17 termining the taxpayer's federal taxable income for the tax year.

18 (i) If included in taxable income for federal tax purposes, the amount withdrawn during the tax
19 year in qualified withdrawals from a college savings network account established under ORS 348.841
20 to 348.873.

21 **(j)(A) Qualified local government pension income that is attributable to local government**
22 **employment occurring before October 1, 1991. Qualified local government pension income**
23 **that is attributable to local government employment occurring before October 1, 1991, shall**
24 **be determined by multiplying the total amount of qualified local government pension income**
25 **for the tax year by the ratio of the number of months of local government creditable service**
26 **occurring before October 1, 1991, over the total number of months of local government**
27 **creditable service.**

28 **(B) The subtraction allowed under this paragraph applies only to qualified local govern-**
29 **ment pension income received at a time when:**

30 **(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are in effect; or**

31 **(ii) Public Employees Retirement System benefits received for service prior to October**
32 **1, 1991, are exempt from state income tax.**

33 (C) As used in this paragraph:

34 (i) "Local government" means a municipal corporation or political subdivision of this
35 state.

36 (ii) "Local government creditable service" means those periods of time for which a local
37 government employee earned a qualified local government pension.

38 (iii) "Qualified local government pension" means any form of retirement allowance pro-
39 vided by a local government of this state that is not a Public Employees Retirement System
40 retirement benefit or a retirement benefit from a plan or system that is subject to ORS
41 237.635 or 237.637.

42 (2) There shall be added to federal taxable income:

43 (a) Interest or dividends, exempt from federal income tax, on obligations or securities of any
44 foreign state or of a political subdivision or authority of any foreign state. However, the amount
45 added under this paragraph shall be reduced by any interest on indebtedness incurred to carry the

1 obligations or securities described in this paragraph and by any expenses incurred in the production
 2 of interest or dividend income described in this paragraph.

3 (b) Interest or dividends on obligations of any authority, commission, instrumentality and terri-
 4 torial possession of the United States that by the laws of the United States are exempt from federal
 5 income tax but not from state income taxes. However, the amount added under this paragraph shall
 6 be reduced by any interest on indebtedness incurred to carry the obligations or securities described
 7 in this paragraph and by any expenses incurred in the production of interest or dividend income
 8 described in this paragraph.

9 (c) The amount of any federal estate taxes allocable to income in respect of a decedent not
 10 taxable by Oregon.

11 (d) The amount of any allowance for depletion in excess of the taxpayer's adjusted basis in the
 12 property depleted, deducted on the taxpayer's federal income tax return for the taxable year, pur-
 13 suant to sections 613, 613A, 614, 616 and 617 of the Internal Revenue Code.

14 (e) For taxable years beginning on or after January 1, 1985, the dollar amount deducted under
 15 section 151 of the Internal Revenue Code for personal exemptions for the taxable year.

16 (f) The amount taken as a deduction on the taxpayer's federal return for unused qualified busi-
 17 ness credits under section 196 of the Internal Revenue Code.

18 (g) The amount of any increased benefits paid to a taxpayer under chapter 569, Oregon Laws
 19 1995, under the provisions of chapter 796, Oregon Laws 1991, and under section 26, chapter 815,
 20 Oregon Laws 1991, that is not includable in the taxpayer's federal taxable income under the Internal
 21 Revenue Code.

22 (h) The amount of any long term care insurance premiums paid or incurred by the taxpayer
 23 during the tax year if:

24 (A) The amount is taken into account as a deduction on the taxpayer's federal return for the
 25 tax year; and

26 (B) The taxpayer claims the credit allowed under ORS 315.610 for the tax year.

27 (i) Any amount taken as a deduction under section 1341 of the Internal Revenue Code in com-
 28 puting federal taxable income for the tax year, if the taxpayer has claimed a credit for claim of right
 29 income repayment adjustment under ORS 315.068.

30 (j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS 348.841, from a college
 31 savings network account established under ORS 348.841 to 348.873, the amount of the withdrawal
 32 that is attributable to contributions that were subtracted from federal taxable income under ORS
 33 316.699.

34 (3) Discount and gain or loss on retirement or disposition of obligations described under sub-
 35 section (2)(a) of this section issued on or after January 1, 1985, shall be treated for purposes of this
 36 chapter in the same manner as under sections 1271 to 1283 and other pertinent sections of the
 37 Internal Revenue Code as if the obligations, although issued by a foreign state or a political subdivi-
 38 sion of a foreign state, were not tax exempt under the Internal Revenue Code.

39 **SECTION 3. The amendments to ORS 316.680 by sections 1 and 2 of this 2009 Act apply**
 40 **to tax years beginning on or after January 1, 2010.**