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January 27, 2020

Via E-Mail:
anne.kaiser@house.state.md.us

Delegate Anne R. Kaiser, Chair
House Ways and Means Committee
131 House Office Building
6 Bladen Street
Annapolis, Maryland 21401

Via E-Mail:
alonzo.washington@house.state.md.us

Delegate Alonzo T. Washington, Vice-Chair
House Ways and Means Committee
131 House Office Building
6 Bladen Street
Annapolis, Maryland 21401

Re: H.B. 61

Dear Delegate Kaiser and Delegate Washington:

Earlier today, I sent a letter explaining my opposition to H.B. 61. At the time that I drafted and sent that letter, I had not seen the Fiscal and Policy Note to H.B. 61. That Fiscal and Policy Note has not been submitted to the Committee. A copy of the Fiscal and Policy Note for H.B. 61 is attached.

In my earlier submission, I had submitted a copy of the Fiscal and Policy Note for a similar bill, H.B. 149, which had been before the General Assembly in the 2019 session. The Fiscal and Policy Note for H.B. 149 estimated that revenue loss over five years for the state would be $91.5 Million. The Fiscal and Policy Note for H.B. 61 predicts even more substantial revenue declines over a five year period of $758.9 Million for the state and 513.6 Million for the localities.

I am opposed to H.B. 61 because the tax benefits flow overwhelmingly to the well-off. Fundamental to my opposition was the revenue loss predicted for H.B. 149. My opposition to H.B. 61 is even stronger now based upon the massive revenue loss calculated in Fiscal and Policy Note that was issued this afternoon.

I have sent a copy of this letter, with the Fiscal Note attached, to all members of the Committee as well as to Delegate Grammer, the sponsor of H.B. 61.

Very truly yours,

Stuart Levine

Attachment (1)

cc: Delegate Darryl Barnes (Via E-Mail: Darryl.Barnes@house.state.md.us, w/copy of attachment)
Delegate Joseph C. Boteler (Via E-Mail: joseph.boteler@house.state.md.us, w/copy of attachment)
Delegate Jason C. Buckel (Via E-Mail:Jason.Buckel@house.state.md.us, w/copy of attachment)
Delegate Alice Cain (Via E-Mail: alice.cain@house.state.md.us, w/copy of attachment)
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Delegate Julie Palakovich Carr (Via E-Mail: julie.palakovichcarr@house.state.md.us, w/copy of attachment)

Delegate Edith A. Patterson (Via E-Mail: Edith.Patterson@house.state.md.us, w/copy of attachment)
Delegate April Rose (Via E-Mail: April.Rose@house.state.md.us, w/copy of attachment)
Delegate Haven Shoemaker (Via E-Mail: Haven.Shoemaker@house.state.md.us, w/copy of attachment)
Delegate Stephanie Smith (Via E-Mail: stephanie.smith@house.state.md.us, w/copy of attachment)
Delgate Jheanelle K. Wilkins (Via E-Mail: jheanelle.wilkins@house.state.md.us, w/copy of attachment)
Delegate Robin R. Grammer, Jr. (Via E-Mail: Robin.Grammer@house.state.md.us, w/copy of attachment)
File

Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 61 (Delegate Grammer)
Ways and Means

Income Tax - Subtraction Modification - Retirement Income

This bill alters the existing pension exclusion subtraction modification under the State income tax by (1) exempting 100% of eligible pension income, phased in over three tax years and (2) allowing income from the additional plans or sources to be included within the subtraction modification. **The bill takes effect July 1, 2020, and applies to tax years 2020 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by $86.7 million in FY 2021 due to additional retirement income being exempted. Future year revenue decreases reflect phase-in specified by the bill and the projected growth in the number of eligible taxpayers and retirement income. Expenditures are not affected.

($ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	($86.7)	($286.5)	($627.0)	($726.3)	($758.9)
Expenditure	0	0	0	0	0
Net Effect	($86.7)	($286.5)	($627.0)	($726.3)	($758.9)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues decrease by $12.7 million in FY 2021 and by $513.6 million in FY 2025. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the maximum exclusion amount for qualifying individuals to equal (1) $30% of qualified income in tax year 2020; (2) 60% in tax year 2021; and (3) 100% beginning in tax year 2022. The maximum exclusion amount in each year is not reduced by the amount of Social Security payments received as provided under current law.

The bill expands the pension exclusion by allowing income from the following plans or sources to be included within the subtraction modification: (1) individual retirement accounts and annuities under Section 408 of the Internal Revenue Code (IRC); (2) Roth individual retirement accounts under Section 408(a) of the IRC; and (3) simplified employee pensions under Section 408(k) of the IRC.

Current Law/Background:

State Pension Exclusion

Maryland law provides a pension exclusion (in the form of a subtraction modification) for individuals who are at least 65 years old or who are totally disabled. Under this subtraction modification, up to a specified maximum amount of taxable pension income ($31,100 for 2019) may be exempt from tax. The maximum exclusion allowed is indexed to the maximum annual benefit payable under the Social Security Act and is reduced by the amount of any Social Security payments received (Social Security offset).

The "Social Security offset" is the reduction in the maximum pension exclusion allowed under current law for an individual. The Social Security offset was established at the same time as the pension exclusion. Given that Social Security benefits are exempt from Maryland income tax even though benefits are partially taxable for federal purposes, the offset works to equalize the tax treatment of individuals who receive their retirement benefits from different sources by reducing the amount of the allowable exclusion by the amount of any Social Security benefits received.

One significant feature of the current pension exclusion is that it is limited to income received from an "employee retirement system." Chapter 524 of 2000 clarified the definition of an "employee retirement system" by providing for the types of retirement income that may be included for purposes of calculating the pension exclusion. As defined by Chapter 524, eligible employee retirement systems are retirement plans established and maintained by an employer for the benefit of its employees and qualified under § 401(a), § 403, or § 457(b) of the IRC. These include defined benefit and defined contribution pension plans, 401(k) plans, 403(b) plans, and 457(b) plans. However, Chapter 524 also included language clarifying what is not included in an "employee retirement system":

(1) an IRA or annuity under § 408 of the IRC; (2) a Roth IRA under § 408A of the IRC; (3) a rollover IRA; (4) a simplified employee pension under § 408(k) of the IRC; or (5) an ineligible deferred compensation plan under § 457(f) of the IRC. Since 2000, there have been no substantive changes to the pension exclusion. **Exhibit 1** shows the eligible and ineligible retirement income under the pension exclusion.

Exhibit 1
Eligible and Ineligible Retirement Plans under the Pension Exclusion

Eligible	**Ineligible**
• 401(k) Cash or Deferred Arrangement Plans	• Traditional IRAs
• 403(b) Plans	• Rollover IRAs
• 457(b) Plans	• Roth IRAs
• Thrift Savings Plans	• Keogh Plans
• Savings Incentive Match Plan for Employees Retirement Plans under § 401(k) of the IRC	• Simplified Employee Pensions
	• Savings Incentive Match Plan for Employees Retirement Plans under § 408 of the IRC

Source: Department of Legislative Services

Additional retirement income may be exempted if the individual has qualified U.S. military, law enforcement, correctional officer, fire, rescue, or emergency services personnel retirement income.

In addition to the special treatment of Social Security and other retirement income, additional income tax relief is provided to senior citizens regardless of the source of their income. Each individual age 65 and older is allowed a $1,000 personal exemption in addition to the regular personal exemption allowed for all individuals. According to the Department of Budget and Management, in fiscal 2020, these benefits will reduce State revenues by $620.6 million and local income tax revenues by $351.5 million.

State Revenues: The bill alters the State pension exclusion beginning with tax year 2020. State revenues will be impacted by (1) altering the value of the maximum exclusion and (2) allowing income from additional plans or sources to qualify. **Exhibit 2** shows the estimated net impact of the bill on State and local revenues.

Exhibit 2
Projected State and Local Revenue Loss
($ in Millions)

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
State	($86.7)	($286.5)	($627.0)	($726.3)	($758.9)
Local	(12.7)	(165.0)	(419.9)	(491.4)	(513.6)
Total Revenues	**($99.4)**	**($451.5)**	**($1,047.0)**	**($1,217.7)**	**($1,272.5)**

Due to taxpayer confidentiality requirements, the Department of Legislative Services does not have access to income tax data and is dependent on data from the Comptroller's Office. As required by Chapter 648 of 2016, the Comptroller's Office altered the personal income tax form to capture additional data on the pension exclusion by adding Form 502R. The estimated fiscal impact shown in Exhibit 2 is based on an analysis of this data and retirement income reported on federal forms 1099-R and SSA-1099.

Local Revenues: Local income tax revenues decrease as a result of additional retirement income exempted against the personal income tax. Local revenues decrease by $12.7 million in fiscal 2021 and by $513.6 million in fiscal 2025, as shown in Exhibit 2.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2020
mm/hlb

Analysis by: Robert J. Rehrmann

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