

SCR15, As Adopted by Senate, June 9, 2011

Senator Richardville offered the following concurrent resolution:

Senate Concurrent Resolution No. 15.

A concurrent resolution to request the Michigan Supreme Court to issue an opinion on the constitutionality of the provisions of 2011 PA 38 allowing the taxation of certain pension income.

Whereas, The restoration of Michigan's economic health and vitality is of critical importance to the people of this state. The project to reform, restructure, and reinvent Michigan is a joint undertaking of the both houses of the Legislature and the Governor. Revisions to Michigan's tax system are major components of this effort; and

Whereas, On May 25, 2011, Governor Rick Snyder signed into law Enrolled House Bill No. 4361, which became 2011 PA 38 and allows the taxation of certain pension income. The earliest date upon which any provision of the act will become effective is October 1, 2011; and

Whereas, Constitutional concerns have been raised regarding the act, particularly its reduction and elimination of the statutory tax exemption for public-pension incomes. Resolution of these concerns is vital because Michigan's fiscal year 2012 budget assumes implementation of the tax code changes contained in this legislation; and

Whereas, The Michigan Constitution, in Article 3, Section 8, provides: "Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date"; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we request the Michigan Supreme Court to issue an opinion, pursuant to Article 3, Section 8 of the Michigan Constitution, on the following important questions of law pertaining to provisions of 2011 PA 38:

1. Does reducing or eliminating the statutory tax exemption for public-pension incomes, as described in Section 30 of the act, impair accrued financial benefits of a "pension plan [or] retirement system of the state [or] its political subdivisions" under Article 9, Section 24 of the Michigan Constitution?
2. Does reducing or eliminating the statutory tax exemption for pension incomes, as described in Section 30 of the act, impair a contract obligation in violation of Article 1, Section 10 of the Michigan Constitution or Article 1, Section 10[1] of the Constitution of the United States?
3. Does determining eligibility for income-tax exemptions based on total household resources or age and total household resources, as described in Section 30(7) and 30(9) of the act create a graduated income tax in violation of Article 9, Section 7 of the Michigan Constitution?
4. Does determining eligibility for income-tax exemptions based on date of birth, as described in section 30(9) of the act, violate equal protection of the law under Article 1, Section 2 of the Michigan Constitution or the Fourteenth Amendment to the Constitution of the United States?

; and be it further

Resolved, That copies of this resolution and a copy of 2011 PA 38 be transmitted to the Michigan Supreme Court.