BILL NUMBER: H.R. 141 (Davis-IL) as introduced January 3, 2019

SUMMARY

H.R. 141 eliminates the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) from the Social Security Act.

BOARD POSITION

Support. The board's policy is to support legislation that seeks to repeal or reform in a prudent manner the Social Security benefit offsets as a means of addressing concerns about their impact on educators. Staff also recommend considering efforts to make appropriate adjustments to the WEP and GPO as a potential alternative to complete repeal, which could be included in more comprehensive Social Security reform legislation.

REASON FOR THE BILL

California educators, having earned pension benefits from non-Social Security-covered employment, are often subject to the WEP and the GPO of the Social Security Act. The WEP and GPO reduce or eliminate Social Security benefits that California educators may have earned through other employment or are eligible for through their spouses. CalSTRS members represent the largest single group of state and local government employees in the country who do not participate in Social Security.

ANALYSIS

Existing Law:

The WEP and the GPO attempt to address a perceived advantage that occurs when Social Security benefits are calculated for individuals whose primary employment is covered by a pension plan and who do not participate in Social Security.

The Social Security Act of 1935 excluded state and local government employees from coverage. In 1954, those employees were given the opportunity to elect to participate in Social Security. In 1956, as part of an overall study of survivor benefits, the California Teachers Association surveyed its membership to gauge interest in either pursuing legislation to establish survivor benefits through CalSTRS or joining Social Security. Members voted 4 to 1 in support of seeking the establishment of a survivor benefits program through CalSTRS rather than joining Social Security.

The GPO was introduced in the Social Security amendments of 1977 to treat spouses and widow(er)s with government employment not covered by Social Security in a manner similar to those with Social Security-covered jobs and benefits that were, therefore, subject to the "dual entitlement rule." At the time, workers who received a government pension from a non-Social Security-covered position could also receive full spousal or widow(er) benefits intended to support non-working individuals who are financially dependent on their working spouses. Under the dual entitlement rule, which has operated since 1939, a person effectively receives a Social Security benefit equal to the greater of the benefit from the person's own employment or that derived from

a spouse's employment. As enacted in 1977, the GPO produced an identical result to the dual entitlement rule by reducing the spousal benefit by 100 percent of the pension earned from non-covered employment. In 1983, the GPO offset was reduced to two-thirds of the pension earned from non-covered employment.

The WEP was introduced in the Social Security amendments of 1983 to remove a percieved advantage for individuals with non-Social Security-covered employment. Under the Social Security benefit formula, work performed in a position not covered by Social Security is given a zero value when averaging an individual's lifetime earnings. In effect, the formula cannot distinguish between individuals with low or no earnings and individuals with additional non-covered earnings. This proved problematic because Social Security benefits are designed to provide a greater proportional benefit to workers with low average lifetime earnings than workers with high average lifetime earnings. To illustrate the progressive nature of the Social Security formula, the bend points for an individual turning 62 in 2019 are:

- 90 percent of first $926 in average indexed monthly earnings; plus
- 32 percent of average indexed monthly earnings over $926 through $5,583; plus
- 15 percent of average indexed monthly earnings over $5,583.

As a result, without the WEP, the formula produces a higher wage replacement ratio than would have otherwise been received if all employment had been covered by Social Security. The WEP addressed the resulting perceived "windfall" for public employees by reducing the first-tier percentage used to calculate the Social Security benefit from 90 percent to 40 percent. The remaining two calculation tiers were not altered.

The reduction under the WEP may be no more than one-half of the non-covered pension to which the individual is entitled. This benefit reduction is less for individuals who have between 21 and 30 years of earnings under Social Security, and there is no offset if the individual has 30 or more years of Social Security-covered earnings.

This Bill:

H.R. 141 eliminates the GPO and the WEP from the Social Security Act.

LEGISLATIVE HISTORY

AJR 41 (Thurmond, Resolution Chapter 41, Statutes of 2018) requested the United States President and Congress to pass legislation to repeal the GPO and the WEP.

H.R. 1205 (Davis-IL, 2017)/S. 915 (Brown-OH, 2017) would have repealed the WEP and the GPO. H.R. 1205 and S. 915 were held in the House Subcommittee on Social Security and the Senate Finance Committee, respectively.

SJR 1 (Beall, Resolution Chapter 92, Statues of 2015) requested the United States President and Congress to pass legislation to repeal the GPO and the WEP.

H.R. 711 (Brady-TX, 2015) would have established a new formula for the treatment of non-covered earnings in determining Social Security benefits to replace the WEP for individuals who turn age 62 after 2016, prescribed a rebate to lessen the effects of the WEP for current beneficiaries

and directed the Commissioner of Social Security to recover overpayments from certain individuals. H.R. 711 was held in the House Subcommittee on Social Security.

H.R. 973 (Davis-IL, 2015)/S. 1651 (Brown-OH, 2015) would have repealed the GPO and the WEP. H.R. 973 and S. 1651 were held in the House Ways and Means Committee and the Senate Finance Committee, respectively.

H.R. 1795 (Davis-IL, 2013)/S. 896 (Begich-AK, 2013) would have repealed the GPO and the WEP. H.R. 1795 and S. 896 were held in the House Ways and Means Committee and the Senate Finance Committee, respectively.

SJR 30 (Hancock, Resolution Chapter 126, Statues of 2012) requested the United States President and Congress to enact the Social Security Fairness Act of 2011, which would have repealed the GPO and the WEP.

H.R. 1332 (McKeon-CA, 2011)/S. 2010 (Kerry-MA, 2011) would have repealed the GPO and the WEP. H.R. 1332 and S. 2010 were held in the House Ways and Means Committee and the Senate Finance Committee, respectively.

AJR 10 (Torlakson, Resolution Chapter 103, Statues of 2009) requested the United States President and Congress to enact the Social Security Fairness Act of 2009, which would have repealed the GPO and the WEP.

PROGRAM BACKGROUND

Since 2001, a bill repealing or reforming the WEP and GPO has been introduced in almost every session of Congress. The bill generally receives widespread bipartisan support in states with public employees that do not participate in Social Security, but none of them have progressed out of committee. They have been stymied by the direct cost of repeal, which the Social Security Administration estimated in 2016 would increase the long-term cost of the program by 0.13 percent of payroll, and by the uncertainty surrounding Social Security's overall financial future.

Full repeal of the WEP and GPO presents political and financial risks to schools and CalSTRS members. The offsets were established to address perceived inequities around Social Security benefits for covered employment versus non-covered employment. Full repeal could resurrect these perceived inequities and, with them, the most obvious alternative to mandate Social Security participation for all government employees, including CalSTRS members.

The board has opposed mandatory Social Security participation for CalSTRS members, citing studies that show the move would increase costs or reduce total retirement benefits. Additionally, there are potential costs associated with the overlap of CalSTRS' disability and survivor benefits and comparable Social Security benefits.

Efforts to reform the WEP and GPO are distinct from repeal efforts, focusing on the inequitable application of the offsets rather than seeking outright repeal. A focus on eliminating the inequities of the offsets, rather than full repeal, may result in a successful outcome and lower the likelihood that policymakers pursue mandatory Social Security coverage for all government employees.

FISCAL IMPACT

Program Cost – None identified.

Administrative Costs/Savings – The repeal of the WEP and GPO may result in minor costs associated with updating member-facing communications and staff training. Temporarily, staff may spend more time answering member questions related to repeal, but these costs should decrease over time.

SUPPORT

CalSTRS
California Retired Teachers Association
National Education Association

OPPOSITION

None known.

ARGUMENTS

Pro: CalSTRS members eligible for Social Security benefits would no longer have their Social Security benefits reduced or eliminated if the WEP and GPO are repealed.

A teaching career would be more attractive to individuals considering a mid-career change because previously earned Social Security benefits would retain their full value if the WEP and GPO are repealed.

Con: Future mandatory Social Security participation may be considered to offset WEP and GPO repeal costs or as an alternative to repealing the WEP and GPO.

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