

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Bill Number: AJR 5 (Hernandez)

SUMMARY

Assembly Joint Resolution 5 requests the President and the United States Congress to enact the Social Security Fairness Act which would repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) of the Social Security Act.

PURPOSE OF THE BILL

AJR 5 communicates the California Legislature's direct support of and requests that Congress and the President enact H.R. 147 (McKeon) and S. 619 (Feinstein) that remove the burdensome effects of the GPO and WEP by relieving the financial penalties these provisions place on retired members of the California State Teachers' Retirement System (CalSTRS).

BOARD POSITION

Support. By eliminating the GPO and WEP, AJR 5 permits teachers to receive their full Social Security benefits which would otherwise be reduced. AJR 5 thereby expands and improves in a prudent manner the benefits and services that are provided through the funds administered by CalSTRS as appropriate for public retirement plans and also reduces inequities or deficiencies in plan design.

LEGISLATIVE HISTORY

H.R. 82/S. 206 (McKeon/Feinstein), would have amended the Social Security Act to repeal the GPO and the WEP provisions.

Resolution Chapter 62, Statutes of 2006 (SJR 15—Pavley), requests the President and Congress of the United States enact legislation that removes the burdensome effects of the GPO and the WEP of the Social Security Act on public employees.

H.R. 147/S. 619 (McKeon/Feinstein), would have amended the Old Age, Survivors and Disability Insurance provisions of the Social Security Act to repeal (1) the GPO provisions applicable to husband's and wife's benefits, widow's and widower's benefits and mother's and father's benefits with respect to Old-Age and Survivor benefit payments; and (2) the WEP with respect to computation of the primary insurance amount of an individual.

Resolution Chapter 65, Statutes of 2003 (AJR 29—Pavley), requests the President and Congress of the United States enact legislation that removes the burdensome effects of the GPO and the WEP of the Social Security Act on public employees.

Resolution Chapter 66, Statutes of 2001 (AJR 3—Leonard), requests the President and Congress enact legislation to repeal the GPO and the WEP from the Social Security Act.

Resolution Chapter 94, Statutes of 2001 (SJR 4—Soto), requests Congress limit the application of the GPO and the WEP on Social Security benefits.

Resolution Chapter 40, Statutes of 1999 (AJR 9—PER&SS) encourages the U.S. Congress and the President to exclude state and local employees from mandatory Social Security.

Public Law 98-21—1983, reduced Social Security benefits to workers who also receive a pension from work not covered by Social Security; also changed the reduction in the Social Security Bill Analysis benefit paid to a spouse from 100 percent of that person's pension from work not covered by Social Security to two-thirds of the pension.

Public Law 95-216—1977, effective 1982, reduced the Social Security benefit paid to a spouse by the amount of the spouse's government pension from work not covered by Social Security, if the spouse was not eligible for retirement as of 1982.

PROGRAM BACKGROUND

Social Security provides benefits to retired workers and under certain circumstances, their spouses, former spouses, surviving spouses and surviving former spouses. Originally, the Social Security system excluded state and local government employees from coverage. In 1954, state and local employees were given the opportunity to elect to participate in the Social Security system. Although many groups of public employees elected participation, CalSTRS members elected, at a rate of 4 to 1, not to participate in the system in 1955. Since then, public school educators have contributed only to CalSTRS for their retirement, disability and survivor benefits.

CalSTRS members and other government workers representing about four percent of the total national workforce do not pay Social Security payroll taxes on earnings for their government service and therefore, do not earn Social Security benefits for such service. If these workers receive a Social Security benefit, either due to Social Security-covered employment or by being the spouse or surviving spouse of a person covered by Social Security, the Social Security benefit paid to the worker may be reduced under one or both of the Social Security offset provisions. CalSTRS does not reduce the retirement benefit paid to a person who receives a Social Security benefit; however, CalSTRS does reduce family allowances paid under Coverage A by the amount of Social Security benefits paid to the spouse and/or dependent children.

The WEP is responsible for the reduction in Social Security benefits paid for a worker's own earnings, by modifying the Social Security benefit formula. Specifically, the percentage of the first \$627 in average indexed monthly earnings for a worker turning age 62 in 2007 is reduced from 90 percent to 40 percent. However, there are exceptions and limitations to the application of the WEP; the percentage in the benefit formula for the first \$627 in average indexed monthly earnings is increased to 45 percent for those workers with 21 years of "substantial earnings" covered by Social Security (equal to \$16,725 in 2005), and increases at 5 percent intervals up to 85 percent for a worker with 29 year of substantial earnings. If the recipient has more than 30 years of substantial earnings, the WEP is not applied at all. In any case, the amount of the

reduction in the Social Security benefit as a result of the WEP cannot exceed 50 percent of the governmental pension.

Spouses, former spouses, surviving spouses and surviving former spouses of Social Security recipients who receive a pension from another qualified pension system, such as CalSTRS, for work not covered by Social Security receive a reduced Social Security benefit due to the GPO. The GPO reduces Social Security benefits by two-thirds of the retirement allowance received from other pension systems. For example, if two-thirds of the CalSTRS allowance equals or exceeds the amount of the member's benefit from Social Security, the member will not receive a benefit from Social Security; however, this does not affect the member's eligibility for Medicare benefits. Individuals are exempt from the GPO if they were eligible to retire from CalSTRS prior to December 1982 and met the Social Security spousal benefit requirements in effect as of January 1977.

ANALYSIS

AJR 5 requests the United States Congress and the President pass the Social Security Fairness Act of 2007 which would repeal the GPO and WEP from the Social Security Act. The repeal act was introduced in 2005 and 2006. This year, Representative Howard L. Berman and Senator Dianne Feinstein (both of California) reintroduced it as HR. 82 and S. 206 respectively. According to the sponsor, the GPO and WEP penalize individuals who move between employment in the private sector and public sector by reducing the Social Security benefits to which these individuals would otherwise be entitled. These reductions result in difficulty recruiting qualified individuals out of the private sector into the teaching profession at a time when California is experiencing a shortage in teachers.

The WEP and GPO provisions of the Social Security Act affect more than 125,000 California retirees most of whom are police officers, firefighters and public educators. The Board has previously supported similar repeal resolutions because the pension offsets affect California's ability to recruit teachers from other professions in which they pay Social Security taxes and where many have Social Security benefit eligibility. School districts in California have found that workers from private industry employment are reluctant to begin second careers as teachers because of the reduced Social Security benefits they will receive after retirement. Districts have also claimed that teachers from other states often will not transfer to a California teaching position because they previously worked for a school district that provided a retirement benefit coordinated with Social Security.

FISCAL IMPACT

Benefit Program Cost – None

Administrative Costs/Savings – By itself, passage of this resolution would have no effect on administration of the State Teachers' Retirement Plan. If the pension offsets were repealed, there may be modest savings in staff time because CalSTRS would no longer have to respond to requests to determine if an offset will be applied, and there would be savings of about \$25,000

time since there would be little to no education necessary for members. Additionally, AJR 5 would impose additional cost pressures on the Social Security benefit program

SUPPORT

California Federation of Teachers,
Service Employees International Union,
California Alliance for Retired Americans,
California Teachers Association,
Independent Employees of Merced County,
Organization of SMUD Employees,
San Bernardino Public Employees Association,
San Diego County Court Employees Association,
San Luis Obispo Count Employees Association,
Santa Rosa City Employees Association,
Kern Community College District,
Los Angeles Faculty Guild, Local 1521.

OPPOSITION

None known.

ARGUMENTS

Pro: AJR 5 enhances school districts' ability to recruit and retain educators from other states and workers from private industry employment.

Con: AJR 5 would impose additional cost pressures on the Social Security benefit program.