BILL NUMBER: AJR 41 (Thurmond) as introduced May 29, 2018

SUMMARY

Assembly Joint Resolution 41 requests the United States Congress and the President to enact legislation which would repeal 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 1955, CalSTRS members voted against participation by an almost four to one margin.

The GPO was introduced in the Social Security amendments of 1977. At the time, workers who received a government pension from a non-Social Security-covered position were able to bypass the "dual entitlement rule" because their non-covered government pension was not included in the calculation of their spousal Social Security benefits. Under dual entitlement, a spouse effectively receives a Social Security benefit equal to the greater of the benefit from his or her own employment or that derived from his or her spouse's employment. The GPO was designed to produce a similar result if the spouse has a pension from non-covered employment. The offset enacted in 1977 was 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. Prior to 1983, work performed in a position not covered by Social Security was given a zero value when averaging an individual's lifetime earnings for the purpose of calculating Social Security benefits. By using a zero value for non-covered work, a worker's average lifetime earnings is artificially decreased. 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 2018 are:

- 90 percent of first $895 in average indexed monthly earnings; plus
- 32 percent of average indexed monthly earnings over $895 through $5,397; plus
- 15 percent of average indexed monthly earnings over $5,397.

The resulting perceived "windfall" for public employees was addressed 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:

AJR 41 communicates the California Legislature's direct support of and requests that Congress and the president enact legislation to repeal the GPO and WEP.

LEGISLATIVE HISTORY

H.R. 1205 (Davis, 2017)/S. 915 (Brown, 2017) would repeal the WEP and the GPO. H.R. 1205 and S. 915 are in the House Ways and Means Committee 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. 973 (Davis, 2015)/S. 1651 (Brown, 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, 2013)/S. 896 (Brown, 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, 2011)/S. 2010 (Kerry, 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 Social Security estimated in 2016 would increase the long-term cost of the program by 0.13 percent of payroll[1]—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.

OTHER STATES' INFORMATION

According to the Social Security Administration, as of December 2017, almost 683,000 Social Security beneficiaries in the United States had spousal, widow or widower benefits reduced by the GPO. Of those, nearly three-quarters had their spousal or widower benefits completely eliminated. As of December 2017, over 1.8 million Social Security beneficiaries in the United States were affected by the WEP.

FISCAL IMPACT

Program Cost – None.

[1] Letter from Stephen Goss, Chief Actuary, to Hon. Sherrod Brown, February 24, 2016. https://www.ssa.gov/oact/solvency/SBrown_20160224.pdf

Administrative Costs/Savings – By itself, this resolution does not create administrative cost or 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

Association of California School Administrators
California Federation of Teachers, AFT, AFL-CIO
California Retired Teachers Association
CalSTRS
California Teachers Association
Faculty Association of California Community Colleges
Los Angeles Unified School District

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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