

BILL NUMBER: H.R. 973 (Davis) as introduced February 13, 2015

SUMMARY

H.R. 973 repeals the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) of the Social Security Act.

BOARD POSITION

Support. The Teachers' Retirement Board supports legislation that seeks to repeal Social Security benefit offsets as a means of addressing concerns about their impact on educators who begin their career at a later age.

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 any 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 unfair advantage that occurs when Social Security benefits are calculated for individuals whose primary employment is covered by a pension plan that does 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 seeks 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 non-Social Security-covered position was given a zero value when 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 workers with low average lifetime earnings in Social Security-covered employment receive a larger proportion of their earnings than workers with high average lifetime earnings.

This "windfall" was addressed by reducing the first tier percentage used to calculate the Social Security benefit from 90 percent to 40 percent. Specifically, the first tier benefit amount of Social Security is \$743 in 2015 (90 percent of the first \$826 of earnings), while the first tier benefit under WEP is \$330 (40 percent of \$826). This is a reduction of \$413, and it is the maximum reduction for a worker who retires in 2015 at age 62. The remaining two income 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. 973 repeals the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) of the Social Security Act.

LEGISLATIVE HISTORY

H.R. 1795 (Davis, 2013)/S. 896 (Begich, 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.

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.

H.R. 235 (Berman, 2009)/S. 484 (Feinstein, 2009) would have repealed the GPO and the WEP. H.R. 235 and S. 484 were held in the House Ways and Means Committee and the Senate Finance Committee, respectively.

AJR 5 (Hernandez, Resolution Chapter 116, Statues of 2007) requested the United States President and the Congress to enact the Social Security Fairness Act, 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 every session of Congress. In the current session, this bill has 101 cosponsors, 31 of whom represent California. The bill generally receives widespread bipartisan support in states with public employees that do not participate in Social Security, but none of them

have moved forward. They have been stymied by the direct cost of repeal—currently a projected \$80 billion—and by the uncertainty surrounding Social Security’s overall financial future.

The WEP and GPO 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.

OTHER STATES’ INFORMATION

As of December 2013, about 615,000 Social Security beneficiaries in the United States had spousal or widow(er) benefits reduced by the GPO. This does not include those eligible for spousal or widow(er) benefits who did not claim them, expecting they would be eliminated by the GPO. As of December 2011, about 1.4 million Social Security beneficiaries in the United States were affected by the WEP.

FISCAL IMPACT

Program Costs/Savings – None.

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

SUPPORT

CalSTRS
National Education Association
ACSA
CalRTA
FACCC
Social Security Fairness Committee

OPPOSITION

None known.

ARGUMENTS

Pro: CalSTRS members eligible for Social Security benefits would no longer have their Social Security benefits reduced or eliminated.

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.

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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