

BILL NUMBER: SJR 1 (Beall) as amended January 12, 2015

SUMMARY

SJR 1 requests the President and the Congress of the United States to enact legislation repealing the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) from the Social Security Act.

BOARD POSITION

Support. It is also recommended that efforts to make appropriate adjustments to the WEP and/or GPO as a potential alternative to complete repeal be considered, which could possibly 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. 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:

Both the WEP and the GPO were intended to rectify perceived unfair advantages that individuals whose primary employment was covered by a pension plan that did not include participation in Social Security might enjoy when their Social Security benefits were calculated. In 2013, it was estimated that 97,000 CalSTRS retired members were or anticipated being affected by the WEP. In the same year, an estimated 62,000 CalSTRS retirees were similarly affected by the GPO, although a high percentage of respondents indicated that they did not know if the WEP or GPO would affect their Social Security benefits.

The Social Security Act of 1935 excluded state and local government employees from coverage. In 1954, those government employees were given the opportunity to elect to participate in Social Security. In 1955, by an almost four to one margin, CalSTRS members voted against participation.

The GPO was introduced in the Social Security amendments of 1977. At the time, workers who were receiving a government pension from a non-Social Security-covered position were able to bypass the "dual entitlement rule" as 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 either the benefit from his or her own employment or that derived from his or her spouse's employment. The GPO is intended to have a similar result if

the spouse has a pension from non-covered employment. The offset enacted in 1977 was 100 percent of their pension from non-covered employment. In 1983, that offset was reduced to two-thirds of the pension 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, the Social Security benefit calculation artificially decreased a worker's lifetime earnings average. This proved problematic as the Social Security benefit formula is structured so that workers with low average lifetime earnings in Social Security-covered employment receive a larger proportion of their earnings than do workers with high average lifetime earnings. This "windfall" was addressed by adjusting the Social Security benefit structure for workers whose primary employment was in a non-covered position. This adjustment was made by reducing the factor of 90 percent in the first income tier of the Social Security benefit calculation to 40 percent. The remaining two income tiers were not altered. 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. Mitigation measures restricted the total WEP reduction to no more than one-half of the government pension based on the worker's non-covered work. There is also a potential graduated restoration of Social Security benefits based on years of Social Security-covered work that exceeds a preset "substantial work" earnings threshold resulting in no offset for 30 years.

This Bill:

SJR 1 requests the President and the Congress of the United States to enact legislation repealing the GPO and the WEP from the Social Security Act.

LEGISLATIVE HISTORY

H.R. 711 (Brady, 2015) would replace the WEP with a new offset formula that includes both covered and non-covered employment in its calculation. H.R. 711 is currently under consideration in the House Ways and Means Committee.

H.R. 5697 (Brady, 2014) would have replaced the WEP with a new offset formula that includes both covered and non-covered employment in its calculation. H.R. 5697 was held in House Ways and Means Committee.

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.

H.R. 2797 (Brady, 2011)/S. 113 (Hutchison, 2011) would have replaced the WEP with a new offset formula that includes both covered and non-covered employment in its

calculation. H.R. 2797 and S. 113 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.

H.R. 1221 (Brady, 2009)/S. 490 (Hutchison, 2009) would have replaced the WEP with a new offset formula that includes both covered and non-covered employment in its calculation. H.R. 1221 and S. 490 were held in the House Ways and Means Committee and the Senate Finance Committee, respectively.

H.R. 2145 (Frank, 2009) would have amended the Social Security Act to restrict the application of the WEP to individuals whose combined monthly income, from both covered and non-covered benefits, exceeded a minimum COLA-adjusted amount of \$2,500. The bill also would have provided for a graduated application of the offset for amounts above the new threshold. H.R. 2145 was held in the House Ways and Means Committee.

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.

H.R. 2988 (Wynn, 2007)/S. 1254 (Mikulski, 2007) would have amended the Social Security Act to restrict the application of the GPO to individuals whose combined monthly income, from both covered and non-covered benefits, exceeded a minimum inflation adjusted amount of \$1,200. H.R. 2988 and S. 1254 were held in the House Ways and Means Committee and the Senate Finance Committee, respectively.

PROGRAM BACKGROUND

Since 2001, a bill repealing or reforming the WEP and GPO has been introduced in every session of Congress. Although generally enjoying widespread bipartisan support in those states which have public employees not participating in Social Security, none of the bills have moved forward. They have been stymied by the direct cost of repeal (currently a projected \$80 billion), as well as 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 in how Social Security pays benefits for covered employment versus non-covered employment. Full repeal could resurrect these perceived inequities and, with them, the most obvious alternative of mandating Social Security participation for all government employees, including CalSTRS members.

The board has opposed mandatory Social Security participation for CalSTRS members, citing studies showing that such a move would require either an increase in costs or a reduction of 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. In addition, reform efforts have treated the WEP as a separate issue from the GPO. Individually, the WEP has been an easier issue to build consensus around as it is specific to what a retiree has earned under Social Security from his or her own employment. Focusing on eliminating the inequities of the offsets, rather than full repeal, may more likely result in a successful outcome, with less probability of it resulting in mandatory Social Security coverage for public employees.

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 who were potentially eligible for spousal or widow(er) benefits but were deterred from filing for them because of their expectation that the GPO would eliminate those benefits. As of December 2011, about 1.4 million Social Security beneficiaries in the United States were affected by the WEP.

FISCAL IMPACT

Program Cost – 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

Association of California School Administrators (Co-Sponsor)
California Retired Teachers Association (Co-Sponsor)
California Teachers Association (Co-Sponsor)
Faculty Association of California Community Colleges (Co-Sponsor)
AFSCME Local 685
Association of California Community College Administrators
Association for Los Angeles Deputy Sheriffs
California State Lodge, Fraternal Order of Police
Glendale City Employees Association
Long Beach Police Officers Association
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
Los Angeles Probation Officers Union
Riverside Sheriffs' Association
Sacramento County Deputy Sheriffs' Association
Sacramento Municipal Utility District

San Bernardino Public Employees Association
San Diego County Employees Association
San Luis Obispo County Employees' Association
Santa Ana Police Officers Association

OPPOSITION

None known.

ARGUMENTS

Pro: CalSTRS members, who are also 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 as their 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.

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