



THE SOCIAL SECURITY WINDFALL ELIMINATION PROVISION

The Windfall Elimination Provision (WEP) reduces the Social Security benefits of local, state and federal retirees who worked in Social Security-covered employment (e.g., private-sector jobs) and who also receive a government annuity from their non-Social Security covered government employment.

The WEP applies to federal retirees who began their federal employment prior to 1983, and are covered by the Civil Service Retirement System (CSRS). Under CSRS, federal employees pay a 7 percent payroll contribution toward their CSRS retirement annuities. They do not pay a 6.2 percent payroll tax toward Social Security, and therefore, do not earn any Social Security benefits based on their federal work. The WEP does not apply to federal employees covered by the Federal Employees Retirement System (FERS), as these federal employees pay the 6.2 percent payroll tax, in addition to their FERS retirement contributions, and therefore earn Social Security benefits based on their government work.

The WEP applies to state and local government retirees who likewise did not pay Social Security payroll taxes in connection with their government employment, similar to CSRS. It does not apply to those who paid Social Security payroll taxes in connection with their government employment, similar to FERS.

As of December 2015, the WEP affects 1,692,609 beneficiaries, including 1,574,787 retired workers, 15,823 workers with disabilities, and 101,999 spouses and children.¹

Normally, Social Security benefits are calculated using a progressive formula in which an individual's Average Indexed Monthly Earnings (AIME) are multiplied by three progressive factors – 90 percent, 32 percent and 15 percent – at different levels of AIME, resulting in a primary insurance amount (PIA) – the basic monthly benefit. In 2017, the first \$885 of AIME is multiplied by 90 percent, then added to AIME over \$885 and through \$5,336, multiplied by 32 percent, then added to AIME over \$5,336, multiplied by 15 percent.

Under the WEP, the 90 percent factor is reduced to as low as 40 percent. For 2017, this would result in a monthly benefit that is \$442.50 lower than under the regular benefit formula. This unfair reduction causes a disproportionate reduction in benefits for workers with lower AIMEs and monthly benefit amounts than those with higher benefit amounts.

Legislative History

NARFE is a leader in the effort to repeal or reform the Social Security Windfall Elimination Provision, as well as the Government Pension Offset (GPO). There have been various bills offered over the years:

H.R. 711, the Equal Treatment of Public Servants Act of 2015 (114th Congress)

H.R. 711 would have altered Social Security benefit calculations for WEP-affected beneficiaries as follows:

¹ See "Social Security: The Windfall Elimination Provision (WEP)," Congressional Research Service, p. 4, available at: <https://www.fas.org/sgp/crs/misc/98-35.pdf>.



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- **For individuals who turned 62 prior to 2017:** The bill would have reduced the current WEP penalty on their Social Security benefits by a certain percentage, not to exceed 50 percent. This penalty reduction would not have been retroactive, but would have applied only to Social Security payments going forward starting in 2017.
- **For individuals turning 62 in or after 2017:** The formula used to determine an individual's WEP penalty would have been replaced with a new, fairer formula designed to more accurately account for the years a public employee paid into Social Security versus the years paid into a public pension system in a non-Social Security covered position. The new formula was expected to increase benefits for those with lower lifetime earnings.

The bill also would have directed the Social Security Administration (SSA) to use available data to improve enforcement of the WEP penalty for individuals who have underreported their public employment earnings to SSA. The amount of money saved through this improved enforcement of the WEP would have determined the amount of the reduction in the WEP penalty for individuals who turned 62 prior to 2017. The SSA actuary would have made the final determination of the estimated amount of savings and the reduction in the WEP penalty, but its preliminary estimate was a 50 percent reduction in the penalty.²

H.R. 711 was cost-neutral, and sponsored by Rep. Kevin Brady, R-TX, chairman of the House Committee on Ways and Means. The bill had broad bipartisan support, with Rep. Richard Neal, D-MA, an original cosponsor, and 131 total cosponsors at the end of the 114th Congress. NARFE supported H.R. 711, and supports similar efforts in the 115th Congress.

H.R. 973 and S. 1651, the Social Security Fairness Act of 2015 (114th Congress)

H.R. 973 and S. 1651 were identical bills that sought to repeal both the WEP and the GPO, which reduces the Social Security spousal benefit of a beneficiary by two-thirds of his or her public pension that is based on non-covered public employment. NARFE supported both bills, and expects reintroduction in 2017.

² Estimates of the Social Security Administration, as reported at the March 22, 2016, House Ways and Means, Subcommittee on Social Security hearing, entitled "Social Security and Public Servants: Ensuring Equal Treatment," available at: <http://waysandmeans.house.gov/wp-content/uploads/2016/03/20160322-SS-Testimony-Goss.pdf>.