



THE SOCIAL SECURITY WINDFALL ELIMINATION PROVISION (WEP): REFORM OR REPEAL

NARFE supports the cost-neutral Windfall Elimination Provision (WEP) reform bill, H.R. 711, sponsored by Congressman Kevin Brady, R-TX-8, chairman of the House Committee on Ways and Means. This issue brief provides basic background on WEP, and a summary of the reform bill, as well as other related proposals such as repeal bills and proposals contained in the President's FY17 budget.

Background

The 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.

Who It Affects

The WEP applies to federal retirees who began their federal employment prior to 1983, and covered by the Civil Service Retirement System (CSRS). Under CSRS, federal employees pay a 7 percent payroll contribution towards their CSRS retirement annuities. They do not pay a 6.2 percent payroll tax towards Social Security, and therefore do not earn any Social Security benefits based on their federal work. 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 pay.

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 2014, WEP affects 1,623,795 beneficiaries, including 1,506,792 retired workers, 16,613 disabled workers, and 100,390 spouses and children.¹

How It Operates

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 2015, the first \$826 of AIME is multiplied by 90 percent, then added to AIME over \$826 and through \$4,980, multiplied by 32 percent, then added to AIME over \$4,980, multiplied by 15 percent.

Under WEP, the 90 percent factor is reduced to as low as 40 percent. For 2015, this would result in a monthly benefit that is \$413 lower than under the regular benefit formula. This is an unfair reduction that causes a proportionally larger reduction in benefits for workers with lower AIMEs and monthly benefit amounts than those with higher benefit amounts.

H.R. 711, the Equal Treatment of Public Servants Act of 2015

H.R. 711 would alter 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 turn(ed) 62 prior 2017:** The bill would reduce the current WEP penalty on their Social Security benefits by a certain percentage, not to exceed 50 percent. The exact amount will be determined by the Social Security Administration (SSA) actuary, but has been estimated to be 50 percent. This penalty reduction would not be retroactive, but would only be applied 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 be replaced with a new, fairer formula designed to more accurately account for years a public employee paid into Social Security versus the years paid into a public pension system in a non-Social Security covered position. Specifically, a beneficiary's AIME and PIA would first be calculated using both covered and non-covered earnings. The new PIA (monthly benefit) would then be multiplied by the share of the AIME that came from covered earnings to determine the actual PIA or monthly benefit amount. The new formula is expected to increase benefits for those with lower lifetime earnings.

The bill would also direct 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 WEP will determine the amount of the reduction in the WEP penalty for individuals who turn(ed) 62 prior to 2017. The SSA actuary will make the final determination of how much money is estimated to be saved, and how much of a reduction in the WEP penalty will occur, but its current estimate is a 50 percent reduction in the penalty.²

H.R. 711 is cost-neutral, and sponsored by Congressman Kevin Brady, R-TX-8, the Chairman of House Committee on Ways and Means. The bill also has broad bipartisan support, with Congressman Richard Neal, R-MA-1, an original co-sponsor, and 64 total co-sponsors as of March 31, 2016. NARFE supports H.R. 711, and believes it has a realistic opportunity to advance through Congress this year.

H.R. 973 & S. 1651, the Social Security Fairness Act of 2015

H.R. 973 and S. 1651 are identical bills that repeal both the WEP and the Government Pension Offset (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 supports both bills.

The President's Budget for Fiscal Year 2017

The President's budget for FY17 proposes instituting a similar formula as proposed by H.R. 711 for future beneficiaries, but starting in 2027, rather than 2017. (It would also apply use a similar method to re-calculate GPO). However, it does not include any rebates for current beneficiaries. Finally, instead of directing SSA to improve enforcement through use of available data, it would provide \$70 million to state and local governments to facilitate development of systems to provide SSA with more complete employment records.

NARFE does not support the President's proposal, as it does not include any WEP relief for current beneficiaries.

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>.