

**U. S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON WAYS AND MEANS**

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Testimony Before the Subcommittee on Social Security  
Of the House Committee on Ways and Means

*“Social Security and Public Servants: Ensuring Equal Treatment”*

March 22, 2016

Chairman Johnson, Ranking Member Becerra and distinguished members of the subcommittee. I am Tim Lee, the Executive Director of the Texas Retired Teachers Association (TRTA). I appreciate the opportunity to be here today to testify on behalf of TRTA’s over 80,000 members on the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) – two provisions of the Social Security Act which negatively affect public retirees who were not covered by Social Security.

As background, TRTA, which was founded in 1953, is the largest association for retired public school and higher education employees and now ranks number one in membership in the nation. TRTA has more than 80,000 members who continue to be involved in local public school education and in the well-being of their communities. In 2014, TRTA members contributed 5,585,267 volunteer hours, a value of \$130,695,248 given to Texas. Seventy-five percent of all Texas retired teachers are woman and 95% of all Texas public school employees are not covered by Social Security through their school district employer.

In addition to speaking on behalf of TRTA, I’m proud to be part of a growing ad hoc coalition<sup>1</sup> of public employee retiree associations, public employee organizations, and some of the nation’s largest public employee retirement systems who are working together to support the passage of fair and equitable WEP reform legislation. While we are all strong supporters of the Social Security system, we are troubled that benefits earned by many of our members are unfairly reduced based on the arbitrary provisions of WEP and GPO.

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<sup>1</sup> In addition to TRTA, the organizations that support H.R. 711 include: Association of Texas Professional Educators, California Public Employees Retirement System, California Retired Teachers Association, Colorado School and Public Employees Retirement Association, Houston Firefighters’ Relief and Retirement Fund, International Union of Police Associations, AFL-CIO, Illinois Retired Teachers Association, Louisiana Retired Teachers Association, Missouri Retired Teachers Association, National Active and Retired Federal Employees Association, National Association of Police Organizations, National Conference of State Social Security Administrators, Ohio Public Employees Retirement System, Retired State, County and Municipal Employees Association of Massachusetts, School Employees Retirement System of Ohio, School Employee Retirees of Ohio, State Teachers Retirement System of Ohio

In order to put today's discussion in some context, allow me to take a moment to very briefly reflect on the origins of both the WEP and GPO

The WEP, which was enacted in 1983, was based on recommendations of the bipartisan National Commission on Social Security – the so-called Greenspan Commission. The purpose was to remove an unintended advantage that the regular Social Security benefit formula provided to persons who also received pensions from non-Social Security-covered employment.

*“The National Commission is concerned about the relatively large OASDI benefits that can accrue to individuals who spend most of their working careers in noncovered employment from which they derive pension rights, but who also become eligible for OASDI benefits as a result of relatively short periods in covered employment with other employers. Accordingly, the National Commission recommends that the method of computing benefits should be revised for persons who first become eligible for pensions from non-covered employment, after 1983, so as to eliminate "windfall" benefits.*

*The result of such a work history is to produce OASDI benefits that contain "windfall" elements -- the benefits payable are relatively high compared to the proportion of time spent and the OASDI taxes paid during covered employment. This results from the weighted benefit formula, which treats these individuals in the same manner as if they were long-service, low-earnings workers. Specifically, the National Commission believes that these individuals should receive benefits which are more nearly of a proportionate basis than the heavily-weighted benefits now provided.”<sup>2</sup>*

According to Social Security data presented in a Congressional Research Service report published in June of 2015<sup>3</sup>, about 1.6 million Social Security beneficiaries were affected by the WEP as of December 2014

The GPO, which was originally enacted as part of the 1977 Social Security Amendments, was designed to treat public pensions as though they were Social Security benefits, thus instituting dual entitlement provisions. Spousal benefits were offset dollar for dollar beginning in December 1982. Women who were eligible for government pensions before December 1982 were exempt for a five-year transition period. Men who were eligible for government pensions before 1982, however, were exempt from the offset only if their spouses had provided one half of their support. Congress amended the law in 1983, reducing the dollar for dollar reduction to a two-thirds offset.

According to Social Security data presented in a Congressional Research Service report published in April 2014<sup>4</sup>, about 615,000 Social Security beneficiaries had spousal or widow(er)'s

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<sup>2</sup> <http://www.ssa.gov/history/reports/gspan5.html>

<sup>3</sup> Social Security: The Windfall Elimination Provision (WEP), Congressional Research Service, Gary Sidor, Information Research Specialist, June 30, 2015

benefits reduced by GPO as of December 2013. According to the report, this number doesn't include those who were potentially eligible for spousal or widow(er)'s benefits but were deferred from filing for them because of their expectation that GPO would eliminate their benefit. About 81% of all affected persons were women.

Setting aside our views regarding the underlying arguments for both the WEP and the GPO, TRTA has always believed the congressional responses to these arguments have been arbitrary and based on incomplete data and faulty reasoning.

For current retirees impacted by these provisions, it can mean hundreds of dollars a month lost in much-needed Social Security benefits. For the private sector employee contemplating a career shift into public education, the impact is the future benefit loss felt after years in another field. And, for those contemplating education as a career from the beginning, the provisions provide arguments against entering the profession at all.

For decades now, members of TRTA and other organizations nationwide have suffered under the financial hardships imposed on public retirees by the Social Security system. Carefully constructed personal retirement plans have been destroyed because of the WEP and GPO. Despite improved educational efforts on the part of the Social Security Administration, public employee retirement systems, and organizations like ours, all too often, teachers and other affected school employees only find out about these penalties when they go to apply for their benefits. By then, it is too late to make alternative financial planning decisions, and public retirees are left to cope with what is often a greatly diminished retirement income.

Like many organizations with a similarly affected membership, TRTA has long supported legislation to fully repeal the WEP and the GPO. However, despite large numbers of bipartisan co-sponsors, neither Democratic nor Republican majorities have made a substantial effort to repeal these provisions. We acknowledge that a full repeal is costly and denies any merit that may support the initial basis for their enactment.

Nevertheless, we are deeply grateful to those Members of Congress who have supported our repeal efforts and we appreciate the fact that countless Members realize the impacts of these penalties are not what were originally intended when they were enacted.

Over the years, we have deeply appreciated the willingness of Congressman Kevin Brady (R-TX) to work with our organization and others to find a fair and reasonable solution to this growing problem. As early as 2004, Congressman Brady wrote<sup>5</sup> in part:

*"Many retired and soon-to-be retired teachers have either worked a second career or held a second job during their teaching career, often because of low-paying teacher salaries. They know*

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<sup>4</sup> Social Security: The Government Pension Offset (GPO) , Congressional Research Service, Gary Sidor, Information Research Specialist, April 23, 2014

<sup>5</sup> The VOICE, 2<sup>nd</sup> Quarter Edition, The Voice is a quarterly publication mailed exclusively to TRTA members.

*firsthand the WEP is painful. Due to the antiquated WEP formula, they watch helplessly as their own Social Security benefits are reduced by as much as (\$400) per month." In Texas, 40% of TRTA's members report being negatively impacted by the current unfair WEP formula. With an average monthly annuity of \$1900, TRS Texas annuitants already struggle financially to meet today's growing costs.*

*"A teacher's Social Security should be based on the same thing every Americans' Social Security is based on: work history and contributions. Nothing more and certainly nothing less."*

In 2014, working hand in hand with the Retired State, County and Municipal Employees Association of Massachusetts, we were pleased to see the introduction of the "Equal Treatment for Public Servants Act." This bipartisan bill, sponsored by Congressmen Kevin Brady (R-TX) and Richard Neal (D-MA), proposed to permanently repeal the current Windfall Elimination Provision and replace it with a new and fairer formula that treats public servants like the rest of American workers. In their Dear Colleague letter seeking cosponsors, they wrote:

*"There is nothing fairer, than equal treatment under the law. (My) bill guarantees public servants will receive the Social Security they earned while they paid into the federal program. Their Social Security amount will no longer be figured by an arbitrary WEP formula, but will be based on each worker's real-life Social Security contributions and work history, just like everyone else."*

Today, H.R. 711 "The Equal Treatment of Public Servants Act" is before you for your consideration.

The WEP, as currently designed, penalizes people who have dedicated their lives to public service, often at a personal financial sacrifice. Teaching is a rewarding career, but it is not lucrative. In order to support their families, teachers typically work in summer jobs and pay Social Security taxes. Many do so without realizing they will receive a reduced benefit because of the WEP. They understand they will not receive the maximum Social Security benefit because, frankly, they have not earned one. But they do believe they will be treated the same as everyone else who meets the minimum eligibility criteria of 40 quarters of covered Social Security employment.

Another problem is somewhat unique to those employees who also earned low wages in uncovered positions. These employees are essentially getting hit twice – once in the form of a low pension and again when their Social Security benefit is reduced by the WEP. H.R. 711 corrects this unintended consequence.

Replacing the current WEP calculation with a formula that takes into consideration the individual's entire working career is an important step towards greater fairness in the system. While the increased benefit that will become available to those impacted does not fully restore Social Security earnings lost under the current formula, the additional income will be significant for the poorest retirees in our ranks.

Additionally, many states experience severe teacher shortages. To meet increasing demands for qualified teachers, many school districts will seek to recruit mid-career individuals from other professions, most of which are covered by Social Security. While these individuals may be willing to make salary sacrifices to pursue a second career in education, they would be unwilling or unable to accept further financial sacrifices that Social Security will impose upon them for their career choice. Reducing the impact of the WEP will also reduce this obstacle to teacher recruitment.

Congressmen Brady and Neal, and their growing list of cosponsors, are not the only ones that have recently recognized the need to correct the fundamental unfairness associated with the WEP.

In October of last year, the Social Security Advisory Board (SSAB) published a position paper entitled, "The Windfall Elimination Provision – It's Time to Correct the Math." The paper acknowledges that when Congress established the WEP formula the Social Security Administration lacked data on earnings in jobs not covered by Social Security that are necessary to make an exact benefit adjustment. The report also notes that "Although Congress intended to treat comparably workers with non-covered earnings and workers who worked their entire career in employment covered by Social Security, the formula is inexact."<sup>6</sup>

Beginning in 2017, the Social Security Administration will have 35 years of data on earnings from both covered and non-covered employment. According to the SSAB's paper, the availability of these data means that Congress can now apply the more accurate approach described in the 1983 Greenspan Commission report.

Even more recently, it's important to note the President's Fiscal Year 2017 Budget, released on February 9, 2016 proposes to transition after ten years to an alternative approach, which would adjust Social Security benefits based on the extent to which workers have non-covered earnings. Although the details regarding the President's proposal are not exactly clear to us and while we don't see a need to delay this important transition for 10 years as his proposal suggests, it is critically important to note the acknowledgement of the need for an alternative approach based on actual earnings.

After years of failed attempts to find a solution to the underlying inequities associated with the WEP, TRTA appreciates the support which we now find from Members of Congress, the SSAB, and the Obama Administration. We believe it's time for Congress to enact H.R. 711, "The Equal Treatment of Public Servants Act."

H. R. 711 will permanently repeal the current WEP and will provide public servants – teachers, fire fighters, police officers, and other state and local employees – equal treatment under the law on the benefits they have earned!

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<sup>6</sup> The Windfall Elimination Provision – It's Time to Correct the Math, Social Security Advisory Board, October 1, 2015

H. R. 711 will reduce the WEP for current retirees by as much as 33%! Future retirees will see the WEP reduced as much as 50%! Any increase in our public service retirees' fixed incomes greatly bolsters their retirement security!

H. R. 711 provides more than hope to current and future retirees. It provides an equitable solution to a long-standing and unfair Social Security issue!

And, according to the Social Security Administration's Chief Actuary, H. R. 711 achieves all of these goals without negatively impacting the Social Security Trust Fund.

Before I conclude, I'd like to suggest that we all must now work together to find a similar solution to the challenges and unfairness associated with the GPO. The SSAB has promised a separate paper which will analyze the GPO and will propose options to improve it. Similarly, President Obama's budget supports a proposal for enhancing and modifying the approach currently taken to adjust spousal or widow(er)'s benefits.

Although these proposals aren't nearly as developed as the WEP proposal embodied in H.R. 711, they offer hope to TRTA members and present an opportunity for us to find relief for those adversely affected by its arbitrary formula.

In conclusion, on behalf of TRTA's 80,000 members and millions of other public employees and retirees from every state in this nation, I appreciate the opportunity to be here today and I urge you to pass fair and equitable WEP reform during this Congress.

Thank you.

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