

**Section 210 of H.R. 743 Would Require Public Pension Plans
to Collect Data for the Social Security Administration (SSA) that SSA Already Has**

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Issue: Section 210 of H.R. 743 would “require state and local government pension paying entities to indicate on their Form 1099R report whether the pension is based in whole or in part on earnings not covered by Social Security.” The 1099R reports distributions from pensions, annuities, IRAs, and other retirement arrangements to recipients of such funds. The proposal would also allow the IRS to share this information with the Social Security Administration (SSA) for the purposes of administering the GPO and WEP (GPO and WEP are explained below). If enacted, the change will help SSA recover overpayments made to retirees whose Social Security benefit may not reflect the GPO and/or WEP reduction. Section 210 is effective for taxable years beginning after December 31, 2003.

Status: Section 210 appears in the version of H.R. 743 that passed the Senate Finance Committee on September 17. The version approved by the House on April 2 does not include the provision. The legislative text of H.R. 743 as passed by Committee is not yet available. The information about the bill appears in “Description of the Chairman’s Mark Regarding H.R. 743, The Social Security Program Protection Act of 2003.”

Background: According to the explanation in the Chairman’s Mark, the SSA has had difficulty implementing the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP), both of which may apply to state and local government employees who worked in positions not covered by Social Security. (The GPO reduces or eliminates a spouse or widow(er) benefit to which an individual is entitled. The WEP reduces an individual’s own Social Security benefit from employment separate from the non-Social Security-covered work for a state or local government.) The difficulty arises from lack of information, according to the explanation. State and local governments provide annual reports of pension benefits to the IRS on Form 1099R, but the current Form does not indicate whether the pension was based on employment covered by Social Security. In addition, the SSA does not have access to this IRS data.

Concerns Identified by Retirement Systems

Issue I: The Social Security Administration already has the information it needs to determine whether a worker has non-Social Security-covered employment.

Each year a worker's employer files on his/her behalf a Form W-2, the Wage and Tax Statement. The employer reports various information on the Form, including the worker's wages in Box 1 and his/her Social Security wages in Box 3. Under certain circumstances, the wages in Boxes 1 and 3 may differ. One example of such difference is when the worker has a non-Social Security-covered job. The employer enters the worker's wages in Box 1. In Box 3, however, the employer enters "zero" because the worker is not covered by Social Security, thus his/her wages are not Social Security wages.

Various entities receive copies of the Form W-2. One of the recipients is the Social Security Administration, which receives Copy A of the Form. Thus, when a worker applies for a benefit, the Social Security Administration has the information it needs to determine whether the WEP and/or GPO apply.

Issue II: State and Local Government Retirement Systems do not have the information proposed to be reported on the 1099R.

State and local government (SLG) retirement systems are not the employers; therefore, they must collect information from employers whose workers are covered by the respective retirement system. Such employers include school districts, counties, and other local government jurisdictions. The only information collected by the retirement system from the employers is that needed to pay a benefit, e.g., the years of service and the figures needed to calculate the final average compensation. Because the structure of most SLG retirement plans does not explicitly recognize the presence or absence of Social Security coverage, retirement systems do not collect information about Social Security coverage.

Collecting the coverage information on future service would be a massive undertaking. Collecting the information on past service would be impossible. Some governmental employers have both Social Security-covered and non-Social Security-covered workers. Moreover, some workers who are retirement system members have service that consists of both Social Security-covered and non-Social Security-covered service. Finally, under many retirement plans, members may obtain credit for service performed in a jurisdiction not covered by the retirement plan. The members obtain the credit through purchases, transfers, and rollovers. Some of the credit might have been from service not covered by Social Security.

The entity with the coverage information is the governmental employer. Many such employers have Section 218 Agreements with the Social Security Administration (SSA). The agreements, named after the pertinent provision in the Social Security Act, spell out which of the employer's workers are covered by Social Security and which are not.

Conclusion: We understand SSA's concern about accurately paying benefits. We disagree with the manner proposed, however. The needed data is

already available to SSA. Retirement systems do not have the data. Collecting the data for future service would be a massive undertaking and for past service impossible. We urge the removal of Section 210 from H.R. 743.