

Federal Update 2003-25

TO: NCTR Members  
FROM: Cindie Moore  
RE: \*Here's a Scorecard on H.R. 743, Social Security bill.  
\*Wondering about the Senate Pension bill?

H.R. 743, the Social Security Protection Act of 2003, is the hottest bill affecting state and local government (SLG) retirement systems these days. Viewed by its supporters as an innocuous "clean up" bill, it contains a variety of issues of concern. Here's a scorecard about where things stand.

### **Status**

*House Action:* Passed full House on April 2, 2003

*Senate Action:* Passed Finance Committee on September 17, 2003; negotiations ongoing about how bill should be dealt with on Senate floor

### **Treatment of SLG Retirement System Issues**

	<i>1099R Reporting, § 210</i>	<i>Divided Retirement, § 416</i>	<i>One-Day Rule, § 418</i>
House	No	Kentucky Only	Yes
Senate	Yes	All States	Yes

### **Discussion of Issues**

#### *1099R Reporting, § 210*

At NCTR's annual convention, the Legislative Committee determined the elimination of Section 210 as a top priority. Section 210 would require SLG retirement systems to indicate on a modified Form 1099R whether a pension is based on work not covered by Social Security (SS). As noted in the chart above, Section 210 is in the Senate version of H.R. 743 only. In its explanation, the Committee relates that some state and local workers are not covered by SS, but may eventually qualify as a result of other employment or as a spouse of a survivor or a worker covered by SS. The SS Administration has had difficulty, due to lack of data, implementing the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) that reduce the SS benefits of uncovered workers. State and local governments provide annual reports of pension benefits to the IRS on Form 1099R, but the form does not indicate whether the pension was based on employment covered by SS. Section 210 is applicable for tax years beginning after December 31, 2003.

NCTR members from around the country have asked their Senators to have Section 210 removed from the bill because it is burdensome and unfair. First, SLG

retirement systems do not track whether their members' service is covered by SS. Instead, the employers of their members have that information. If retirement systems had to begin collecting the information, it would be a massive undertaking. Second, the Social Security Administration already has access to whether an individual is or is not covered by SS via Form W-2.

If you'd like to contact your Senators, see the Action Alert, dated November 4, 2003, or contact me (703-243-1667 or [cmoore@nctr.org](mailto:cmoore@nctr.org)). Word is that our concerns are being heard, according to the staff working on the issue. Continued lobbying is needed, however.

### *Divided Retirement, § 416 and One-Day Rule, § 418*

H.R. 743 contains two other items affecting certain SLG retirement systems and their members. Section 416 allows all states to have a "divided retirement" system, i.e., employees choose whether to be in SS or not, provided that new hires are covered by SS. It is effective upon enactment. As noted in the chart above, Section 416 is in the Senate version of H.R. 743 only.

Section 418 extends the "last day" rule for GPO exemption to 60 months. It is effective for applications filed after the month of enactment, but would not apply to individuals whose last day of work for the state of local government was covered by SS and occurs on or before 12/31/03. Section 418 is in both versions of H.R. 743.

### **Wondering about the Senate Pension Bill?**

September 17 was a busy day for the Senate Finance Committee. Among the bills it passed was H.R. 743 and also a pension bill, the National Employee Savings and Trust Guarantee Equity Act (NESTEG), discussed in earlier Federal Updates.

Here's where things stand. The legislative text is still unavailable. The delay apparently involves a life insurance issue. By way of review, here are the key provisions of interest to SLG retirement systems:

- Relief from the Minimum Distribution Rules (effective on date of enactment);
- Clarification of purchase of service credit (effective as if enacted in the Taxpayer Relief Act of 1997);
- Ability to accept after tax rollovers (effective for taxable years beginning after 12/31/03);
- Exemption from the post-Enron notice requirements (this exemption was identified by the NCTR Legislative Committee as a priority item); and
- Exemption from the 10% early withdrawal tax distributions from a governmental defined benefit plan to a qualified public safety employee who separates from service after age 50 (effective for distributions made after the date of enactment).

I'll keep you posted on developments.

