

Federal Update 2003-31

December 10, 2003 (Updated December 12, 2003)

TO: NCTR Members
FROM: Cindie Moore
RE: Stop the Presses: Senate Passes H.R. 743; Earthquake Rumbles in DC

H.R. 743

Before adjourning on December 9, the Senate passed by voice vote, H.R. 743, a Social Security anti-fraud bill that contains several controversial provisions for state and local governments (SLG). The bill, as passed, contains a bipartisan agreement reached by key House and Senate lawmakers. The House must approve it before it goes to the President. (The House and Senate will reconvene on January 20.)

The good news is the proposal to require retirement systems to state on the **1099R whether a pension is from non-Social Security-covered work was deleted** (formerly Section 210). The bad news is **a new federal mandate under Section 419**, known as the “Truth in Retirement Disclosure to Governmental Employees of Non-Covered Employment on Benefits under Title II [Social Security].”

The mandate includes the following:

- A state or local government entity hiring an individual for a non-Social Security covered position must provide him/her with a written notice.
- The notice must explain the effect of non-Social Security covered work on any separate Social Security covered work by the individual, i.e., the benefit from the Social Security covered work might be reduced.
- The individual must sign the notice before he/she starts to work in the position and submit it to the agency.
- The notice must be submitted to the relevant retirement system “established by the governmental entity involved [which is] responsible for paying the monthly periodic payments or benefits.” (Section 419 does not say what retirement systems are to do with the notice.)
- The Social Security Administration will prescribe the form of the notice.
- The notice requirement is effective for individuals who commence non-covered Social Security employment on or after January 1, 2005.

Section 419 also relates to the Social Security Account Statements (annual statements sent out by the Social Security Administration). First, if Social Security has information that an individual has a pattern of wages that indicates a likelihood of non-covered employment, it sends the Statement to that individual. Second, the Statement will include information for such an individual about the consequences of non-Social Security covered work on a future Social Security benefit from Social Security-covered work. These new items go into effect for Statements issued on or after January 1, 2007.

H.R. 743 contains two other items affecting certain SLG retirement systems and their members. Twenty-one states are allowed to have a "divided retirement" system, i.e., employees choose whether to be in Social Security or not, provided that new hires are covered by Social Security. In the House bill, Section 416 added Kentucky to the list. As passed by the Finance Committee, Section 416 included all states. The version passed by the Senate added only Kentucky and Louisiana to the list. Both states had requested that they be added.

The Senate-passed version of Section 418 relating to the "last day" rule maintains the 60-month rule but moves the effective date further out so that it applies to any individual whose last day of service is on or after July 1, 2004. It also contains a transition rule to mitigate the effect of the change. Under current law, if someone is in a position not covered by Social Security, but moves just prior to retirement to a Social Security-covered position and the position is covered by the retirement system that will provide him/her a pension, he/she is exempt from the Government Pension Offset. Section 418 requires an individual to be in the Social Security-covered position for 60 months instead of just one day to be exempt from the offset.

Earthquake

In a development unrelated to the passage of H.R. 743, an earthquake registering 4.5 on the Richter scale shook the Washington area around 4 p.m. on December 9. The tremor was light, but people in the Capital area felt it.