

Federal Update 2004-17 (Updated)

May 20, 2004

TO: NCTR Membership

FROM: Cindie Moore, Washington Counsel

RE: Bill to Replace Windfall Elimination Provision (WEP) Introduced

Rep. Kevin Brady (R-TX) introduced on May 19 legislation to replace the WEP with a new calculation. Joining him was the Chairman of the House Social Security Subcommittee, Rep. Clay Shaw (R-FL), and other House members. The bill, H.R. 4391, is entitled the Public Servant Retirement Protection Act (PSRPA). On May 20, Senator Kay Bailey Hutchison (R-TX) introduced the Senate companion, S. 2455.

To explain how the bill would operate, I'd like to give a brief overview about the WEP. The WEP affects an individual who has 1) a pension from non-Social Security covered work and 2) a Social Security benefit from a separate job. Typically, the work is a job in a state or local government that is not covered by Social Security. The Social Security Administration (SSA) calculates the benefit of such an individual under a modified formula, known as the WEP.

Because of the design of Social Security benefits, an individual who works in low paid jobs during his/her career receives a benefit that replaces a higher percentage of pre-retirement income than is the case for an individual with higher paid jobs. Before Congress enacted the WEP, an individual who had spent most of his/her career in work not covered by Social Security, but also had a small amount of earnings in Social Security covered work was treated as a worker with low earnings over his/her lifetime. The WEP acknowledges (though not explicitly) the non-covered Social Security work and reduces the Social Security benefit the individual would have received if the WEP did not exist.

The bill would eliminate the WEP and adopt in its place a calculation based on an individual's actual earnings during his/her years of work. Specifically, the PSRPA calculation treats the individual's non-Social Security covered earnings as if they were covered by Social Security and applies the standard benefit formula. To ensure the

individual's Social Security benefit is based only on the Social Security covered earnings (as opposed to earnings from the non-Social Security covered work), the benefit would be multiplied by the percent of earnings covered by Social Security. In order to carry out the calculation, the worker's earnings from all work, both Social Security and non-Social Security covered must be known.

As I noted in my Update earlier this week, several concerns about the bill's approach have arisen. First, under the WEP, the SSA cannot reduce an individual's Social Security benefit by more than 50 percent. The PSRPA does not appear to contain such a floor. Thus, an individual affected by PSRPA, if enacted, could lose that protection and end up with a smaller benefit than under the WEP. Second, PSRPA does not make clear who bears the responsibility for collecting the necessary information about the individual's earnings during his/her career. Would it be each employer for whom the individual worked over his/her career, the retirement system who is paying a pension to the individual, the individual himself/herself, or the SSA?

[I've attached a press release about PSRPA.](#)

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