

TESTIMONY

of

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in support of

H.R. 1217
the "Government Pension Offset Reform Act"

before the

House Committee on Ways and Means, Subcommittee on Social Security

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Good morning, Mr. Chairman and distinguished Members of the House Subcommittee on Social Security. My name is Gilbert G. Gallegos, National President of the Fraternal Order of Police. I am the elected spokesperson of more than 290,000 rank-and-file police officers—the largest law enforcement labor organization in the United States. I am here this morning to talk about the “Government Pension Offset” and to urge this Subcommittee to adopt H.R. 1217, the “Government Pension Offset Reform Act.”

Social Security was established in 1935 and originally excluded all State and local employees. In the 1960s, these employees were given the option to participate in the Social Security system, prompting public sector employees in thirty-seven (37) States to enroll. The remaining thirteen (13) States and a number of local governments in two others chose instead to maintain and enhance their existing retirement systems.

While the “Government Pension Offset” (GPO) affects public employees across the country, the impact is most acute in fifteen (15) States: Alaska, California, Colorado, Connecticut, Georgia (certain local governments), Illinois, Louisiana, Kentucky (certain local governments), Maine, Massachusetts, Missouri, Nevada, Ohio, Rhode Island, and Texas. It is estimated that over 284,000 local, State and Federal employees have unfairly been affected by the Government Pension Offset. In the public safety community, seventy-five percent (75%) of all law enforcement officers do *not* pay into Social Security—meaning they are likely to be affected by the GPO in the future.

In 1977, Federal legislation was enacted that required a dollar-for-dollar reduction of Social Security spousal benefits to public employees and retired public employees who received earned benefits from a Federal, state, or local retirement system. Following a major campaign to repeal the provisions in 1983, Congress adopted the “Government Pension Offset,” which limits the spousal benefits reduction to two-thirds of a public employee’s retirement system benefits. This remedial step falls far short of addressing the inequity of Social Security benefits between public and private employees.

It is estimated that the spousal benefit is eliminated entirely in nine out of ten cases, even though the covered spouse paid Social Security taxes for many years, thereby earning the right to these benefits. Moreover, these estimates do not capture those public employees or retirees who never applied for spousal benefits because they wrongly believed themselves ineligible.

According to the Congressional Budget Office, the government pension offset reduces benefits for some 200,000 individuals by more than \$3,600 a year. Ironically, the loss of these benefits may cause these men and women to become eligible for more costly assistance, such as food stamps.

The present system creates a tremendous inequity in the distribution of Social Security benefits. The standard for this narrow class of individuals—retired public employees who are surviving spouses of retirees covered by Social Security—is inconsistent with the overall provisions of the Social Security Act and does not apply to persons receiving private pension benefits. This imbalance exists even though Congress, through ERISA standards and tax code provisions, has more direct influence over private employers than public employers.

For example, the wife of a retired law enforcement officer who collects a government pension of \$1,200 would be *ineligible* to collect her widow's benefit of \$600. Two-thirds of \$1,200 is \$800, which is greater than the spouse's benefit of \$600 and thus making her unable to collect it. If the spouse's benefit was \$900, she would collect only \$100, because \$800 would be "offset" by her government pension.

The F.O.P. believes this is an issue of fairness and that the offset scheme currently in place penalizes those employees least able to afford it. Law enforcement officers, many of whom do not participate in the Social Security system, are especially affected.

The Fraternal Order of Police is working to pass H.R. 1217, the "Government Pension Offset Reform Act," introduced by Congressman William Jefferson. This legislation would amend the Old Age, Survivors and Disability Insurance (OASDI) of the Social Security Act to modify the formula for determining the amount of reduced monthly OASDI benefits payable to a spouse, surviving spouse, or parent receiving monthly payments from a Federal or State pension plan. This new formula would decrease the benefit reduction to the lesser of either the amount by which the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds \$1,200, adjusted for inflation; or an amount equal to two-thirds of the amount of any such monthly pension plan payment.

We believe this issue cannot be completely separated from another "offset" which we view as equally punitive on law enforcement officers and other government workers—the "Windfall Elimination Provision" (WEP). This provision was also enacted in 1983 as part of the reform package designed to shore up the financing of the Social Security system. Its purpose was to remove a so-called "windfall" for persons who spent some time in jobs not covered by Social Security (like public employees) and also worked other jobs where they paid Social Security taxes long enough to qualify for retirement benefits. The practical effect on low-paid public employees outside the Social Security system, like law enforcement officers, is that they lose up to sixty percent (60%) of the Social Security benefits to which they are entitled—a loss, not an adjustment for a "windfall."

The WEP went into effect in 1985 and applies a modified formula to any individuals who collect a government pension designed to reduce the amount of their Social Security benefit. This provision has created a very real inequity for many public employees, particularly police officers who retire earlier than other government employees to begin second careers which require them to pay into the Social Security system. These individuals are penalized under current law.

Again, we regard this as an issue of fairness. The WEP substantially reduces a benefit that workers had included and counted on when planning their retirement. The arbitrary formula, when applied, does not eliminate "windfalls" because of its regressive nature—the reduction is only applied to the first bracket of the benefit formula and causes a relatively larger reduction in benefits to low-paid workers. It also overpenalizes lower paid workers with short careers or, like many retired law enforcement officers, those whose careers are evenly split inside and outside the Social Security system.

To correct this inequity, the Fraternal Order of Police is also working to pass H.R. 742, the “Social Security Benefits Restoration Act,” introduced by Congressman Max Sandlin. The bill would repeal the “Windfall Elimination Provision” entirely. I urge this Subcommittee to consider and pass legislation addressing both the “Government Pension Offset” and the “Windfall Elimination Provision.”

I want to thank you, Mr. Chairman, for the chance to appear before you today.