Maine Association of Retirees

MAR

May 5, 2021

Senator Craig Hickman, Chair

Representative Michael Sylvester, Chair

Join Standing Committee on Labor and Housing

100 State House Station

Augusta, ME 04333-0100

RE: LD 341, AN ACT to Address the Windfall Elimination Provision

Dear Senator Hickman, Representative and Members of the Committee:

The Maine Association of Retirees (MAR) is a member-driven organization whose approximately 14,000 members are retirees covered by one of the various plans administered by the Maine Public Employees Retirement System. The overarching mission of MAR is to protect the retirement fund and advocate for the right of Maine's public service retirees to ensure a financially secure, healthy and enriched life.

Because LD 341 is a concept draft, it is difficult to make specific comments regarding it. MAR may wish to make further comments at such time as the bill's sponsor, Senator Stewart, brings forth a substantive amendment. That being said, the Windfall Elimination Provision (WEP) is a mid-1980s amendment to the federal Social Security Act which substantially reduces Social Security monthly benefits with respect to persons who worked for employers such as many school districts as well as the State of Maine for which contributions into Social Security were not made by the employers and employees.

Absent a change in federal law, MAR does not believe there are alternatives available here in Maine that allow public service retirees to avoid the WEP except for a long-term and costly approach. We are enclosing with today's testimony a publication of the Social Security Administration which sets out the details of how the WEP operates. As you will see in this enclosure, the WEP can be avoided, on a sliding scale basis, only by those otherwise affected by it who have at least 20 years of "substantial earnings" subject to social security contributions. Full avoidance of the WEP occurs only for those with 30 or more years of substantial earnings subject to social security. Although MAR does not have supporting statistical information, it is our belief that the vast majority of teachers and state employees would fall far short of meeting the "substantial earnings" test for the requisite number of years.

MAR would bring to your attention that two bills to address the Windfall Elimination Provision have been introduced into the current Congress. As mentioned in our testimony on LD 620 earlier this session. HP 82, the Social Security Fairness Act of 2021, has been introduced into the House of Representatives. This bill proposes repeal of both the Windfall Elimination Provision and the Government Pension Offset. Additionally, Rep. Richard Neal, the House Chair of the Ways and Means Committee, has introduced the HR 2337, The Public Servants Protection and Fairness Act of 2021. This bill proposes a new, fairer formula that will pay Social Security benefits in proportion to the share of a worker's earnings that were covered for Social Security purposes. This provision is coupled with a benefit guarantee ensuring no benefit cuts relative to current law for all current and future retirees. Current WEP retirees will receive $150 a month in relief payments.

Thank you. MAR stands ready to assist you in your consideration of LD 341.

Sincerely,

Thomas M. Record
Chair, MAR Legislative Committee

Cc Senator Trey Stewart

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Windfall Elimination Provision

Your Social Security retirement or disability benefits can be reduced

The Windfall Elimination Provision can affect how we calculate your retirement or disability benefit. If you work for an employer who doesn't withhold Social Security taxes from your salary, such as a government agency or an employer in another country, any retirement or disability pension you get from that work can reduce your Social Security benefits.

When your benefits can be affected

This provision can affect you when you earn a retirement or disability pension from an employer who didn't withhold Social Security taxes ***and*** you qualify for Social Security retirement or disability benefits from work in other jobs for which you did pay taxes.

The Windfall Elimination Provision can apply if:

- You reached age 62 after 1985; or
- You became disabled after 1985; and
- You first became eligible for a monthly pension based on work where you didn't pay Social Security taxes after 1985. This rule applies even if you're still working.

This provision also affects Social Security benefits for people who performed federal service under the Civil Service Retirement System (CSRS) after 1956. We won't reduce your Social Security benefit amounts if you only performed federal service under a system such as the Federal Employees' Retirement System (FERS). Social Security taxes are withheld for workers under FERS.

How it works

Social Security benefits are intended to replace only some of a worker's pre-retirement earnings.

We base your Social Security benefit on your average monthly earnings adjusted for average wage growth. We separate your average earnings into three amounts and multiply the amounts using three factors to compute your full Primary Insurance Amount (PIA). For example, for a worker who turns 62 in 2021, the first $996 of average monthly earnings is multiplied by 90 percent; earnings between $996 and $6,002 are multiplied by 32 percent; and the balance by 15 percent. The sum of the three amounts equals the PIA, which is then decreased or increased depending on whether the worker starts benefits before or after full retirement age (FRA). This formula produces the monthly payment amount.

When we apply this formula, the percentage of career average earnings paid to lower-paid workers is greater than higher-paid workers. For example, workers age 62 in 2021, with average earnings of $3,000 per month could receive a benefit at FRA of $1,537 (approximately 50 percent) of their pre-retirement earnings increased by applicable cost of living adjustments (COLAs). For a worker with average earnings of $8,000 per month, the benefit starting at FRA could be $2,798 (approximately 35 percent) plus COLAs. However, if either of these workers start benefits earlier than their FRA, we'll reduce their monthly benefit.

Why we use a different formula

Before 1983, people whose primary job wasn't covered by Social Security had their Social Security benefits calculated as if they were long-term, low-wage workers. They had the advantage of receiving a Social Security benefit representing a higher percentage of their earnings, plus a pension from a job for which they didn't pay Social Security taxes. Congress passed the Windfall Elimination Provision to remove that advantage.

Under the provision, we reduce the 90 percent factor in our formula and phase it in for workers who reached age 62 or became disabled between 1986 and 1989. For people who reach 62 or became disabled in 1990 or later, we reduce the 90 percent factor to as little as 40 percent.

Some exceptions

The Windfall Elimination Provision doesn't apply if:

- You're a federal worker first hired after December 31, 1983.
- You're an employee of a non-profit organization who was exempt from Social Security coverage on December 31,1983, unless the non-profit organization waived exemption and did pay Social Security taxes, but then the waiver was terminated prior to December 31, 1983.
- Your only pension is for railroad employment.
- The only work you performed for which you didn't pay Social Security taxes was before 1957.
- You have 30 or more years of substantial earnings under Social Security.

The Windfall Elimination Provision doesn't apply to survivors benefits. We may reduce spouses, widows, or widowers benefits because of another law. For more information, read *Government Pension Offset* (Publication No. 05-10007).

Social Security years of substantial earnings

If you have 30 or more years of substantial earnings, we don't reduce the standard 90 percent factor in our formula. See the first table that lists substantial earnings for each year.

The second table shows the percentage used to reduce the 90 percent factor depending on the number of years of substantial earnings. If you have 21 to 29 years of substantial earnings, we reduce the 90 percent factor to between 45 and 85 percent. To see the maximum amount we could reduce your benefit, visit ***www.ssa.gov/benefits/retirement/planner/wep.html***.

A guarantee

The law protects you if you get a low pension. We won't reduce your Social Security benefit by more than half of your pension for earnings after 1956 on which you didn't pay Social Security taxes.

Contacting Social Security

The most convenient way to do business with us from anywhere, on any device, is to visit ***www.ssa.gov***. There are several things you can do online: apply for benefits; get useful information; find publications; and get answers to frequently asked questions.

When you open a personal *my* Social Security account, you have more capabilities. You can review your *Social Security Statement*, verify your earnings, and get estimates of future benefits. You can also print a benefit verification letter, change your direct deposit information, request a replacement Medicare card, get a replacement SSA-1099/1042S, and request a replacement Social Security card (if you have no changes and your state participates).

If you don't have access to the internet, we offer many automated services by telephone, 24 hours a day, 7 days a week. Call us toll-free at **1-800-772-1213** or at our TTY number, **1-800-325-0778**, if you're deaf or hard of hearing.

A member of our staff can answer your call from 7 a.m. to 7 p.m., Monday through Friday. We ask for your patience during busy periods since you may experience a high rate of busy signals and longer hold times to speak to us. We look forward to serving you.

Year	Substantial earnings
1937–1954	$900
1955–1958	$1,050
1959–1965	$1,200
1966–1967	$1,650
1968–1971	$1,950
1972	$2,250
1973	$2,700
1974	$3,300
1975	$3,525
1976	$3,825
1977	$4,125
1978	$4,425
1979	$4,725
1980	$5,100
1981	$5,550
1982	$6,075
1983	$6,675
1984	$7,050
1985	$7,425
1986	$7,875
1987	$8,175
1988	$8,400

Year	Substantial earnings
1989	$8,925
1990	$9,525
1991	$9,900
1992	$10,350
1993	$10,725
1994	$11,250
1995	$11,325
1996	$11,625
1997	$12,150
1998	$12,675
1999	$13,425
2000	$14,175
2001	$14,925
2002	$15,750
2003	$16,125
2004	$16,275
2005	$16,725
2006	$17,475
2007	$18,150
2008	$18,975
2009–2011	$19,800
2012	$20,475

Year	Substantial earnings
2013	$21,075
2014	$21,750
2015-2016	$22,050
2017	$23,625
2018	$23,850
2019	$24,675
2020	$25,575
2021	$26,550

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

Securing today
and tomorrow

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