

## **January 5, 2025: Congress Stops Social Security Benefit Reductions for (some) Public Employees.**

### **Social Security Fairness Act of 2023**

President Biden signed the [Social Security Fairness Act](#), which eliminates the Windfall Elimination Provision and Government Pension Offset provisions that reduce or eliminate benefits for nearly 3 million government employees and their families.

Some estimates put the number of California Public Employees who could benefit from this change at ~ 400,000 workers. We are unsure how many City of Fresno employees and retirees this applies to, but if you receive a Social Security statement annually... you should check with the [Social Security Administration](#) directly. It may be easiest to sign into [your account directly](#) after they complete the recalculations.

**CFRS staff unfortunately cannot help you with the Social Security questions other than to direct you to the [local social Security offices](#), website at [www.ssa.gov](http://www.ssa.gov) or their phone number at [\(800\) 772-1213](tel:8007721213).**

### **Background**

The Social Security Fairness Act of 2023, repeals the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO), two provisions of the Social Security Act that operate to reduce or eliminate Social Security benefits for public sector employees who are also entitled to retirement benefits from non-Social Security covered employment. This should result in increases to Social Security benefits for over two million beneficiaries nationally. The repeal is effective for monthly benefits payable after December 2023.

Millions of state and local government employees do not participate in Social Security, either because Social Security coverage has not been extended to their position under a federal-state agreement called a “[218 agreement](#)” or because they participate in a public retirement plan that qualifies as a “[Social Security replacement plan](#).” For these employees, their earnings from public employment are not subject to Social Security taxes (FICA) and are also not counted toward earning Social Security benefits.

However, in many circumstances, these individuals have worked in other employment covered by Social Security that may earn them Social Security benefits at retirement. In addition, they may be entitled to spouse or survivor benefits through a spouse’s Social Security earnings record. In these situations, the WEP and GPO could have potentially applied to reduce the benefits they would otherwise receive from Social Security.

[In the late 1970’s and 80’s Congress started trying to force](#) non-covered state and local public defined benefit retirement systems to join or “help” fund Social Security. Congress actively explored legislation to mandate that non-covered state and local government employees with defined benefit retirement plans contribute to Social Security, essentially "forcing" them to help fund the program to address long standing financial issues within Social Security itself.

Nationally this faced strong resistance from public employee unions and state governments who argued that it would disrupt existing pension systems and lead to increased costs for local taxpayers. Since Congress could not pass legislation forcing participation or taking over the defined benefit plans; they instead passed the WEP-GPO provisions which have been viewed for decades as being both punitive and discriminatory to public workers.

### **History of the Windfall Elimination Provision**

Enacted in 1983, the WEP is a reduction to a worker's Social Security retirement benefit because of a retirement benefit earned by the worker in non-Social Security covered employment. The WEP operates to reduce the amount of income that is replaced under the Social Security benefit formula. In 2024, the standard formula replaces 90 percent of the first \$1,174 of a worker's average indexed monthly earnings. The WEP formula reduces that replacement percentage to as low as 40 percent, but not lower than one-half of the worker's non-covered monthly retirement benefit. The reduction is phased-out for workers with 21 to 29 years of substantial Social Security earnings, and it does not apply to workers with 30 or more years of substantial Social Security earnings. The WEP can have a significant impact on the Social Security retirement benefit earned by a public employee who is receiving a public pension that was earned in non-covered employment.

### **History of the Government Pension Offset**

Enacted in 1977, the GPO is a reduction to a spouse's Social Security spouse or survivor benefit because of a retirement benefit earned by the spouse in non-Social Security covered employment. The GPO is intended to replicate the "dual entitlement rule" under Social Security, which reduces a person's spouse or survivor benefit by the person's own Social Security retirement benefit (based on the person's own earnings record). This results in offsetting the spouse/survivor benefit so that it will only be paid if – and to the extent it exceeds – the person's own retirement benefit. In effect, the person receives the higher of the two Social Security benefit amounts, but not both.

The GPO works similarly to the dual entitlement rule for spouses and survivors who receive a retirement benefit based on non-Social Security covered employment. Under the GPO, the Social Security spouse or survivor benefit is reduced by an amount equal to two-thirds of the spouse's non-covered monthly retirement benefit, but not below zero. The GPO does not apply to individuals whose last 60 months of government employment was covered by a public retirement system and Social Security. The GPO can significantly reduce the Social Security spouse and survivor benefits that would otherwise be due to a retiree in the public sector who has no Social Security benefits of his or her own.

### **Effective Date of Changes**

The Social Security Fairness Act repeals the WEP and GPO provisions effective with respect to monthly benefits payable for months after December 2023. The Act directs the Commissioner of Social Security to adjust the benefits payable to impacted beneficiaries to the extent necessary.

The Social Security Administration will issue guidance regarding the timeframe and process for necessary adjustments to current beneficiaries.

While the repeal of the WEP and GPO has no DIRECT impact on the [City of Fresno Retirement](#) plans you should understand the potential impact of the WEP and GPO repeal on your future Social Security benefits.

Legislative Action(s):

01/05/2025 - Signed by President.

12/27/2024 - Presented to President.

12/21/2024 - Message on Senate action sent to the House.

12/21/2024 - Cloture motion on the measure rendered moot in Senate.

12/21/2024 - Passed Senate, under the order of 12/20/2024, having achieved 60 votes in the affirmative, without amendment by Yea-Nay Vote. 76 - 20. Record Vote Number: 338.

12/21/2024 - Passed/agreed to in Senate: Passed Senate, under the order of 12/20/2024, having achieved 60 votes in the affirmative, without amendment by Yea-Nay Vote. 76 - 20. Record Vote Number: 338.

12/21/2024 - Motion by Senator Schumer to commit to Senate Committee on Finance with instructions to report back forthwith with the following amendment (SA 3357) withdrawn in Senate.

12/21/2024 - Motion to waive all applicable budgetary discipline with respect to the measure agreed to in Senate by Yea-Nay Vote. 66 - 30. Record Vote Number: 337.

12/21/2024 - Point of order that the measure violates section 311(a)(3) of the Congressional Budget Act raised in Senate.

12/20/2024 - Motion by Senator Schumer to commit to Senate Committee on Finance with instructions to report back forthwith with the following amendment (SA 3357) made in Senate.

12/20/2024 - Cloture motion on the measure presented in Senate. (CR S7286)

12/20/2024 - Considered by Senate. (consideration: CR S7285-7287, S7303-7304)

12/19/2024 - Measure laid before Senate by motion.

12/19/2024 - Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 73 - 23. Record Vote Number: 328.

12/19/2024 - Motion to proceed to measure considered in Senate. (CR S7217)

12/18/2024 - Cloture on the motion to proceed to the measure invoked in Senate by Yea-Nay Vote. 73 - 27. Record Vote Number: 326.

12/18/2024 - Motion to proceed to measure considered in Senate. (CR S7131)

12/17/2024 - Referred to the Subcommittee on Social Security.

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