

Committee on Ways and Means

H.R. 743 – The Social Security Protection Act and the Government Pension Offset (GPO) Loophole

HR. 743 helps protect Social Security programs.

- Gives the Social Security Administration the tools it needs to address waste, fraud and abuse in Social Security programs.
- It is bipartisan, supported by AARP and disability advocates, and saves \$800 million over 10 years.
- On February 11, 2004, the House agreed to the Senate amendments and passed H.R. 743 by a vote of 402 to 19. On March 2, 2004, the President signed the bill into law.

An important provision closes a loophole affecting the GPO.

Under current law, a public employee is exempt from the GPO (a Social Security spouse benefit offset that affects certain government workers) if their government job was subject to Social Security taxes and covered under the government pension system on the last day of work.

After an investigation resulting from the General Accounting Office's (GAO) fraud hotline, in August 2002, the GAO found almost 4,800 teachers in Texas had switched or planned to switch to a clerical or janitorial position covered under Social Security on their last day of employment in order to avoid the GPO.

The GAO found some Texas school districts even advertised and charged a fee (\$100-\$500) for teachers to take advantage of this GPO loophole. One school district in Texas collected \$280,000 by charging fees to teachers who wanted to work in their district for a day to take advantage of the loophole.

- **The result** – teachers who paid into Social Security for one day (about \$3) receive nearly \$100,000 in lifetime spouse/widow benefits.
- **In contrast** - teachers who paid into Social Security their whole career receive little or no spouse/widow benefit.
- **Costs** - GAO reports long-term benefit payments to those who have already used the loophole could cost Social Security \$450 million and would increase as use of the loophole grows. According to CBO, closing the loophole would save Social Security more than \$100 million over the next 10 years.
- **This is an abuse of the Social Security program, plain and simple.** It's unfair to **other teachers in Texas and public servants** elsewhere who can't use the loophole and to **workers and beneficiaries** who are seeing precious resources plundered from the program. That's why the **GAO recommended** this loophole be closed.
- H.R. 743 closes this loophole, **just like** the President's 2004 and 2005 budget request, and **just like** last year's version of this bill that passed the House overwhelmingly and passed the Senate by **unanimous consent**.
- The provision only affects teachers in Texas and a handful in Georgia—the GAO found nobody else using the loophole. A yes vote is a vote to treat all public employees similarly, NOT a vote against reducing or repealing the Government Pension Offset or Windfall Elimination Provision.
- The "last day" rule is changed to a longer minimum time period, 5 years, just like federal workers who switched from the Civil Service Retirement System to the Federal Employees Retirement System.

The Subcommittee held a hearing May 1, 2003 on the GPO and the windfall elimination, which affect state and local workers. The Subcommittee will continue to examine proposals to modify these provisions and improve the fairness of the Social Security system for all workers.