



# Texas Retired Teachers Association

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*The Voice For All Public Education Retirees*

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August 25, 2011

Thank you for the opportunity to respond to these important questions. I appreciate the help of the Coalition to Preserve Retirement Security in researching these answers. Please know that I am available to answer any additional questions you may have.

Tim Lee

## **Answers to Question from June 23 Ways and Means Committee Hearing**

1. Please explain why State and local workers were excluded from Social Security in the first place?

The legislative history on this point is ambiguous, but it appears from the congressional archives that Congress and the Roosevelt Administration were concerned about the states sovereignty. In pressing their case for mandatory participation by private sector employers, lawmakers anticipated Constitutional challenges to the law. (In fact, private sector employees sued to overturn the law. However, the Supreme Court found the Social Security Act constitutional. *See Steward Machine Co. v. Davis*, 301 U.S. 548 (1937), *Helvering v. Davis*, 301 U.S. 619 (1937).) Lawmakers appeared less confident in the constitutionality of taxing employees of sovereign States. In addition, Congress appeared to believe that many states already had traditional pension plans for state and local government workers and worried that allowing them to participate in Social Security could result in “double dipping.”

2. Would you explain how public workers would be able to obtain coverage under Social Security today?

Social Security coverage is extended to state and local government employees through “Section 218 Agreements” between a state and the Social Security Administration (SSA). Coverage under Section 218 Agreements differs greatly from state to state. For example, within a state, teachers in one county may be covered under Social Security, whereas teachers in the neighboring county may not be covered. The State Social Security Administrator is the main resource for information about Social Security and Medicare coverage and reporting issues for state and local government employers and employees. Section 218 Agreements cover positions, not individuals. If the government position is covered by Social Security and Medicare under a Section 218 Agreement, then any employee (current or future) filling that position is subject to Social Security and Medicare payroll taxes. (See CRS Report, Social Security: Mandatory Coverage of New State and Local Government Employees)