



# Windfall Elimination Protection Act and Government Pension Offset

Educational Briefing  
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# Issue

**LEOFF 2 members whose LEOFF employment is not covered by Social Security may have their Social Security benefit, earned from employment outside of their LEOFF employment, reduced because of the Windfall Elimination Protection Act**

**Also, these LEOFF 2 members may also have their Social Security spouses or widow/widower benefit reduced under the Government Pension Offset**

# Social Security History for LEO and FF

- Compulsory for most workers, 6% not covered
- Established in 1935; public employees excluded
- State and local government option to join (1950's);
  - Fire and police departments excluded until 1994
  - Fire and police departments must elect to participate

# LEOFF 2 Social Security Participation

- **LEOFF 2 Social Security Participation (2005)**
  - 58% of Law Enforcement Officers
  - 6% of Fire Fighters
- 30-40% of Replacement Income
- Social Security Replacement Plans by some employers
- Likely subject to GPO/WEP reductions

# Windfall Elimination Protection Act

- 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
- According to the IRS, these workers 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 (WEP) to remove that advantage

# WEP Formula

- The “normal” Social Security benefit formula separates your average monthly earnings into three segments, and multiplies each by a different percentage
- WEP modifies the percentage by which the first segment is multiplied, resulting in a lower Social Security benefit
- The WEP formula includes a sliding scale based on the length of your Social Security-covered employment

**Table 3. Maximum WEP Reduction for Workers Who Become Eligible in 2021, by Years of Substantial Coverage**

Years of Social Security Coverage											
20 or fewer	21	22	23	24	25	26	27	28	29	30+	
First factor in formula:											
40%	45%	50%	55%	60%	65%	70%	75%	80%	85%	90%	
Maximum dollar amount of monthly WEP reduction for workers who first become eligible for Social Security in 2021 <sup>a</sup> :											
\$498	\$448	\$398	\$349	\$299	\$249	\$199	\$149	\$100	\$50	\$0	

**Source:** CRS analysis.

**Notes:** The WEP reduction may be lower than the amount shown because the reduction is limited to one-half of the worker's pension from noncovered employment. In addition, because the WEP reduces the initial benefit amount *before* it is reduced or increased due to early retirement, delayed retirement credits (DRCs), cost-of-living adjustments (COLAs), or other factors, the difference between the final benefit with the WEP and the final benefit without the WEP may be less than or greater than the amounts shown.

# WEP Example

**Table 2. Hypothetical Scenario: PIA for a Worker with AIME of \$1,500 Who Becomes Eligible in 2021 and Has 20 Years of Substantial Coverage**

Regular Formula		WEP Formula	
<u>90%</u> of first \$996	\$896.40	<u>40%</u> of first \$996	\$398.40
32% of earnings over \$996 and through \$6,002	161.28	32% of earnings over \$996 and through \$6,002	161.28
15% over \$6,002	0.00	15% over \$6,002	0.00
<b>Total after rounding</b>	<b>\$1,057.60</b>	<b>Total after rounding</b>	<b>\$559.60</b>

**Source:** CRS.

**Note:** PIA = Primary Insurance Amount. AIME = Average Indexed Monthly Earnings. By law, the PIA is rounded down to nearest 10 cents.



# Government Pension Offset (GPO)

- Spouses can apply for benefits based on their spouse's record
  - The maximum spousal benefit is equal to 50% of the other spouse's benefit
- If someone receives a pension from a federal, state, or local government based on work for which they didn't pay Social Security taxes, their Social Security spouse or widow/widower benefits may be reduced by 2/3 under the GPO

# Intent of the Government Pension Offset

- The intent of the Government Pension Offset is to have Social Security calculate the benefits of government employees who don't pay Social Security taxes the same as workers who pay Social Security taxes
- If a worker's employment was subject to Social Security taxes, Social Security would reduce any spouse or widow/widower benefit because of the member's Social Security retirement benefit

# GPO Example

- If a LEOFF 2 member earns a monthly pension of \$4,000, two-thirds of that, or \$2,667, must be deducted from their Social Security spouse or widow/widower benefits
- For example, if they're eligible for a \$3,000 Social Security spouse or widow/widower benefit, they will get \$333 a month from Social Security ( $\$3000 - \$2,667 = \$333$ )
- If two-thirds of the member's LEOFF 2 pension is more than their Social Security spouse's benefit then their benefit would be reduced to zero

# Federal Legislation

- **Public Servants Protection and Fairness Act - H.R. 2337 (2021)**
  - **Lead Sponsor:** Congressman Richard Neal of Massachusetts, Chairman of the House Committee on Ways and Means
  - **Endorsed by:** Fraternal Order of Police (FOP), International Association of Fire Fighters (IAFF), National Association of Police Organizations (NAPO), and National Sheriffs' Association (NSA)
  - Current beneficiaries (and those turning 62 before 2023) who are affected by the WEP due to their own public service work will receive an extra \$150 a month, starting nine months after enactment and continuing for as long as the eligible individuals are receiving Social Security benefits
  - Future retirees (those turning 62 in 2022 and later) will be eligible for a new benefit formula, called the Public Servant Protection (PSP) formula. The PSP formula calculates benefit amounts based on the proportion of lifetime earnings covered by Social Security



**Thank You**

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