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U.S. House of Representatives

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February 9, 2004

Fact Sheet on H.R. 743, the "Social Security Protection Act" *Returns to the Floor This Week*

Dear Democratic Colleague:

This week, H.R. 743, the "Social Security Protection Act of 2003," will return to the floor under a rule. The bill reflects a Senate amendment incorporating a bipartisan pre-conference agreement. Once it passes the House, it will go to the President for his signature.

H.R. 743 will better protect vulnerable Social Security beneficiaries and strengthen anti-fraud provisions. It also closes a so-called "loophole" in the Government Pension Offset (GPO). This change (contained in section 418) is objectionable to teachers in Texas.

This bill failed when it was first brought to the floor last year. Many Members voted "no" because they viewed taking up controversial legislation under suspension of the rules as an abuse of that procedure. When the bill returned to the floor on April 2, 2003 under a rule, it passed by a vote of 396-28.

In order to promote an informed vote, we have prepared the attached fact sheet. You may recall that Republicans characterized the previous "no" vote as a vote to allow fugitive felons to continue collecting Social Security (the bill bans such payments), and as a vote for "special interests" (since only a small group of workers, mainly in one state, is affected by section 418).

If you have questions, please do not hesitate to contact Kathryn Olson or Karlin McNeill of the Committee staff at x54021, or Andrea Palm of Rep. Matsui's staff at x57163.

Sincerely,



Charles B. Rangel
Ranking Democrat

Robert T. Matsui
Ranking Democrat,
Subcommittee on Social Security

Fact Sheet on H.R. 743 and the Government Pension Offset Exemption or “Loophole”

Bill Overview

H.R. 743 contains several dozen provisions to assist vulnerable beneficiaries and to prevent fraud. Highlights include:

- prohibits Social Security benefits from being paid to fugitive felons
- allows SSA to repay benefits that are misused by a beneficiary’s “representative payee” -- a person appointed by SSA to handle the benefits belonging to children, the mentally disabled and others who cannot manage their own financial affairs
- improves access to legal representation for claimants for Social Security and Supplemental Security Income (SSI) disability benefits, to better navigate the complex application process
- expands supportive services to disabled beneficiaries who are trying to return to work

The bill also eliminates an exemption from the Government Pension Offset (GPO) that is currently being used by teachers in Texas. A key change made in the pre-conference agreement was extending the effective date of this provision, to allow teachers retiring at the end of this school year to take advantage of existing law. Section 418 goes into effect on July 1, 2004 (that is, the teacher’s “last day” must occur before that date). The agreement also added a transition rule that will benefit some teachers.

The bill is supported by disability groups, the Social Security Inspector General, and AARP. The National Education Association and the American Federation of Teachers oppose section 418, but they are remaining neutral on final passage of H.R. 743 because of other improvements made to the bill, and will not be scoring the vote.

Background on Section 418, GPO Exemption Issue

In 2002, GAO identified an exemption to the GPO that it characterized as a “loophole.” It allows certain state and local government employees to avoid the Social Security GPO if, on their last day of employment, they work in a job that is covered by Social Security. However, this job must be part of the same pension plan as their career job. GAO noted that such a worker would pay very little FICA tax – in many cases, only a few dollars – and receive a large Social Security benefit increase.

The GPO is designed to treat workers who are not covered by Social Security (some federal, state and local government employees) the same as workers who are covered by Social Security and therefore pay FICA taxes. The GPO reduces Social Security spousal and widow(er) benefits for noncovered workers, in the same way that the “dual entitlement” rule reduces benefits for those who are covered by Social Security.

The bill adopts GAO’s recommendation to conform their treatment to that of federal employees, who must work 5 years in a public job covered by Social Security in order to be exempt from the GPO. It applies only prospectively, and will not affect benefits for those who have already used the exemption.

Those who favor retaining the existing one-day exemption believe that public employees deserve higher retirement benefits, that the potential to use the exemption is a useful recruiting tool, and that in the absence of repeal of the GPO itself the exemption should not be changed.

Who Can Benefit from the Exemption?

GAO could only find instances of use of the exemption in the Texas teachers’ retirement system