
FACILITATION OF SOCIAL SECURITY COVERAGE FOR STATE AND LOCAL EMPLOYEES UNDER CERTAIN RETIREMENT SYSTEMS IN SPECIFIED STATES

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Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 8821]

The Committee on Finance, to whom was referred the bill (H. R. 8821) to amend title II of the Social Security Act to facilitate the provision of social-security coverage for State and local employees under certain retirement systems, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

H. R. 8821 would amend title II of the Social Security Act, as amended in 1956, to expedite the completion of an old-age and survivors insurance coverage referendum in conjunction with the special provision of the Social Security Amendments of 1956 which permits certain specified States to divide a retirement system for purposes of extending old-age and survivors insurance coverage to those members of the system who desire coverage. Under present law, after a retirement system in any of the specified States has been divided between those members who desire old-age and survivors insurance coverage and those who do not, a referendum must be conducted among the members who indicated a desire for coverage before their coverage can be effected. H. R. 8821 would permit the specified States to provide this coverage without a subsequent coverage referendum for those retirement system members desiring coverage, provided certain safeguards, similar to those applying under the existing referendum provisions, were followed in the process of dividing the system into the two parts.

EXPLANATION OF AMENDMENT

The Social Security Amendments of 1956 included a provision permitting the States of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, and the Territory of Hawaii to divide a State or local government retirement system into 2 parts for purposes of old-age and survivors insurance coverage, 1 part to consist of the positions of members who desire coverage and the other to consist of the positions of members who do not desire coverage. Services performed by the members in the part consisting of the positions of members who desire coverage may then be covered under old-age and survivors insurance under the regular referendum procedure; and once this is done, the services of all persons who in the future become members of the retirement system must also be covered.

H. R. 8821 is intended to overcome certain problems that have arisen in carrying out the requirements in present law. Although the Federal law does not prescribe the procedure a State must follow in dividing a retirement system, your committee understands that at least one State has required a separate 90-day notice to retirement-system members before a retirement system is divided; this requirement is in addition to the requirement in the Social Security Act that there be a 90-day notice before the regular coverage referendum is held. Even in those States where no appreciable advance notice is necessary before a retirement system can be divided, the process of dividing the system may be time consuming. Since the time needed for this process is in addition to the 90 days' notice which the Social Security Act requires for the regular coverage referendum, social security coverage may be delayed, with the result that some of the employees involved may fail to obtain old-age and survivors insurance protection. In addition, it would not appear necessary to require that a second vote be conducted if one, with adequate safeguards, has already been conducted.

H. R. 8821 would remedy these problems by permitting the specified States to provide coverage without a regular coverage referendum for those retirement-system members who have already chosen to be included in that part of the retirement system made up of the positions of members desiring old-age and survivors insurance coverage. The new, shorter procedure would be available, however, only if certain safeguards, similar to those included in the regular referendum provisions, were observed in connection with the division of the system into two parts. Thus, the governor would need to certify that (1) an opportunity to vote by written ballot on the question of whether they wish to be covered by old-age and survivors insurance was given to all individuals who were members of such system at the time the vote was held, (2) not less than 90 days' notice of such vote was given to all individuals who were members on the date the notice was issued, (3) the vote was conducted under the supervision of the governor or a designated agency or individual, and (4) the retirement system was divided into two parts in accordance with the existing Social Security Act provisions on this matter.

The provisions of the bill would be effective upon enactment. Consequently, if a State was in the process of dividing a retirement system before the enactment date and was doing so in such a manner as to meet the requirements set forth in the bill, the State could

apply these provisions with no regular coverage referendum being required. On the other hand, a State that has already made plans for dividing a retirement system under the provisions of present law could proceed as planned if it wished, dividing the system first, then holding a referendum with respect to the part consisting of the positions of members who desire coverage. This longer procedure would continue to be available for States that wished to use it in the future.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

SECTION 218 (d) OF THE SOCIAL SECURITY ACT

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

Purpose of Agreement

SEC. 218. (a) (1) * * *

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Positions Covered by Retirement Systems

(d) (1) No agreement with any State may be made applicable (either in the original agreement or by any modification thereof) to any service performed by employees as members of any coverage group in positions covered by a retirement system either (A) on the date such agreement is made applicable to such coverage group, or (B) on the date of enactment of the succeeding paragraph of this subsection (except in the case of positions which are, by reason of action by such State or political subdivision thereof, as may be appropriate, taken prior to the date of enactment of such succeeding paragraph, no longer covered by a retirement system on the date referred to in clause (A), and except in the case of positions excluded by paragraph (5) (A)). The preceding sentence shall not be applicable to any service performed by an employee as a member of any coverage group in a position (other than a position excluded by paragraph (5) (A)) covered by a retirement system on the date an agreement is made applicable to such coverage group if, on such date (or, if later, the date on which such individual first occupies such position), such individual is ineligible to be a member of such system.

(2) It is hereby declared to be the policy of the Congress in enacting the succeeding paragraphs of this subsection that the protection afforded employees in positions covered by a retirement system on the date of an agreement under this section is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

(3) Notwithstanding paragraph (1), an agreement with a State may be made applicable (either in the original agreement or by any modification thereof) to service performed by employees in positions covered by a retirement system (including positions specified in paragraph (4) but not including positions excluded by or pursuant to paragraph (5)), if the governor of the State certifies to the Secretary of Health, Education, and Welfare that the following conditions have been met:

(A) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be excluded from or included under an agreement under this section;

(B) An opportunity to vote in such referendum was given (and was limited) to eligible employees;

(C) Not less than ninety days' notice of such referendum was given to all such employees;

(D) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(E) A majority of the eligible employees voted in favor of including service in such positions under an agreement under this section.

"An employee shall be deemed an "eligible employee" for purposes of any referendum with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system, and if he was in such a position at the time notice of such referendum was given as required by clause (C) of the preceding sentence; except that he shall not be deemed an "eligible employee" if, at the time the referendum was held, he was in a position to which the State agreement already applied, or if he was in a position excluded by or pursuant to paragraph (5). No referendum with respect to a retirement system shall be valid for purposes of this paragraph unless held within the two-year period which ends on the date of execution of the agreement or modification which extends the insurance system established by this title to such retirement system, nor shall any referendum with respect to a retirement system be valid for purposes of this paragraph if held less than one year after the last previous referendum held with respect to such retirement system.

(4) For the purposes of subsection (c) of this section, the following employees shall be deemed to be a separate coverage group—

(A) all employees in positions which were covered by the same retirement system on the date the agreement was made applicable to such system (other than employees to whose services the agreement already applied on such date);

(B) all employees in positions which became covered by such system at any time after such date; and

(C) all employees in positions which were covered by such system at any time before such date and to whose services the insurance system established by this title has not been extended before such date because the positions were covered by such retirement system (including employees to whose services the agreement was not applicable on such date because such services were excluded pursuant to subsection (c) (3) (C)).

(5) (A) Nothing in paragraph (3) of this subsection shall authorize the extension of the insurance system established by this title to service in any policeman's or fireman's position.

(B) At the request of the State, any class or classes of positions covered by a retirement system which may be excluded from the agreement pursuant to paragraph (3) or (5) of subsection (c), and to which the agreement does not already apply, may be excluded from the agreement at the time it is made applicable to such retirement system; except that, notwithstanding the provisions of paragraph (3) (C) of such subsection, such exclusion may not include any services to which such paragraph (3) (C) is applicable. In the case of any such exclusion, each such class so excluded shall, for purposes of this subsection, constitute a separate retirement system in case of any modification of the agreement thereafter agreed to.

(6) If a retirement system covers positions of employees of the State and positions of employees of one or more political subdivisions of the State, or covers positions of employees of two or more political subdivisions of the State, then, for purposes of the preceding paragraphs of this subsection, there shall, if the State so desires, be deemed to be a separate retirement system with respect to any one or more of the political subdivisions concerned and, where the retirement system covers positions of employees of the State, a separate retirement system with respect to the State or with respect to the State and any one or more of the political subdivisions concerned. If a retirement system covers positions of employees of one or more institutions of higher learning, then, for purposes of such preceding paragraphs there shall, if the State so desires, be deemed to be a separate retirement system for the employees of each such institution of higher learning. For the purposes of this paragraph, the term "institutions of higher learning" includes junior colleges and teachers colleges. For the purposes of this subsection, any retirement system established by the State of Florida, Georgia, New York, North Dakota, Pennsylvania, Tennessee, Washington, Wisconsin, or the Territory of Hawaii, or any political subdivision of any such State or Territory, which, on, before, or after the date of enactment of this sentence is divided into two divisions or parts, one of which is composed of positions of members of such system who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who do not desire such coverage, shall, if the State or Territory so desires and if it is provided that there shall be included in such division or part composed of members desiring such coverage the positions of individuals who become members of such system after such coverage is extended, be deemed to be a separate retirement system with respect to each such division or part. The position of any individual which is covered by any retirement system to which the preceding sentence is applicable shall, if such individual is ineligible to become a member of such system on the date of enactment of such sentence or, if later, the day he first occupies such position, be deemed to be covered by the separate retirement system consisting of the positions of members of the division or part who do not desire coverage under the insurance system established under this title. For the purposes of this subsection, in the case of any retirement system of the State of Florida, Georgia, Minnesota, North Dakota, Pennsylvania, Washington, or the Territory of Hawaii which covers positions of

employees of such State or Territory who are compensated in whole or in part from grants made to such State or Territory under title III, there shall be deemed to be, if such State or Territory so desires, a separate retirement system with respect to any of the following: (A) the positions of such employees; (B) the positions of all employees of such State or Territory covered by such retirement system who are employed in the department of such State or Territory in which the employees referred to in clause (A) are employed; or (C) employees of such State or Territory covered by such retirement system who are employed in such department of such State or Territory in positions other than those referred to in clause (A)).

(7) *The certification by the governor required under paragraph (3) shall be deemed to have been made, in the case of a division or part (created under the fourth sentence of paragraph (6)) consisting of the positions of members of a retirement system who desire coverage under the agreement under this section, if the governor certifies to the Secretary of Health, Education, and Welfare that—*

(A) an opportunity to vote by written ballot on the question of whether they wish to be covered under an agreement under this section was given to all individuals who were members of such system at the time the vote was held;

(B) not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;

(C) the vote was conducted under the supervision of the governor or an agency or individual designated by him; and

(D) such system was divided into two parts or divisions in accordance with the provisions of the fourth and fifth sentences of paragraph (6).

For purposes of this paragraph, an individual in a position to which the State agreement already applied or in a position excluded by or pursuant to paragraph (5) shall not be considered a member of the retirement system.

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