

SOCIAL SECURITY COVERAGE FOR CERTAIN STATE AND
LOCAL GOVERNMENTAL EMPLOYMENT

AUGUST 13, 1957.—Ordered to be printed

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

REPORT

[To accompany H. R. 8755]

The Committee on Finance, to whom was referred the bill (H. R. 8755) to amend title II of the Social Security Act to permit any instrumentality of two or more States to obtain social security coverage under its agreement separately for those of its employees who are covered by a retirement system and who desire such coverage, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

GENERAL STATEMENT

H. R. 8755, as approved by the House and by your committee, would amend title II of the Social Security Act, as amended in 1956, to make applicable to all interstate instrumentalities the provision of present law which permits specified States to divide a retirement system into two parts and provide social security coverage for the part consisting of the positions of those employees who desire such coverage. Your committee has added an amendment designed to make sure that this provision will, to the extent practicable, be applicable to interstate instrumentalities on the same basis as it applies to the specified States.

The House-approved bill would permit coverage obtained under the provisions in the bill to be made effective any time after December 31, 1955, if the coverage agreement or modification is entered into prior to 1959. Your committee would substitute for this provision a more general retroactive coverage provision—one applicable to coverage agreements and modifications pertaining to service performed for a State or any of its political subdivisions as well as those pertaining to service performed for an interstate instrumentality. Under the provision in your committee's bill, a coverage agreement or modification could be made effective any time after December 31, 1955, if the agreement or modification is entered into prior to 1960.

Your committee has also added to the bill a provision which would make applicable to the States of Alabama, Georgia, New York, and Tennessee the provision in present law which permits five specified States to extend old-age and survivors insurance coverage (under their agreements with the Secretary of Health, Education, and Welfare) to services performed by employees of any such State (or of any political subdivision thereof) in any policeman's or fireman's position covered by a State or local retirement system.

EXPLANATION OF COVERAGE EXTENSIONS

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 two parts for purposes of old-age and survivors insurance coverage, one 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; and once these services are covered, the services of all persons who in the future become members of the retirement system must also be covered.

Problems have arisen because this provision is not applicable to interstate instrumentalities. For example, where employees of an interstate instrumentality are covered under a retirement system of any one of the nine States specified in the provision, members of the system who are employees of the interstate instrumentality cannot be accorded the same treatment as those who are State employees. H. R. 8755 would alleviate these problems, and would at the same time facilitate the extension of old-age and survivors insurance coverage to employees of an interstate instrumentality of two or more States who are members of a retirement system of such instrumentality, or of any such States or subdivisions thereof, by extending to these instrumentalities the above-described provision which permits retirement system members who desire coverage to be covered without requiring other members of the system to be covered. Your committee has added an amendment to the House-approved bill designed to make sure that this provision will, to the extent practicable, be applicable to interstate instrumentalities on the same basis as it applies to the specified States.

The Social Security Amendments of 1954, which made old-age and survivors insurance coverage available to most members of State or local government retirement systems, continued the exclusion of services in policemen's and firemen's positions covered by such systems. Under a provision of the Social Security Amendments of 1956, coverage was made available for services in such positions in five specified States (Florida, North Carolina, Oregon, South Carolina, and South Dakota) which had requested this coverage. As in the case of other employees who are members of a State or local retirement system, the services of policemen and firemen in the specified States may be covered only through agreements between the States and the Department of Health, Education, and Welfare, and only upon a favorable referendum vote by the retirement-system members.

Your committee has been requested to remove the bar to coverage of policemen and firemen covered by a State or local retirement system in the States of Alabama, Georgia, New York, and Tennessee. While recognizing that old-age and survivors insurance legislation applying only to certain States has disadvantages, your committee believes that old-age and survivors insurance coverage for policemen and firemen should be made available at this time in the four additional States that have expressly asked to be included under this provision. Existing law provides adequate assurance that old-age and survivors insurance coverage will be extended only to groups of policemen or firemen who want such coverage. Under the present referendum provisions of the Social Security Act, members of a State or local government retirement system group have a voice in any decision to cover them under old-age and survivors insurance. In addition, existing law contains a declaration that it is the policy of the Congress that the protection afforded members of a State or local government retirement system not be impaired as a result of the extension of old-age and survivors insurance coverage to members of the system.

POSTPONEMENT OF DEADLINE FOR OBTAINING RETROACTIVE COVERAGE

Under a provision enacted in 1954, old-age and survivors insurance coverage provided under an agreement between a State and the Department of Health, Education, and Welfare can take effect as early as January 1, 1955, if the coverage is agreed to before January 1, 1958. These retroactive coverage provisions were intended to give States time to enact legislation needed to permit members of State and local government retirement systems to be brought under old-age and survivors insurance, and to otherwise make arrangements for such coverage. It now appears that the present provisions will not afford sufficient time for many States to take the action necessary to provide retroactive coverage for prior years, particularly under the special provisions enacted in 1956 which apply to specified States.

The House-approved bill would have provided additional time for this retroactive coverage to be arranged in the case of groups whose coverage would be made possible by that bill. While there would be a particular need for additional time in the case of these groups, your committee believes that the extension of time during which retroactive coverage can be provided under a coverage agreement or modification should be made applicable to service performed in the employ of State and local governments generally, as well as to service performed in the employ of interstate instrumentalities. The amendment approved by your committee would therefore extend the period within which the coverage provided under an agreement or modification may be made retroactive irrespective of whether the service covered is performed in the employ of a State (or a political subdivision thereof) or in the employ of an interstate instrumentality. This period would be extended for 2 years (through 1959), whereas the House-approved bill would have provided a 1-year extension (through 1958) applicable only to coverage agreements and modifications pertaining to services to which the provisions of that bill applied.

Your committee believes that a 1-year extension might not be long enough to permit coverage for all groups wishing to come under old-age and survivors insurance under the present provisions of law. A 2-year extension would, of course, be especially needed for any groups

obtaining coverage under legislation enacted this year. The fact that most State legislatures ordinarily meet only in odd-numbered years has an important bearing here. A State must enact enabling legislation before it can bring groups of employees under old-age and survivors insurance. In some States such legislation has not been enacted; in others, the enabling legislation already enacted may require amendment in order to enable the States to take advantage of amendments to the Federal law which may be enacted this year.

While, as indicated above, it is possible under present law for coverage provided under a State agreement to take effect as early as January 1, 1955, your committee has provided that coverage for the employees affected shall begin no earlier than January 1, 1956. In 1954, when January 1, 1955, was fixed as the earliest date for retroactive coverage under the provisions applicable to State and local government employees, coverage on or before this date was necessary in order to minimize the adverse effect on old-age and survivors insurance protection that might result due to late entry into coverage. As a result of provisions enacted in 1956, however, coverage beginning January 1, 1956, generally speaking, now minimizes the adverse effect of late entry into coverage to the same extent as did coverage beginning January 1, 1955, at the time the 1954 provisions were enacted.

Accordingly, your committee's bill provides that an agreement or modification extending old-age and survivors insurance coverage to service performed in the employ of any State (or any political subdivision thereof) or in the employ of any interstate instrumentality could be made effective as early as January 1, 1956, if the coverage agreement or modification is entered into prior to 1960.

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 italics; existing law in which no change is proposed is shown in roman):

SECTION 218 (f), (k), AND (p) 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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Effective Date of Agreement

(f) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that—

(1) in the case of an agreement or modification agreed to prior to 1954, such date may not be earlier than December 31, 1950;

(2) in the case of an agreement or modification agreed to after 1954 but prior to 1958, such date may not be earlier than December 31, 1954; [and]

(3) in the case of an agreement or modification agreed to after 1957 but prior to 1960, such date may not be earlier than December 31, 1955; and

[(3)] (4) in the case of an agreement or modification agreed to during 1954 or after [1957] 1959, such date may not be earlier than the last day of the calendar year preceding the year in which such agreement or modification, as the case may be, is agreed to by the Secretary of Health, Education, and Welfare and the State.

Instrumentalities of Two or More States

(k) (1) The Secretary of Health, Education, and Welfare may, at the request of any instrumentality of two or more States, enter into an agreement with such instrumentality for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such instrumentality. Such agreement, to the extent practicable, shall be governed by the provisions of this section applicable in the case of an agreement with a State.

(2) In the case of any instrumentality of two or more States, if—

(A) employees of such instrumentality are in positions covered by a retirement system of such instrumentality or of any of such States or any of the political subdivisions thereof, and

(B) such retirement system is (on, before, or after the date of enactment of this paragraph) divided into two divisions or parts, one of which is composed of positions of members of such system who are employees of such instrumentality and who desire coverage under an agreement under this section and the other of which is composed of positions of members of such system who are employees of such instrumentality and who do not desire such coverage, and

(C) it is provided that there shall be included in such division or part composed of the positions of members desiring such coverage the positions of employees of such instrumentality who become members of such system after such coverage is extended,

then such retirement system shall, if such instrumentality so desires, be deemed to be a separate retirement system with respect to each such division or part. The position of any employee of any such instrumentality 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 this paragraph 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. Services in positions covered by a separate retirement system created pursuant to this subsection (and consisting of the positions of members who desire coverage under an agreement under this section) shall be covered under such agreement on compliance, to the extent practicable, with the same conditions as are applicable to coverage under an agreement under this section of services in positions covered by a separate retirement system created pursuant to the fourth sentence of subsection (d) (6) (and consisting of the positions of members who desire coverage under such agreement).

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Policemen and Firemen in Certain States

(p) Any agreement with the State of *Alabama*, *Florida*, *Georgia*, *New York*, *North Carolina*, *Oregon*, *South Carolina*, **[or]** *South Dakota*, or *Tennessee*, entered into pursuant to this section prior to the date of enactment of this subsection may, notwithstanding the provisions of subsection (d) (5) (A) and the references thereto in subsections (d) (1) and (d) (3), be modified pursuant to subsection (c) (4) to apply to service performed by employees of such State or any political subdivision thereof in any policeman's or fireman's position covered by a retirement system in effect on or after the date of the enactment of this subsection, but only upon compliance with the requirements of subsection (d) (3). For the purposes of the preceding sentence, a retirement system which covers positions of policemen or firemen, or both, and other positions shall, if the State concerned so desires, be deemed to be a separate retirement system with respect to the positions of such policemen or firemen, or both, as the case may be.

