

## OASDI COVERAGE OF POLICEMEN AND FIREMEN IN TEXAS; RETIREMENT SYSTEM IN MAINE

JUNE 16 (legislative day, MARCH 30), 1964.—Ordered to be printed

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

### R E P O R T

[To accompany H.R. 3348]

The Committee on Finance, to whom was referred the bill (H.R. 3348) to amend section 316 of the Social Security Amendments of 1958 to extend the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### GENERAL STATEMENT

Section 1 of H.R. 3348 reinstates a provision of law which permitted the State of Maine to treat teaching and nonteaching employees who are actually in the same retirement system as though they were under separate retirement systems for social security coverage purposes. The original provision, enacted as part of the Social Security Amendments of 1958, expired on June 30, 1960. The Social Security Amendments of 1960 reopened the provision until July 1, 1961. H.R. 3348 would reopen the provision until July 1, 1965. Section 2 of the bill amends title II of the Social Security Act to include Texas among the States which may obtain social security coverage, under State agreement, for State and local policemen and firemen under retirement systems.

#### EXPLANATION OF PROVISIONS

##### *1. Retirement systems in the State of Maine*

Section 1 amends section 316 of the Social Security Amendments of 1958 to reopen such section until July 1, 1965, thereby extending

to that date the time during which the State of Maine may modify its existing agreement under section 218 of the Social Security Act to provide that a retirement system covering positions of teachers and positions of other employees will be considered a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees for social security coverage purposes. The bill would merely reopen, for a limited time, an expired provision of the law, and permit the State of Maine to complete the desired extensions of coverage.

### *2. Policemen and firemen under retirement systems in Texas*

Section 2 would make applicable to the State of Texas the provision in section 218 of the Social Security Act which presently permits 18 specified States and all interstate instrumentalities to extend 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 retirement system of a State or local government. The 18 States in which policemen and firemen covered by a State or local retirement system are now permitted to come under the old-age, survivors, and disability insurance program are Alabama, California, Florida, Georgia, Hawaii, Kansas, Maine, Maryland, New York, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Vermont, Virginia, and Washington.

Under this provision, groups of policemen and firemen could be brought under coverage only if the State specifically requests that its coverage agreement with the Secretary of Health, Education, and Welfare be modified to provide such coverage. Further, such coverage would have to be in accord with both Federal and State law.

The Federal law provides two methods of extending coverage which the State may, if it desires, use in providing coverage for State and local government employees. Both methods are applicable to Texas, and both give members of a State or local government retirement system group a voice in any decision to cover them under old-age, survivors, and disability insurance. Under one method, coverage is extended to all members of a retirement system coverage group upon a favorable majority vote of the group. Under the other method, coverage is extended to only those current members of the retirement system group who desire coverage, with all future members of the group covered compulsorily. Thus, the Federal law is completely permissive; the State can decide whether or not to extend social security coverage to retirement system members.

In addition, coverage cannot be extended to State and local government employees unless it is authorized under the State law—the legislation which governs the State in acting under its coverage agreement with the Secretary of Health, Education, and Welfare. The enabling legislation of the State of Texas, as originally approved in 1951, would have permitted (so far as the State law is concerned) the coverage of the services of all State and local government employees (including policemen and firemen) except service which is covered under social security in the absence of a Federal-State coverage agreement and service which may not be included in such an agreement. Your committee also has been informed that the State of

Texas has recently amended the State enabling legislation to prohibit social security coverage of policemen under retirement systems in cities with a population of 250,000 or more.

Your committee recommends enactment of this bill.

DEPARTMENTAL REPORT

The report of the Department of Health, Education, and Welfare, expressing no opposition to enactment of this bill follows:

DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE,  
*Washington, June 8, 1964.*

HON. HARRY F. BYRD,  
*Chairman, Committee on Finance,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of May 4, 1964, for a report on H.R. 3348, a bill to amend section 316 of the Social Security Amendments of 1958 to extend the time within which teachers and other employees covered by the same retirement system in the State of Maine may be treated as being covered by separate retirement systems for purposes of the old-age, survivors, and disability insurance program.

The bill would reinstate a provision of law which permitted the State of Maine to treat teachers and nonteaching employees who are actually in the same retirement system as though they were under separate retirement systems for social security coverage purposes. The original provision, enacted on August 28, 1958, as part of the Social Security Amendments of 1958, expired on June 30, 1960. The Social Security Amendments of 1960 reopened the provision until July 1, 1961. H.R. 3348 would reopen the provision until July 1, 1965. The bill would also extend to the State of Texas the provision in present law which makes social security coverage available in 18 States and in all interstate instrumentalities to policemen and firemen who are under retirement systems.

We believe that special provisions applying only to a named State or States should be avoided insofar as it is possible since such legislation tends to nullify the effect of the general provisions of the law and complicates administration of the law. However, in the case of Maine, the objections to special legislation are somewhat mitigated by the fact that the proposed legislation would merely reopen, for a limited time, an expired provision of the law, rather than establish a new type of special provision. Apparently the State of Maine did not complete all of the desired extensions of coverage under the provision before it expired on June 30, 1961; thus the objectives of the original legislation were not accomplished. Because of these considerations we would not oppose the limited reinstatement of this special provision as proposed by H.R. 3348.

In the case of Texas, the effect of the bill would be to broaden an existing provision rather than to add a new provision to the law. While we recommend that the committee give consideration to making social security coverage available to policemen and firemen under retirement systems in all States, we would not object to the addition of Texas to the list of States which are permitted to cover policemen and firemen under retirement systems.

For the reasons given, we would not oppose the enactment of H.R. 3348.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ANTHONY J. CELEBREZZE, *Secretary.*

#### 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(p) OF THE SOCIAL SECURITY ACT

##### Policemen and Firemen in Certain States

(p) Any agreement with the State of Alabama, California, Florida, Georgia, Hawaii, Kansas, Maine, Maryland, New York, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, *Texas*, Vermont, Virginia, or Washington 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 subsection (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.

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#### SECTION 316 OF THE SOCIAL SECURITY AMENDMENTS OF 1958

##### Teachers in the State of Maine

SEC. 316. For the purposes of any modification which might be made after the date of enactment of this Act and prior to July 1, [1961,] 1965, by the State of Maine of its existing agreement made under section 218 of the Social Security Act, any retirement system of such State which covers positions of teachers and positions of other employees shall, if such State so desires, be deemed (notwithstanding the provisions of subsection (d) of such section) to consist of a separate retirement system with respect to the positions of such teachers and a separate retirement system with respect to the positions of such other employees; and for the purposes of this sentence, the term "teacher" shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory.