

TESTIMONY

of

Priya Sara Mathur

**Elected Member, Board of Administration
California Public Employees' Retirement System (CalPERS)**

and

**Member of Local 3993 of the
American Federation of State, County and Municipal Employees
(AFSCME)**

before the

Subcommittee on Social Security, Pensions and Family Policy

Committee on Finance

U.S. Senate

on

**GPO and WEP: Policies Affecting Pensions
from Work Not Covered by Social Security**

November 6, 2007

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Good afternoon, Mr. Chairman, Senator Ensign and members of the Subcommittee. I am Priya Mathur, an elected member of the Board of Administration of the California Public Employees' Retirement System (CalPERS) and a member of the American Federation of State, County and Municipal Employees (AFSCME), Local 3993 in Oakland, California. I appreciate the opportunity to be here today to testify on behalf of CalPERS and AFSCME on the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP): two policies affecting pensions from work not covered by Social Security.

As background, CalPERS is the largest public pension system in the nation, managing pension and health benefits for approximately 1.5 million California public employees, retirees, and their families. As of June 30, 2007, we provided benefits to 1,086,900 active and inactive workers and 455,208 retirees. CalPERS membership is divided approximately in thirds among current and retired employees of the state, schools, and participating California public agencies, including cities, counties and special districts.

AFSCME is the largest union for workers in the public service with 1.6 million working and retiree members nationwide. AFSCME represents a diverse group of employees who work for federal, state, and local governments, health care institutions and non-profit agencies.

Since the subject of today's hearing is relevant to those CalPERS members who are not covered by Social Security, it is important to note that approximately 36 percent of CalPERS active members are not covered by Social Security. Coverage levels for miscellaneous members vary among the state, schools and public agency member groups. Approximately two-thirds of state miscellaneous employees are covered by Social Security, as are nearly all school miscellaneous employees. However, less than half of public agency miscellaneous employees are covered. Perhaps more notable is the fact that very few safety members – predominately our police officers, firefighters and correctional officers – are currently covered by Social Security. No state and school safety members are covered and only 8.5 percent of public agency safety members are covered. Attached to my testimony is a chart showing the exact breakdown of the number of covered and non-covered active CalPERS members.

CalPERS and AFSCME are strong supporters of the Social Security system and are troubled that the benefits of many of our members are unfairly reduced through the arbitrary application of two laws, the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).

Government Pension Offset

Let me start by sharing our views and experiences with the GPO, a federal law that has had a devastating effect on many Americans. The GPO applies to nearly everyone receiving a public pension from work not covered by Social Security. If the public pensioner is also eligible for a Social Security spouse or widow's benefit, this law requires that the benefit be offset – or reduced – by an amount equal to two-thirds of the public pension.

Over 400,000 retired federal, state and local government employees have already been affected by the GPO. For the great majority, the GPO completely eliminates the Social Security spousal benefit. The remainder experience a dramatic benefit reduction. Thousands more will be affected in the future.

The GPO disproportionately impacts low-wage workers, particularly women. AFSCME and CalPERS often hear panicked concerns about the GPO from our retirees. Most come from retirees with modest pensions, particularly those retired from relatively low paying occupations, such as school custodians, nurses' aides and clerical workers. Many of these employees retire after a full-length career, but may have worked only a 30-hour week. Others may have had less than a full career – say 15 or 20 years following child rearing or divorce. Most of those adversely affected are women who began their careers expecting to retire with both a public pension and a Social Security spousal benefit. It's a frightful shock when they realize that they will not receive a much needed portion of their expected retirement income.

According to current law, retirees cannot receive a Social Security benefit based on their own work record and also receive a full spouse or widow's benefit. Rather, they can only collect the larger of the two. This is commonly referred to as the "dual entitlement" rule. For the purpose of the GPO, Congress made a determination in 1983 to arbitrarily equate two-thirds of a public pension (earned from work not covered by Social Security) with a Social Security earned benefit. The GPO essentially applies the dual entitlement rule to this portion of the pension and equates the remaining one-third portion of the public pension to a private pension benefit.

Our experience shows that this formula is capricious and the reasoning behind it faulty because it ignores the generally large contributions made to public pensions by both employers and their employees. In jurisdictions that don't participate in Social Security, the average total contribution to a public pension can amount to 21 percent of pay or more, compared to a much lower total of only 12.4 percent under Social Security. This disparity is important because, unlike *private* pensioners whose pension plans are generally financed solely by employers, public pensioners typically put in more than half of the total pension contribution. Most private pensioners only pay into Social Security, yet they can receive a full pension AND a full Social Security benefit, with no offset of any kind. In effect, public pensioners are penalized for their contribution to their own retirement.

But this is only one example of unfair and unequal treatment under the GPO. Consider taxes. A public retiree's entire pension is subject to federal income tax – including the part that is deemed equivalent to Social Security. Most Social Security benefits, however, are tax-free. So, the public retiree is effectively hit twice – once with taxes and again with the GPO. It's simply not right.

When the GPO was first enacted, Congress thought many public retirees were getting multiple government pensions, leading to higher incomes in retirement than they had while working. The truth is – very few AFSCME or CalPERS retirees fit this description. I'd like to share some typical examples with you -- Annette Williams, an AFSCME retiree member and a pensioner in the Los Angeles City Employees Retirement System and Mary Ferreira, a retired City of Fremont employee who receives a CalPERS pension. I doubt you would confuse them with the legendary “double and triple dippers.”

Annette retired in 2003 from her job as a clerical worker employed by the City of Los Angeles. She'd never heard of the GPO and thought she'd be able to collect a Social Security widow's benefit based on the work record of her deceased husband. But she had a rude awakening. She found out that applying the GPO's two-thirds offset to her \$1,300 pension would completely eliminate her Social Security widow's benefit of \$812 a month.

The reduction was hard for her to understand. She knew that, as a city employee, she'd contributed the same percent of earnings into her pension as a private-sector worker contributes to Social Security. She knew that most private sector workers contribute nothing to their pension funds, which are financed by employers. And she knew that her own employer had made a substantial contribution to her pension – putting in as much as 16 and a half percent of payroll in any given year. She also knew that if she'd never worked a day, she'd be entitled to a full widow's benefit from Social Security. It seemed so unfair.

Mary Ferreira is another example of someone who feels she has been treated unfairly under the GPO. When her husband died she expected to receive half of his \$805 monthly Social Security benefit. Instead, her CalPERS pension of \$1,378.00 a month completely eliminated her Social Security widow's benefit.

But the financial situation worsened for both women. They learned that they would not only lose their widows' benefits under GPO, but would also come under a second Social Security offset known as the Windfall Elimination Provision.

Windfall Elimination Provision

Like the GPO, the WEP also affects individuals receiving public pensions from work not covered by Social Security. When the public pensioner also worked in a Social Security-covered job for at least a decade, the WEP creates a public pension offset that can greatly reduce that person's earned Social Security benefit. The maximum reduction in 2007 is \$340.00 a month. Over 700,000 retired federal, state and local government employees are currently affected by the WEP. That number grows by about 60,000 retirees each year.

Under the WEP, part of a retiree's public pension (from non-covered employment) is considered equivalent to a Social Security benefit. And, Social Security won't let retirees collect two full benefits. So, instead of Social Security's normal benefit formula, WEP retirees' benefits are calculated using a modified formula.

Theoretically, the WEP was created by Congress as a way to distinguish between low-wage workers and those who only *appear* to have had low-wage careers. The second category

comprises workers who qualify for good pensions from *primary jobs* in the public sector that pay them well but do not cover them under Social Security; these workers also have *secondary jobs* in the private sector, at low-wages or short hours, but with Social Security coverage. The problem comes when the Social Security benefit formula is applied to their covered earnings, which makes them appear to be low-wage earners. That matters in figuring benefits because Social Security's benefit formula is weighted in favor of those who had low earnings throughout their work lives.

Congressional supporters of WEP believe that public employees with secondary jobs are getting an unfair advantage from the weighted Social Security benefit formula, which was designed to give low-wage workers a decent income upon retirement. But this is a faulty assumption. In reality, the Social Security Administration (SSA) does not determine what a public employee has earned in *total wages*. So, SSA does not know whether these workers are actually high earners or low earners, but treats them all as high earners. Nevertheless, SSA indiscriminately treats all workers receiving both a public pension and Social Security benefits as high earners. The WEP creates a totally arbitrary penalty that's especially unfair because these workers pay the same percentage in payroll contributions on their Social Security-covered earnings as all others. Why should they be penalized by this unfair statutory provision?

Annette Williams worked in a grocery store for several years before she joined the City of L.A. She paid into Social Security all those years, but lost much of her earned benefit due to the WEP. So she experienced a double whammy. Her own Social Security benefit was reduced by the WEP and her survivor benefit was eliminated by the GPO.

Before I close, I'd like to make one more important point. In the opinion of AFSCME and CalPERS, the problems with the GPO and WEP in no way justify consideration of mandatory Social Security coverage in the public sector.

When Social Security was established in 1935, states, cities, counties and other public entities were excluded from participation, and today, approximately 6.6 million state and local government employees do not participate in the Social Security system. These workers are currently covered under public pension plans that were designed to replace Social Security's basic retirement and disability protections as well as provide a basic pension benefit. And, a recent report by the U. S. Government Accountability Office to your full Committee documents that the vast majority of these plans are well funded and actuarially sound.

Furthermore, the Omnibus Budget Reconciliation Act (OBRA) of 1990 has already ensured that any temporary, part-time or seasonal employee not covered by one of these public plans be included in Social Security. As a result, basic pension protections are in place for all American workers – in both the private *and* public sectors. So, there is no need to mandate Social Security coverage in an effort to protect workers' interests.

On the contrary, mandated Social Security coverage would have serious negative implications for public employees, their employers, and their pension plans, and this is true even if the coverage applies only to future hires. Among the adverse consequences are the huge expenses that would be involved for workers and employers whose combined current pension plan contributions total, in many cases, 21 to 23 percent of payroll.

Also attached to my testimony is another table which provides estimated additional costs for non-covered CalPERS members. The table shows the overwhelming cost of mandating Social Security coverage and that approximately 30 percent of the CalPERS cost impact would accrue to the State members and employer; 67 percent would accrue to the local government agency members and employers, and approximately two and a half percent to school members and employers.

We are also concerned about the possible establishment of new tiers of pension benefits, with lower benefits for the newly hired. This would destabilize pension plan finances for current participants and could lead to new taxes or cuts in public services in order to maintain plan solvency. Raising taxes or cutting services would, of course, also negatively impact the general public in a major way. While mandatory coverage creates much hardship, it would do little to help shore up the Social Security Trust Fund for the long-term. Mandated coverage adds only two years to the solvency of the trust fund, and in the long run, it could actually cost the system more, as new participants become eligible for Social Security benefits.

Any short-term financial gains for Social Security must be weighed against the effect it would have on the retirement security of others. AFSCME, in conjunction with the Coalition to Preserve Retirement Security (CPRS) – a national coalition of which CalPERS is a founding member – has studied this issue very carefully. We even commissioned a report by the Segal Company, an actuarial consulting firm, which outlines the costs and other problems associated with mandatory Social Security coverage for *all* public employees. The Segal Company report is attached to my testimony.

Conclusion

Simply stated, mandatory coverage would negatively affect the financing of many state and local government pension plans and would adversely affect the retirement security of hundreds of thousands of public sector workers.

Reforming the GPO and WEP makes far more sense. Because we think the GPO and WEP unfairly penalize average public sector retirees, both AFSCME and CalPERS strongly support S. 206, the bill sponsored by Senators Feinstein and Collins, to repeal both the GPO and WEP. We look forward to working with the Committee to finally rectify the arbitrary and unwarranted penalties to retired public sector workers.

Thank you again for the opportunity to appear here today.

CalPERS Active Employee Social Security Coverage
June 30, 2007

Total Actives	Miscellaneous		Safety		Total	
State	174,432	24.93%	72,855	59.32%	247,287	30.06%
Schools	311,189	44.47%	546	0.44%	311,735	37.90%
Public Agency	214,185	30.61%	49,417	40.24%	263,602	32.04%
Total	699,806	100.00%	122,818	100.00%	822,624	100.00%
Covered						
State	117,655	67.45%	0	0.00%	117,655	47.58%
Schools	300,401	96.53%	0	0.00%	300,401	96.36%
Public Agency	100,990	47.15%	4,205	8.51%	105,195	39.91%
Total	519,046	74.17%	4,205	3.42%	523,251	63.61%
Non-Covered						
State	56,777	32.55%	72,855	100.00%	129,632	52.42%
Schools	10,788	3.47%	546	100.00%	11,334	3.64%
Public Agency	113,195	52.85%	45,212	91.49%	158,407	60.09%
Total	180,760	25.83%	118,613	96.58%	299,373	36.39%

Estimated Additional Cost of Mandatory Social Security

State	Employer Share	Employee Share	Total Cost
Miscellaneous	\$1,253,650	\$1,253,650	\$2,507,299
Safety	\$286,009,926	\$286,009,926	\$572,019,853
Total	\$287,263,576	\$287,263,576	\$574,527,153
Schools	\$23,332,621	\$23,332,621	\$46,665,242
Public Agency			
Miscellaneous	\$400,373,727	\$400,373,727	\$800,747,454
Safety	\$236,450,765	\$236,450,765	\$472,901,530
Total	\$636,824,492	\$636,824,492	\$1,273,648,984
Grand Total	\$947,420,689	\$947,420,689	\$1,894,841,378