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Computing Social Security Benefits for Certain Government Employees

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Today, somewhat more than 20 million people are employed by state and local governments across the U.S. Almost three-quarters of those employees are covered by Social Security, mostly under voluntary-coverage agreements permitted by Social Security Act section 218. (These agreements were described in the July 2019 issue of *In the Public Interest.*) A much smaller number, 2.4 million individuals, are covered mandatorily by Social Security under a provision enacted into law as section 11332 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), effective on July 2, 1991. (That provision is explained in the January 2019 issue of *In the Public Interest.*)

About 6 million state and local governmental employees do *not* have Social Security coverage in their current government jobs, either mandatorily or voluntarily. Such noncovered workers may, however, receive Social Security benefits based on other employment. Many (even most) of these noncovered employees may have been or will be covered by Social Security in their previous, subsequent or even simultaneous other jobs, whether in the private or the public sector. Relatively few people work their entire careers in noncovered employment.

Workers with 40 lifetime coverage credits—about 10 years of work in Social Security-covered employment or self-employment—become eligible for Social Security retired-worker benefits at age 62 (although many workers wait until they are older to claim benefits). Ten years of covered employment in a lifetime is fairly easy to obtain, even for workers whose primary employment was noncovered. In 2020, workers with just $5,640 in Social Security-covered earnings receive four coverage credits for the year, without regard to how many days they actually worked during the year.

Workers with careers split between covered and noncovered employment (not necessarily at the same time) may not receive the same benefits that workers with only covered employment receive. The Social Security Act provides two special benefit formulas for people receiving pensions based in whole or in part on employment that was not covered by Social Security. The reasoning behind these special formulas is that people with employment histories split between covered and noncovered employment appear to be poorer than they really are, when one examines only their *covered* earnings histories. In the absence of special rules, these not-really-poor people would be able to receive—and, in fact, used to receive—subsidies, including the one built into the design of Social Security's weighted-benefit formula. Those subsidies were and still are intended to go to lower-income workers and their families, not to relatively high-income government employees who only appear to be low income.

The special benefit formulas that may apply to former governmental employees apply only to those retirees *receiving pensions* based on noncovered employment. Receipt of a pension is a threshold test for determining whether the noncovered employment was substantial. People who worked for just a short time in noncovered employment, not long enough to receive a pension based on that employment, generally have their benefits computed using Social Security's regular benefit formulas, without any adjustments.

The two special benefit formulas that may apply to governmental retirees are as follows:

1. **Government pension offset (GPO).** This provision was first enacted into law in 1977 and significantly amended in 1983 to mitigate its impact in certain cases. The GPO affects benefits payable to spouses and surviving spouses (and divorced spouses and surviving divorced spouses, provided that the marriage lasted at least 10 years before ending in divorce). This provision does not affect a worker's own benefit as a retired or disabled worker, based on the individual's earnings record under Social Security. The GPO does, however, often prevent government retirees from receiving any Social Security benefits as spouses or widow(er)s because it reduces such benefits by two-thirds of the amount of the governmental pension but not below zero, of course.

   For example, a governmental retiree receiving a pension of $3,000 a month *based on noncovered employment* would have the Social Security benefit as a spouse or widow(er) reduced by two-thirds of that amount, or by $2,000. In most cases, a reduction of that magnitude reduces the Social Security auxiliary benefit to zero. Again, the GPO does *not* affect the worker's *own* benefit (i.e., the retired-worker benefit based on the individual's own earnings record), just auxiliary benefits that the worker may otherwise be able to receive based on a spouse's, deceased spouse's or ex-spouse's earnings record.

Many government employees working in noncovered employment have no idea—or just the most superficial understanding—of the special rules that may affect their future Social Security benefits.

2. **Windfall elimination provision (WEP).** This provision was enacted into law in 1983 and provides a special benefit-computation formula for retired-worker and disabled-worker benefits. The WEP removes some of the weighting in Social Security's usual benefit formula, which gives larger replacement rates to low-income retirees than to high-income ones. In the most extreme cases, the lowest-income beneficiaries can get a 90-percent replacement rate from Social Security. Most governmental retirees get much less of that weighting because the WEP reduces the 90-percent bracket in the primary insurance amount (PIA) formula to 40 percent. About 2 million beneficiaries (about 3 percent of the total), mostly retired workers, have their benefits reduced because of the operation of the WEP provision.

   Governmental retirees with more than 20 years of *substantial* covered employment (defined for 2020 as earnings of at least $25,575) under Social Security can get more than the 40 percent standard percentage that applies to the first bracket of the PIA formula under the WEP provision. That percentage grades from 40 percent up to the full 90 percent, in 5 percent increments, for those with 20 years to 30 or more years of substantial Social Security-covered employment. In addition, the WEP provision has a guarantee that any reduction in a worker's PIA is limited to 50 percent of the individual's pension based on noncovered employment.

   The WEP, unlike the GPO, affects the worker's own benefit and any auxiliary benefits paid on the worker's earnings record while the individual is alive. Interestingly, the WEP does *not* affect the computation of benefits payable to the widow(er) of a worker whose retired-worker or disabled-worker benefit was computed using the WEP formula. After the worker's death, the WEP provision ceases to apply.

Many government employees working in noncovered employment have no idea—or just the most superficial understanding—of the special rules that may affect their future Social Security benefits. As a result, these employees often expect to receive significantly more retirement income than they will actually receive. Contributing to this problem is the fact that SSA itself does not know who will be affected by the GPO or the WEP until those individuals apply for benefits and disclose that they are receiving pensions based on noncovered employment. Until then, the personalized earnings and benefit estimate statements that SSA provides upon request will overstate potential future benefits. ■

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