

California State Social Security Administrator Program

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The Windfall Elimination Provision (WEP)

The Windfall Elimination Provision may reduce your Social Security retirement benefit or disability benefit if you also earned a pension in any job where you did not pay Social Security taxes.

Congress passed the Windfall Elimination Provision in 1983 to remove an advantage for workers who received an unintended “windfall” because the Social Security formula recorded their years in jobs not covered by Social Security as years of “zero” earnings. This made the worker appear to have had low lifetime earnings, and the worker benefited from the Social Security benefit formula’s progressivity¹, which is intended to assist workers who have had long careers at low wages.

The WEP may apply if you (1) reached age 62 after 1985; (2) became disabled after 1985; or (3) first became eligible for a monthly pension based on work where you did not pay Social Security taxes after 1985, even if you are still working.

The WEP will not apply if you have 30 or more years of “substantial” earnings in employment where you paid Social Security taxes. In 2012, “substantial” earnings are \$20,475 a year or more; this figure has increased steadily over time (e.g., in 1977 it was \$4,125), to account for inflation.

If you had between 20-30 years of “substantial” earnings covered by Social Security, the WEP may still apply, but at a reduced level. Social Security benefits are based on the worker’s average monthly earnings adjusted for inflation. Social Security Administration separates your average earnings into three amounts and multiplies the amounts using three factors. For example, for a worker who turns age 62 in 2012, the first \$767 of average monthly earnings is multiplied by 90 percent; the next \$3,857 by 32 percent; and the remainder by 15 percent. The sum of the three amounts equals the total monthly payment amount.

The 90 percent factor is reduced in the modified formula and phased in for workers who reached age 62 or became disabled between 1986 and 1989. For those who reach 62 or became disabled in 1990 or later, the **90 percent** factor above is reduced to **40 percent**—generally resulting in a maximum WEP reduction of \$384.

However, the WEP reduction in your Social Security benefit cannot be more than one-half (50%) of the amount of your pension that is based on earnings on which you did not pay Social Security taxes.

For more information about the WEP, you may wish to review the following information:

<http://www.socialsecurity.gov/pubs/10045.html>

<http://www.socialsecurity.gov/pubs/10045.pdf>

<http://www.socialsecurity.gov/retire2/wep-chart.htm>

You can also call Social Security toll-free at 1-800-772-1213 (or TTY at 1-800-325-0778) between 7 a.m. to 7 p.m., Monday through Friday.

¹ “Progressivity” – The benefits are weighted in favor of persons on the lower end of the wage-earning spectrum; Social Security pays a higher percentage of a lower earner’s wages than of a higher earner’s wages.

The WEP should be considered by many CalPERS members who are contemplating purchasing service credit in CalPERS, to ensure that the benefits from purchasing the service credit are weighed along with any potential reduction due to the WEP.

It is important to remember that not all CalPERS members are impacted by the WEP, and that **any WEP reduction is to your Social Security benefit, and does not impact or reduce your CalPERS benefits.**

Here are some examples of potential WEP effects on persons purchasing service credit in CalPERS, who also have less than 20 years of “substantial” earnings (please remember that these are only examples, and the specifics will differ with actual individual member situations):

1. **Redeposit of Withdrawn Contributions (scenario 1)**: A member with 5 years of CalPERS service credit through employment with the State of California that was covered by Social Security quits her/his job, and takes a refund of her/his contributions/interest. Upon later returning to work with the State of California and becoming a CalPERS member again---and thus subject to Social Security again---the member decides to purchase/buy back this 5 years of credit.

This member will **not** be subject to the WEP, since all service for which a pension is payable **was** covered by Social Security.

2. **Redeposit of Withdrawn Contributions (scenario 2)**: A member with 5 years of CalPERS service credit through employment with the State of California that was covered by Social Security quits her/his job, and takes a refund of her/his contributions/interest. This person later returns to CalPERS membership and earns 10 years of service credit with a city that **does not have** Social Security coverage; however, the member decides to purchase/buy back the earlier 5 years of credit from the State of California.

This member would **already be subject** to the WEP, since the member has service (with the city) that was not covered by Social Security, in addition to the earlier (now redeposited) service that was covered by Social Security.

3. **Military Service purchase**: A member with 16 years of CalPERS service with the State of California that was covered by Social Security, decides to purchase credit for 4.000 years of military service that was rendered back in the 1970s (after 1957, when military service was first covered by Social Security).

This member will **not** be subject to the WEP, since all service for which a pension is payable **was** covered by Social Security.

4. **“Optional” Member service purchase**: A City Council member of a City that *does* have Social Security for its CalPERS members elected CalPERS membership in 1996, and has accumulated 16 years of CalPERS service that was covered by Social Security; this person elects to purchase 4.000 years of service credit for his/her service *before* electing membership in 1996, when this earlier service was covered by a private “qualified plan,” rather than by Social Security.

This individual is most likely **already subject to the WEP**, since she/he will (presumably) be entitled to a pension from *some* service (i.e., the service under the private plan) that was *not* covered by Social Security).

5. **Service Prior to Membership (SPM) purchase**: A member with 19 years of CalPERS service credit through employment with the State of California that was covered by Social Security decides to purchase credit for 1.000 years of service rendered in 1986 with the State of California, *before* becoming a CalPERS member in 1987. This service (since it was rendered before “mandatory Social Security” in 1991) wasn’t covered by *any* retirement plan, including Social Security.

This purchase will make the individual subject to the WEP (since she/he will be entitled to a pension from *some* service that was *not* covered by Social Security).

6. **Maternity Leave of Absence:** A member with 19 years of CalPERS service with the State of California that was covered by Social Security decides to purchase 1.000 years of credit for an approved maternity leave of absence (i.e., when she was having a child, and then caring for the newborn child). Since she was at home and not working, she wasn't contributing to Social Security during this leave of absence.

This purchase will make the individual subject to the WEP (since she will be entitled to a pension from *some* service that was *not* covered by Social Security).

7. **Additional Retirement Service Credit (ARSC, aka "Air Time"):** A member with only 12 years of CalPERS service with the State of California that was covered by Social Security decides to purchase 4.000 years of ARSC; the ARSC period was not covered by Social Security.

This purchase will make the individual subject to the WEP (since she/he will be entitled to a pension from *some* service that was *not* covered by Social Security).

There are many other possible scenarios, but hopefully these will enable you to have a better grasp of the possible implications of purchasing such service credit.

It is important to remember that any actual WEP reduction will differ from person to person, based on the year they attained age 62 and how many years of "substantial" earnings they have.

It is also important to remember that even if the purchase of such service credit would make one subject to the WEP, the WEP reduction—even for persons with less than 20 years of Social Security-covered service—may be considerably less than the maximum potential reduction of \$384 per month². For example, the purchase of 1.000 years of SPM or Maternity Leave service would have a much smaller reduction than \$384 per month.

The Social Security Administration website provides several resources for persons who wish to get an estimate of their Social Security benefits:

- WEP Online Calculator: <http://www.socialsecurity.gov/retire2/anyPiaWepjs04.htm>
- Social Security Statement Online: <http://www.ssa.gov/mystatement/>
- Retirement Estimator: <http://www.ssa.gov/estimator/>

The Social Security Administration may also be willing to put on presentations for an employer's staff; to request such a presentation, go to: <http://www.ssa.gov/organizations/>

Remember that you can E-mail the CalPERS State Social Security Administrator Program unit at: socialsecurity@calpers.ca.gov

You can also call Social Security toll-free at 1-800-772-1213 (or TTY at 1-800-325-0778) between 7 a.m. to 7 p.m., Monday through Friday.

² Since, as stated earlier, the WEP reduction in your Social Security benefit cannot be more than one-half (50%) of the amount of your pension that is based on earnings on which you did not pay Social Security taxes.