
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Dave Cortese, Chair
2023 - 2024 Regular

Bill No:	SB 27	Hearing Date:	March 8, 2023
Author:	Durazo		
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Urgency:	No	Fiscal:	No
Consultant:	Dawn Clover		

SUBJECT: University of California: vendors

KEY ISSUES

Should the Legislature require vendors to provide their employees with the total compensation rate specified by the vendor's contract, as well as make specified payroll information available to employees, the UC, and exclusive employee representatives upon request?

Should the Legislature provide a pathway for employees of a vendor contracting with the UC for services to recover compensation and civil damages?

ANALYSIS

Existing law:

- 1) Establishes the UC as a public trust under the administration of the corporation in the form of a board "The Regents of the [UC]" (Regents) and grants the Regents powers necessary or convenient for the effective administration of the UC. Limits the Regents to such legislative control as may be necessary to insure the security of its funds, to ensure compliance with the terms of the endowments of the UC, and such competitive bidding procedures as may be made applicable to the UC by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Provides that the Regents be comprised of seven ex officio members, as specified, 18 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, and permits a student representative if appointed by the Regents. (California Constitution, Article IX, Sec. 9)
- 2) Provides that a person or entity shall not enter into a contract or agreement for labor or services with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor, where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided. (Labor Code §2810)
- 3) Prohibits public agencies from contracting for services if approval of the contract is based solely on savings resulting from lower pay rates or benefits or the contract causes displacement of civil service employees. (Government Code §19130)
- 4) Requires that, at the time of hiring, an employer must provide to each employee a written notice, containing specified information about pay rates, overtime, minimum wage, types of leave available, pay periods, and information about the employer. (Labor Code §2810.5)

- 5) Requires all employers to provide their employees with an accurate, itemized statement showing gross wages earned, total hours worked by the employee, all deductions, net wages earned, the period for which the employee is paid, all applicable hourly rates in effect during the pay period, the corresponding number of hours worked, the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, and the name and address of the legal employing entity. (Labor Code §226)
- 6) Specifies penalties for failure to pay at least minimum wage and procedures around filing a claim against an employer for alleged failure to comply with minimum wage law. (Labor Code §1197.1)
- 7) Authorizes a court, at its discretion, to award costs to harmed bidders, their employees, or labor organizations as a result of prevailing wage violations for public works projects. (Labor Code §1750)
- 8) Requires prevailing wage for public works projects exceeding \$1000 and authorizes a joint-labor management committee to bring an action against an employer that fails to pay prevailing wage to its employees. (Labor Code §1771-1771.2)
- 9) Prohibits UC employees from participating in the selection of architectural, landscape architectural, land surveying, real property development services, or construction project management firms if the employee has a relationship with a person or business entity seeking such a contract. (Public Contracts Code §10510.5)
- 10) Requires the UC to award a contract for a project of \$50,000 or more to the lowest bidder, or if the bids are substantially equal, the UC may award a contract to a disadvantaged business enterprise, woman business enterprise, or disabled veteran business enterprise. (Public Contracts Code §10501)

This bill:

- 1) Establishes the *Recovery of Earned but UnPaid Wages Act* (Act) to prohibit a vendor from accepting payment of more than \$1000 from the UC for a contract for services if the vendor is performing services or supplying employees and paying those employees less than the total compensation rate specified in the vendor's contract with the UC or required by existing UC policy, whichever is higher.
- 2) Requires a vendor to provide employees with written notice with the following information each time the employee is assigned to perform services for the UC and thereafter, each January, and within seven days of a change to the employee's hourly rate:
 - a. The total compensation rate specified in the contract with the UC or required by UC policy, whichever is higher, and;
 - b. The employee's hourly rate of pay and hourly value of employer-provided benefits.
- 3) Requires a vendor to provide, each January and July, basic payroll information to the UC and members of any joint labor-management committee or similar body and requires the vendor to make basic payroll information available for inspection to an employee or their designated/authorized representative, upon request.

- 4) Requires a vendor to provide written notice to employees who agree to perform, or continue to perform, services for the UC. This notice shall include the following:

“Basic payroll information pertaining to all employees who accept an assignment or continue performing services for the [UC] will be shared with the [UC] and the organizations that represent [UC] employees. The information that will be shared includes your full name, work location, mobile telephone number, email address, and home address. The purpose of sharing this information is to ensure that the [UC] and the organizations that represent [UC] employees can contact you if they discover you have been paid less than required by contract or [UC] policy and so that the [UC] can provide you with a timely offer of employment as soon as you become eligible.”

- 5) Requires any audit, verification, notice, report, or finding regarding vendor compensation to be provided to the UC and members of any joint labor-management committee.
- 6) Authorizes any UC or vendor employee to provide a vendor with written notice of violation of this Act and provide the vendor the opportunity to correct and cure the violation(s) within 30 days before an employee may file a suit based on the violation(s).
- 7) Authorizes any UC or vendor employee to bring a civil action against a vendor to recover compensation that has been earned but was not paid at the total compensation rate required by the vendor’s contract with the UC, or UC policy, whichever is higher.
- 8) Directs the courts to order the following if a plaintiff prevails in an action to enforce the rights and duties set forth in the Act:
- For any vendor that supplies the UC with an employee who is paid a total compensation rate less than the amount fixed by contract or UC policy to pay a civil penalty of \$100 per underpaid employee per pay period for an initial violation and \$250 per employee per pay period for any subsequent violations;
 - For any vendor that knowingly and intentionally violates 2), 3), 4) and/or 5) above, payment of a civil penalty of \$50 dollars per employee for the initial pay period and \$100 per employee for each violation in a subsequent pay period, with a cap of \$4000 per employee;
 - Payment of wage and benefit compensation and civil penalties to the aggrieved employee;
 - At the court’s discretion, return to the UC funds paid to the vendor that exceed the compensation provided to underpaid employees, and;
 - Payment of reasonable attorney’s fees and costs.
- 9) Provides the remedies shall not preclude or alter the UC’s ability to contract for services as permitted under existing collective bargaining agreements or preclude the UC from hiring in emergency circumstances or meeting other staffing needs.
- 10) Specifies the remedies are in addition to any other remedies provided by law, except for civil penalties provided in Labor Code Sections 226 or 1197.1.
- 11) Makes the provisions in this bill severable.
- 12) For the purpose of the Act, defines:

- a. “Agreement” or “contract” as any written instrument, order, purchase order, change order, requisition, service agreement, or any other written or electronic document, reflecting an agreement that a vendor will perform services or supply the UC with employees to perform services in exchange for payment.
- b. “Basic payroll information” for each vendor-supplied employee who performed services for the UC at any time during the preceding six-month period as:
 - i. Full name, job title, mobile telephone number, email address, and home address of the employee;
 - ii. Work location;
 - iii. Hourly rate of pay for each pay period;
 - iv. Hourly value of employer-paid benefits for each pay period, meaning the employer’s actual cost for the employee’s retirement, health, dental, vision, life, and disability benefits calculated as an hourly dollar amount, not including any paid time off or payroll expenses;
 - v. Hours of work for each pay period, and;
 - vi. Hours of work performing services for the UC for each pay period. “Services” means work customarily performed by bargaining unit employees of the UC, including but not limited to: cleaning, custodial, janitorial, housekeeping, food, laundry, grounds keeping, nonskilled building maintenance, transportation, parking, security, billing and coding, sterile processing, hospital, nursing assistant, respiratory therapy, and medical imaging.
- c. “Employee” as any contract worker, or individual employed by any vendor, or otherwise supplied to the UC by a vendor to perform services for the UC, including an individual treated by either the vendor, subcontractor, or UC as an independent contractor.
- d. “Employer” as any person, association, organization, partnership, business trust, limited liability company, or corporation who directly or indirectly, or through an agent, employs or exercises control of wages, hours, or working conditions of any person.
- e. “Subcontractor” as any person, employer, supplier of labor, staffing agency, temporary services employer, or other entity that performs services for the UC or supplies employees to perform services per a contract with the vendor.
- f. “Joint labor-management committee” as any committee or similar meeting body or committee established jointly by the UC and the exclusive representative of UC employees who perform the same or similar services as the employees performing services for the UC.
- g. “Vendor” as any person, entity, or agent that contracts with the UC to perform services or supply the UC with its employees or those of a subcontractor to perform services, excluding a licensed contractor that has entered into a valid collective bargaining agreement.
- h. “Total compensation rate” as the employee’s hourly rate of pay plus the hourly value of employer-provided benefits, or the equivalent compensation.

COMMENTS

1. Background:

The UC employs approximately 18,600 patient care technical employees and about 10,000 service employees throughout its campuses and medical centers, representing two bargaining units out of a total of 37 with the UC. In 2017, the California State Auditor released a report

stating “The University of California Office of the President: It Has Not Adequately Ensured Compliance With Its Employee Displacement and Service Contract Policies.” The report included a recommendation that the UC should “revise contracting policies to address situations where [UC] locations contemplate entering into services contracts instead of hiring [UC] employees to perform an activity. In these situations, the [UC] Office of the President should require [UC] locations to perform an analysis similar to the one it requires when current [UC] employees are displaced.”

In the years leading up to the COVID-19 pandemic, the UC and the sponsor of this bill negotiated outsourcing UC service and health jobs to companies that paid their workers lower wages and fewer benefits. At the end of the Legislative Session in 2019, ACA 14 (Gonzalez, 2019) narrowly failed passage on the Senate Floor. This constitutional amendment would have added the UC Equal Employment Opportunity Standards Act to Article IX of the California Constitution and required the Regents to ensure that all contract workers paid to perform support services be afforded the same standards as UC employees performing similar services. Subsequently, on November 14, 2019, the UC adopted Regents Policy 5402¹, also called the Equal Pay for Equal Work policy, which generally prohibits contracting out services and functions that can be performed by UC staff and requires businesses that enter into service contracts with the UC to pay wages and benefits equivalent to what the UC pays its employees. This policy is reflected in Article 5² of existing bargaining unit contracts with the UC Service Unit and the Patient Care Technical Unit.

2. Need for this bill?

SB 1364 (Durazo, 2022) was similar to SB 27 but it also provided for a vendor in violation to pay a ten percent civil penalty to the General Fund and be disqualified from contracting with the UC for five years. This bill builds upon the work of SB 1364. In his veto message, the Governor stated “It is my Administration's understanding that the UC has been updating vendor contracts to include wage and benefit parity language and implementing campus and system level audit functions to monitor compliance and enforce these policies. The University is expected to complete a comprehensive report of audit findings in the first quarter of next year... Additionally, this bill includes provisions related to sharing information with contracted workers regarding wage and benefit parity. These are important transparency aims for workers and I further urge the UC to identify and implement additional mechanisms that meet these goals.”

Currently, the UC is undergoing the audit pursuant to the Governor's SB 1364 (Durazo, 2022) veto message in which he called upon the UC to make its findings on vendor contract wage and benefit disparity publicly available and present the findings during an open session of a regularly scheduled UC Regents meeting. The audit is expected to be completed for review this month and released to AFSCME service and patient care technical units by April of this year.

The author states “The University of California has a policy called "Equal Pay for Equal Work” that requires service contract vendors to pay vendor employees' wages and benefits

¹ UC Board of Regents. “Regents Policy 5402: Policy Generally Prohibiting Contracting for Services. February 27, 2023. <https://regents.universityofcalifornia.edu/governance/policies/5402.html>

² UC Board of Regents. “Current Contract.” February 27, 2023. <https://ucnet.universityofcalifornia.edu/labor/bargaining-units/ex/contract.html>

equivalent to what UC pays directly hired service workers. However, since vendor employees are not employed directly by UC, and there is no legal requirement to inform these workers by the University, or any state agency how vendor wages and benefits compare to what UC policy requires, there is no effective way for workers to know about or recover earned but unpaid wages. SB 27 establishes the “Recovery of Earned but Unpaid Wages Act” by creating an enforcement mechanism by requiring UC vendors to supply payroll information to UC and the joint labor-management committee to ensure compliance with UC’s Equal Pay for Equal Work policy. SB 27 is consistent with UC’s audit standards, requiring that any audit or other notice or finding about wage benefit parity compliance also go to the joint labor-UC management committee. Vendors must also provide written notice to their employees about the required compensation rates. Vendors will have the opportunity to cure discrepancies. However, refusal to comply allows vendor employees to pursue their earned but unpaid wages and compensation in court. It is important to highlight that the bill will not negatively impact any strides UC is making toward any 3rd party vendor compliance and is consistent with UC’s audit standards and process.”

3. Committee Recommendation and Discussion:

Suggested technical amendment: Section 1442(b)(2) requires the vendor to make payroll information available to an employee or their “designated” representative, and also uses the term “authorized” representative in the same section. The committee may wish to consider amending this section to the use of one consistent term for the sake of clarity, whether it is “designated” or authorized.”

This bill would create a process for vendors to submit and share payroll information with the UC and employees to ensure they are adhering to existing UC policy. At issue is the ability of vendor and UC employees to initiate correction and recover the difference between their compensation and what a UC employee would have received. This bill would allow an aggrieved employee or *any* UC employee to initiate a process whereby the vendor shall correct and cure or be subject to compensation, civil penalties, and reasonable attorney fees. According to the author’s office, there is precedent for this. California prevailing wage laws give joint-labor management committees the right to sue for prevailing wage violations, although the aggrieved employee(s) may not be part of that committee. Prevailing wage law also recognizes that losing bidders on public works projects, or labor organizations and employees that have a contract with the bidder, may be harmed by violations of prevailing wage requirements and affords them the right to sue for damages. The court, at its discretion, may award costs and reasonable attorney fees.

4. Proponent Arguments:

The sponsor, American Federation of State, County, and Municipal Employees (AFSCME) Local 3299, states “SB 27 would allow vendor company employees to enforce [Policy 5402] by requiring their employer to supply UC and any joint labor-management committee the basic payroll information necessary to know if a vendor is abiding by UC policy. The bill would also require a vendor to supply a written notice to their employees of the relevant compensation rates. A vendor would have an opportunity to correct and cure any violation under the [Act]. A failure to cure will give impacted employees the right to recover their earned but unpaid wage amounts.”

5. Opponent Arguments:

None

6. Double Referral:

This bill has been double referred and if passed by our committee, will be sent to the Senate Committee on Judiciary for hearing.

4. Prior Legislation:

SB 1364 (Durazo, 2022) was similar to SB 27 and additionally provided for a vendor in violation to pay a ten percent civil penalty to the General Fund and be disqualified from contracting with the UC for five years. *This bill was vetoed by the Governor, who stated “While I support the enforcement of Regents Policy 5402 and the terms of Article 5, as UC is still implementing their audit mechanisms of the policies, this bill is premature.”*

ACA 14 (Gonzalez, 2019) would have amended Article IX of California’s Constitution by adding the UC Equal Employment Opportunity Standards Act, which would have required the Regents of the UC to ensure that all contract workers who are paid to perform support services be afforded the same equal employment opportunity standards as UC employees that perform similar services. *This constitutional amendment was sent to the Senate Inactive File.*

AB 2361 (Weber, 2018) would have required vendors to provide specified information to the UC regarding each active outsource contract; required the UC to post on a publicly available website specified types of contracts and contract information and information about contractors’ employees and their wages and benefits, and; deduct funds from the UC for failure to do so. *This bill was vetoed by Governor Brown.*

SB 574 (Lara, 2017) would have modified the requirements for qualifying as a lowest responsible bidder or best value awardee for contracts for materials, goods, and services at the UC. *This bill was vetoed by Governor Brown, who stated the bill was well-intentioned, but would not serve the UC well because it would have locked the UC into contracting rules with little flexibility.*

SB 959 (Lara, 2016) was nearly identical to SB 574. *This bill was vetoed by Governor Brown.*

SB 376 (Lara, 2015) would have modified the requirements for qualifying as a lowest responsible bidder or best value awardee for contracts for specified services at the UC by (1) requiring a bidder to certify in writing, for specified types of service contracts, that its employees are compensated at a level that does not materially undercut the average per-employee total compensation for UC employees who perform comparable work, and (2) making the \$100,000 threshold for competitive bidding applicable to any renewal or extension of an existing contract for goods, materials, and services to be performed if it involved an expenditure of \$100,000 or more annually. *This bill was vetoed by Governor Brown.*

SUPPORT

AFSCME Council 36

AFSCME Council 57

AFSCME Local 1902 Metropolitan Water District

AFSCME Local 1001 Metropolitan Water District

AFSCME Local 206 Union of American Physicians and Dentists

AFSCME/UNAC-UHCP United Nurses Associations of California- Union of Health Care Professionals

AFSCME Local 4911 United EMS Workers

OPPOSITION

None

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Dave Cortese, Chair
2023 - 2024 Regular

Bill No:	SB 227	Hearing Date:	March 8, 2023
Author:	Durazo		
Version:	January 19, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Alma Perez-Schwab		

SUBJECT: Unemployment: Excluded Workers Program

KEY ISSUES

Should the Legislature establish a program to provide income assistance to unemployed excluded workers who are not eligible for regular state or federal unemployment insurance benefits due to their immigration status?

Should this program be administered by the Employment Development Department and implemented upon appropriation by the Legislature of sufficient funds to carry it out?

ANALYSIS

Existing federal law:

- 1) Under the Immigration and Nationality Act, requires an employer to verify, through examination of specified documents, whether or not an individual is authorized to work in the United States. Specifies that if the document is presented and reasonably appears on its face to be genuine, then the employer has complied with this requirement and is not required to solicit or demand any other document. [8 U.S.C. §1324a(b)]
- 2) Makes it an unfair immigration-related employment practice for any person or entity to do any of the following [8 U.S.C. §1324b(a)(1)-(6)]:
 - a. Discriminate against any individual, except as provided, with respect to the hiring, recruitment, or referral of the individual for employment or the discharging of the individual from employment because of the individual's origin or citizenship.
 - b. Request, with the intent of discriminating against an individual, more or different documents than are required under law or refuse to honor documents tendered which, on their face, reasonably appear to be genuine.
- 3) The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, established the Pandemic Unemployment Assistance Program (PUA), which created a new temporary federal program to provide unemployment benefits for up to 39 weeks to individuals who are not eligible for regular UI (such as individuals who are self-employed or who have limited recent work history) and provided funding to states for the administration of the program. (Section 2102 of the CARES Act of 2020, Public Law (Pub. L.) 116-136)

Existing state law:

- 4) Provides that all protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, in this state. For purposes of enforcing state labor and employment laws, existing law provides that a person's immigration status is irrelevant to the issue of liability, and in proceedings or discovery undertaken to enforce those state laws, no inquiry shall be permitted into a person's immigration status except where the person seeking to make this inquiry has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law. (Lab. Code §1171.5; Civil Code §3339; Gov. Code §7285; Health & Safety Code §24000)
- 5) Establishes the Employment Development Department (EDD) within the Labor and Workforce Development Agency. EDD is responsible for, among other duties, the administration of the Unemployment Insurance and Disability Insurance programs. (Unemployment Insurance Code §301)
- 6) Establishes the Unemployment Insurance (UI) Program as a joint state/federal program, administered by EDD that provides weekly unemployment insurance payments for workers who lose their job through no fault of their own. Eligibility for benefits requires that the claimant be able to work, available for work, be seeking work, and be willing to accept a suitable job. (Unemployment Insurance Code §100-144 & §301-456)
- 7) Requires employers to finance the UI program by paying unemployment taxes on up to \$7,000 in wages paid to each worker. The tax rate varies for each employer and is based, in part, on the amount of UI benefits paid to former employees. (Unemployment Insurance Code §901-1243)
- 8) Provides UI weekly benefits that range from \$40-\$450 based on the employee's prior earnings and are available for a maximum of 26 weeks with possible extensions for certain emergency situations, as specified. (Unemployment Insurance Code §1275-1282)
- 9) Under the Personal Income Tax Law, in modified conformity with federal law, generally defines "gross income" as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income for purposes of computing tax liability. (Revenue and Taxation Code §17001-18181)

This bill:

- 1) Establishes, until January 1, 2027, the Excluded Workers Program (EWP), administered by the Employment Development Department and upon appropriation by the Legislature of sufficient funds to carry out the program, for the purpose of providing income assistance to excluded workers who are ineligible for the state or federal benefits administered by EDD and who are unemployed.
- 2) Provides that an individual shall be eligible to receive benefits if the director finds all of the following:

- a. The individual resides in California at the time of the application.
 - b. The individual performed at least 93 hours of work or earned at least one thousand three hundred dollars (\$1,300) in gross wages over the course of three calendar months, which do not need to be consecutive, for work performed as an employee within the 12 months preceding their application for benefits.
 - c. The individual experienced a week of unemployment.
 - d. The individual is ineligible to receive regular unemployment insurance benefits, as defined, for reasons related to the individual's authorization to work.
- 3) Entitles any individual eligible for the program to receive a payment in the amount of three hundred dollars (\$300) for each week of unemployment occurring between January 1, 2025 and December 31, 2025, inclusive, and for a maximum of 20 weeks.
- 4) Specifies that an individual is not eligible for the program any week in which the individual received any of the following: Paid family leave; Disability benefits; Temporary or permanent disability benefits through the workers' compensation system.
- 5) Requires the EDD, on or before January 1, 2025, to promulgate regulations to administer the EWP that includes, at a minimum:
- a. a process by which individuals may apply for the benefits.
 - b. a process for notifying individuals of the acceptance or denial of their application.
 - c. a process for individuals to request a review of the denial.
- 6) Prohibits EDD, in administering the program, from taking any of the following actions:
- a. Requesting, orally or in writing, an individual's nationality, place of birth, or eligibility or ineligibility for a social security number.
 - b. Compelling or requesting an individual to admit in writing whether they have proof of lawful presence in the United States.
 - c. Contacting an individual's current, former, or prospective employer for any purpose, including to verify employment status. However, does not prohibit the department from using other means to verify past employment.
 - d. Recording an individual's immigration or citizenship status.
- 7) Authorizes an applicant to self-attest to being eligible for the program and requires them to submit documentation with a value equal to *at least four points* to establish proof of work history. For purposes of the value system, provides the following:
- a. Documents with *a value of four points*:
 - i. Wage statements, as specified, or nonpayroll checks paid by the employer or employer's agent or other records showing payments from an employer.
 - ii. A federal tax return, as specified, with proof of filing with the IRS using a social security number or valid federal individual taxpayer identification number demonstrating at least \$5,200 in gross wages.
 - iii. A state tax return, as specified, filed with the Franchise Tax Board using a social security number or valid federal individual taxpayer identification number demonstrating at least \$5,200 in gross wages.
 - iv. An IRS form W-2 demonstrating at least \$5,200 in gross wages for the taxable year immediately preceding the date of application for benefits.

- v. A Form 1099, a state tax return, or a federal tax form from the prior year demonstrating at least \$5,200 in gross income, coupled with evidence sufficient to demonstrate that the individual earned that income as an employee.
 - vi. Time records showing when the employee begins and ends work each work period sufficient to demonstrate at least 93 hours worked within a 3-month period from the 12-month period prior to the application.
 - b. Documents with *a value of two points*:
 - i. Evidence, such as statements issued by a financial institution, showing regular direct deposits made by an employer to the applicant, or regular deposits of cash earnings or checks made by the applicant to the applicant's bank account.
 - ii. Receipts from a check-cashing establishment or transaction logs from a payment app showing regular direct deposits, deposits, or transfers from an employer.
 - iii. Receipts or records showing a consecutive pattern of commuting to and from a work location, such as toll records, parking receipts, or public transportation records that demonstrate at least 93 hours of work within a three-month period.
 - iv. A letter attesting to the applicant's employment history issued by a charitable organization registered with the Department of Justice or other entity designated by the EDD director and based on knowledge that the applicant meets the requirements of the program, as specified. Prohibits EDD from contacting the charitable organization for any reason other than to authenticate the letter.
 - c. Documents with *a value of one point*:
 - i. An employer-issued identification badge or identification card.
 - ii. Emails, text messages, social media messages, or other written communications relating to delivery order sheets, work invoices, work schedules, sign-in sheets, timesheets, directions or instructions from employers, or other written work-related communications between an applicant and an employer establishing the existence of a work relationship. Specifies that this communication only counts for one point, regardless of the quantity or volume of documentation.
- 8) Authorizes EDD, by regulation and consistent with the eligibility requirements for the program in the bill, to establish alternative documents that sufficiently demonstrate an applicant's qualification for the program.
- 9) For applicants that cannot provide sufficient documentation to meet the minimum four point's value, authorizes EDD to conduct credibility interviews to determine eligibility for the program and authorizes EDD to establish procedures for these interviews.
- 10) Provides that personal information, as defined, and documents collected are confidential and exempt from disclosure under the California Public Records Act, and may be used or disclosed only for purposes of administering the program, except where necessary to comply with an order, warrant, or subpoena, each if issued by a court.
- 11) Prohibits personal information and documents collected as part of this program from being shared with other government agencies except as necessary to administer the program, notwithstanding the existence of data sharing agreements to which the department is a party.

- 12) Requires EDD to establish procedures and safeguards against unauthorized access to, and use of, personal information collected by the department, as specified.
- 13) Requires EDD, on or before April 1, 2025, to release quarterly reports on the progress of the program, including, but not limited to:
 - a. Total benefits paid.
 - b. The number of individuals who applied for benefits.
 - c. The number of individuals who received benefits.
 - d. The quarterly reporting shall continue until all funds have been exhausted, or until January 1, 2027, whichever comes first.
- 14) Requires EDD, on or before March 1, 2026, to submit a report to the Legislature on the program, including, but not limited to:
 - a. Program participation.
 - b. Benefit amounts paid.
 - c. Weeks of benefits paid per participant.
 - d. Demographic information on program participants, including income, gender, race, ethnicity, language, geographic distribution by county and legislative district, and employment sector.
 - e. Outreach efforts.
 - f. Administrative costs.
- 15) Includes a January 1, 2027 sunset date on the provisions for this program.
- 16) For the taxable year beginning on or after January 1, 2025, and before January 1, 2027, provides an exclusion from gross income for benefits received under the program and requires the Franchise Tax Board to submit, on or before June 15, 2026, a report to the Legislature on the total number of claims for the exclusion and the amount claimed.
- 17) Provides several findings and declarations regarding the contributions of undocumented immigrants and the need for a program to rectify the unjust exclusion of immigrant workers from an essential social safety net program.

COMMENTS

1. Background: Unemployment Insurance Program and EDD

Created in 1935 as part of the Social Security Act of 1935, the Unemployment Insurance (UI) program offered for the first time, an economic line of defense against the effects of unemployment. The UI program is a unique federal-state program, created by federal law and administered under state and federal laws by state employees. UI provides weekly benefits to workers who are unemployed (or underemployed) through no fault of their own and who are able to, available for and actively seeking work. Eligibility for UI benefits is set by law and administered by the Employment Development Department (EDD). *To collect UI benefits, workers must show that they were in satisfactory immigration status and authorized to work in the United States when earning the wages used to establish a claim.*

Workers must also give proof that they are in satisfactory immigration status and are authorized to work each week they claim benefits.

Financing Structure

The UI program is financed by employers who pay unemployment taxes on the first \$7,000 in wages paid to each worker. Working much like other insurance programs, the actual tax rate varies for each employer, depending in part on the amount of UI benefits paid to former employees. An employer may earn a lower tax rate when fewer claims are made on the employer's account by former employees. Part of the employer's tax goes directly to the federal government to pay for the administration of the system. The greater portion goes into a special UI Trust Fund from which benefit payments are made to unemployed workers.

Claimant Benefit Calculations

A claimant's eligibility for benefits depends on having a substantial attachment to the labor force determined by computing a minimum earnings test. This requirement denies benefits to claimants whose earnings in a 12-month "base period" are below a specified minimum - indicating a short or temporary attachment to the labor force. The "base period" is 12 months long, 4 quarters of 3 months each. The quarter in which the highest wages were received determines the weekly benefit amount.

The amount of benefits available is based on the claimant's earnings in the base period. To qualify for benefits a claimant must have (1) earned at least \$1,300 in the highest quarter of the base period, or (2) have earned at least \$900 in the highest quarter and earned total base period earnings of at least 1.25 times the high quarter earnings. For example, if the claimant has \$900 earnings in the highest quarter, they are also required to have earned a total of \$1,125 in the base period ($\$900 \times 1.25 = \$1,125$). The maximum amount of a regular UI claim is either 26 times the claimant's weekly benefit amount or one-half of the claimant's base period wages, whichever is less.

NOTE: Also administered by the Employment Development Department are the Disability Insurance and Paid Family Leave Programs, funded through employee tax deductions. Citizenship and immigration status do not affect eligibility for these programs.

2. CARES Act and Pandemic Unemployment Assistance:

The COVID-19 pandemic and the shutdown orders to mitigate the spread of the virus lead to a dramatic increase in unemployment beginning in March 2020. Millions of Californians were left unemployed and in critical need of assistance to replace some of the income on which they relied to pay for essentials such as housing and food. By April 2020, the unemployment rate had surpassed previous peaks observed during the Great Recession. At its peak, the unemployment rate in California reached 16% in April 2020. According to the EDD, 26.9 million UI claims have been filed since March 2020 and EDD has paid more than \$182 billion in UI benefits.

On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (FFCRA), which provided additional flexibility for state unemployment insurance agencies and additional administrative funding to respond to the COVID-19 pandemic. The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020 expanding the states' ability to provide unemployment insurance for many workers impacted by the COVID-19 pandemic, as specified, including self-

employed individuals (through the Pandemic Unemployment Assistance Program) who are not ordinarily eligible for unemployment benefits. PUA benefit payments were issued in phases and ranged from \$167 to \$600 per week, based on the individual's claim start date. PUA benefits ended September 4, 2021.

*Undocumented individuals – estimated to be 2 million in California, of which more than 1.1 million (six percent of the workforce) are wage earners – were ineligible for much of the aid provided by the federal government during the pandemic.*¹ In response, Governor Newsom announced on April 15, 2020, that \$125 million in disaster relief assistance would be available for working undocumented Californians impacted by COVID-19 who were ineligible for unemployment insurance benefits and disaster relief, including the CARES Act, due to their immigration status. Approximately 150,000 undocumented adult Californians received a one-time cash benefit of \$500 per adult with a cap of \$1,000 per household to deal with the specific needs arising from the COVID-19 pandemic.

3. Excluded Workers Fund - New York State Department of Labor:

In response to the devastation that COVID caused among various communities and this undocumented population in particular, various states have taken actions to assist. On April 19, 2021, the New York State Legislature and the Governor passed the historic \$2.1 billion Excluded Workers Fund (EWF), the first such large-scale program of its kind in the country, to provide financial relief for residents who suffered income loss during the pandemic and were left out of various federal relief programs, including UI and pandemic benefits. Immigration status was irrelevant for this program, undocumented workers were able to apply and receive aid.

To qualify for EWF benefits, applicants needed to verify both their identity and residence. Benefits under the fund were tiered, with approved applicants receiving one of two amounts based upon the proof of work eligibility they provided. Tier 1 qualifiers received \$15,600 and Tier 2 qualifiers received \$3,200. Applicants demonstrated work *eligibility on a point value system* where specified documents were given a value of one to five points. Documents with a total value of five points provided the Tier I amount and a minimum of 3 points provided the Tier 2 amount.

Advocates of the program want to expand eligibility to more people and make it permanent. The funds have been fully allocated and the New York Department of Labor is no longer accepting applications for the program.

4. Need for this bill?

A May 2020 Fiscal Policy Institute brief, estimates the amount of the contribution that is derived from the employment of undocumented immigrants, and finds that over the past 10 years \$4.4 billion was paid in Unemployment Insurance taxes in California based on the work of undocumented immigrants. In the United States as a whole, adding all states and the District of Columbia together, \$13 billion was paid in Unemployment Insurance taxes.²

¹ UC Merced Labor Center, "Worker Relief: Expanding the Safety Net to Excluded Workers," (December 2021). <https://clc.ucmerced.edu>

² Dyssegaard Kallick, David. Fiscal Policy Institute, "Unemployment Insurance Taxes Paid for Undocumented Workers in NYS" (May 14, 2020). www.fiscalpolicy.org

It is clear that there is a need to provide some type of safety net system to help this sector of the workforce that contributes to our economy, and for which UI taxes are paid, but who cannot benefit from any of those contributions because of their immigration status. According the UC Merced Community and Labor Center, a \$597 million investment could provide enough wage replacement for most undocumented immigrants.³

According to the author, “over 1 million of California’s workforce is excluded from unemployment benefits solely due to their immigration status (including 59% of all farmworkers). This exclusion causes these workers, as well as the one in 8 children who depend on them, to exhaust their savings and incur tremendous debt to pay for the costs of housing, childcare, food, and other basic needs. It also means that workers are less likely to report abuse on the job and are more likely to take on unsafe and exploitative work, because they have no safety net to fall back on.

This exclusion also hurts California’s employers, who pay \$485 million into the Unemployment Insurance System on behalf of undocumented workers, even though those workers don’t see a cent of the benefits. That money is meant to stabilize their businesses and industries. When workers don’t have access, it means that employers have a harder time getting workers back to work.

The exclusion also hurts our resilience as a state. Wildfires, earthquakes, and historic storms all threaten California’s future. As climate change continues, undocumented workers in California’s key industries face heightened risk of experiencing environmental disaster, displacement, and income loss, without the same recourse as their colleagues and neighbors, and philanthropic efforts have been wholly insufficient to put these workers on equal footing.”

5. Staff Comments:

Extending access to the Unemployment Insurance Program for undocumented individuals is a just cause and one worth exploring, however, simply adding these individuals to the existing structure of the program does not work primarily because of the legal presence of the individual in the country and the required legal authority to work. The author and sponsors acknowledge this and instead propose to create this program specifically for this population. The author may wish to keep the following considerations in mind as discussions on the bill continue:

Documentation: employers of W-2 employees are required to report specific information periodically to EDD, including employment tax returns, employee wage reports, and payroll tax deposits. Because of their lack of legal work authorization, undocumented workers and their work history is hard to track. The author and sponsors address this problem by proposing eligibility be determined on a points system where certain documents have a value of between one and four, with four points being the required minimum for eligibility. *What kind of verification methods should be included to address threats of fraud?*

³ UC Merced Community and Labor Center. “Fact Sheet-Worker Relief: Expanding the Safety Net to Excluded Workers,” (December 2021). <https://clc.ucmerced.edu>

Financing Structure: in the veto message for AB 2847 (E. Garcia, 2022), the predecessor to this bill, the Governor stated that, “this bill needs further work to address the operational issues and fiscal concerns, including a dedicated funding source for benefits.” As noted above, the existing Unemployment Insurance program is funded through employer contributions on employee wages. This bill proposes the Excluded Worker Program to exist only until January 1, 2027 and upon appropriation by the Legislature of sufficient funds to carry it out. *Once this program is created and workers become dependent on these funds, what funding source will sustain that need?*

Program Outreach: undocumented individuals, for justified reasons, are often fearful of governmental entities and may be hesitant to provide the information necessary to establish a claim through the EWP. *The author may wish to include an educational component to the bill that includes an outreach campaign in languages the immigrant individuals are likely to understand.*

Infrastructure: Although EDD was able to distribute benefits under the PUA program, our EDD infrastructure was not equipped to handle this new population and it lead to the largest fraud the department has ever seen. *The author should work with EDD to ensure adequate fraud mitigation efforts are included in the bill.*

6. Proponent Arguments:

According to a coalition of over 160 immigrant and worker rights organizations, sponsoring the measure as the Safety Net for All coalition, “California is set to be the world’s fourth-largest economy in large part thanks to immigrant labor. 78% of undocumented immigrant workers in California work in jobs deemed “essential and critical” to the economy, as determined by the Department of Homeland Security. These workers helped to hold California’s economy together throughout the pandemic, and continue to do so during economic downturns and natural disasters, but without access to economic support to ensure their and their families wellbeing. Undocumented immigrant workers are often forced to exhaust their life savings, accumulate greater debt, and compromise their health to simply afford basic necessities such as food and shelter when they lose their jobs, due to racist exclusions from the safety net.”

The coalition notes that, “An estimated 20% of all Californians under 18 live with an undocumented family member or are undocumented themselves. California must build the infrastructure necessary to better support families, communities, and industries to withstand economic and environmental shocks.” They argue that, “SB 227 would ensure that California’s most marginalized workers do not lose their housing and fall into financial ruin when they lose their job; would infuse more money into local economies to help weather a potential economic downturn, and would help stabilize California’s economy and industries. Specifically, the Excluded Workers Program created by SB 227 would provide unemployed workers who are ineligible for regular unemployment insurance due to their immigration status with \$300 per week for up to 20 weeks.”

They conclude that, “California has made enormous strides to expand access to a safety net for undocumented Californians. However, with a potential recession on the horizon, and our most vulnerable communities still reeling from the hardships of the COVID-19 pandemic and climate disasters, it is more important than ever for California to address one of the most important benefits for a family’s survival during an economic downturn: unemployment

benefits. Without it, income inequality will continue to widen, and the progress that California has made in reducing poverty will be forestalled.”

7. Opponent Arguments:

The California Taxpayers Association is opposed to the measure arguing that, “While expanding benefits for California’s most vulnerable households is a laudable goal, California’s unemployment system does not have the financial ability to sustain any added benefits at this time.” They argue that, “Due to the sudden and immense impact of the COVID-19 pandemic, the EDD was inundated with millions of unemployment benefit claims. The influx of new claims ultimately resulted in approximately \$20 billion in fraudulent benefits distributed to scammers, according to the department, while independent investigations estimate that fraudulent payments reached \$32.6 billion during the pandemic. Had mechanisms and safeguards been in place to stop this fraud, California would not currently face a UI fund shortfall, employers would not be paying higher payroll taxes, and policymakers would be in a better position to debate the merits of adding benefits.” They conclude by stating that, “the Legislature should prioritize reforms for the EDD in anticipation of the next recession, including enhanced anti-fraud measures, increased staffing resources, and greater transparency.”

8. Double Referral:

This bill has been double referred and if passed by our committee today, will be sent to Senate Governance and Finance Committee for a hearing.

9. Prior Legislation:

AB 2847 (E. Garcia, 2022, Vetoed): SB 227 is substantially similar to AB 2847 from last year which would have established a pilot program designed to provide the functional equivalent of unemployment insurance benefits, at slightly lower rates, to workers who are not eligible for regular state or federal unemployment insurance benefits due to their immigration status. In his veto message, Governor Newsom stated, among other things, that:

“California has taken critical actions to support inclusion and opportunity for undocumented immigrants and mixed status families. Just this year, California made historic investments to ensure more undocumented Californians have access to health care, food assistance, and to provide inflation relief regardless of immigration status. As we continue forward, this bill needs further work to address the operational issues and fiscal concerns, including a dedicated funding source for benefits.”

SUPPORT

Safety Net for All Coalition – Sponsor

350 Santa Barbara

805 UndocuFund

AAPI Equity Alliance

Access Reproductive Justice

Afghan American Muslim Outreach (AAMO)

African Communities Public Health Coalition

Alameda County Community Food Bank
Alliance for Boys and Men of Color
Armenian Relief Society of Western USA,
Social Services
Asian Americans Advancing Justice – Asian Law Caucus
Asian Americans Advancing Justice – Southern California
AssistHub
Bay Area Asset Funders Network
Bet Tzedek Legal Services
Buen Vecino
Building Skills Partnership
California Association of Food Banks
California Domestic Workers Coalition (CDWC)
California EDGE Coalition
California Employment Lawyers Association
California Health+ Advocates
California Immigrant Policy Center
California Immigrant Youth Justice Alliance
California Latinas for Reproductive Justice
California Rural Legal Assistance Foundation (CRLA Foundation)
California Women’s Law Center
Caring Across Generations
Center for Community Action and
Environmental Justice
Center for Workers’ Rights
Central American Resource Center – Los Angeles (CARECEN-LA)
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Central Coast Climate Justice Network
Central Valley Immigrant Integration Collaborative
Central Valley Justice Coalition
Central Valley Urban Institute
Centro Binacional para el Desarrollo Indigena Oaxaqueno (CBDIO)
Centro Cultural de Mexico
Centro Del Inmigrante
CHAN-BOF for Peace Collaborative
Children’s Institute
Children’s Partnership
Chinese for Affirmative Action
Chinese Progressive Association
CLEAN Carwash Worker Center
Community Action Board of Santa Cruz County
Community Power Collective
Comunidad de Apoyo San Diego
Comunidades Aliadas Tomando Accion
Courage California
CSA San Diego County Fair Housing
DeafHope
East Bay Alliance for a Sustainable Economy (EBASE)
East Bay Sanctuary Covenant (EBSC)

Echo Park Immigration Center
Economic Security Project Action
Education Leadership Foundation
Employee Rights Center
Empowering Pacific Islander Communities (EPIC)
End Poverty in California (EPIC)
Equal Rights Advocates
Espacio Migrante
Filipino Advocates for Justice
Filipino Community Center
Food Empowerment Project
Frente Indigena de Organizaciones Binacionales (FIOB)
Friends Committee on Legislation of California
Garment Worker Center
Gathering Strength Collective
Golden State Opportunity
GRACE - End Child Poverty in California
Graton Day Labor Center
Harbor Institute for Immigrant and Economic Justice
Hispanos Unidos
Hope of the Valley Rescue Mission
Immigrant Defenders Law Center
Inclusive Action for the City
Inland Coalition for Immigrant Justice
Inland Congregations United for Change (ICUC)
Inland Empire Immigrant Youth Collective
Inland Empire United
Inland Equity Community Land Trust
Jakara Movement
Justice and Equity Team, Unitarian Society of Santa Barbara
Koreatown Immigrant Workers Alliance (KIWA)
La Raza Centro Legal
Latino and Latina Roundtable of the San Gabriel and Pomona Valley
Legal Aid at Work
Lideres Campesinas
Long Beach Immigrant Rights Coalition
Los Angeles Alliance for a New Economy (LAANE)
Los Angeles LGBT Center
Maintenance Cooperation Trust Fund
Maternal and Child Health Access
Mental Health America of Los Angeles
Mi Familia Vota
Mixteco Indigena Community Organizing Project (MICOP)
Monterey Bay Central Labor Council, AFL-CIO
Mujeres Unidas y Activas
Multicultural Institute
National Association of Social Workers - California Chapter
National Association of Social Workers – Region H
National Association of Social Workers – Region I
National Day Laborer Organizing Network (NDLON)

National Employment Law Project
National Immigration Law Center
National Lawyers Guild of Los Angeles
National Ecumenical Forum for Filipino Concerns – Inland Empire
Nikkei Progressives
NorCal Resist
North Bay Jobs with Justice
Northridge Indivisible
Oasis Legal Services
Orange County Communities Organized for Responsible Development (OCCORD)
Parent Engagement Academy
Parent Voices CA
Pasadena Community Job Center
People's Budget Orange County
People's Collective for Environmental Justice
Pesticide Action Network
Pilipino Association of Workers and Immigrants (PAWIS)
Pomona Economic Opportunity Center
Program for Torture Victims
Promesa Boyle Heights
Public Health Advocates
Rainbow Pride Youth Alliance
Restaurant Opportunities Center United (ROC)
Salva
San Bernardino Community Service
San Diego Immigrant Rights Consortium (SDIRC)
San Francisco Senior and Disability Action
SEIU-USWW
SEIU – Western States Regional Joint Board, Workers United
Services, Immigrant Rights and Education Network (SIREN)
SHIELDS for Families
Small Business Majority
Social Justice Collaborative
Somos Familia Valle
South Asian Network
South Bay People Power
Southern California Coalition for Occupational Safety and Health (SoCalCOSH)
Street Level Health Project
Survivors of Torture, International
Thai Community Development Center
TODEC Legal Center
Trabajadores Unidos Workers United
UCLA Labor Center
UFCW Western States Council
Unemployed Workers United
Unitarian Universalist Association
Unitarian Universalist Refugee, Immigrant Services and Education
United Ways of California
United We Dream California
Unity Council

Unity Hope
Universidad Popular
Western Center on Law and Poverty
Warehouse Worker Resource Center – California
Westside Activists
Women's Building
Women's Employment Rights Clinic
Working Partnerships USA
Worksafe
California Catholic Conference
Los Angeles County Democratic Party

OPPOSITION

California Taxpayers Association

-- END --

SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT**Senator Dave Cortese, Chair****2023 - 2024 Regular**

Bill No: SJR 1
Author: Cortese
Version: March 2, 2023
Urgency:
Consultant: Glenn Miles

Hearing Date: March 8, 2023

Fiscal: No

SUBJECT: Social Security Act: repeal of benefit reductions

KEY ISSUE

Should the Legislature petition the United States Congress to enact, and the President of the United States to sign, legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act and to instruct the Secretary of the Senate to transmit copies of this resolution to members of Congress?

ANALYSIS

Existing law:

- 1) Requires that a beneficiary's Social Security allowance be offset if the beneficiary also receives a government pension and was employed by an employer not coordinated with Social Security. (42 U.S. Code § 403, 20 CFR § 404.243)
- 2) Requires that a beneficiary's spouse, widow, or widower, may receive a reduced Social Security benefit if the beneficiary also receives a government pension and was employed by an employer not coordinated with Social Security. (42 U.S. Code § 403, 20 CFR § 404.408a)

This joint resolution:

- 1) Requests the United States Congress to enact, and the President of the United States to sign, legislation to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) from the Social Security Act.
- 2) Directs the Secretary of the Senate to transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from California in the United States Congress, and to the author for appropriate distribution.
- 3) Makes various declarations:
 - a) The WEP and GPO, passed by Congress over 30 years ago without statistical analyses, diminish or eliminate the fully earned Social Security benefits of large numbers of California public employees;
 - b) WEP and GPO affect workers who have been employed in a government position which is not coordinated with Social Security, such as public school teachers who have been unable to receive Social Security credits since 1965;

- c) Most peace officers, including the California Highway Patrol, firefighters, and public servants working for cities and special districts, are not covered by Social Security and subject to the WEP and GPO;
- d) More than 375,000 California retirees have had their Social Security benefits diminished or eliminated by the WEP and GPO;
- e) Effective government requires highly qualified and motivated personnel, and California government agencies need to compete to recruit and retain employees, including hiring up to 19,700 teachers by the 2025-26 school year;
- f) The recruitment and retention of qualified individuals reentering the workforce is impeded by the WEP and GPO which reduce or eliminate the benefits earned by workers or received through dependent status;
- g) The GPO severely cuts, and usually eliminates, all spousal and survivor benefits earned from what is deemed by the State of California as community property income;
- h) The GPO requires a beneficiary to report any yearly cost-of-living increases in the recipient's public pension, so that the recipient's Social Security benefits may be reduced by two-thirds of that amount;
- i) The WEP reduces earned Social Security benefits from work that is separate from the work for which the individual earned a government pension;
- j) The WEP cuts earned Social Security retirement benefits by eliminating the formula that reimburses low-income workers at a higher rate than high-income workers, causing severe hardships for those who have not been employed in a high-paying public job;
- k) New public sector workers were not notified they would be subject to these unjust penalties until 2005, which means that thousands of workers had no notification of them until they applied for Social Security benefits.

COMMENTS

1. Need for this bill?

According to the author:

“Many of California’s teachers are unfairly penalized by Social Security offsets that reduce or eliminate the earned Social Security benefits of the teacher’s benefits or their spousal benefits. The California Legislature has consistently requested that Congress repeal these offsets to protect our current and future teachers. Educational stakeholders, as well as others that represent impacted public employees have been working to garner federal support to eliminate the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO).

Social Security was originally established in 1935. Initially, state and local governments, and their employees were prohibited from participating. Over the years, federal laws were passed allowing these employees the opportunity to elect to join the program, including a number of California jurisdictions, except for peace officers, firefighters, correctional officers, teachers, and others.

Nationwide, more than one-third of teachers are not covered under Social Security. Most are subject to the WEP or GPO.

The WEP reduces benefits that were paid for as part of the Social Security payroll tax. This benefit was created to ensure that a worker was not put into poverty. The WEP can lead to a significant reduction of the Social Security benefits that were earned and paid for.

The survivor benefit was paid for by the Social Security earner as part of the Social Security payroll tax. The survivor benefit was created to ensure the surviving spouse was not left without adequate financial support. The GPO eliminates the survivor benefit even with a modest public pension. When the GPO is applied to the survivor benefit, it can often force the surviving spouse into poverty.

The WEP reduces the ability to recruit private industry workers as second career teachers to bring their skills and knowledge to California's classrooms. This transfer of knowledge is particularly important in some of the high technology areas particularly in high schools and community colleges.

Women are disproportionately impacted by the WEP and GPO in California. Approximately 72% of teachers in California are women who receive less service overall than their male colleagues."

2. Proponent Arguments:

According to the California Retired Teachers Association:

"The WEP reduces Social Security benefits that teachers who have worked in the private sector have paid for through Social Security payroll taxes, which significantly harms California's ability to recruit and retain teachers from the private sector..."

"The GPO has a harsh impact on spouses and widows, often leaving a grieving spouse in dire economic conditions when her spouse passes. The survivor benefit was paid for by the Social Security earner as part of the Social Security payroll tax. This benefit was created to ensure the surviving spouse was not left without economic resources. The GPO eliminates the survivor benefit, even with a modest pension. When the GPO is applied to the survivor benefit, it can force the surviving spouse into poverty. A total of 54 percent of those impacted by the GPO are spouses, 46 percent were widows or widowers. Out of the total potential beneficiaries, 72 percent will lose all Social Security benefits."

3. Opponent Arguments:

None.

4. Prior Legislation:

Resolution Chapter 78, Statutes of 2021 (AJR 9, Cooper)
 Resolution Chapter 129, Statutes of 2019 (SJR 3, Wilk)
 Resolution Chapter 197, Statutes of 2018 (AJR 41, Thurmond)
 Resolution Chapter 92, Statutes of 2015 (SJR 1, Beall)
 Resolution Chapter 126, Statutes of 2012 (SJR 30, Hancock)
 Resolution Chapter 103, Statutes of 2009 (AJR 10, Torlakson)
 Resolution Chapter 116, Statutes of 2007 (AJR 5, Hernandez)
 Resolution Chapter 62, Statutes of 2006 (SJR 15, Dutton)

Resolution Chapter 65, Statutes of 2003 (AJR 29, Pavley)

SUPPORT

California Retired Teachers Association (Sponsor)
California Association of Highway Patrolmen
California State Teachers' Retirement System
California Teachers Association
Los Angeles Unified School District
Peace Officers Research Association of California (PORAC)
Retired Public Employees Association

OPPOSITION

None received.

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