

114TH CONGRESS  
1ST SESSION

# H. R. 711

To amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2015

Mr. BRADY of Texas (for himself and Mr. NEAL) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend title II of the Social Security Act to repeal the windfall elimination provision and protect the retirement of public servants.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Treatment of  
5 Public Servants Act of 2015”.

1 **SEC. 2. REPLACEMENT OF THE WINDFALL ELIMINATION**  
2 **PROVISION WITH A FORMULA EQUALIZING**  
3 **BENEFITS FOR CERTAIN INDIVIDUALS WITH**  
4 **NON-COVERED EMPLOYMENT.**

5 (a) IN GENERAL.—Section 215(a) of the Social Secu-  
6 rity Act (42 U.S.C. 415(a)) is amended by inserting after  
7 paragraph (7) the following:

8 “(8)(A) In the case of an individual whose primary  
9 insurance amount would be computed under paragraph  
10 (1) of this subsection—

11 “(i) who becomes eligible for old-age insurance  
12 benefits after 2016 or would attain age 62 after  
13 2016 and becomes eligible for disability insurance  
14 benefits after 2016,

15 “(ii) who subsequently becomes entitled to such  
16 benefits, and

17 “(iii) who has earnings derived from noncovered  
18 service performed in a year after 1977,

19 the primary insurance amount of such individual shall be  
20 computed or recomputed under this paragraph.

21 “(B) The primary insurance amount of an individual  
22 described in subparagraph (A), as computed or recom-  
23 puted under this paragraph, shall be the product derived  
24 by multiplying—

1           “(i) the individual’s primary insurance amount,  
2           as determined under paragraph (1) of this sub-  
3           section and subparagraph (C) of this paragraph, by

4           “(ii) a fraction—

5                   “(I) the numerator of which is the individ-  
6                   ual’s average indexed monthly earnings (deter-  
7                   mined without regard to subparagraph (C)),  
8                   and

9                   “(II) the denominator of which is an  
10                  amount equal to the individual’s average in-  
11                  dexed monthly earnings (as determined under  
12                  subparagraph (C)),

13 rounded, if not a multiple of \$0.10, to the next lower mul-  
14 tiple of \$0.10.

15           “(C)(i) For purposes of determining an individual’s  
16 primary insurance amount pursuant to clauses (i) and  
17 (ii)(II) of subparagraph (B), the individual’s average in-  
18 dexed monthly earnings shall be determined by treating  
19 all recorded noncovered earnings (as defined in clause  
20 (ii)(I)) derived by the individual from noncovered service  
21 performed in each year after 1977 as ‘wages’ (as defined  
22 in section 209 for purposes of this title), which shall be  
23 treated as included in the individual’s adjusted total cov-  
24 ered earnings (as defined in clause (ii)(II)) for such cal-  
25 endar year together with amounts consisting of ‘wages’ (as

1 so defined without regard to this subparagraph) paid dur-  
2 ing such calendar year and self-employment income (as  
3 defined in section 211(b)) for taxable years ending with  
4 or during such calendar year.

5 “(ii) For purposes of this subparagraph—

6 “(I) The term ‘recorded noncovered earnings’  
7 means earnings derived from noncovered service  
8 (other than noncovered service as a member of a  
9 uniformed service (as defined in section 210(m))) for  
10 which satisfactory evidence is determined by the  
11 Commissioner to be available in the records of the  
12 Commissioner.

13 “(II) The term ‘adjusted total covered earnings’  
14 means, in connection with an individual for any cal-  
15 endar year, the sum of the wages paid to the indi-  
16 vidual during such calendar year (as adjusted under  
17 subsection (b)(3)) plus the self-employment income  
18 derived by the individual during any taxable year  
19 ending with or during such calendar year (as ad-  
20 justed under subsection (b)(3)).

21 “(iii) The Commissioner of Social Security shall pro-  
22 vide by regulation for methods for determining whether  
23 satisfactory evidence is available in the records of the  
24 Commissioner for earnings for noncovered service (other  
25 than noncovered service as a member of a uniformed serv-

1 ice (as defined in section 210(m))) to be treated as re-  
2 corded noncovered earnings. Such methods shall provide  
3 for reliance on earnings information which is provided to  
4 the Commissioner by employers and which, as determined  
5 by the Commissioner, constitute a reasonable basis for  
6 treatment of earnings for noncovered service as recorded  
7 noncovered earnings. In making determinations under this  
8 clause, the Commissioner shall also take into account any  
9 documentary evidence of earnings derived from non-  
10 covered service by an individual which is provided by the  
11 individual to the Commissioner and which the Commis-  
12 sioner considers appropriate as a reasonable basis for  
13 treatment of such earnings as recorded noncovered earn-  
14 ings, except that such evidence provided by the individual  
15 shall be taken into account only to the extent that such  
16 evidence does not relate to earnings for service with re-  
17 spect to which information regarding earnings has already  
18 been obtained by the Commissioner from the employer and  
19 only to the extent that such evidence does not result in  
20 a reduction in the individual's primary insurance amount  
21 as calculated under subparagraph (B).

22       “(D) Upon the death of an individual whose primary  
23 insurance amount is computed or recomputed under this  
24 paragraph, such primary insurance amount shall be com-

1 puted or recomputed under paragraph (1) of this sub-  
2 section.”.

3 (b) MODIFICATION OF WINDFALL ELIMINATION  
4 PROVISION FOR CURRENT BENEFICIARIES; RECOVERY OF  
5 CERTAIN OVERPAYMENTS.—Section 215(a)(7) of such  
6 Act (42 U.S.C. 415(a)(7)) is amended by adding at the  
7 end the following:

8 “(F)(i) Notwithstanding subparagraph (A), for pur-  
9 poses of determining the amount of monthly insurance  
10 benefits for months after December 2016, the primary in-  
11 surance amount of an individual described in subpara-  
12 graph (A), or an individual described in subparagraph (G)  
13 whose primary insurance amount was calculated or recal-  
14 culated under subparagraph (B), shall be deemed to be  
15 equal to the sum of—

16 “(I) the primary insurance amount of such indi-  
17 vidual computed or recomputed under subparagraph  
18 (B); plus

19 “(II) the applicable percentage (determined  
20 under clause (ii)) of the amount by which the pri-  
21 mary insurance amount of such individual computed  
22 or recomputed under subparagraph (B) is exceeded  
23 by the primary insurance amount of such individual  
24 that would be determined without regard to this  
25 paragraph.

1       “(ii) The applicable percentage determined under this  
2 clause shall be a percentage (but not more than 50 per-  
3 cent) which shall be determined by the Commissioner on  
4 the basis of the amount of the savings generated as a re-  
5 sult of the enactment of the Equal Treatment of Public  
6 Servants Act of 2015. The Commissioner shall determine  
7 and promulgate the applicable percentage determined  
8 under this clause on or before November 1, 2016, based  
9 upon the most recent actuarial estimates then available.

10       “(G) In the case of an individual whose primary in-  
11 surance amount would be computed under paragraph (1)  
12 of this subsection who—

13               “(i) attains age 62 after 1985 and before 2017  
14 (except where he or she became entitled to a dis-  
15 ability insurance benefit before 1986 and remained  
16 so entitled in any of the 12 months immediately pre-  
17 ceding his or her attainment of age 62), or

18               “(ii) would attain age 62 after 1985 and before  
19 2017 and becomes eligible for a disability insurance  
20 benefit after 1985 and before 2017, and

21               “(iii) is eligible for old-age insurance benefits or  
22 disability insurance benefits for December 2016,

23               “(iv) has recorded noncovered earnings (as de-  
24 fined in paragraph (8)(C)(ii)), and

1           “(v) has less than 30 years of coverage (as de-  
2           fined in subparagraph (D)),  
3 the primary insurance amount of such individual shall be  
4 computed or recomputed under this paragraph unless such  
5 individual provides to the Commissioner evidence deter-  
6 mined to be satisfactory by the Commissioner that such  
7 individual has not received any periodic payment attrib-  
8 utable to noncovered service. The Commissioner shall, in  
9 accordance with section 204, recover from such individual  
10 described in subparagraph (A), and any other individual  
11 receiving benefits under this title on the basis of the wages  
12 and self-employment income of such individual described  
13 in subparagraph (A), any excess of the total amount of  
14 benefits under this title paid to each such individual prior  
15 to 2017 over the amount computed on the basis of the  
16 primary insurance amount computed or recomputed under  
17 this paragraph without regard to subparagraph (F).”.

18           (c)       CONFORMING       AMENDMENTS.—Section  
19 215(a)(7)(A) of such Act (42 U.S.C. 415(a)(7)(A)) is  
20 amended—

21           (1) by striking “after 1985” each place it ap-  
22           pears and inserting “after 1985 and before 2017”;  
23           and



1           (2) by striking “hereafter in this paragraph and  
2           in subsection (d)(3)” and inserting “in this para-  
3           graph, paragraph (8), and subsection (d)(3)”.

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