

*62nd Annual National Conference
of
State Social Security*



July 29–August 1, 2012
Doubletree Paradise Valley Resort
Scottsdale, Arizona

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62nd Annual Conference
Scottsdale, Arizona
July 29 – August 1, 2012

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EXECUTIVE COMMITTEE

2011-2012

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Maryann Motza, PhD, Colorado

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Resolution

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Beth Dillon (MO)
Amanda Schmitgen (SD)

Time and Place

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Kevin Brinckerhoff (OH)
Danielle Huffine (IA)

Training and Succession Planning

Dean Conder (CO) – Chairperson

Kevin Brinckerhoff (OH)
Vandee DeVore (MO)
Mary Griffin (TN)
Maryann Motza (CO)
Karen Park (OR Retiree)
T.J. Reardon (MD)

Conference Attendees

2011-2012

State Social Security Administrators and Staff

ALABAMA

Kathleen Baxter

ARIZONA

*Michele Briggs
Tim Clement*

ARKANSAS

Madison Davis

CALIFORNIA

Steve Propp

COLORADO

*Dean Conder
Maryann Motza*

DELAWARE

Omar Masood

GEORGIA

Jim Potvin

IDAHO

Rita Foltman

ILLINOIS

Nick Merrill

IOWA

Danielle Huffine

KENTUCKY

Joe Lancaster

LOUISIANA

*Angie Dowdy
Linda Yelverton*

MAINE

Stephanie Fecteau

MARYLAND

Thomas Reardon

MISSISSIPPI

Barbara Taylor

MISSOURI

Vandee DeVore

MONTANA

Meghann Butler

NEVADA

Paul R. Brugger

NEW HAMPSHIRE

Teresa Commeau (Retiree)

NEW MEXICO

Roderick Ventura

NEW YORK

Kevin Mack

OHIO

Kevin Brinckerhoff

OKLAHOMA

Karen Lawrence

OREGON

*Pamella Johnson
Karen Park (Retiree)*

PENNSYLVANIA

Robert Murphy

SOUTH DAKOTA

Amanda Schmitgen

TENNESSEE

Mary Griffin

UTAH

Richard Beckstead

VIRGINIA

Barry Faison

WASHINGTON

*Melanie Piccin
Kim Smith*

WISCONSIN

*Dianna Felsman
Rory MGarry*

WYOMING

Erin Gourney

Conference Attendees

2011-2012

Social Security Administration

*Rey Arquero
Mark Brown
Sue Bussman*

*Pat Hayes
John Lamotte
Cassia Parson*

*Fred Sanchez
Peter Thompson
Shalyn Timmons*

*Nancy Webb
Douglas Wilson*

Internal Revenue Service

No Registrants

Presenters

*Paul Marmolejo
Lynn Shelton
Bob Westhoven*

Social Security Administration Retirees

Ken Anderson

August 10, 2011

**1st
Executive
Committee Meeting**

Closed Meeting

July 28, 2012

**2nd
Executive
Committee Meeting**

Closed Meeting

July 29, 2012

**1st
Business Session**

Closed Meeting

August 1, 2012

**2nd
Business Session**

Closed Meeting



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Keynote Speaker”

Speaker: Bill Zielinski, SSA Regional Commissioner – San Francisco Region

Moderator: Michele Briggs, NCSSSA President, AZ



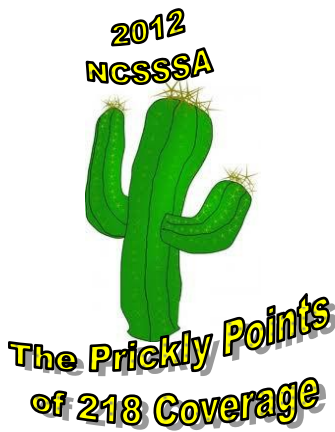
Bill Zielinski
Social Security Administration
Regional Commissioner - San Francisco Region IX

Bill Zielinski became the Regional Commissioner in the San Francisco Region of the Social Security Administration in September 2011. As the principal Social Security official for the states of California, Arizona, Nevada, Hawaii and the Pacific Area, he provides leadership for the effective and efficient operation of all Social Security programs within the region. Mr. Zielinski directs about 6,500 employees in the regional and field facilities, including the Western Program Service Center in Richmond, California, and manages an annual budget of \$736,710,204. Each year, over 8.8 million people in the San Francisco Region receive almost \$100 billion in Social Security benefits and Supplemental Security Income.

Prior to becoming Regional Commissioner, Mr. Zielinski served as Associate Director for Retirement Services in the Office of Personnel Management. In this capacity, he directed the activities of multiple staff and line organizations in administering the Civil Service and Federal Employees Retirement Systems and health and life insurance programs for 2.6 million federal retirees and survivors, with an annual disbursement of over \$52 billion in benefits. He also served as Deputy Associate Commissioner for the Office of Applications and Supplemental Security Income Systems (OASSIS), where he was responsible for developing and managing Information Technology solutions for a large Federal needs-based program and as Associate Commissioner of the Office of Retirement and Survivors Insurance Systems (ORSIS). In that capacity, he was responsible for the processes that ensured the timely delivery of more than 50 million Social Security benefit checks each month, totaling more than \$50 billion, a figure that represents roughly 15% of the US economy. During this time, Bill also served as the chair of SSA's Executive Resources Board, providing guidance and advice to the Commissioner of Social Security on issues related to the agency's Senior Executive resources and overseeing SSA's SES Candidate Development Programs.

Mr. Zielinski began his Federal career with the Social Security Administration in 1990 in Bremerton, Washington. In 2000, he moved to SSA's Baltimore Headquarters, where he held progressively more senior positions in Information Technology and Management. He has been a member of the Senior Executive Service since 2005.

Mr. Zielinski holds a Bachelor of Science degree in Psychology from Washington State University in Pullman, where he graduated Cum Laude. He is married and has three sons.



National Conference of State Social Security Administrators

62nd Annual Conference

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“Social Security and Medicare Coverage & Roles and Responsibilities”

Speakers: *Maryann Motza, PhD*
Colorado Social Security Administrator

And

Dean J Conder, M.S.
Deputy Colorado Social Security Administrator

Moderators: *Paul Brugger, NV & Amanda Schmitgen, SD*

Dr. Motza and Mr. Conder presented an informative history of Social Security since the program’s inception in 1935, and highlighted significant changes in the program regarding coverage for state and local government employees. They discussed the beginnings of government employee coverage under Section 218 in the early 1950’s and how the agreements signed decades ago still affect the application of Social Security to public employees today. Also pointed out was how changes to federal and state law and regulations can supersede portions of a Section 218 agreement without the necessity of having to change the agreement itself or add a modification to it.

1954 changes allowed coverage of employees under existing retirement systems, and in 1955 coverage could be extended to employees other than police and firefighters covered under public retirement systems. 1966 saw the automatic coverage under Medicare, of those having Social Security coverage under a 218 agreement.

Since 1983 state & local governments under Section 218 agreements could no longer opt out of said agreements.

Mandatory Medicare came along in 1986, and Mandatory Social Security in 1991. However, neither of those, even though they are called “Mandatory”, are required for everyone.

In 1994 the Social Security Administration became an independent federal agency. That year also saw a statutory change that allowed states to extend SS and MC coverage to police and firefighters, whereas only 23 states had previously been so authorized.

In 1998 states were allowed a short [3 month] window to exclude students from 218 coverage. In 2004 public employers were required to notify new employees in a retirement system that they are not covered by Social Security. This was also the time that the Government Pension Offset loophole was closed.

After the history lesson we were treated to a discussion of how to determine the correct coverage, qualification for Social Security and Medicare benefits, and how the role of the State Social Security Administrator changed when the IRS was given the responsibility for collecting Social Security and Medicare taxes. It was emphasized that the State Social Security Administrator still has a vital role in the administration of Social Security and Medicare issues in their state, and a responsibility to ensure that the public employers and employees understand and comply with the legal and administrative requirements of the programs under federal and state law and regulations. The State Social Security Administrator also serves as a liaison between the federal agencies [SSA and IRS] and local public employers.

There was considerable discussion of issues where the State Social Security Administrator can serve as a resource to assist public employers in compliance with the various parameters, as well as helping public employees understand their rights and responsibilities under the system.

The presentation closed with a few scenarios to help the audience understand when they should give an employer or employee an answer, and when it is best to refer their inquiry to the appropriate federal agency.

HANDOUTS FOR THE
SOCIAL SECURITY AND
MEDICARE COVERAGE &
ROLES AND RESPONSIBILITIES

Session at the

NCSSSA Conference
July 30, 2012; 10:15 to 11:45 am

Speakers: Maryann Motza, PhD
Colorado State Social Security Administrator
and Dean J. Conder, M.S.
Deputy Colorado State Social Security
Administrator

Social Security and Medicare Coverage Roles and Responsibilities

**NCSSSA Conference
July 30, 2012; 10:15 to 11:45 am**

Speakers: Maryann Motza, PhD
Colorado State Social Security Administrator
and Dean J. Conder, M.S.
Deputy Colorado State Social Security Administrator

Social Security & Medicare Coverage for State & Local Governments

- First question to be answered is the entity governmental – corporate and politic.
- When in doubt, obtain founding documents, e.g., state statute, board resolution, etc.
- Is it an integral part of another political subdivision or is it independent?

This is important because:

History of State and Local Social Security and Medicare Coverage

- **1935:** Social Security first created. State and local government employees are not eligible to participate due to the Constitutional question regarding the power of the federal government to tax sovereign entities, i.e., the states.

3

Social Security & Medicare Coverage for State & Local Governments

- Next question to ask is: Employee vs. Independent Contractor.
 - The 20 Common Law Factors are used to make this determination.
 - **Caution:** ***Public and Elected Officials*** (those that have authority to exercise the power of government) ***are employees.****

*Sec. 1.1402(c)-2(b), Income Tax Regulations and Buckley v. Valeo, 424 U.S. 1(1975) and Metcalf & Eddy v. Mitchel, 269 U.S. 514 (1926).

4

Social Security & Medicare Coverage for State & Local Governments

- FICA taxes apply to wages paid to employees and do not apply to independent contractor payments which are reported on Form 1099. So, next, what are wages?
 - ALL remuneration for services rendered are wages unless, specifically excluded by federal law.
 - Some exclusions are sick pay (after six months) and cafeteria plans if Section 125 of the IRC is met.

5

History of State and Local Social Security and Medicare Coverage

- **1950:** Many government employers did not have their own retirement systems so the U.S. Congress amended the Social Security Act to allow states to voluntarily enter into agreements with the Social Security Administration to extend Social Security coverage to state & local government employees in their respective states.
 - 52 (all 50 states plus the Virgin Islands and Puerto Rico) such agreements entered into with SSA (most in the early 1950's).
 - State enabling legislation delineated how each state wanted to apply the U.S. Social Security Act (within federal guidelines).

6

Voluntary Coverage Agreements

- **How it all began: voluntary agreements.**
- **Section 218 Agreements & changes in federal law.**
 - **Question:** Can a Section 218 Agreement be interpreted on its face without checking to see if federal and state statutory changes have superseded or modified all or part of the agreement?
 - **Answer: NO!**

7

Voluntary Coverage Agreements – cont.

- **Is this thing still in effect?** (It's an onion-skin, carbon-paper document executed in 1951, so how can it still be valid?)
- **What about subsequent changes in federal law?** If they superseded portions of the agreement – and modifications to that agreement – why wasn't the 218 Agreement amended?

...

8

Voluntary Coverage Agreements – cont.

- **ANSWER:** From your “Government 101” class: the U.S. Constitution overrides the U.S. Code which overrides the U.S. Regulations. The U.S. Constitution and laws override state constitutions, laws, & regulations that are in conflict with federal provisions. State Constitutions & laws override inconsistent provisions adopted by their political subdivisions. **Consequently, no amendments of the 218 Agreements are necessary for any of their provisions that were superseded by subsequent changes in federal law!**

9

History -- continued

- **1954** Congress again modified Section 218 to **allow** coverage of employees under existing **retirement systems**. Beginning **January 1, 1955**, states could extend Social Security coverage to employees (other than police officers and firefighters) who were covered under a public retirement system.

10

History -- continued

- Beginning **July 1, 1966**, employees covered for Social Security under a Section 218 Agreement are **automatically covered for Medicare.**

11

History -- continued

- **Since April 20, 1983**, state & local governments can no longer opt out of all or part of their Section 218 Agreements with the SSA.
- ***What was once "voluntary" is now a permanent, binding agreement between the parties.***

The complexity continues to grow. . .

12

History -- continued

- **Mandatory Medicare (effective April 1, 1986) & Mandatory Social Security (effective July 2, 1991)** further changed the complexion of the federal law. **But, "mandatory" doesn't mean Social Security and/or Medicare is mandated for everyone in state and local government.**
- **What used to be "voluntary" is now required, yet "mandatory" doesn't mean it's required for everyone.**

Confused yet?

13

History -- continued

- **August 15, 1994**, the Social Security Administration becomes an **independent federal agency**. The same statutory change **permitted all states to extend Social Security and Medicare coverage to police officers and firefighters who participate in a public retirement system**. Previously, only 23 states were authorized to do so.

14

History -- continued

- **October 21, 1998**, Congress permits states to modify their Section 218 Agreement to **exclude from coverage services performed by students**. The modifications had to be made within a 3-month window permitted by the law and became effective January 1, 2000, for states that exercised the option.

15

History -- continued

- **March 2, 2004**. Federal law requires all **public employers to disclose to newly hired public employees** who are in a retirement system **that they are not covered by Social Security**. SSA Form 1945 is subsequently created by SSA to implement that portion of the law.
- The law also **closes the Government Pension Offset loophole**.

16

Determining the Correct Coverage

- **In general, to determine the correct coverage for a group of employees, a government employer must review the following:**
 - **If a Section 218 Agreement applies:**
 1. When did the state voluntarily enter into a Section 218 Agreement to elect Social Security coverage for a particular political subdivision?
 2. What optional exclusions and what coverage groups were listed in that Agreement or later modification(s)?
 3. Does the political subdivision have more than one modification?
 4. Did the state or political subdivision terminate voluntary Social Security coverage, in its entirety or with respect to any coverage group(s), before April 20, 1983?
 5. Has the state elected to provide Medicare-only for a particular entity?

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Determining the Correct Coverage – cont.

- **If not covered by Section 218:**
 1. Does the state or political subdivision have any employees who were hired prior to April 1, 1986, and are exempt from mandatory Medicare?
 2. Does the state or political subdivision have a public retirement system*? If so, employees who are qualified participants in the public retirement system are not subject to mandatory Social Security coverage that began July 2, 1991.
- *The term "public retirement system" (or "FICA replacement plan") refers to a retirement system administered by a state, political subdivision, or instrumentality thereof that meets the requirements of section 3121(b)(7)(F) of the IRC. See Revenue Procedure 91-40. For section 218 purposes, it is irrelevant whether the retirement system meets the minimum benefit standards for a qualified plan under the Employee Retirement Income Security Act (ERISA). See IRS Pub., Chapter 6.*

18

Social Security and Medicare Benefit Qualification

- Same as in the private sector: minimum of 40 credits (earn 4 credits per year) to earn Social Security and Medicare benefit.
- But some special provisions when receiving a public pension:
 - Individual benefit may be offset by WEP (Windfall Elimination Provision).
 - Spousal benefit may be offset by GPO (Government Pension Offset).

19

More History

- **Since January 1, 1987**, State Administrators are no longer responsible for collecting Social Security/Medicare contributions. The IRS now has that responsibility.
 - From 1951 (when most Section 218 Agreements were first entered into) through 1986, the State Administrator collected all Social Security and Medicare contributions and transmitted them to the U.S. Treasury.
- **Majority of State Administrators' responsibilities** (including the federal mandate for the function to exist in each state) **continue**. In March 2011, the Social Security Administration (SSA) updated its policy guidance reinforcing that fact.

• NOTE: A copy of Chapter 1 from the Federal-State Reference Guide (November 2011 edition) and of POMS SL 10001.130, State Social Security Administrator Responsibilities are being provided to all NCSSSA conference attendees.

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All Levels of Government Have Roles

STATE & LOCAL

- **State Administrator**
 - Act as bridge between state, local, and federal agencies.
 - Prepare changes to coverage agreement.
 - Maintain files of changes to coverage agreement and all relevant documents.
 - Representative of the Governor as a party to the voluntary coverage agreement.
- **Public Employer (e.g., both state and local governments)**
 - Request coverage for employees.
 - Comply with coverage provisions in any changes to the coverage agreement.
 - Withhold Social Security and Medicare taxes as appropriate and/or provide a public pension plan for employees.

FEDERAL

- **Social Security Administration (SSA)**
 - Maintain and interpret coverage agreements.
 - Maintain employees' record of earnings.
 - Approve changes to coverage agreements.
- **Internal Revenue Service (IRS)**
 - Assure proper reporting and collection of Social Security and Medicare taxes and compliance with public pension plan requirements.
 - Provide public tax guidance.

21

The Bridge: the State Social Security Administrator



- The "State Social Security Administrator" (SSSA) is the responsible official in each state who is charged with ensuring that the state and local government employers in his/her state adhere to the voluntary coverage agreement.
- ***The State Administrator is often seen as a bridge between state and local government employers and federal agencies (both the IRS & SSA).***

22

**Issues and Situations Where the
State Social Security Administrator Can Help**

- How can Medicare-exempt employees obtain Medicare coverage? Social Security and/or Medicare-only referenda (e.g., error modifications, extension of Medicare-only coverage to Medicare-exempt employees, etc.).
- Assist state and local government representative in discussions with the IRS or SSA regarding determinations of coverage, benefits, or tax withholding issues.
- Communication bridge and liaison between the federal government and state and local governments.
- Assist auditors (independent and IRS) of public employers in determining applicable Social Security and/or Medicare coverage and tax requirements.
- What is a "rehired annuitant" and why should I care? Example of a "war story" and how the State Administrator's Office helps resolve problems with the IRS & SSA.
- Post-General Election "wrap-up" – how to handle reporting of election worker pay.
- FICA withholding & Social Security/Medicare coverage requirements for elected officials.

Needs of (and services for) Section 218 and Non-Section 218 entities differ . . .

**State Social Security Administrator
Responsibilities**

218 Entities

- Administer & Maintain 218 Agreement
- Prepare 218 Modifications to provide or correct coverage
- Notify SSA of entity dissolutions
- Resolve Coverage & Taxation questions with IRS & SSA
- Advise of coverage options based on state law

Non-218 Entities

- Resolve Coverage & Taxation questions with IRS & SSA
- Conduct Referenda
- Advise of coverage options based on federal & state law
- Clarify when "Mandatory Medicare" and "Mandatory Social Security" are not *really* mandatory?
- Provide information on FICA Compliance

But, what if employers don't comply? . . .

State Issues & Concerns

Possible Consequences of Noncompliance



- Employers who are paying into non-qualifying retirement plans are still required to pay into Social Security/Medicare and can be required to pay back-FICA, penalties, & interest, if audited by the IRS.
- Employers with similar situations are given different advice about who should pay FICA taxes and who is entitled to benefits. The erroneous advice comes from a variety of sources, including the IRS, SSA, SSSAs, and private tax advisors and attorneys, thus resulting in inequitable and unfair treatment. Employees can be adversely affected if they receive a public pension; they may believe they will receive full Social Security benefits at retirement, but will discover that they are subject to WEP & GPO.
- Employers who do not pay Medicare-only taxes for employees hired on or after April 1, 1986, can be required to pay back-taxes, penalties, & interest, if audited by the IRS.

**THE KEY IS TO KNOW WHAT QUESTIONS
TO ASK AND WHO TO CONTACT!**

25

The "4-legged" Stool

To ensure the integrity of tax administration for state and local government employers and employees and proper coverage of those employees, the partnership must be a "4-legged" stool involving all 4 principal parties working collaboratively:



- **Public Employer (e.g., state and local governments)**
- **State Social Security Administrator**
- **Social Security Administration (SSA)**
- **Internal Revenue Service (IRS)**

26

Whose job is it anyway?

- A former employee of a school district in State "X" calls you because the SSA referred them to you. They are missing Social Security and Medicare credits for the four years they worked there (1977 through 1981). **ANSWER:**
 - In State "X", the enabling legislation excluded all school district employees from Social Security coverage and put them under the state retirement system.
 - As State Administrator, you advise this former employee that his/her Social Security/Medicare benefit record is correct; no Social Security or Medicare credits were applied during that period of employment.

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Whose job is it anyway? – cont.

- Same scenario as on the previous slide, except the employee worked for a school district from 1988 through 1992.
- **Answer this time:** As State Administrator, you advise this employee that his/her Social Security benefit record is correct, but that he/she should have Medicare credits for the time worked at the school district.

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Whose job is it anyway? – cont.

- City “Y” calls you and says the IRS is attaching a lien against its fire trucks for non-payment of Social Security (OASDI) on its firefighters.
- **ANSWER:** As State Administrator you know that police officers and firefighters are excluded from Social Security in your state, because they are covered by a public retirement system and not by a Section 218 Agreement. The IRS is incorrect in assessing OASDI, but could be correct if they are assessing Medicare-only on anyone hired since March 31, 1986.

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Whose job is it anyway? – cont.

- An employee of a city calls you and asks you what his Social Security and Medicare benefits will be when he retires next year.
- **ANSWER:** As State Administrator you should refer him to SSA’s 800 # (1-800-SSA1213). You do not have access to his (or a spouse or ex-spouse’s) benefit records. The Social Security Administration has that information and can accurately answer his questions.

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Whose job is it anyway? – cont.

- You receive a call from the Town Clerk of Moosejaw asking whether or not she should withhold FICA on the snowplow driver. He has his own equipment and business and provides this service for the city on an as-needed basis.
- **ANSWER:** Refer her to the IRS/FSLG which is the proper agency to determine if he should be considered an employee or an independent contractor.

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Where to Get More Information

- **Books and electronic sources**
 - IRS Pub. 963 (Federal-State Reference Guide) <http://www.ssa.gov/sige/pubs.htm>
 - Colorado PESS website: <http://pess.cdle.state.co.us>
 - NCSSSA website: <http://www.ncsssa.org>
 - IRS Federal State Local Governments website: <http://www.irs.gov> (Click on "Government Entities"). To keep abreast of developments, you can subscribe to the FSLG Newsletter by going to this website and selecting it from the "Topics" section.
 - IRS Employee Plans (public pension system requirements) website: www.irs.gov/ep
 - Social Security State and Local Government website: <http://www.ssa.gov/sige/>
 - Kentucky's website: <http://sssa.state.ky.us/>

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Questions?



Federal-State Reference Guide

(IRS Publication 963)

A Federal-State Cooperative Publication

- **Social Security Administration**
- **Internal Revenue Service**
- **National Conference of State Social Security Administrators**

Providing guidelines for social security and Medicare coverage and tax withholding requirements for state, local and Indian tribal government employees and public employers.

November 2011 Revision

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- 8 [Internal Revenue Service](#)**

[Glossary](#)

- Appendix:** [Section 218 of Social Security Act](#)
[Amended Section 530 of Revenue Act of 1978](#)
[Revenue Procedure 85-18](#)
[Revenue Ruling 86-88](#)
[Revenue Ruling 88-36](#)
[Revenue Procedure 91-40](#)

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Chapter 1

Social Security and Government Employers

Federal tax requirements generally apply on the same basis to public as to private employers. However, there are some differences, arising mostly from the unique history to social security and Medicare coverage for state and local government employees. These provisions involve special provisions for the application of these taxes as well as some special withholding and requirements.

Historical Overview

Social security taxes were first collected in 1937. The funding mechanism for the social security program was officially established in the Internal Revenue Code as the Federal Insurance Contributions Act (FICA). Under the original Social Security Act of 1935, state and local government employees were excluded from social security coverage because of unresolved legal questions regarding the Federal government's authority to tax state and local governments. Beginning in 1951, states were allowed to enter into voluntary agreements with the Federal government to provide social security coverage to public employees. These arrangements are called "Section 218 Agreements" because they are authorized by Section 218 of the Social Security Act. Since 1987, the IRS is responsible for collecting this tax from governmental employers.

All 50 states, Puerto Rico, the Virgin Islands, and approximately 60 interstate instrumentalities have Section 218 Agreements with SSA, providing varying degrees of coverage for employees in the state. Most state employees participate in social security; the major exceptions are state employees of Alaska, Colorado, Louisiana, Maine, Massachusetts, Nevada and Ohio.

The largest proportion of uncovered government employees work at the local level. The majority of uncovered local government public employees are police officers, firefighters and teachers. Approximately one-fourth of the nation's 23 million public employees are not covered for social security.

The following table includes the major historical developments since state and local employees first became eligible for social security coverage in 1951.

Key Dates

January 1, 1951	Beginning this date, states could voluntarily elect social security coverage for public employees not covered under a public retirement system by entering into a Section 218 Agreement with SSA.
January 1, 1955	Beginning this date, states could extend social security coverage to employees (other than police officers and firefighters) covered under a public retirement system.
July 1, 1966	Beginning this date, employees covered for social security under a Section 218 Agreement are automatically covered for Medicare.
April 20, 1983	Beginning this date, coverage under a Section 218 Agreement cannot be terminated unless the governmental entity is legally dissolved.
April 1, 1986	State and local government employees hired on or after this date, not already covered, are mandatorily covered for Medicare, unless specifically excluded by law. For state and local government employees hired before April 1, 1986, Medicare coverage may be elected under a Section 218 Agreement.
January 1, 1987	Beginning this date, State Social Security Administrators were no longer responsible for collecting social security contributions from public employers or for verifying and depositing the taxes owed by public employers. After 1986, public employers pay Federal Insurance Contributions Act (FICA) taxes directly to the Internal Revenue Service (IRS) in the same manner as private employers.
July 2, 1991	Beginning this date, most state and local government employees became subject to mandatory social security and Medicare coverage, unless they are (1) members of a public retirement system, or (2) covered under a Section 218 Agreement.
August 15, 1994	The Social Security Independence and Program Improvements Act of 1994 established the SSA as an independent agency, effective March 31, 1995. This Act also increased the FICA exclusion amount for election workers from \$100 to any amount less than the threshold amount mandated by law in a calendar year. (To verify the current year amount, see the SSA website .) States were authorized to amend their Section 218 Agreements to increase the FICA exclusion amount for election workers to a statutorily mandated threshold. The Act also amended Section 218 of the Act to allow all states the option to extend social security and Medicare coverage to police officers and firefighters who participate in a public retirement system. (Under previous law, only 23 states were specifically authorized to do so.)
October 21, 1998	Public Law 105-277 provided a 3-month period for states to modify their Section 218 Agreements to exclude from coverage services performed by students. This provision was effective July 1, 2000, for states that exercised the option to take this exclusion.
March 2, 2004	Social Security Protection Act of 2004 (Public Law 108-203) enacted, requiring public employers to disclose to newly hired public employees that they are earning retirement benefits not covered by social security, closing the Government Pension Offset loophole.

Social Security Coverage (Section 218 and Mandatory)

Social security coverage can vary widely within a state or even a local area. Do not make an assumption about Section 218 coverage for an entity and whether it is in compliance with all applicable laws merely because of the status of a similar entity, either in the same or a different state. For Section 218 coverage questions, contact your State Social Security Administrator (see www.ncsssa.org). For mandatory (non-section 218) coverage questions, contact an IRS FSLG Specialist (see www.irs.gov/govts for a directory). Related information can also be found at the SSA State and Local Government Employers website at www.ssa.gov/slge.

The following chapters discuss the types of employment and the rules for taxation in greater detail. In general, however, to determine the correct coverage for a group of employees, a government employer must review the following:

If a Section 218 Agreement applies:

1. When did the state voluntarily enter into a Section 218 Agreement to elect social security coverage for a particular political subdivision?
2. What optional exclusions and what coverage groups were listed in that Agreement or later modification?
3. Does the political subdivision have more than one modification?
4. Did the state or political subdivision terminate voluntary social security coverage, in its entirety or with respect to any coverage group(s), before April 20, 1983?
5. Has the state elected to provide Medicare-only for a particular entity?

If not covered by Section 218:

1. Does the state or political subdivision have any employees who were hired prior to April 1, 1986, and are exempt from mandatory Medicare?
2. Does the state or political subdivision have a public retirement system*? If so, employees who are qualified participants in the public retirement system are not subject to mandatory social security coverage that began July 2, 1991.

** Throughout this publication, the term "public retirement system" (or "FICA replacement plan") refers to a retirement system administered by a state, political subdivision, or instrumentality thereof that meets the requirements of section 3121(b)(7)(F) of the IRC. See [Revenue Procedure 91-40](#) in the Appendix. For section 218 purposes, it is irrelevant whether the retirement system meets the minimum benefit standards for a qualified plan under the Employee Retirement Income Security Act (ERISA). See [Chapter 6](#).*

Determining Social Security and Medicare Coverage of State and Local Government Employees

The following steps outline how a public employer should determine whether social security and Medicare coverage or Medicare-only coverage applies to an employee.

Step 1: Determine whether the employee's position is covered by a Section 218 Agreement ([Chapter 5, Social Security and Medicare Coverage](#).) If "yes," the employee is covered for social security and Medicare under the Agreement, unless an exclusion applies for that position. If "no," proceed to the next step.

Step 2: If the employee's position is not covered under a Section 218 Agreement, determine whether the employee is a member of a public retirement system ([Chapter 6, Social Security and Public Retirement Systems](#).) If "no," the employee is subject to mandatory social security and Medicare, unless an exclusion applies. If the employee is a member of a public retirement system, the employee is exempt from mandatory social security. Medicare is mandatory for public employees hired or rehired after March 31, 1986, regardless of membership in a public retirement system. Proceed to the next step to determine Medicare coverage for any employee hired prior to April 1, 1986.

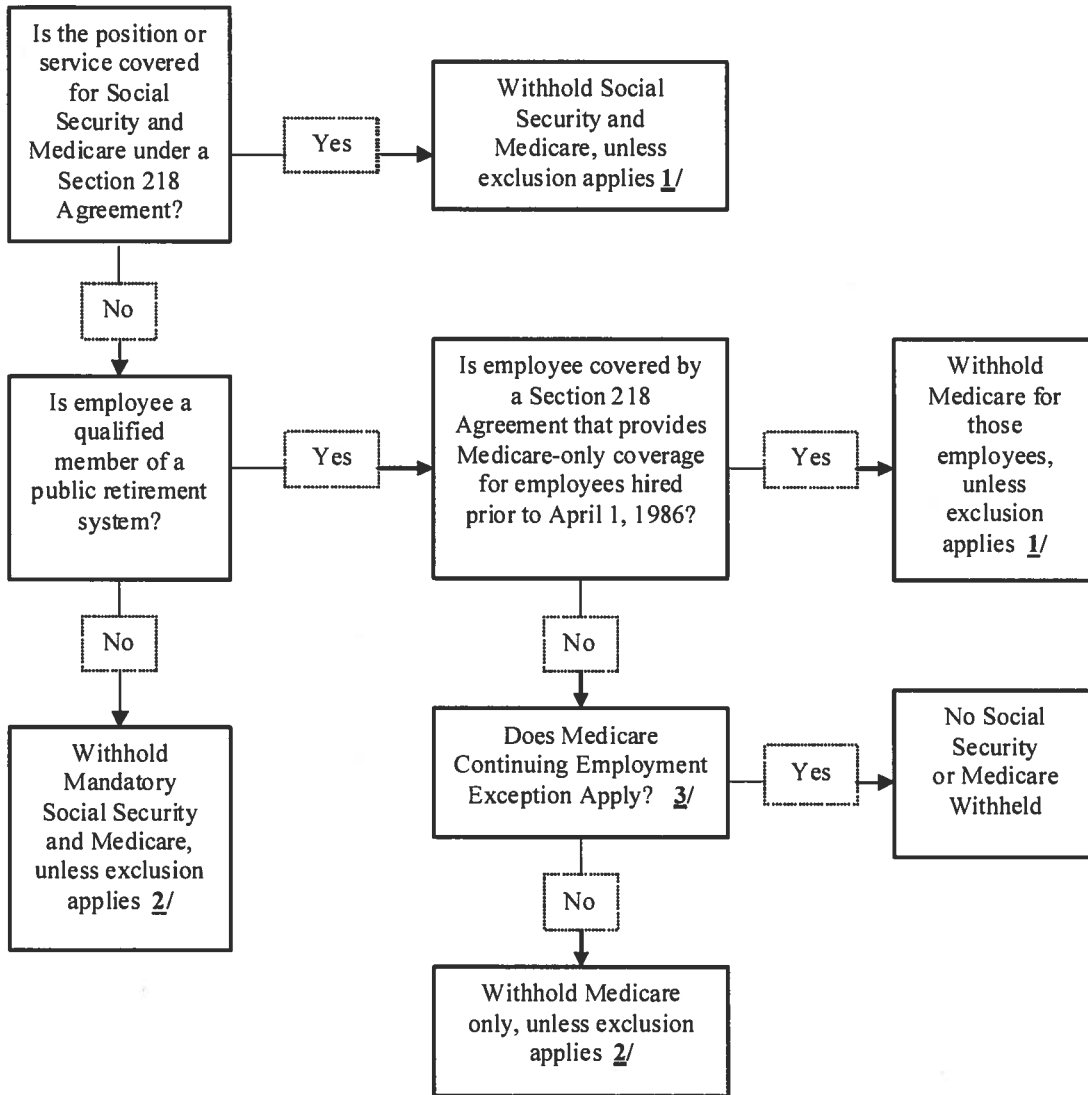
Step 3: Determine whether the retirement system has a Section 218 Agreement that provides Medicare-only coverage for employees hired prior to April 1, 1986. If "yes," the employee is covered for Medicare only. If "no," proceed to the next step.

Step 4: Determine whether the Medicare continuing employment exception applies to the employee ([Chapter 5](#)). If "yes," the employee is exempt from mandatory Medicare. If "no," the employee is subject to mandatory Medicare, unless an exclusion applies.

The following flowchart illustrates the above steps.

Note: Section 218 coverage is based on the position an employee occupies. Mandatory coverage is based on the situation of the individual employee. If the position is covered under a Section 218 Agreement, any employee occupying that position is covered. This is the first coverage consideration for an employer. If, however, the position is not covered under an Agreement, then the employer must determine whether mandatory FICA coverage applies. To do this, the employer must first determine whether the employee is a member of a public retirement system. This is an important distinction to understand when determining whether and how Section 218 or mandatory FICA coverage applies to an employee.

SOCIAL SECURITY AND MEDICARE COVERAGE OF STATE AND LOCAL GOVERNMENT EMPLOYEES



1/ Section 218 Mandatory and Optional Exclusions (see Chapter 5)

2/ Mandatory Exclusions from FICA (see Chapter 5)

3/ Medicare Continuing Employment Exception (see Chapter 5)

NOTE: This chart is meant as a guide only and is not a substitute for discussing complex Section 218 coverage situations with your State Social Security Administrator or FICA taxation issues with your IRS FSLG Specialist.

IRS, SSA, State Social Security Administrators and Public Employer Social Security and Medicare Tax Responsibilities

The **Social Security Administration** is responsible for administering the Social Security Act and interpreting its provisions, as well as interpreting Section 218 Agreements. SSA also administers benefits and maintains individual earnings records. [See Chapter 7, Social Security Administration.](#)

The **Internal Revenue Service** is responsible for administering the Internal Revenue Code, advising employers of their responsibilities, collecting taxes, and working with SSA and State Social Security Administrators on social security coverage and related tax issues. See [Chapter 8, Internal Revenue Service.](#)

The **State Social Security Administrator** is the designated official legally appointed to act for the state in negotiations with the Social Security Administration. This official acts for the state with respect to the initial Section 218 Agreement and modifications, the performance of the state's responsibilities under the Agreement, and in all state dealings concerning the administration of the Agreement. Each state's Section 218 Agreement ("Agreement"), and Social Security Regulation 404.1204, provide a legal obligation for each state to designate such an official. In many states, however, the actual day-to-day responsibilities are delegated to the staff of the designated state official.

The state is responsible for notifying SSA of any changes regarding its designated state official. That official should send a notification to the SSA Regional and Parallel Social Security Offices for that state.

For Section 218 Agreement purposes, the State Administrator:

- Administers and maintains the Federal-state Section 218 Agreement that governs voluntary social security and Medicare coverage by state and local government employers in the state;
- Negotiates modifications to the original Agreement to include additional coverage groups, corrects errors in modifications; conducts referendums and identifies additional political subdivisions that join a covered retirement system;
- Maintains in a secure location the state's master Agreements, modifications, dissolutions and intrastate agreements;
- Provides SSA with notice and evidence of the legal dissolution of covered state or political subdivision entities;
- Resolves coverage and taxation questions related to the Agreement and modifications with SSA and IRS;

- Negotiates with SSA the resolution of social security contribution payment and wage reporting questions concerning wages paid before 1987;
- Provides information to state and local public employers covered under Agreements in accordance with the Act; and
- Provides information to state and local public employers in accordance with the state's enabling legislation, policies, procedures and standards regarding non-section 218 entities. The degree of interaction with non-section 218 entities varies from state to state.

The State Administrator serves as the main resource to state and local employers for information and advice about social security coverage, taxation and many reporting issues. SSA, IRS, public employers and employees should contact the designated Administrator to help resolve questions as to who is and is not covered.

The State Administrator staff has information regarding state law, Federal law and regulations, retirement system rules, personnel rules, and how all these interrelate to provide social security protection to public employees.

A detailed explanation of State Administrator responsibilities is contained in the SSA website at <https://secure.ssa.gov/apps10/poms.nsf/lrx/1910001130>.

Audits and Reviews of Public Employers

When the IRS or SSA conducts an audit or review of a public employer, the State Administrator for that state may be contacted to clarify the employer's status. If the employees are covered under a Section 218 Agreement; this will include determining the specific exclusions (mandatory **and** optional) that are applicable to that entity, and therefore must be taken into account during the audit or review. This includes any exclusions that are unique to individual employees (for example, whether any employees are subject to the Medicare continuing employment exemption).

National Conference of State Social Security Administrators (NCSSSA)

With the enactment of Section 218 to the Social Security Act in 1950, states could exercise the option of providing social security coverage for state and local employees. By the end of 1951, 30 states had executed Section 218 Agreements with the Federal government. The responsibility for administering the social security program varied from state to state, depending on each state's enabling legislation.

State Administrators began to operate in an area where no precedent existed. It became apparent that a forum was needed where the administrators could address the many problems and questions posed by the new program. The first forum between State Social

Security Administrators and Federal officials was held in January 1952, in Bloomington, Indiana. As a result, the National Conference of State Social Security Administrators (NCSSSA) was established to provide a unified state perspective at the Federal level to for problem solving and to maintain an open forum for the development of new policy.

The network of social security coverage statutes, withholding requirements, reporting obligations and associated employment tax regulations require constant monitoring and interpretation. The NCSSSA works with the Federal officials to ensure that legislative and regulatory changes address state and local concerns. It also provides leadership to state and local governments through accurate interpretation of Federal laws and regulations, communication of Federal tax policy, and resolution of problems arising at the state and local level. The NCSSSA hosts national workshops and annual meetings where SSA and IRS officials address the concerns of state and local government representatives in a face-to-face format. NCSSSA officials represent public sector employers on various SSA and IRS committees and work groups.

For further information about the NCSSSA, contact your State Social Security Administrator. (A list is available at NCSSSA's website, www.ncsssa.org.)

The following chapters detail the responsibilities of state and local employers with respect to employment taxes and social security coverage. The next chapter addresses the definition of a government entity.

Frequently Asked Questions

- 1) **What is a Section 218 Agreement?** A Section 218 Agreement is a written voluntary agreement between one of the 50 states (or Puerto Rico, the Virgin Islands, or an interstate instrumentality) and the SSA pursuant to the provisions of Section 218 of the Social Security Act. This Agreement provides social security and Medicare, or Medicare-only, coverage for state and local government employees. The term refers to the original agreement and all subsequent modifications. These agreements can cover services of employees who are covered by a public retirement system as well as those who are not. To determine whether your entity is covered under a Section 218 Agreement, or can execute one, contact your State Social Security Administrator. See list of state administrators under Chapter 8, **State Social Security Administrators**, or on-line at the [NCSSSA website](http://www.ncsssa.org). [SSA/STATE]
- 2) **How may a Section 218 Agreement affect employees covered by a public retirement system?** An Agreement may provide social security and Medicare coverage for employees already covered by a public retirement system. This agreement may provide social security coverage and Medicare coverage for:

- a. Employees covered by a retirement system who elect coverage under a referendum. The social security and Medicare coverage applies in addition to retirement system coverage.
 - b. Employees performing services that are excluded from mandatory coverage provisions, but are optional exclusions under Section 218 Agreements, such as student services, services of election workers who earn less than the threshold amount.
 - c. Election workers, by establishing a dollar threshold for social security coverage lower than that set by the statutory requirement.
 - d. Employees hired before April 1, 1986, who are qualified participants in a public retirement system and meet the continuing employment Medicare exception. [STATE]
- 3) **Why might a Section 218 Agreement be modified?** Modifications to Section 218 Agreements are necessary to include additional coverage groups, to cover additional services in a group already covered (e.g., services previously optionally excluded), to cover ineligible, to cover employees changing to the “Yes” group in a divided retirement system, to cover previously terminated groups, or to identify political subdivisions joining a covered retirement system. [STATE]
- 4) **I was told by the State Social Security Administrator that my town is covered for social security under the state’s Section 218 Agreement and cannot be terminated. Is this true?** Yes. Since April 20, 1983, coverage obtained under a Section 218 Agreement by law, cannot be terminated. Beginning July 2, 1991, any state and local government employees not covered for social security under a Section 218 Agreement who are not qualified participants in a public retirement system, are covered under *mandatory* social security. Mandatory social security coverage (coverage required by statute) ceases if the employees subsequently become qualified participants in a public retirement system. [STATE/SSA]
- 5) **Are Indian tribal government employers eligible to enter into Section 218 Agreements?** No, Indian tribal governments are not considered states or subdivisions of states for this purpose. See IRC section 7871. [IRS]
- 6) **I have a question regarding social security and Medicare coverage requirements for employees of my city. Whom do I contact?** The State Social Security Administrator should always be an entity’s first contact on any questions regarding coverage under social security or Medicare. If additional assistance on coverage is needed, the SSA should be consulted. Questions about whether services are subject to mandatory social security and Medicare taxes should be directed to the IRS. See Chapter 8, State Social Security Administrators. [STATE]

- 7) **What is the responsibility of State Social Security Administrators with respect to non-Section 218 entities?** Under Section 218 of the Act, the primary legal responsibility State Social Security Administrators have is for Section 218 entities. However, responsibilities for non-Section 218 entities vary from state to state. Some state administrators may not interact with non-Section 218 entities while others may perform monitoring, quasi-regulatory and enforcement functions. If a non-Section 218 entity needs information regarding coverage under an agreement, the State Social Security Administrator should be contacted. [STATE]
- 8) **If an entity has a Section 218 Agreement in effect, and joins the state's public employee retirement system, does Section 218 coverage continue?** Section 218 coverage continues for all employees. After April 20, 1983, a Section 218 Agreement cannot be terminated for any reason as long as that entity exists. The addition of a retirement system does not alter the coverage under the Section 218 Agreement. [SSA]

Social Security Online

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SL 10001.130 State Social Security Administrator Responsibilities

SSA regulation 20 C.F.R. §404.1204 requires each State to designate at least one State official to act for the State in administering that State's Section 218 agreement. This official, the State Social Security Administrator, acts for the State with respect to its responsibilities for maintaining and administering the provisions of the agreement and the proper application of Social Security and Medicare. Therefore, it is important for state administrators to understand how the Social Security and Medicare coverage provisions interrelate.

A. Introduction to State Social Security Administrators

When the Social Security Act (the Act) was enacted in 1935, Social Security coverage was limited to private sector employees. States, their political subdivisions, and interstate instrumentalities, were not originally included in this legislation. However, with the Social Security Amendments of 1950, Congress created Section 218 of the Act (codified at 42 U.S.C. §418). Effective January 1, 1951, Social Security coverage became available to State and local government employees through a unique Federal-State agreement authorized by Section 218. These agreements, referred to as Section 218 Agreements, represent a mutual commitment to assure that participation in the Social Security program is a viable part of employee benefit programs available to public employees. Today, every State, Puerto Rico, the Virgin Islands, as well as numerous interstate instrumentalities, have a Section 218 Agreement with SSA. This is equivalent to providing Social Security and Medicare or Medicare-only coverage to approximately 22 million employees.

In order to effectively implement coverage at the State level, SSA, through regulation 20 C.F.R. §404.1204, requires that each State designate a State Social Security Administrator to act on the State's behalf with respect to its responsibilities for maintaining and administering the provisions of the Agreement. The role of a state administrator is challenging, but through a cooperative relationship with SSA, the Internal Revenue Service (IRS), and the National Conference of State Social Security Administrators (NCSSSA)—every state administrator, both experienced and inexperienced, is guaranteed access to a network of knowledge and resources.

B. Responsibilities of State Social Security Administrators

SSA regulations require that each State designate a state administrator, to act on the State's behalf with respect to its responsibilities for maintaining and administering the provisions of the Section 218 Agreement.

1. Administer Section 218 coverage

The state administrator is responsible for administering all aspects of Section 218 coverage, including interpreting its provisions, and insuring proper application of Social Security coverage to all State and political subdivision employees. The basic responsibilities of the state administrator are to:

- a. Permanently maintain physical custody of the following documents:
 - o Section 218 Agreements,
 - o modifications,
 - o dissolutions,
 - o intrastate agreements,
 - o ballots from referenda and,
 - o prior letters and other forms of correspondence between the entities and the State, SSA, and IRS, which could affect future coverage;
- b. Determine which State and political subdivision employees' positions are covered by approved Section 218 Agreements and modifications;
- c. Work with employers to guarantee proper Social Security and Medicare withholding and reporting;
- d. Take appropriate steps with respect to the execution of modifications to the original agreement to include additional coverage groups, correct errors in coverage, or identify additional political subdivisions that join a covered retirement system;
- e. Conduct referenda on the coverage of services of individuals in positions under a retirement system;
- f. Identify new, inactive, merged or dissolved political subdivisions, and take the appropriate coverage related action;
- g. Provide SSA with notice and evidence of the legal dissolution of covered State or political subdivision entities;
- h. Provide guidance to government employers on issues related to Section 218 coverage;
- i. Work with SSA and the IRS to address coverage and taxation questions related to the Agreement and any modifications; and
- j. Serve as an intermediary for federal, State and local agencies, and educate public employers on coverage and benefit issues.

2. Notify SSA about any state administrator changes

SSA regulations require each State to inform SSA of the name, title, and address of the designated official(s) and the extent of each official's authority. When there are changes in designated officials or changes in their authority, the State should inform SSA timely. States should send a notice to the following SSA offices:

- SSA regional office serving the state
- SSA parallel Social Security office (generally located in the State's capitol city)
- SSA, ORDP, OISP, OEPIP
State and Local Coverage
Room 4430-42, West High Rise
6401 Security Blvd
Baltimore, MD 21235-6401

3. Communicate with SSA, IRS, employers, and stakeholders

Communication is essential to performing the roles and responsibilities of the state administrator. However, to be

effective, communication must flow clearly and consistently with all involved parties. This requires that communication and interaction exist between the state administrator and every entity—from SSA, to the IRS, to every reporting official for the State and its political subdivisions. Consider the following points for developing and maintaining an effective communications plan. State administrators should contact:

- Other **State Social Security Administrators** through the NCSSSA as needed and annually at the NCSSSA conference;
- **SSA parallel Social Security offices** as needed, but at least quarterly to foster open dialogue;
- SSA regional and national offices as needed, but at least quarterly to foster open dialogue;
- **IRS Federal, State and Local Government** as needed, but at least quarterly to foster open dialogue;
- State's respective political subdivisions (including those that do not have Section 218 coverage agreements) at least once annually to secure current contact and mailing information including: current legal status, possible subdivision name changes, address changes, telephone and fax numbers, email address, and EIN(s);
- State government legislators and policy makers;
- Public retirement systems; and
- Oversight agencies, public employer associations, and other professional governmental associations as needed.

4. Maintain Section 218 related records

It is the responsibility of the state administrator to maintain Section 218 records permanently and securely. Destruction of original records is not authorized. In order to meet the records retention requirements, the state administrator shall:

- Maintain the State's original hardcopy file of all Section 218 related coverage information, including the State's Section 218 Agreement, modifications, dissolutions, intrastate agreements, and all associated correspondence in a secure environment that should be both waterproof and fireproof;
- Consider implementing a redundant system to backup hardcopy files (example, an electronic database of scanned files);
- Routinely back up electronic files, and the backup files should be stored in a separate and secure location away from the originals; and
- Routinely evaluate electronic and hardcopy files to insure the integrity of the documents.

5. Perform education and outreach

The state administrator is responsible for providing regular education and outreach to State and political subdivision employers and employees. A successful education and outreach program implements all, or a combination of the following strategies:

- Identify State and political subdivision employers, and create employer profiles that can be easily accessed as a source of information;
- Organize, conduct or participate in joint educational outreach with SSA and IRS for the State's governmental employers and employees;
- Identify political subdivisions not covered by a Section 218 Agreement that provides retirement system coverage to their employees to ensure the subdivision understands their obligations and responsibility under mandatory Social Security or mandatory Medicare laws and provisions;

- Send periodic letters to State and political subdivision entities asking if their Social Security coverage and retirement system status has changed;
- Provide information (via newsletters, articles and presentations) to the State's political subdivisions concerning requirements of Section 218;
- Develop email or website material for on-line client information exchange;
- Network with governmental and professional associations, participate in conference committees, and offer to coordinate conference presentations;
- Compile a State-specific coverage and reporting manual for use by the State's public employers;
- Develop ongoing contact and act as a liaison with the State's congressional delegation, legislative, and executive branch officials and staff; and
- Monitor for State and local proposed legislation that could potentially affect the Social Security, Medicare, and retirement system coverage of government employees.

6. Determine necessary funding

The state administrator is responsible for determining the level of support needed by its State and covered political subdivisions, pursuant to existing State statutes, and ascertaining the administrative costs for operating the Section 218 coverage program. The state administrator should make recommendations to the appropriate State authorities to ensure adequate funds are made available to properly administer the state administrator's program in that State.

7. Determine necessary staffing

The state administrator is responsible for evaluating and maintaining staffing levels commensurate with Section 218 program objectives and activities. Remember, the state administrator position, as well as the duties and responsibilities associated with the position, are a mandatory responsibility of the State—as specified in SSA Regulations at 20 CFR § 404.1024. In order to determine the adequate staffing level for the state administrator position, the State should perform an analysis of the coverage needs of the State and its political subdivisions. Consider the following:

- Identify goals and objectives that align with the roles and responsibilities of the state administrator position;
- Identify the State's political subdivisions (including those that do not have Section 218 coverage) and begin developing specifications for the type, numbers and locations of employees;
- Assess the current and the projected coverage needs of the State and political subdivision employees;
- Identify the possible methods for meeting the coverage needs of State and political subdivision employees;
- Determine the staffing requirements necessary to implement the ideas identified;
- Develop a method or mechanism for rating the effectiveness of staff and then monitor the effectiveness of current staffing levels; and
- Staff the position to effectively and efficiently meet the Social Security coverage needs of State and political subdivision employees.

In addition to effectively maintaining current staffing levels, the state administrator should implement a comprehensive succession plan. Succession planning is the mitigating process of preparing for the loss of critical personnel in an organization. When initiating development of a succession plan, begin with basics, and know the risks. We suggest performing an assessment and identifying and logging what positions have the highest potential risks for a vacancy—and the impact that it could have on administering Section 218 coverage for the State and its

political subdivisions.

8. Understand legal framework

It is important that state administrators know how to apply Federal or State law when making a determination on coverage issues. As a rule, Federal law governs determinations involving coverage of State and local government employees, while state administrators determine issues involving the interpretation of functions of the State and its political subdivisions according to State law.

The following chart identifies issues that require determinations on the basis of Federal and State law.

Federal Law	Does an employer or employee relationship exist?
	What is the identity of the employer?
	Are earnings reported as Social Security wages?
	What are emergency services?
	What are student services?
State Law	Who is an officer of a State or political subdivision?
	Is an entity a political subdivision?
	What is the legal status of a new entity?
	Is a function governmental or proprietary?
	Is a position under a retirement system?
	Which employees are eligible for membership in a retirement system?
	Who is an employee for purposes of retirement system participation?
	What is the definition of a police officer or firefighter position?

If it is unclear whether an issue requires a Federal or State determination, consider contacting the State's PSSO, or the appropriate Social Security regional office. If additional guidance is needed, consider obtaining the necessary legal opinions and guidance from the State's Office of the Attorney General.

9. Program strategies

The state administrator should develop a comprehensive program strategy for addressing the State's Section 218 program goals. Consider the following points for implementing a strategy:

- Standardize and simplify Section 218 services;
- Develop performance standards based on State and local government needs;
- Apply technology to aggressively automate routine tasks, data maintenance, and client interface;
- Create a task group to identify the Social Security needs of State and local government employees;
- Develop an outreach strategy for participating in public events, and provide training and dissemination of Social Security coverage materials for State and local employers and employees; and
- Facilitate support for your Section 218 program from State legislators and executives.

C. Resources for administering Section 218 policies

The primary resource for administering Section 218 policies is the [State and Local Coverage Handbook \(SLCH\)](#). The SLCH is located in the SL part of the Program Operations Manual System (POMS). In addition to the SLCH, the State administrator should routinely use the following resources.

1. Agency and organization web sites

<p>SSA, State and Local Government Employers (SLGE)</p>	<p>This SSA site is specifically for Social Security coverage issues related to State and local government employers and employees. You can find information about how public employees are covered for Social Security and Medicare, frequently asked questions, laws and regulations, publications, who to contact in your State, and related web links that can help you understand the Social Security and Medicare coverage and reporting requirements for public employees.</p>
<p>National Conference of State Social Security Administrators</p>	<p>Since its formation in 1952, the NCSSSA has worked closely with SSA and IRS to address Social Security and Medicare coverage and employment tax issues raised by State and local government employers and State Social Security Administrators throughout the United States. The NCSSSA works with federal officials to ensure legislative and regulatory changes address State and local concerns, and the NCSSSA provides leadership to State and local governments.</p>
<p>IRS, Federal, State and Local Governments (FSLG)</p>	<p>This IRS site is for Federal, State and Local Governments (FSLG), as a source of information for ensuring compliance with federal employment tax laws by governmental entities.</p>

2. Legal citations

<p>Section 218 of the Social Security Act</p>	<p>The portion of the Act that explains that the Commissioner of Social Security shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such State or any political subdivision thereof.</p>
<p>Section 210 of the Social Security Act</p>	<p>The portion of the Act that defines employment.</p>
<p>Section 3101 of the Internal Revenue Code</p>	<p>The portion of the IRC that relates to the way that employment taxes are imposed.</p>
<p>Section 3121 of the Internal Revenue Code</p>	<p>The portion of the IRC that relates to what types of remuneration constitute wages.</p>

3. Publications

SSA, State and Local Coverage Handbook (SLCH)	A policy and reference manual developed by SSA for state administrators to use in administering the Social Security and Medicare provisions under Sections 210 and 218 of the Act.
IRS, Publication 963: Federal-State Reference Guide (Pub. 963)	The IRS Federal-State Reference Guide provides State and local government employers a comprehensive reference source for guidance on Social Security and Medicare coverage and FICA tax withholding issues.
NCSSSA Handbook	A guide developed by the National Conference of State Social Security Administrators for new state administrators.

4. Fact sheets

SSA Publication No. 05-10007	Government Pension Offset (GPO)
SSA Publication No. 05-10045	Windfall Elimination Provision (WEP)
SSA Publication No. 05-10051	How State and local government employees are covered by Social Security and Medicare

5. Miscellaneous

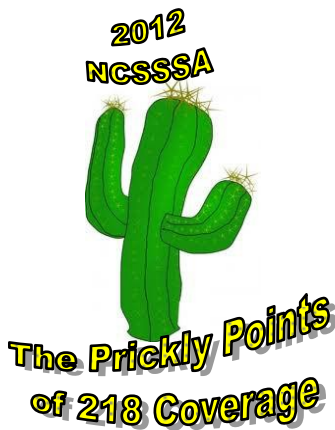
SSA, News and Announcements	An electronic bulletin board of Social Security related news, events, and announcements.
IRS, Federal, State, and Local Government Newsletter	A semiannual IRS publication about current developments and upcoming events of interest for government entities.

To Link to this section - Use this URL:
<http://policy.ssa.gov/poms.nsf/lnx/1910001130>

SL 10001.130 - State Social Security Administrator Responsibilities - 03/15/2011
 Batch run: 03/15/2011
 Rev:03/15/2011



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National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

*“Exclusions Will Drive You Crazy if You
Let Them”*

Speakers: *Mark Brown, Social Security Administration, Social Insurance Specialist (State and Local Government Employee Coverage)*
Kevin Brinkerhoff, OH – Training Committee
Moderator: *Meghann Butler, MT*

Mark Brown has been a policy specialist in the field of state and local government employee coverage since coming to the Social Security Administration’s (SSA) Office of Income Security Programs in September 2003. He is responsible for maintaining the integrity of SSA’s Section 218 policy regarding Social Security and Medicare coverage for state and local government employees. Besides authoring new procedures and updating current policies, Mark also provides technical advice and assistance to legal and legislative components within SSA as well as to regional Social Security specialists, IRS representatives, executives of the National Conference of State Social Security Administrators, and various state social security administrators. He has made numerous presentations on diverse state and local coverage issues at national conferences and training sessions.

Prior to his current position, Mark was a claims authorizer adjudicating retirement, survivor, and disability claims at SSA’s Northeastern Program Service Center in New York, City and the Office of Disability and International Operations in Baltimore.

Kevin Brinkerhoff is in his second year as State of Ohio’s Human Resources Chief Fiscal Officer and Social Security Administrator. Kevin manages the unit responsible for all of the state’s payroll related tax withholding, reporting and remittance as well as all retirement system funding. He holds bachelor’s degree in Accounting and Finance from The Ohio State University and is retired from the United States Air Force, Ohio Air National Guard. He currently serves on the Training, Program, Time & Place and Hospitality Committees.

Kevin has recently initiated a statewide government employer council, through Ohio’s main retirement system, to address potential issues arising from reaction to pension reform and how such issues may or may not impact the SSSA responsibilities in relation to Section 218.

Kevin previously managed similar HR taxation functions at JP Morgan Chase and as a consultant for several other companies.

During this scripted performance on exclusions, Dr. Beckenbauer, Chief of the Department of Psychiatric Medicine at Paradise Valley, was portrayed by Mark Brown and Kevin, the patient suffering from dissociative identity disorder (better known as multiple personality disorder) portrayed by Kevin Brinckerhoff .

All through the presentation “Dr. Beckenbauer” discusses the two categories of exclusions to voluntary Section 218 coverage, Mandatory and Optional exclusions, with the various personalities within “ Kevin”. The scripted presentation goes hand-in-hand with the PowerPoint presentation (attached). The audience was referred to as conference attendees visiting the hospital.

With mandatory exclusions, Federal Law **requires** that those services **must** be excluded from coverage under the State’s Section 218 Agreement.

Whereas, with the optional exclusions, Federal Law **permits** the state to choose whether it will exclude or not exclude certain services. That means if a particular optional exclusion is not taken in the State’s Section 218 Agreement or in a subsequent modification, then those specific services are covered for Social Security.

For a full discussion of mandatory and optional exclusions, go to SL 30001.356 and 30001.357 in the “State and Local Coverage Handbook”.

MANDATORY EXCLUSION CREDITS

Mark Brown as Dr. Beckenbauer

Kevin Brinckerhoff as Kevin

Kevin Brinckerhoff as Dr. Olsen (services performed in a hospital, home or institution-SL 30001.356B)

Kevin Brinckerhoff as Tom (services performed by individuals to be relieved from unemployment)

Kevin Brinckerhoff as Rod (emergency workers- SL30001.356C, SL 30001.358 and “Temporary Emergency Worker Resource Guide” in 15005.010)

Kevin Brinckerhoff as Wilbur (public transportation services covered under Section 210(k)-SL 30001.365)

Kevin Brinckerhoff as Yuri (Services that would be excluded if performed for a private employer because the work is not defined as employment under Section 210(a) of the Act)

OPTIONAL EXCLUSION CREDITS

Mark Brown as Dr. Beckenbauer

Kevin Brinckerhoff as Dewey (Agricultural Labor-SL30001.357(a))

Kevin Brinckerhoff as Cody (Student Worker)

Kevin Brinckerhoff as State Senator J. Hubert Bumgarner (Elective)

Kevin Brinckerhoff as Chad Frostberger (Election Workers-SL 30001.357C)

Kevin Brinckerhoff as Sam (Fee Basis)

Kevin Brinckerhoff as B-Rad (Part-time)

Script attached:

Exclusions Will Drive You Crazy if You Let Them

INT: HOSPITAL OBSERVATION ROOM

DR. BECKENBAUER quickly walks up the aisle from the back of the room, already speaking.

BECKENBAUER

Good afternoon! And welcome everybody to the Paradise Valley State Hospital! Let me introduce myself; I am Dr. Beckenbauer, Chief of the Department of Psychiatric Medicine here at Paradise Valley. It is indeed an honor to have such a large and distinguished delegation visiting our institution. I hope you are pleased with your accommodations. As you may have already noticed, we have gone out of our way to make our "guests" feel that they are actually staying at a full-fledged resort with all the amenities. A rather innovative therapeutic approach don't you think? And that is why I am dressed in casual clothes and not in a lab coat or scrubs. How was lunch? Hey, not bad for hospital food... What about the 800 count Egyptian cotton sheets on your beds? I bet you have no complaints there. Well, you are with us today to explore the various mandatory and optional exclusions to voluntary Social Security coverage under Section 218 of the Social Security Act. Oh...

The left side of Beckenbauer's body twitches slightly.

BECKENBAUER (CONT'D)

It's my phone. Hello,

Beckenbauer speaking...Yes...
Good, send him to me; I'm in
the observation room...Yes,
with those NC whatever
people...Thanks. (To the
audience) We have a visitor
joining us very soon.
However, before he arrives I
would like to talk to you
about the two categories of
exclusions to voluntary
Section 218 coverage. Can
anyone tell me what they
are?...Yes, that's right,
mandatory exclusions and
optional exclusions. With
mandatory exclusions, Federal
Law **requires** that those
services **must** be excluded
from coverage under the
State's Section 218
Agreement, no if's, and's, or
but's.

Whereas, with **optional**
exclusions, Federal law
permits the State to choose
whether it will exclude or
not exclude certain services.
That means if a particular
optional exclusion is not
taken in the State's Section
218 Agreement or in a
subsequent modification, then
those specific services are
covered for Social Security..
For a full discussion of
mandatory and optional
exclusions, go to SL
30001.356 and 30001.357 in
the "State and Local Coverage
Handbook". ...Ah, I think our
visitor has arrived. Please,
sir, come forward; don't be
alarmed.

A MAN comes down the aisle toward Beckenbauer he
seems a bit surprised to see all the people.

MAN

Are they all here for the job interview too?

BECKENBAUER

No, No. It's just you. I'm Dr. Beckenbauer. They're just here for a conference. And I got overbooked. So, let's go ahead anyway, and you just sit down and pretend that those people aren't even there. Now, let's start with your name...

MAN

My name's Dr. Olsen. I'm here about the Physician Specialist opening.

BECKENBAUER

May I see your résumé? (Man hands Beckenbauer the résumé) Hmm...And why are you interested in Paradise Valley?

MAN

I want to be a part of the great work you are doing here. The fact that the staff positions are covered by Social Security is a big plus too.

BECKENBAUER

You have quite the résumé - University of Vienna, including, clinical studies on dissociative identity disorder under Professor Friedendorf; very impressive. (Reaching out to shake the Man's hand) Well, Dr. Olsen, thanks for stopping by today. I will notify you once we have made a decision.

Beckenbauer CLICKS his fingers and the Man goes limp and falls asleep.

BECKENBAUER (CONT'D)

There now, you just relax a second. (To the Audience) As you may have already guessed, this is not Dr. Olsen. In fact, there is no Dr. Olsen accept in the mind of this man here. Kevin, that is his real name, suffers from dissociative identity disorder, better known as multiple personality disorder. You're probably familiar with "The Three Faces of Eve" or "Sybil," both those cases being women. In fact, only about 10% of multiple personality cases occur in men. That's what makes Kevin's case particularly interesting. We have been able to document more than a dozen personalities in Kevin, and we are going to enlist their help today as we discuss the various mandatory and optional exclusions. (To MAN) May I speak to Kevin please?

The Man wakes from the trance. He appears a bit startled to see the audience.

BECKENBAUER (CONT'D)

They're from that delegation I told you about. Are you okay?

MAN

Yeah. Who was I this time?

BECKENBAUER

Dr. Olsen with his phony résumé. He's still trying to get a job with Social Security coverage.

MAN

As long as I'm a patient here, that ain't gonna happen.

BECKENBAUER

You're right. And that brings us to the first of the mandatory exclusions - services performed in a hospital, home or other institution by a patient or inmate. For example, I am a physician here at the hospital. My work is covered under the state's Section 218 Agreement, and Social Security taxes are deducted from my salary.

Man goes about the room offering to fill people's glasses with water.

MAN

However, since I'm a patient here, the small salary I earn doing odd jobs and janitorial services is excluded from Social Security coverage under the 218 Agreement. That also applies to the wages I receive in the hospital's occupational rehabilitation program. But after I get discharged from Paradise Valley, if I stay in the hospital's rehabilitation program on a permanent basis, my services will no longer be excluded and I will have to pay into Social Security under the State's Section 218 Agreement.

BECKENBAUER

Facilities such as mental hospitals, homes for alcoholics, veterans' homes, and correctional institutions are examples of institutions involved in this exclusion. Generally, services performed by prison inmates of State or political subdivision prisons

are also excluded from coverage under this mandatory exclusion. Such services are excluded whether performed within the prison or outside prison confines.

MAN

However, services performed by prison inmates in private sector employment may be covered for Social Security if an employment relationship exists. To find out more about the patient-inmate exclusion go to SL 30001.356B.

BECKENBAUER

Thank you, Kevin.

Beckenbauer CLICKS his fingers and the Man again goes into a trance.

BECKENBAUER

Now, we come to the next mandatory exclusion. Services performed by individuals hired to be relieved from unemployment. I think Tom will be the right one to help us with this one. (speaking softly to Man) Tom, could you come out and speak to us.

Man quickly comes out of his stupor. He seems a bit agitated and looks at Beckenbauer with a confused look.

MAN

Hey, Doc, I'm not supposed to see you today. What gives?

BECKENBAUER

I need your help for a few minutes. That's all.

MAN

Okay, as long as it's just a few minutes. I've got a 3 o'clock appointment at the

Unemployment Office, and I can't be late for that. Not if I want my benefit check.

BECKENBAUER

Tom, how long have you been out of work?

MAN

Since Friday, November 12, 2010. Started collecting unemployment about six weeks later, just before Christmas.

BECKENBAUER

Although you're unemployed, aren't you working in the State's Job Opportunities Program?

MAN

Yeah, two days a week. I have to, or I don't get my unemployment benefits. To be in the Job Opportunities Program you have to be unemployed. Right now, we are putting in a new sidewalk around Courthouse Square downtown.

BECKENBAUER

In order to qualify for the exclusion, the purpose or **intent** of the program must be to provide relief from unemployment. This can usually be determined from statutes or other authorities which established the program.

MAN

The payments made for the work done may not necessarily be based on the value of the services. I should know. I was in construction before I lost my job, and I would have been paid better than this.

BECKENBAUEER

However, if Tom were performing these services under a work-training or work study program designed to provide him with work experience and increase his employability, then the payments would not be excluded. That would be because the primary intent of the program was not to relieve him from unemployment. Okay, Tom, we won't keep you here any longer.

Beckenbauer CLICKS his fingers. Man goes back into his trance.

BECKENBAUER

That brings us to our next mandatory exclusion - emergency workers - and perhaps we can get Rod to talk to us. (To Man) Rod, are you there? (Pause) Rawwd, can you tear yourself away from whatever fire, flood, or neurosis you're fighting right now?

Man comes out of his trance coughing violently.

MAN

Water...please...some water!

Beckenbauer goes to a nearby table pours a glass of water and hands it to Man. Man drains the glass. His coughing subsides.

BECKENBAUER

What happened?

MAN

It was Yuri...Have you met him?

BECKENBAUER

I have... (pointing to the audience) ...but they haven't.

MAN

Well, you know what that jerk did? While we were waitin' to come in here, he was stuffin' his face with peanut butter cookies. And he knows full well I'm allergic to peanuts. Wait till I get my hands on him; he'll wish he'd never left Russia. If it hadn't been for Doc Olsen, I wouldn't be here right now.

BECKENBAUER

So Yuri's the prankster.

MAN

Well, I can think of some four and seven letter words that would describe him better.

BECKENBAUER

Do you feel up to helping me talk to these people about the emergency worker exclusion?

MAN

Sure, let's get started.

BECKENBAUER

I asked Rod to join us because he has worked as an emergency worker in major disasters.

MAN

Yeah, like Katrina, the Rodeo and Chediski fires here in Arizona, the Great Mississippi River Flood of '93, or last October's Snowstorm in New England. Stuff like that.

BECKENBAUER

Since January 1, 1968, services performed by an employee, like Rod, serving on a temporary basis in case of a fire, storm, earthquake,

flood, volcano... or other similar emergency are mandatorily excluded from Section 218 Social Security coverage.

MAN

The services I perform are usually because of an unforeseen event calling for immediate action. And it must be temporary, that is a major factor, or else it is covered for Social Security.

BECKENBAUER

State National Guard members who are called to serve as State employees in connection with one of the emergency situations we just mentioned are mandatorily excluded from coverage. That also applies if the Governor calls out the State National Guard to handle riots, strikes, or other civil disorders.

MAN

Always keep in mind that this exclusion only applies to emergency service that is on a temporary basis. That means people, like the firefighters at your local fire department, who are in a continuing employment relationship for the purpose of working whenever an emergency arises are **not** performing temporary emergency services. And this exclusion does not apply to them.

BECKENBAUER

Eligibility for the temporary worker exclusion is contingent upon some key factors: (1) there must be an employer-employee

relationship; (2) the employment relation must be established on a temporary basis.

MAN

And (3) employment must be in case of fire, storm, snow, earthquake, flood or similar emergency. Disaster declaration can be made through various governmental components. The three primary ones are the President, for federally declared disasters; the Governor, for in-state emergencies; and the mayor or council for local emergencies.

BECKENBAUER

When there is a major disaster it can sometimes be very difficult to determine at what point the emergency services are no longer considered temporary. Rod, can you give us an example from your own experience?

MAN

Well, back in September 1999, Hurricane Floyd ripped through the coast of North Carolina dumping 20 inches of rain, killing 36 people and causing **\$3 billion** in damage. Just imagine 7,000 homes destroyed, 56,000 homes damaged, 1,500 people rescued from flood areas, and power outages affecting more than 500,000 customers. There was desolation and havoc all around us. We knew it would take over a year for the area to fully recover.

BECKENBAUER

When an emergency is declared, the emergency

period for temporary services does not last until everything is cleared away and all is back to normal. It is basically the crisis period when everything is hanging by a thread.

MAN

There are people to be rescued, roads to be cleared, power restored, and fires needing containment, etc.

BECKENBAUER

Determinations regarding duration of temporary emergency services must be made on a case-by-case-basis, taking into consideration the nature of the emergency and how long it lasted.

MAN

For example, an uncontained summer wildfire might require emergency workers for many weeks or even months versus limited tornado damage in a small area that could only require emergency services for one or two weeks.

BECKENBAUER

So, Rod, what was the emergency period with Hurricane Floyd?

MAN

It was felt once the flood waters receded and there was no immediate danger to life or property, the emergency was over, but certainly not the cleanup and full recovery. F.E.M.A. stated the flood damage from Hurricane Floyd occurred between September 15, 1999 through November 2, 1999. I got down to Wilmington a

couple of days after the storm hit and began working around September 18, so I was there during the early days of the emergency. It was ultimately determined that wages I was paid for the period from September 18 through the end of November 1999 were excluded from Social Security. When I went back down there after Christmas for the cleanup, my wages were no longer excluded, and Social Security was withheld from my pay until I left in April 2000.

BECKENBAUER

The three primary references on the temporary emergency services exclusion can be found in SL 30001.356C, SL 30001.358, and the "Temporary Emergency Worker Resource Guide" in SL 15005.010. Thanks so much, for helping us out, Rod. So, take a breather before the next catastrophe comes along.

Beckenbauer CLICKS his fingers, and Man slumps in the chair.

BECKENBAUER (CONT'D)

Now, on to the next mandatory exclusion, public transportation services covered under Section 210(k) of the Act. That's right I said Section 210 (k), not Section 218. We're talking about services that are excluded from Section 218 coverage because they are already covered under Section 210(k). It can be quite confusing trying to explain the ins and outs of this exclusion. In fact, I find

it easier to explain
Professor Friedendorf's
thesis of positive
transference than to talk
about public transportation
services. And for that
reason, I thought I would
enlist the services of
Wilbur, a veteran bus driver
for the Hadleyville Bus
Company to help us get on the
"right track." So, Wilbur,
can you come out and join us?

Man remains semi-comatose and shifts around in
the chair to resemble someone napping.

BECKENBAUER (CONT'D)

Wilbur, wake up.

MAN

(groggily)

Look, buddy, can't you read
the sign? It says, "Out of
Service." Me and the bus,
we're taking our lunch hour.

BECKENBAUER

It's me, Beckenbauer. Get
up. You said you would help
me out with those visitors I
told you about.

Wilbur rouses up and looks startled to see the
group of people.

MAN

When you said visitors, I
didn't expect this many. I
can't let them all get on the
bus and ride for free. I'll
lose my job.

BECKENBAUER

Don't worry, Wilbur.
Nobody's going to ride your
bus. We're just here to talk...
(to audience) OK, folks, when
it comes to the public
transportation exclusion, we
are referring to those
transportation companies that

were originally privately owned transportation companies and were later acquired by a state or local government entity.

MAN

So, if the transportation company was always owned by the city, county, or State, like the bus lines in Fidelia, then the exclusion don't apply to them.

BECKENBAUER

You got it. The regular Section 218 provisions apply to them. Also, if the transportation system was acquired from private ownership prior to 1937, they're under the Section 218 provisions too; the exclusion doesn't apply to them either.

MAN

This is plum screwy. What warped mind came up with this exclusion?

BECKENBAUER

The writers of the 1950 Social Security Amendments. When they were establishing the Section 218 provisions, they came up with these special rules on the coverage of employees of public transportation systems acquired from private ownership. And get this...many of those employees are excluded from Section 218 because they are already compulsorily covered for Social Security under Section 210(k), as if they were still working for a private employer.

MAN

Now this 210(k) stuff, is that what they call "mandatory Social Security?"

BECKENBAUER

Heck, no. This is regular Social Security, as if they were working for Greyhound or Trailways... There's a term, "covered transportation services," and it's used to describe the services covered for Social Security on a compulsory basis under Section 210(k) of the Social Security Act and mandatorily excluded from coverage under a State's Section 218 Agreement.

MAN

In other words, if you're covered for Social Security under Section 210 (k), then you're excluded from the Section 218 provisions.

BECKENBAUER

That's an excellent way of putting it.

MAN

You happened to mention 1937 a while ago. Do dates come into play here?

BECKENBAUER

That's right. Whether a transportation employee's services are covered under Section 210(k) of the Act or may be covered under a State's Section 218 Agreement depends on two things - the date the transportation system was acquired by the State or local government entity and the retirement system coverage of the services. Do you want me to

break it down for you?

MAN

I don't know think you'd better go down that road. I'm afraid you might lose a lot of these people here. Some of them's already got that "after lunch daze." Look, the _____ table from the back. Hey, lady, give that guy on your _____ a nudge before he starts snoring.

BECKENBAUER

To get a more detailed explanation of the covered transportation exclusion. Check out SL 30001.365 in the State and Local Coverage Handbook.

MAN

Before you go, Doc, could you diagnose me?

BECKENBAUER

Wilbur, I don't need to diagnose you. You know what you've got.

MAN

Yeah , Yeah. Multiple personalities. Me and the fellas could have told you that the first time you saw us. No, I mean tell me whether I'm covered for Social Security under Section 210 (k) or Section 218.

BECKENBAUER

I'm going to have to ask you some questions. To start with there is a pivotal date December 31, 1950. And whether the governmental entity acquired the transportation system from private ownership either by December 31, 1950 or after

that date does play a role in determining whether the services fall under Section 210 or Section 218. So let's talk about the Hadleyville Bus Company.

MAN

Okay, shoot...I mean go ahead.

BECKENBAUER

Did Hadleyville always own the bus company?

MAN

No. It was originally in private hands and was called the Butternut Valley Bus Company. Hadleyville bought it sometime in April 1956 and changed its name to the Hadleyville Bus Company. My Dad was hired as one of the Hadleyville Bus Company's first drivers a few weeks later. He even got his picture in the Hadleyville Star with him sittin' in the driver's seat.

BECKENBAUER

If Hadleyville did not own a transportation system before 1951 and took over the Butternut Valley Bus Company after 1950, all the bus company's drivers are compulsorily covered for Social Security under Section 210 and excluded from the Section 218 provisions, unless Hadleyville had a general retirement system in place at the time of the acquisition. A general retirement system would be one that covered Hadleyville employees and was not limited to just the employees of the Hadleyville Bus Company. So, was the

City of Hadleyville covering its employees under a general retirement system in April 1956 when it acquired the bus system?

MAN

No, retirement coverage did not start until sometime in the 1960's.

BECKENBAUER

Well, unlike the non-transportation system workers of the City of Hadleyville, you are covered for Social Security under the provisions of Section 210(k) and not under Section 218.

MAN

Well, thanks for the info, Doc. Say, I've only got about 10 minutes before I have to get back to work, and I'd like to get a few more winks in. These hot summer days can really do me in. So, if you don't mind, could I go now?

BECKENBAUER

Sure thing, Wilbur. Thanks so much. Now take a seat and relax.

Man sits back in his chair.

MAN

So long, folks.

Beckenbauer CLICKS his fingers and Man falls asleep.

BECKENBAUER

The final mandatory exclusion we will talk about is "Services that would be excluded if performed for a private employer because the work is not defined as employment under Section 210(a) of the Act. This

category usually applies to non-resident aliens with F-1, J-1, M-1, and Q-1 visas. And who better to talk about this exclusion than Yuriy. (To the Man) Выходи, Юрий. Come on out Yuriy.

Beckenbauer CLICKS his fingers and Man walks to him.

MAN

Am I up to speak next.

Looks around and sees all of the people.

BECKENBAUER

Sure, go right ahead, we've been waiting for you.

MAN

I'm honored to be here today to speak about the Russi-America Cultural Center. I wanted to tell you all about our vision of improving Russian and American cultural relations.....

BECKENBAUER

What? I think you've confused us with another group Yuriy. These people aren't interested in Russian - American cultural relations, they're here to find out whether you're a mandatory exclusion or not.

MAN

Что (shto)? yeah nyeh pan*ee*my*oh.

BECKENBAUER

Can you show me your VISA?

MAN

Ok.

Man hands Beckenbauer a VISA credit card. Beckenbauer shakes his head!

BECKENBAUER

Yuriy,

MAN

No, it's Yuriy.

BECKENBAUER

This is not the VISA I was talking about. I mean the one that came with your passport.

Man "fishes" in his pocket and pulls out a piece of paper; it has "Q-1" printed on it.

MAN

Ok, here it is.

BECKENBAUER

Oh, do you have a permanent residence in Russia?

MAN

You sound like FBI. Yes, I'm from Yakutsk.

BECKENBAUER

And where are you working in the United States?

MAN

At State University, School of International Studies. I'm visiting professor for one semester as part of US-Russia cultural exchange.

BECKENBAUER

(displaying Yuriy's visa)
OK, Under the Exchange Visitor Program, because Yuriy was admitted to the U.S. with this Q-1 VISA, has permanent residence in Yakutsk, Russia and is here to share cultural information with us (to Man) and later, your fellow citizens in Russia, (to audience) he won't pay Social Security tax like other professors at the

University! His employer must also be the qualified employer through which he obtained his "Q" nonimmigrant status. (to Man) However, if you perform non-authorized work outside the cultural exchange program, that work will not be excluded from Social Security coverage.

MAN

"Non-authorized work, Что это (shto eto) what is that?

BECKENBAUER

You working at the Skippy Peanut Butter factory, for example.

MAN

Oh! They have cookies there?

BECKENBAUER

Now, under the Exchange Visitor Program an individual holding one of the following types of visas will be excluded from Social Security coverage if performing authorized work... there's the F-1 visa for academic students...

MAN

My niece Irina at University of Maryland..

BECKENBAUER

The M-1 visa for vocational students...

MAN

My nephew Alexei at Delaware County Tech in Pennsylvania...Delaware in Pennsylvania? I thought Delaware a state.

BECKENBAUER

I'll explain it to you some other time. (To audience) And

there is also the J-1 visa
for foreign exchange
visitors.

MAN

My cousin Boris at NYU.

BECKENBAUER

Is there anyone in your
family left in Russia?

Man shrugs.

BECKENBAUER (CONT'D)

(to audience)

If you get home and have
questions, all of this detail
about mandatory exclusions
can be found on the SSA
website in SSA POMS SL
30001.356 and RS 01901.740.
And always remember mandatory
exclusions apply to **voluntary**
Social Security coverage
situations (coverage via a
Section 218 Agreement) and
should **not** be confused with
the different set of
exclusions that applies to
mandatory Social Security and
mandatory Medicare
situations. (To Man) Thanks
for helping us out here. Now,
you can go speak to that
cultural conference group. До
свидания, Юрий.

MAN

But first, can I share a
little with this audience?

BECKENBAUER

No, Yuriy, I think that'll do
it for today! Thank you so
much and please say "hi" for
us when you return home to
Yakutsk. Remember, stick to
the program so we don't send
you a W2!! Again, Yuriy, До
свидания.

MAN

(to the audience)

До свидания, каждый (doe
sveedanyah kahge dee)

As Man is waving goodbye to the audience,
Beckenbauer clicks his fingers. Man freezes in
mid-wave.

FADE IN:

OPTIONAL EXCLUSIONS - THE TRANSITION SCENE

BECKENBAUER

Now that we have finished with Yuriy, we've also finished with the Mandatory Exclusions to voluntary Section 218 Social Security coverage. Always keep in mind, when we talk about the Mandatory Exclusions we are referring to the exclusions to Section 218 coverage. We are **not** referring to the exclusions for Mandatory Social Security coverage. Do not fall into that trap, or else you might wreck such havoc that you will wind up here at Paradise Valley State Hospital as one of our more permanent guests.

BECKENBAUER (CONT'D)

So, this brings us to the optional exclusions. These exclusions apply to services that the State has the "option" to either cover under the Section 218 Agreement or exclude from Social Security coverage. The State can choose to apply the exclusion to all entities and coverage groups throughout the State, or to limit the exclusion selectively on an individual coverage group basis. The optional exclusions can be taken in any combination. Any services that are excluded from the Section 218 Agreement or modification can later be included if permitted by Federal and State law and the State's

Section 218 Agreement.
Services that are **not**
optionally excluded when the
coverage group is brought
under the State's Agreement
are covered under Section
218. Generally, if services
are covered under a Section
218 Agreement, those services
cannot later be excluded from
coverage, except for services
performed by **election**
officials and **election**
workers and **solely fee-based**
positions. When dealing with
the optional exclusions, my
prescription to you is to
consult SL 30001.357. So,
let's get started with our
first optional exclusion -
the agricultural labor
exclusion.

DEWEY -

Beckenbauer clicks his fingers and the man comes
out of his trance.

BECKENBAUER

Hey everyone, please welcome
Dewey. He's a farm worker.

Beck turns to Dewey.

How are you doing today
Dewey? Where are you heading
off to?

MAN

I'm working at the Maricopa
County farm today. They grow
cactus that produce prickly
pears.

BECKENBAUER

Prickly Pears? What are they
used for.

MAN

Oh, they are a popular delicacy at gourmet restaurants, but at the same time, you can throw them on the grill along with your hamburgers and hotdogs.

BECKENBAUER

What do they taste like; chicken?

Man raises eyebrows like "are you kidding"?

MAN

No, they have a wild, slightly watermelony flavor. That's the best I can do to describe it.

If you buy them at the market they've already been prepared for cooking, but if you just pick one off of the plant you'll need heavy leather gloves.

Then you have to scrub them well to get off all the barbs.

BECKENBAUER

How do you prepare them?

MAN

First, you slice off both ends of the prickly pear and discard them.

Then make one long vertical slice down the body of the prickly pear.

Begin to peel back the thick skin that's wrapped around the prickly pear and discard the skin.

You'll be left with the prickly pear itself.

The flesh is studded with tons of little edible seeds, if you like them, feel free to just chop the prickly pear up and eat seeds and all.

BECKENBAUER

What if I don't want to deal with all the seeds?

MAN

Well then you can juice it. Just place the peeled prickly pears into a blender or food processor. Now, I prefer the Magic Bullet; it's 4 payments of 19.95 each! Once you have it in the blender, pulse it until liquefied. Four prickly pears will get you about 1 cup of juice and its great mixed with Lemonade.

BECKENBAUER

That sounds great.

MAN

After a hard day on the farm, I like an ice cold Prickly Pear Mojito. It's a quick mix of prickly pear cactus syrup, 6 to 8 spearmint leaves, lime juice, 2 shots of Rum, some crushed ice and two ounces of club soda. You can't beat it.

BECKENBAUER

How can you afford such fancy drinks on your farm pay?

MAN

Well, I do save about \$10 in tax at each farm I work on.

BECKENBAUER

Why?...Oh, I get it. Your work on the county farm is excluded from social security coverage under the agricultural services

exclusion. If so, the work you're performing is only excluded from social security withholding if it would not be covered if performed by a private employer.

MAN

However, I have to keep my wages under \$150 bucks or else they start taking out for Social Security. That's why I'm working here for only 2 more days so I don't make over \$150 bucks. After that, it's on to a county farm in another part of the state.

BECKENBAUER

Yes, and you also have to make sure that the state or local government employer spends less than \$2500 on agricultural labor in a year, otherwise Social Security will still be withheld no matter how little you earn. But there can't be too many farms that spend less than \$2,500 a year on agricultural labor.

MAN

You're right, there aren't many so sometimes I do have to pay social security, but a guy's got to eat and keep a roof over his head!

BECKENBAUER

When dealing with these agricultural labor exclusions, not only do you need to reference SL 30001.357(a), but also RS 01402.020 and 01402.025. In addition, RS 01401.120 and 01901.100 deal with those situations where agricultural labor will be covered for

social security.

MAN

Hey doc, I'm running a little late here and I've got to get to work!

Beckenbauer turns to Dewey with his hands extended

BECKENBAUER

Oh, ok, we don't want to hold you up Dewey, but thanks an awful lot for stopping by today.

Beckenbauer CLICKS his fingers and Man slumps in his chair.

CODY -

Cody is sitting in chair opposite Beckenbauer.

BECKENBAUER

Now that we're finished with Dewey, let's go on to our next optional exclusion and for that, we need to call forth Cody the sophomore from Mountain State College... Well, looking at the time, he's probably scanning books at the library.

Cody, please come out and talk to us.

Cody wakes up having turned his hat around to face backwards and gets up and walks behind the table.

MAN

Sir, I'm going to need your library card before I can reserve any books for you.

BECKENBAUER

I'm not here to check out any books.

MAN

Oh, you're not a reader, huh? Well, please let the people in line behind you step up to the desk.

BECKENBAUER

Ok, but they're not here for books either. 'Cause none of us are students.

MAN

That makes sense; you all look a little old to be college students.

BECKENBAUER

What we're here for is to talk to you about the work you do at the college each semester. Now...you are attending classes here too, right?

MAN

Well yea, I'm majoring in accounting here with an emphasis in taxation.

BECKENBAUER

That's right on target with what we wanted to chat about.

Beck turns to audience and then back to Cody.

BECKENBAUER (CONT'D)

I hope you won't be offended, but could you tell us whether social security taxes are being withheld from your library pay?

MAN

Yes, they withhold FICA from me, but what's odd is, my girlfriend who works in the library out at Valley State doesn't have FICA withheld.

BECKENBAUER

Now, do you know why FICA is withheld from you, but not from your girlfriend at Valley State?

MAN

Well, I'm not sure, but I did ask HR why I pay and she doesn't; and they said the state permitted Valley to exclude student's from FICA.

BECKENBAUER

And Mountain State chose to cover their student services under Social Security. (slight pause) Well, that's exactly the decision we are here to discuss with respect to the student services optional exclusion. Since you're a bookworm, you can find this in "POMS" under SL 30001.357 on the Social Security website.

MAN

Wow, Dude, that sounds like an exciting read...NOT..., but you never know, I might get around to reading it someday.

BECKENBAUER

Yeah, Dude, but I'm not holding my breath. (To audience) However, all of you need to familiarize yourself with it. The student exclusion applies only during periods of regular attendance. Now, that can be during the regular academic year or in the summer session.

MAN

What about during holiday breaks and semester breaks? Classes aren't in session then.

BECKENBAUER

Excellent question, Cody! If the student services exclusion has been taken, the services performed by students at the educational institution are excluded during the holidays (Christmas for example), weekends, seasonal breaks and between semesters during the academic year when classes are not scheduled.

MAN

Hey, you said something about the summer session. My girlfriend is working over at Valley State during the summer session, but she's not attending classes. What happens with her?

BECKENBAUER

Well, then she has to pay Social Security just like the non-student workers over at Valley State.

MAN

Get outta here! Well, then, that explains why she gave me such a crappy birthday present! It all went to pay her Social Security taxes.

BECKENBAUER

Cody, don't be too quick to blame Social Security for that. It might have been more like "what goes around comes around"...

MAN

(rather humbly)
Oh...I see what you mean.

BECKENBAUER

(To the audience)
As with all optional

exclusions, the student exclusion can be taken either on a state wide basis or on an entity-by-entity basis. You need to be aware of what the situation is in your own state.

Like most of the other optional exclusions, the student services exclusion must be taken when the coverage group is brought under the agreement and it cannot be taken at a later point in time.

However, there have been two instances in the past where SSA allowed entities that had not already taken the student services exclusion previously, the opportunity to take it.

The first time was a result of the 1972 Social Security amendments. Entities were allowed during the period October 1972 through December 31, 1973 to elect this exclusion by submitting modifications to their state's 218 agreement.

The student services exclusion could be exercised on a statewide basis or selectively on an entity by entity basis.

The last time state and local government entities were given a second or third chance, was during the period January 1, 1999 through March 31, 1999.

The effective date of the student exclusions taken at this time would be July 1, 2000.

State and local entities that exercised this option cannot

again cover these services
unless Congress enacts
legislation to do so.

MAN

TMI, Dude... I'd better get
back to work!

BECKENBAUER

Dude huh? (Clicks) I guess
we're finished here!

When Beck clicks, Man slumps back into his
trance!

STATE SENATOR J. HUBERT BUMGARNER -

BECKENBAUER

For the next optional
exclusion, elective
positions, we have a very
appropriate personality to
join in the discussion -
State Senator J. Hubert
Bumgarner. (looks at Man) Oh,
before I call him forth, let
me take this off his head.

Beckenbauer lifts the cap off Man's head and
holds it in mid-air before setting it down.

BECKENBAUER (CONT'D)

He'd pitch a fit if he was
caught wearing one of those
things. (Imitating Bumgarner)
"So, undignified!" Now
then, before I call him
forth, I must warn you he's
up for re-election. (to Man)
Senator Bumgarner can you
join us?

Man quickly stands up and goes into speechifying
mode.

MAN

My friends, I'm so pleased to
be with all of you today. It
has been an honor to serve

the citizens of this district over the last 23 years and I hope you will extend your support for "Four More Years!"... I have served you diligently and will continue to do so if you send me back to the statehouse! Can I count on your support?

BECKENBAUER

(Encouraging replies)

Humor him folks, humor him!

(When applause dies down)

BECKENBAUER (Cont'd)

Well Hubert...

(MAN interrupts Beck)

MAN

It's Senator J. Hubert.

BECKENBAUER

Senator J Hubert; before you go too far with your spiel, most everyone in this room resides outside of your district.

(MAN looks deflated)

MAN

So, then why am I wasting my time here?

BECKENBAUER

Well, it's not really a waste of time, your fulfilling a public service commitment that you touted in your last debate. By the way, Senator Bumgarner...

MAN

Hey now, not so much emphasis on that first syllable, please! The voters may get

the wrong idea!

BECKENBAUER

Oh, sorry, Senator
Bumgarner..

(MAN shakes head in frustration)

Well Senator, forgive me for asking a personal question, but what everyone wants to hear is whether you're making the big bucks.

MAN

It's not the financial compensation that matters to me; it's the work I'm able to accomplish on behalf of my constituents.

BECKENBAUER

Well that's great Senator, I'm glad to hear it's not the pay you get, but the work you accomplish! Is Social Security deducted from your pay?

MAN

I'm actively involved in the preservation of Social Security.

BECKENBAUER

You didn't answer my question! I asked you whether Social Security is deducted from your paychecks.

MAN

No.

BECKENBAUER

Obviously, if that is the case, the state has excluded services of elected officials in legislative positions from Social Security coverage.

MAN

Correct, in fact, my Granddaddy, Senator J.

Humphrey Bumgarner was instrumental in having the legislative position excluded from the state's Section 218 agreement.

BECKENBAUER

I'm not surprised! (to the audience) Anyway, elective positions are those filled by an election...surprise, surprise! The method of selection must constitute an election under State law. Generally, elective positions fall into three classes: executive, legislative, and judicial. The state may exclude services in any or all of these classes.

MAN

So does that mean we could exclude legislators but not the Governor?

BECKENBAUER

Yes, or exclude the Governor and cover the legislators.

MAN

No thanks; I'm quite content to be excluded.

BECKENBAUER

So it's not about the money, huh?

MAN

(disregarding the question)

So, it's possible to exclude legislators, judges, county commissioners, sheriffs, mayors and so forth?

BECKENBAUER

I can see you sure know your way around this exclusion.

MAN

Yes I do, that's what got me

and Grandpappy where we are today!

BECKENBAUER

Do you have any words for the audience before you leave?

MAN

"Four more years!"...

BECKENBAUER

Oh, no you won't.

Beck clicks fingers. Man freezes. Becks smiles.

CHAD FROSTBERGER - ELECTION WORKER

BECKENBAUER

Now that we have had our share of political posturing, let's head to the polls. Today is primary day, and maybe we can have a few minutes to "hang" with election worker Chad Frostberger. Chad, can you visit with us for just a few minutes?

As Man comes out of his trance, he mumbles.

MAN

Oh, I must have dozed off.

Then Man looks up and sees the audience. His eyes widen and his mouth drops.

MAN (CONT'D)

My Gaw...where did you all come from? Have you been waiting long?

Man rushes to a seat behind the table.

MAN (CONT'D)

Okay, I handle last names A through I. (pointing) If your last name begins J thru Q go down there to Gloria; and R through Z, Darryl is over there waiting for you. (To Beckenbauer) I'm really

sorry; it's been so slow today, with it being just a primary that I guess I just dozed off.

BECKENBAUER

Don't get so excited, Chad. They can't vote here; they're not from this district.

MAN

I get it; they're a bunch of reporters looking for a story. I swear ever since they declared this a swing state, we're swarming with reporters. You can't spit without hitting at least a half dozen of 'em.

BECKENBAUER

They're not reporters, I assure you. However, they are interested in you and what you do as an election worker.

MAN

Well, we help set up the equipment, tables and chairs, distribute the voter lists, have the voter cards ready, manage the polling stations, close down the polling station at the end of the day and deliver the sealed ballots to the receiving station. Since we're using those new touchscreen voting terminals for the first time, we had to go through special training so we can properly instruct the voters how to use them. I guess you could say the primary is sort of a dress rehearsal for the fall elections. That's when everything's gotta run without a hitch.

BECKENBAUER

How many hours a year do you serve as an election worker?

MAN

Well, some years none, because there's no election. But this year with the national election, the presidential primary, the party primaries, and now, with the advent of early voting; I could rack up quite a number, if I want to. I guess I'll probably earn between 550 and 600 bucks. It's not much, but it gets me out of the house and lets me spend time with some real nice people like Gloria and Darryl.

BECKENBAUER

(to the Audience)

Prior to the 1967 Amendments, there was no specific exclusion for election workers and officials. They were usually treated as a class of part-time position and would be excluded from Section 218 if the entity or State had taken the part-time optional exclusion. Effective January 1, 1968, the Social Security Act was amended to allow each State to modify its Section 218 agreement to exclude the services of election workers and officials whose pay in a calendar quarter was less than \$50. From 1978 through 1994, the threshold amount was \$100 a calendar year. For the period 1995 through 1999 the threshold was raised to \$1000 a calendar year. The threshold amount has been raised periodically over the

years. Since January 1, 2009, it's been \$1500 a calendar year.

MAN

Does that mean if I earn less than the \$1500 this year I'll be excluded from Social Security tax?

BECKENBAUER

Yes, but only if your state has taken the election worker exclusion based on the threshold amount. As long as your election worker salary is less than \$1500, you will pay no Social Security tax; but if it reaches \$1500 or higher, then you would have to pay Social Security tax from the first dollar. Many States have amended their Section 218 Agreement to exclude statewide election workers paid less than the threshold amount mandated by law. But there are other states like Georgia, Delaware and Kansas that have not taken the exclusion statewide, but have permitted the individual local government entities to make the choice on an entity-by-entity basis.

MAN

What if the State has not taken the statewide election worker exclusion and the local government hasn't taken it either? Then what happens?

BECKENBAUER

If the State's Section agreement does not have an election worker exclusion or the entity's Section 218 coverage modification does not exclude election workers,

Social Security and Medicare taxes apply from the first dollar earned.

MAN

But not all local government entities have Social Security coverage under the State's 218 Agreement. I know because I have relatives in Ohio.

BECKENBAUER

If the entity is not covered under a Section 218 Agreement, the rules for mandatory Social Security and Medicare apply. And one of the exclusions to Mandatory Social Security is the election official and election worker exclusion with the threshold amount mandated by law.

However, let's get back to talking about the treatment of election officials and election workers under the Section 218 optional exclusion provisions. With most optional exclusions, if the exclusion is not initially taken in the entity's coverage modification, it cannot be taken at later time. However, the election official and election worker exclusion can be taken subsequent to the original coverage modification. It just takes an additional modification to do it. For a more detailed discussion check out SL 30001.357C, and while there, click on the link to the state-by-state chart on the election official and election worker

exclusion.

MAN

Sorry, Dr. Beckenbauer, I see some people coming in who look like actual voters. So, if you'll excuse me...

BECKENBAUER

Thanks so much for your help.

MAN

Come right in, folks. I handle last names A through I. (pointing) If your last name begins J thru Q go down there to Gloria; and R through Z, Darryl is right over there...

Beckenbauer CLICKS his fingers and the Man freezes and goes into his trance.

SAM SCENE

BECKENBAUER

Now that the primary is over, let's take a look at another optional exclusion - Fee Based Public Officials. I can think of no better person to illustrate this than Sam. (to Man)

Sam, we're ready for you now.

MAN pops up and walks out to audience.

MAN

Well, it's about time! I do have a schedule to keep too, you know!

BECKENBAUER

Sorry, but I wanted to properly introduce you.

MAN

Ok, so where are the two people you said would be here.

Beckenbauer walks among the audience looking for the two people.

BECKENBAUER

Will this guy do?

MAN

Yeah, works for me.

BECK takes the guy to front

What about the other person.

BECKENBAUER

Will she do?

MAN

Sure, will.

BECK walks her up next to the guy.

BECKENBAUER

I think we're ready now?
Aren't we Sam?

MAN

Yes, let's begin. (pause)
Dearly beloved, we are
gathered here today in the
sight of these witnesses, to
join this man and this woman
in holy matrimony..

Beck CLAPS twice. Sam freezes.

BECKENBAUER

That's right. Justices of
the peace can be fee-based
officials. A fee based public
official is one who receives
and retains remuneration for
his/her services directly
from the public. An
individual who receives
payment for his or her
services from government
funds in the form of a wage
or salary is not a fee based
public official, even if the
compensation is called a fee.
Now let's get back to the
wedding ceremony.

Beck Claps twice again, and ceremony resumes.

MAN

Now, by the power invested in me I pronounce you man and wife...That'll be fifty bucks, please.

There is hesitation by the guy and the gal.

MAN (CONT'D)

I said fifty bucks please.

Beckenbauer fishes in his pocket and pulls out a wad of play money and hands it to groom.

BECKENBAUER

Here, pay him.

Guy hands the money over to Man. Man stuffs the money in his pocket.

BECKENBAUER

(to audience)

Did you see what just happened here? It's pivotal to being a fee based official. Well, just to make sure you get the point; let's have an instant replay.

Man pulls money out of his pocket and hands it to guy. Beckenbauer takes the money from guy speaking some sort of gibberish, followed by Man speaking similar gibberish as if a videotape was being rewound. Once that is done, the scene is repeated.

MAN

I said fifty bucks please.

Beckenbauer fishes in his pocket and pulls out a wad of play money and hands it to groom.

BECKENBAUER

Here, pay him.

Guy hands the money over to Man. Man stuffs the money in his pocket.

BECKENBAUER

There, that is the key to fee based official. He receives the payment directly from the

public, puts it in his pocket and keeps it. He does not turn it over to the governmental entity. However, if he turns the money over to the governmental entity and the entity turns around and pays him back, then it is no longer considered a fee, but is treated as a salary. This is based on the IRS definition adopted by SSA beginning January 1, 1992. (To guy and gal) You can take your seats, thanks for being good sports. And don't worry, you're not really married.

BECKENBAUER

Beginning in 1968, services performed in positions compensated solely by fees are excluded from coverage under Section 218 agreements unless the state specifically covers these services. That's what makes this exclusion optional. If these services are excluded from section 218, they are covered as self-employment and subject SECA.

MAN

If the state covered these positions before 1968, it may modify its 218 Agreement to exclude these positions prospectively. If a state covered and later excluded these positions, the state cannot again cover these positions.

BECKENBAUER

Generally, a position compensated by a salary **and** fees is considered a fee based position if the fees

are the principal source of compensation, unless a state law provides that a position for which any salary is paid is not a fee based position.

MAN

A state may exclude positions compensated by **both** salary and fees from social security and Medicare coverage under its section 218 Agreement. If the exclusion is taken, none of the compensation received, **including** the salary is covered wages under the state's 218 agreement. In this case, the salary payment would be subject to mandatory social security if the fee based official is not a member of a qualifying public retirement system.

I think that covers it; I need to take off for my next shotgun wedding.

BECKENBAUER

Well, let's not keep you any longer.

Beck clicks and MAN slumps on stage.

B-RAD SCENE:

BECKENBAUER

We now come to the last of the optional exclusions, the part-time positions, and the last of Kevin's personalities; that we know of. Brad is a lifeguard working for the summer at Cape May Beach.

(to Man) Brad are you
here?.....
Brad??

Man pulls out shades and puts them on...drops
glasses to nose with eyes showing...

BECKENBAUER

Brad??

MAN

How many times do I have to
tell you man, it's B-Rad!
And, what are all these
people doing in the changing
room? I need to get ready
and get up on the stand!

BECKENBAUER

Brad, you're not at the
beach, you're on an all-
expense paid vacation in
Paradise Valley Arizona to
keep the hotel safe from the
Social Security
Administrators and federal
folks.

MAN

What, I didn't sign up for
this gig. Where are the
waves; the last time this
place had an ocean was before
the last ice age!

BECKENBAUER

Again, BEE RADD, this is
Arizona, not Cape May.

MAN

Ok, that's fine, but if we
don't have some waves to surf
I need to get back to the
Jersey shore.

BECKENBAUER

Ok, but before you go, we'd
like you to stick around and
tell us more about your job.
Now, you are just part-time,
right?

MAN

Yes, because you can't surf and hold down a full-time job; if you do, you're not a true surfer!

Beck turns to audience

BECKENBAUER

For purposes of the part time exclusion, the number of hours usually required by the position in a week or pay period is less than the normal time requirements for the majority of the government entity's other positions.

MAN

Less hours? Well, I think I have that covered!

BECKENBAUER

Also, the part-time position exclusion is based on the normal time requirements of the position and not the time actually spent by the employee in the position. For example, if a position is established as a part-time position, but the employee works full-time, the services are still excluded.

MAN

Work full-time when they can work part-time? Why would anyone do that?

BECKENBAUER

Wait until you have a home and children.

MAN

That'll never happen.

BECKENBAUER

Well, getting back to the part-time exclusion, it is extremely important for the

state to define what a part-time position is in the body of the modification, if one has not already been previously established. The part-time definitions can be applied on a statewide basis or different definitions may be established for different coverage groups.

MAN

So, how many hours are you talking about here?

BECKENBAUER

Well, an acceptable definition may be any position that normally requires less than 20 hours per week.

MAN

I can handle that.

BECKENBAUER

Another definition could be a position that normally does not require over 50 hours in a month or services performed by an employee in a position that normally does not require more than 600 hours per year.

MAN

600 hours? How could anyone work that much?

BECKENBAUER

These are just examples, B-RAD.

It's the state that ultimately decides what the part-time definition will be. I'd guess your life guard position is probably seasonal.

MAN

You better believe it's seasonal; I won't be anywhere

close to that beach in
November.

BECKENBAUER

Seasonal or temporary
positions often require the
employees to work full-time
for a short duration. Now
whether we consider a
seasonal or temporary
position a part-time position
depends on the definition of
part-time that has been
established for that
particular coverage group.

pause

Let's take a look at B-rad's
lifeguard position.

To Brad

B-rad, how many hours a week
do you work as a lifeguard?

MAN

I work Wednesday thru Sunday
from 9 to 5:30.

BECKENBAUER

If the entity has defined
part-time as being less than
40 hours a week then
obviously Brad is working
full time and is not eligible
for the part-time optional
exclusion.
How many weeks do you work
each season?

MAN

Brad counts on fingers...

I think... it's about 14 weeks... from Memorial Day
weekend through Labor Day weekend. After that
this place gets cold fast.

BECKENBAUER

That's 540 hours, so you do almost work 600
hours!

MAN

No way, that seems like way too many hours, but I guess they add up.

BECKENBAUER

Talking towards audience

If the established part-time definition is based on a specific number of hours worked per year, in this case 600, then Brad's 540 hours would make him a part-time employee and thus eligible for the part-time exclusion.

Whether a position is considered part-time is dependent upon the definition of part-time as established for the coverage group in its coverage modification under the State's Section 218 agreement.

If the part-time position exclusion is taken, the State should define the part time position in the modification if one has not been previously established.

MAN

Well, so what am I, excluded or included?

BECKENBAUER

Your pay stub might give us a clue. That is if the town is doing things properly.

MAN

Pay stubs. I never look at them. They're too confusing.

BECKENBAUER

Maybe your State Social Security Administrator can tell you, if he's in the

audience?

MAN

(to audience)

These guys are those kinda administrators, right?
(shouts) Is there anybody from Jersey in the house?

Silence

BECKENBAUER

Sorry, looks like Jersey's a no show this year. When you get your next pay stub, take the time to look at it carefully.

MAN

Well, I better get out there and work on my tan; it's part of my job duties.

BECKENBAUER

Thanks a lot Brad. We'll see you at the beach.

Man puts his sunglasses back in place and gets back in a lounging position in his chair. Beckenbauer CLICKS his fingers, and Man goes back into his trance.

BECKENBAUER

I would like Kevin to come back please, Kevin...Kevin...

MAN

How long was I out this time?

BECKENBAUER

Quite a while, do you feel okay?

Man removes the sunglasses.

MAN

Yeah. Was B-rad here?

BECKENBAUER

Yes, and quite a few others, too. Thanks so much, Kevin. You and the other guys really helped us understand the

mandatory and optional
exclusions under Section 218.

To the audience

BECKENBAUER (CONT'D)

Thank you all for your
patience with Kevin and his
eleven "friends." We hope
that you all have had some
fun, and at the same time,
learned a lot about the
exclusions, because I'm about
to hand out the - test.

Beckenbauer picks up a stack of papers and
proceeds to the first table of audience members.
As he is about to hand out the first test copy,
Man CLICKS his fingers. Beckenbauer freezes.

MAN

Oh, no you won't. Okay
folks, take a break. I sure
will.

The End

*Exclusions will drive you crazy...
if you let them!*



Section 218 exclusions

There are two types of exclusions:

- *Mandatory Exclusions*
- *Optional Exclusions*

Mandatory Exclusions

SL 30001.356 Mandatory Exclusions:

The following services are mandatorily excluded from Section 218 coverage:

- **Services performed by individuals hired to be relieved from unemployment.** (This does not include many programs financed from Federal funds where the primary purpose is to give the employee work experience or training.)
- **Services performed in a hospital, home or other institution by a patient or inmate** thereof as an employee of a state or local government employer;
- **Services performed by an employee on a temporary basis** in case of fire, storm, snow, earthquake, flood or other similar emergency;
- **Transportation services** covered under Section 210(k) of the Act (see [SL 30001.365](#));
- Services that would be excluded if performed for a private employer because the work is not defined as employment under Section 210(a) of the Act (e.g., **non-resident aliens** with F-1, J-1, M-1, and Q-1 visas - (See [RS 01901.740](#))).

Mandatory Exclusions

Patient and Inmate Workers



Services performed in a hospital, home or other institution by a patient or inmate thereof as an employee of a state or local government employer.

Mandatory Exclusions

Relief from unemployment

Generally, services performed by employees in work relief programs (other than the supervisory or administrative employees for projects) are excluded.



The intent of the program establishes whether the program is designed to relieve individuals from unemployment.

Mandatory Exclusions



Emergency Services

Before January 1, 1968, emergency services were an optional exclusion. Beginning January 1, 1968, services by an individual hired as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, volcanic, or other similar emergency are **mandatorily** excluded.

The exclusion applies only to service on a temporary basis. Individuals who are in a continuing employment relationship for the purpose of working whenever an emergency arises are not performing emergency services on a temporary basis, e.g., firefighters.

Mandatory Exclusions

SL 30001.365 Public Transportation Services



Mandatory Exclusions

Foreign Students, Exchange Visitors and International Cultural Exchange Visitors

Beginning in 1962, certain services performed by nonimmigrants temporarily in the United States (U.S.) as academic or vocational students, exchange visitors and participants in certain international cultural exchange programs have been excluded from the definition of employment under the Social Security Act (the Act).



Optional Exclusions

SL 30001.357 Optional Exclusions:

- **Agricultural Labor**, but only those services that would be excluded if performed by a private employer .
- **Elective Positions;**
- **Election workers and election officials** whose pay in a calendar year is less than the amount mandated by law, unless Section 218 coverage covers election workers.
- **Positions compensated solely by fees** that are subject to SECA (Self-Employment Contributions Act), unless Section 218 Agreement covers these services.
- **Part-time** positions;
- **Students enrolled and regularly attending classes** at the school, college or university where they are working.

Optional Exclusions

Agriculture Services

When a State extends coverage to a group, it has the option of excluding agricultural labor that would be excluded if performed in private employment. A State, which initially excludes agricultural labor, may later modify its agreement to cover it. However, if agricultural labor is not excluded initially, it cannot be excluded later. If a State has not taken the agricultural exclusion, then all remuneration for agricultural labor is covered.



Optional Exclusions

Student Workers



Students are excluded from Social Security and Medicare coverage if the student is performing services in the employ of a school, college or university where the student is enrolled and regularly attending classes.

Most States have excluded students from coverage under the State's Section 218 Agreement. Some States, however, elected to provide coverage for student services in certain schools. Student services covered under a Section 218 Agreement cannot be excluded unless Federal legislation authorizes it.



Optional Exclusions

Elective Positions

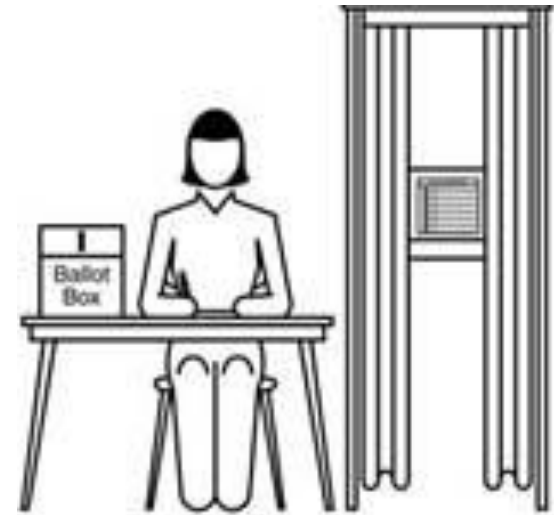


- A State may exclude the services in any or all classes of elective positions. Elective positions are those filled by an election.
- The election may be by a legislative body, a board or committee, or by the qualified electorate of a jurisdiction.
- Generally, elective positions fall into three classes: executive, legislative, and judicial.
- Some examples of elected officials are: mayor, member of a legislature, governor, county commissioner, State or local judge, county or city attorney, sheriff, tax collectors, road commissioners, members of boards and commissions.

Optional Exclusions

Election Workers

Effective January 1, 1968, the Act was amended to allow each State to modify its agreement to exclude the services of election officials/workers whose pay in a calendar quarter was less than \$50.



The election worker threshold has increased several times over the past four decades. Beginning January 1, 2009, the election worker threshold amount increased to \$1,500 a calendar year.

Optional Exclusions

Fee Based Positions



Optional Exclusions

Fee Based Positions

A fee-based public official is one who receives and retains remuneration directly from the public, e.g., justice of the peace, local registrar of vital statistics. An individual who receives payment for services from government funds in the form of a wage or salary is not a fee-based public official, even if the compensation is called a fee.



The fee-based public official provisions do not apply to notary publics. A notary public is not a public official even though he/she performs a public function and receives a fee for services performed. The services of a notary public are not covered for Social Security purposes.

Optional Exclusions

Part-time worker exclusion

A part-time position is one in which the number of work hours normally required by the position in a week or pay period is less than the normal time requirements for the majority of positions in the employing entity.



The part-time position exclusion is based on the normal time requirements of the position and not the time spent by an employee in the position.

Mandatory and Optional Exclusions

The Mandatory and Optional exclusions we are referencing today apply to voluntary Social Security coverage situations (coverage via a Section 218 agreement) and should not be confused with the different set of exclusions which apply to Mandatory Social Security and Medicare!



62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Majority and Divided Vote Referenda”

Speakers:

Ms. Angie Dowdy, NCSSSA First Vice-President, LA

Mr. Thomas J. Reardon, State Social Security Administrator, MD

Moderator:

Madison Davis, AR

Ms. Angie Dowdy is the Social Security Program Analyst within the Social Security Division of the Louisiana State Treasurer’s Office. She has assisted Linda Yelverton with Section 218 coverage issues and referendums since January of 2007. Mr. Thomas J. Reardon is the State Social Security Administrator for the State of Maryland. He has worked for over 10 years in Employee Employer Relations for the state of Maryland.

Mr. Reardon spoke in detail on referendum conditions for majority vote referendum. He stressed that it requires the Governor or an official designated by him/her to certify the referendum conditions have been met. He went over the following certifying requirements:

- Vote was held by secret written ballot;
- Opportunity to vote was given and limited to the eligible employees;
- Employees were given not less than 90 days notice of the vote;
- Vote was supervised by the Governor or by a named designate of the Governor;
- A majority of the eligible employees of the retirement system voted for coverage.

Mr. Reardon shifted his focus to the employees eligible to vote in a majority referendum. He indicated that generally, an employee is a member of a retirement system if the employee’s personal relationship to the system qualifies the employee for benefits under the system or for additional benefits if the employee is already qualified. An employee does not lose eligibility to vote when absent from work because of illness, summer vacation or leave of absence if the employment relationship continues.

Ms. Dowdy talked about the Divided Vote Referendum and the 23 states permitted this coverage under Section 218(d)(6)(c) of the Social Security Act. She indicated that these States have the

following choices as to what may constitute a retirement system for referendum purposes. She discussed that any retirement system established by one of the 23 states may be divided into two parts (two deemed retirement systems) for referendum and coverage purposes as:

- One part or system includes the position of members of the system who elect coverage.
- The other part or system includes the positions of members who do not elect coverage.

A State authorized to use the divided retirement system to extend coverage may use either of two voting procedures as follows:

- The one-step procedure voting all eligible members and dividing the system into two parts on the basis of the member's choice.
- Subdivide the retirement system into two parts or systems based on the members' choice, and then conduct a majority vote referendum among the employees who chose coverage.

Ms. Dowdy then conducted an audience participation segment where the audience voted whether they wanted coverage. She then subdivided the retirement system into two parts, based on the members' choice, and then conducted a majority vote referendum among the employees who chose coverage. The audience preferred to use the one-step procedure voting all eligible members and dividing the system into two parts on the basis of the member's choice.

The speakers have a deep knowledge and understanding of coverage issues within their states. They have worked on a wide-ranging and challenging set of coverage issues and are held in high regard by their colleagues.

Respectfully Submitted,



Madison Davis
State of Arkansas' Social Security Coordinator

Majority vs. Divided Vote Referendums

Prepared for the 62nd Annual Conference of State
Social Security Administrators (NCSSA)

T.J. Reardon, Social Security Administrator of
Maryland, as lead presenter.



First things First

- This presentation is about Retirement Systems.
- Referenda are only required for coverage of Retirement Systems Groups.
- This presentation does not apply to Absolute Coverage Groups.



Retirement Systems

- Any pension, annuity, retirement or similar fund or system established by a state or political subdivision
- If State law requires a State or political subdivision to have a retirement system, it is considered established even though no action has been taken to establish the system.

Retirement System Coverage Groups

- Employees working in positions covered by a public retirement system; these groups may be provided coverage under an Agreement only if approved by a referendum.
- Section 218 (d)(4) of the SSA gives the state the option of dividing retirement systems into its components, or any combination of its components, should they elect to allow coverage for employees of political subdivisions of the state (this is different from the division of the system under a divided vote referendum).

Referenda...What are they?

- Most people recognize them as a form of an election with votes.

- While this is true, they are actually a specific type of election.



Legal Definition (Black's Law Dictionary, 6th Edition)

- *The process of referring to the **electorate** for approval of a proposed new state constitution or amendment (constitutional referendum) or of a law passed by the legislature (statutory referendum). A **right** constitutionally reserved to people of a state or local subdivision thereof to have submitted for their approval or rejection, under prescribed conditions, any law or part of a law passed by lawmaking body. *Anne Arundel County v. McDonough*, 277 Md. 271, 354 A.2nd 788, 796. **Not all state constitutions make provisions** for the referendum process.*



How does this connect to Sect. 218 coverage?

- Under Section 218 [42 U.S.C.418] (d)(1) referendums are a right granted to members of a retirement system (as the electorate), for the purposes of providing an approval process, prior to making a legal change to the state's 218 Agreement and thereby extending coverage to a retirement system.
- Though all states may conduct referenda to extend coverage to retirement systems, only certain states are allowed to conduct Divided Vote Referenda.



So, who's in? The following states are allowed by law to conduct Divided Vote Referenda:



My state is not on this list. Why should I care?!?!?!?!?!?



- Well, someday you might be asked by the NCSSSA to conduct a presentation on the differences between the two systems.
- There could be a change to the law (as recently as 2004 Louisiana and Kentucky were added to the list)
- Understanding the distinctions should help you expand your knowledge of the Majority Vote process, which is provided for in your state.

What is the distinction?



- **Majority Vote Referenda:** A majority of the eligible employees in positions covered by the retirement system must actively vote in favor of coverage.
- What happens if the majority votes “yes”?
- All current and future employees (with a few exceptions) gain coverage. This group is also known as a (d)(4) group.
- Ineligibles are covered.
- Retirement system optionals are also covered

MAJORITY
✓
RULES

Continuation of Coverage for Positions covered under Majority Vote Referendum

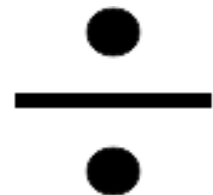
- **Newly created or re-classified positions:**
 - Are covered if the position would have been part of the group had it been in existence on the applicable date of the modification.
 - Coverage continues even if the positions are removed from the system, moved to another system or the system is abolished.
- **Police and Firefighters:**
 - If these positions are created post-referendum, the employees are not compulsorily covered. The state must provide coverage through a separate referendum and modification. If a position is reclassified as a police or firefighter, coverage ceases unless the state elects to cover them.



Every coin has two sides...

- It is, of course, possible for the electorate to vote “no” in the referendum.
- What happens if the majority votes “no”?
- **No one is covered**; neither the current members, nor new hires.
- Additionally, another vote (for the same type of coverage), cannot be held for at least one year.





What is a Divided Vote Referendum?

- In a **divided vote referendum** the eligible employees in the retirement system, or component of the retirement system, which is the subject of the referendum are **divided into subsets based on the employee's individual interest** in obtaining coverage.
- So who is covered and who is not?
- **Individuals voting no are not covered under a Divided Vote Referendum. Individuals voting yes and future employees** maybe covered, depending on the type of Divided Vote Referendum and outcome of the vote.

What does Divided Vote Referendum mean?

- There are actually **two** methods of Divided Vote Referendum.
- **Method One: The 2-step (or Original) process.**
- This consists of a Poll, (step one) which does not require a notice period, followed by a referendum (step two), which requires the standard 90 day waiting period (plus 60 if the coverage group includes deployed military personnel).
- Retirement System members are polled to determine their desire for coverage (this is a preference, not a referendum); the results of the poll would determine whether to place the individual employee into the Yes or No group for wanting coverage.
- Once the individuals are separated based on this preference a Majority Vote Referendum is conducted among the Yes Group.

What does Divided Vote Referendum mean? (Continued)

- **Method Two: 1-Step Divided Referendum Procedure (“new process”).**
- Although both methods are accepted, this has been the more popular and frequently used Divided Vote Referendum method.
- This process requires only a referendum.
- Voters who vote yes in this system are covered and those that vote no are not (“individual choice”).
- But regardless of how the electorate votes, the system will provide coverage for all new hires (with a few exceptions).
- Current members under this method control their own destiny! These voters are known as a (d)(6) group or “desire for coverage group.”



Federal Requirements

- While the referendum process is ultimately a state process, there are certain minimum requirements set out by federal law.
- The Governor of the state (or the Governor's designated official) must certify:
 - A.) An Opportunity to vote was given to all Eligible employees
 - B.) Eligible voters were given no less than 90 days notice of the vote, and an additional 60 more days if the group includes deployed military personnel (these voters should be mailed a ballot)
 - C.) The vote was supervised by the Governor (or the Governor's designated official)



Federal Requirements (Continued)

- **Federal Requirements for Majority Vote Referendum**
(in addition to the other requirements):

- A.) Vote must be held by written secret ballot
- B.) Must be limited to the eligible voters.
- C.) A Majority of the eligible employees of the retirement system actively voted for coverage

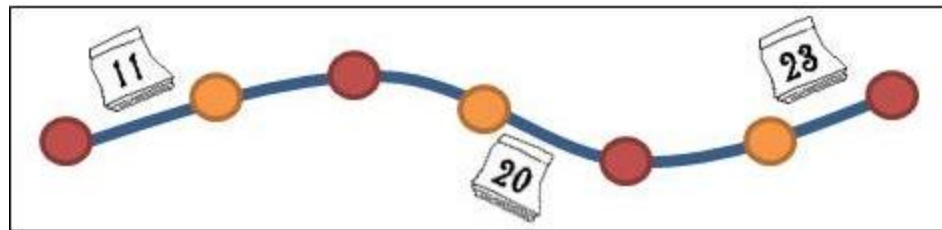
- **Federal Requirements for Divided Vote Referendum**
(in addition to the other requirements):

- A.) Vote must be held by written ballot (not secret)
- B.) Retirement System must be divided (and certified it was divided according to law) into two parts, with one composed of members who voted for coverage and the other with those who did not vote for coverage



What is the timeline for the referenda process?

- If a referendum passes under any of the various referenda processes the resulting modification must be executed within two years of the date of the referendum to be valid.





ARE YOU REGISTERED TO
VOTE?

Who is eligible to vote?

- **Majority Vote Referendum**
- Employees eligible to vote in a referendum must be:
 - A.) A member of the retirement system at the time the referendum is held; and
 - B.) Be in an employment relationship both at the time the notice of referendum is given and at the time the referendum is held.
- **Divided Vote Referendum**
- Employees eligible to vote in a referendum must meet the same requirements for Majority Vote Referendum, **but also must be a member at the time the system is divided.**

Under certain conditions individuals hired after the division of the system but before the execution of the modification may be given a choice of coverage.

These Employees are NOT eligible to vote in the referendum:



ARE YOU REGISTERED TO
VOTE?

- Employees (already) covered under a Section 218 agreement.
- Employees not members of the retirement system. (This applies to Majority, however a Divided vote permits optionals to vote)
- Employees excluded by a mandatory or optional exclusion.
- Members of the retirement system but are Federal employees.
- Employees hired after the 90 day notice was given.





Now that is different than ineligibles...

An ineligible is an individual who is in a position under the retirement system but is not eligible to join the system because of a personal disqualification, which may consist of:

- A.) Age
- B.) Length of Service
- C.) Number of Hours Worked, or
- D.) Date of hiring

These individuals can, however, be effected by the outcome of the vote. Once a majority vote referendum is conducted resulting in coverage of new hires, ineligibles would also be covered. While under a divided vote referendum the State may or may not choose to cover ineligibles (this option does not apply to police and firefighter ineligibles).

One last flip of the coin

- Under divided vote referenda there are a few instances when there is another opportunity to exercise your preference:
- Under the **2-step** approach the post-polling “yes” group has the chance to vote no in the majority vote referendum portion of the process.



Second Chance Provisions

- In the **1-step**, a written request by a “no” voter may allow that voter to chance a “yes”, or the entire “no” group can be subjected to a majority vote referendum.
- Deployed military personnel who failed to return a ballot will (prior to the execution of the modification) be given a choice of coverage (under a majority vote referendum they are governed by the outcome of the vote).

Let us take a moment to review

- A Majority Vote Referendum is a secret ballot whereas a Divided Vote is not.
- A Majority vote Referendum is an all or nothing proposition.
- With Divided Vote Referendum, employees can individually choose to, or not to, obtain Social Security or Medicare-only coverage.



Let us take a moment to review (Continued)

- The voters status under the Divided Vote Referendum follows the individual while still a member of that coverage group.
- Be cognizant when recommending a One Step Divided Vote referendum, it will bind the entity to cover new employees.

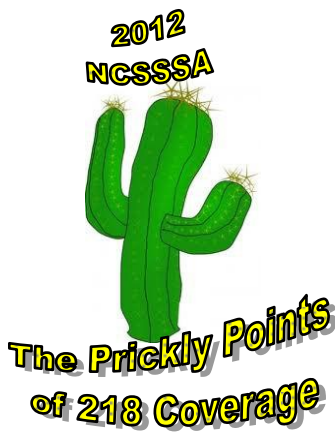


Questions?



Disclaimer

- *This presentation is for informational purposes only and not for the purpose of providing legal advice. It does not create an attorney-client relationship. You should contact your attorney to obtain advice with respect to any particular issue or problem.*



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“SSA Legislative Update”

Speaker: *Sue Bussman, SSA,
Office of Legislation and Congressional Affairs*

Moderator: *Rita Foltman, Idaho*

Ms. Bussman provided an overview of activities during the 112th Congressional Session and accompanied her narrative with a PowerPoint presentation.

The topics reviewed include:

- Windfall Elimination Program / Government Pension Offset (WEP & GPO)
- Death Master File (DMF)
- Solvency
- Highlights 2012 Trustees Report
- Mandatory Coverage Under Social Security

Currently, three bills have been introduced in the 112th Congress that addresses WEP and GPO issues. The proposed bills fall into two categories: one that would adjust how benefits are computed changing how WEP is applied the second will eliminate both WEP and GPO completely. Each proposal costs a great deal of money and Congress is not inclined to increase costs unless offsetting funds are available.

S. 113 and H.R. 2797 propose replacing WEP with a new formula for treating non-covered earnings which will require a benefit recalculation for individuals currently subject to the offset. Because of the expense involved, it is not likely the proposal will go forward independently. It is more likely it will be part of a broader proposal.

An update on the Death Master File (DMF) was added this year. Historically, the Social Security Administration (SSA) collects numerous death records. In the late 1970s, SSA was legally challenged for not providing some of the data collected. The case was settled and it was decided that SSA had to provide information under certain circumstances. Rather than provide the information on a case-by-case basis, SSA recognized the need to have the information readily available. However, data received from the states is exempt from public disclosure while information received from other sources is available publicly and is used to administer retirement programs to be sure benefits are not paid to deceased individuals.

Identity theft became an issue with the DMF. Scammers could access the DMF, retrieve deceased persons' information and use it fraudulently. Congress then wanted to limit the availability of the information. Several pieces of legislation were introduced that would very generally limit the availability of the information. Most federal benefit paying agencies receive the information under law. For other entities not receiving the DMF by law, the data is available for purchase through the Department of Commerce. The proposed legislation will limit in different ways the availability of the public file.

The Obama Administration has also proposed changes to the public availability of the DMF. In February 2012, Commissioner Astrue testified before the Social Security Subcommittee about a workgroup he is involved with that is tasked with finding a balance between combatting the reality of identity theft with the valid needs for the information. Commissioner Astrue and the workgroup continue their efforts.

Solvency is another important issue – many wonder if Social Security will be available in the future. Congress is thinking about this issue now. Legislation has been proposed to remedy the solvency issues. There are no common themes in the legislation; however, most proposals have provisions to increase the full retirement age from the current age of 67. There are no current proposals for raising the employer and employee 6.2% tax rate. Senator Tom Harkin (Iowa) recently released his plan for fixing the solvency issue. He is chairman of the Appropriations Subcommittee on Labor, Health, and Human Services and Education and is an influential person in Congress. This illustrates the importance given to solvency.

A few of the president's fiscal year 2013 budget proposals may be of significance for those managing Section 218 coverage – primarily the proposal to continue the payroll tax cut for the employee share of Old Age, Survivor's, and Disability Insurance (OASDI) from 6.2% to 4.2%. The reduction applies to the taxable maximum of \$110,100 for this calendar year. The reduced revenue in the Trust Fund is offset by general revenue funds. Two trust funds exist – the OASI Trust Fund which pays retirement and survivor benefits and the Disability Insurance (DI) Trust Fund which pays disability benefits. If nothing changes from the current governing laws, the combined OASDI Trust Funds will be exhausted by 2033 and the DI Trust Fund will be exhausted by 2016. Exhausted does not mean there will not be any funds – it means the Trust Funds will not be fully funded and the benefits promised by law will not be paid in full. The current estimate for 2033 is 78% of the scheduled benefits will be paid. An act of Congress is needed to make changes to Trust Fund allocations, which would allow continued payment of scheduled disability benefits. SSA is confident this will be done as it has been done in the past. There have been similar situations when the imbalance in the Trust Funds has been corrected by a legislative reallocation of funds.

As mentioned earlier, WEP and GPO proposals are again being made. The intent is to help SSA administer the provisions of each program. One major cause of improper payments occurs when SSA is not aware that an individual is receiving a pension not covered by Social Security. Current proposals will allow SSA to negotiate agreements with pension paying agencies to receive the information needed to apply WEP and GPO. The downside, there are many pension paying agencies which would require many negotiated agreements. There are also proposals that will allow agreements

between SSA and worker compensation providers to better impose the worker compensation offset.

Mandatory or Universal Coverage is another important issue. Many of the big reform plans point to every newly hired person automatically contributing to Social Security as one way to eliminate as much as 25% of the actuarial deficit. It is estimated that approximately 35% of all state and local government workers are not covered by Social Security. No legislation for this issue is pending at this time; however, because such a plan would eliminate a significant piece of the deficit, it may be combined with other reform proposals. That is the reality – people are looking for ways to create the legislative language. We may see this sooner rather than later. Section 218 coverage will need to be addressed regarding Mandatory or Universal Coverage.

In summary, in terms of general congressional interest it is not likely that WEP and GPO will be eliminated completely because of the cost involved. There is a sense that full repeal will be unfair. The offset provisions of the programs are designed to replicate specific provisions of the Social Security Act – WEP accommodates the fact that the benefit formula more highly weights the earnings of lower wage individuals and GPO replicates dual entitlement. A revision of the computation is more likely to occur. A revision continues to recognize why the provisions are in the Social Security Act and is less costly than full repeal.



Social Security: Legislative Update NCSSSA Presentation July 2012

Legislative Update-112th Congress

- ❖ WEP/GPO
- ❖ Death Master File
- ❖ Solvency
- ❖ Highlights 2012 Trustees Report
- ❖ Mandatory Coverage Under Social Security

WEP/GPO

- ❖ Three bills have been introduced in the 112th Congress that address WEP and GPO issues. These bills are:
 - S. 113-Senator Hutchison (TX)
 - H.R. 2797- Congressman Brady (TX)
 - H.R. 1332-Congressman McKeon (CA)

Provisions for S. 113 & H.R. 2797

- ❖ Would repeal the current WEP that reduces the Social Security benefits of workers who also have pension benefits from employment not covered by Social Security
- ❖ Would establish a new formula for treating non-covered earnings when determining Social Security benefits

Provisions for H.R. 1332

- ❖ Would repeal GPO and WEP
- ❖ Benefits payable after December 2011 would be adjusted

Death Master File (DMF)

- ❖ Three bills introduced in the 112th Congress addressing the DMF
 - S. 1534-Senator Nelson (FL)
 - H.R. 3475-Congressman Johnson (TX)
 - H.R. 3215-Congressman Castor (FL)

Provisions for S. 1534

- ❖ Would direct the Secretary of the Treasury to implement an identity theft tax fraud prevention program and review whether current Federal tax law prevents the effective enforcement of local, state, and Federal identity theft statutes

Provisions for S. 1534 Cont.

- ❖ Would prohibit the Secretary of Commerce from disclosing information contained on the DMF relating to a deceased individual to persons who are not certified to access such information

Provisions for H.R. 3475

- ❖ Would protect information received by the Commissioner of Social Security related to deceased individuals

Provisions for H.R. 3215

- ❖ Would impose a fine/and or prison term on individuals who willfully misappropriate another person's tax ID number in connection with any documents submitted to the IRS
- ❖ Would increase civil and criminal penalties for the improper disclosure or use of taxpayer information by tax return preparers

Death Master File

- ❖ The Administration is working on a proposal that would change the public availability of death information

Solvency Bills

❖ Five Pending Solvency Bills

- S. 804; Senator Graham (SC)
- S. 582; Senator Sanders (VT)
- H.R. 2889; Congressman McCotter (MI)
- H.R. 1118-Congressman Weiner (NY)
- H.R. 867-Congressman Lummis (WY)

Provisions for S. 804

- ❖ Would gradually increase the normal and early retirement ages
- ❖ Would increase the maximum age for delayed retirement credit, and provide a progressive price indexing of benefits

Provisions for S. 582 & H.R. 1118

- ❖ Would limit changes to the Social Security Program for current and future beneficiaries
- ❖ Would establish a point of order against any efforts to reduce benefits, raise the retirement age, or create private retirement accounts

Provisions for H.R. 2889

- ❖ Would establish personal accounts
- ❖ Would authorize qualifying individuals to elect to participate in a program under which personal Social Security savings accounts are established for investment purposes

Provisions for H.R. 867

- ❖ Would increase the retirement age to 70 and the early retirement age to 65 as of January 1, 2069
- ❖ Would revise requirements accordingly to calculate the retirement age increase factors

FY 2013 President's Budget Proposals

- ❖ Extension of Payroll Holiday Tax
- ❖ WEP/GPO
- ❖ Workers' Compensation Information Reporting

Extension of the Payroll Holiday Tax

- ❖ Prevent tax increases on working families
- ❖ Reduction applies to first \$110,100 of taxable wages
- ❖ Social Security Trust Fund would receive transfers from the General Fund equal to reduction in payroll taxes

WEP/GPO

- ❖ Develop automated data exchanges for State/local government to submit useful and timely information on pensions that are based on non covered earnings
- ❖ Mandatory funding to develop and implement data exchanges
- ❖ Proposal assumes enforcement to begin in FY 2016

Workers' Compensation Information Reporting

- ❖ Develop system to collect information on workers' compensation recipients from States and private insurers
- ❖ Intent of proposal is to improve integrity of:
 - Workers' Compensation reporting process,
 - Accuracy of Social Security disability and SSI payments,
 - Reduce improper payments, and
 - Lessen reliance on the beneficiary to report WC information in a timely manner

Highlights of the 2012 Trustees Report

- ❖ Trustees indicate that Social Security is not solvent over the 75-year period
- ❖ Long term assumptions:
 - OASI Trust Fund will be exhausted by 2035
 - DI Trust Fund will be exhausted by 2016
 - Combined (OASDI) Trust fund to be exhausted by 2033

Mandatory Coverage Under Social Security

- Approximately 25% of all state and local government employees are not covered under Social Security
- Both the Simpson-Bowles Commission and the Rivlin-Domenici Plan recommended increasing the maximum level of annual earnings to payroll tax by enough to eliminate the 25% of the long range actuarial deficit
- No current bills in the 112th Congress that provide mandatory coverage

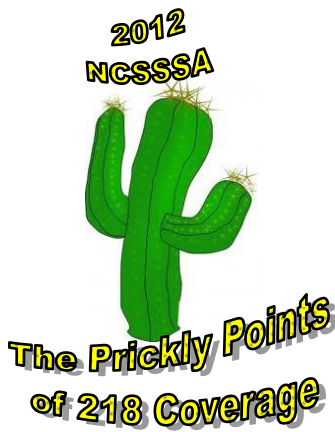
Congressional Interest

- **Not likely that WEP & GPO will go away**
 - **Too costly to fully repeal**
 - **Full repeal would not be equitable**
- **Possibility of revising computation more likely**

SOCIAL SECURITY



Thank You
Any questions or comments?



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

"IRS/FSLG Status of Section 218 Assessment Tool"

Speaker: *Ms. Lynn Shelton, Western Area Manager, IRS/FSLG*
Mr. Robert Westhoven, Northeast Area Manager, IRS/FLSG
Moderator: *Melanie Piccin, WA*

Presentation was given on Tuesday, July 31, 2012 from 8:15 am – 9:00 am in Scottsdale, AZ at the 62nd Annual Conference of State Social Security Administrators.

The participants were Ms. Lynn Shelton, Western Area Manager, IRS/FSLG and Mr. Robert Westhoven, Northeast Area Manager, IRS/FLSG.

Following is a transcript of the presentation:

IRS/FSLG Status of Section 218 Assessment Tool
July 31, 2012

Introduction

Hello, my name is Lynn Shelton and I want to thank the NCSSSA for inviting us to address this conference in beautiful Scottsdale, Arizona. Today I am going to present an update of what FSLG has been doing in the Section 218 arena and provide some perspective on what you can expect from us in the coming year.

First, I want to thank the membership of the NCSSSA, and SSA as well, for the unparalleled level of support and collaboration achieved this past year. I have been working with Section 218 for many years and I can honestly say that the invigorated atmosphere of collaboration and cooperation we are currently experiencing is the best I have ever witnessed. I am excited about the progress we have made and look forward to continued success. Instead of employing the traditional approach of simply addressing compliance problems after they occur, now all three stakeholder groups, NCSSSA, SSA, and IRS, routinely get together to proactively address emerging Section 218 issues such as charter schools, evolving pension plan matters, and government entity restructuring. In these challenging times, the landscape of Section 218 compliance is ever-changing as Governmental Entities confronted with extreme budgetary challenges are constantly considering new and more cost effective ways of doing business. In this environment, it is absolutely essential that all of us work together to provide governmental entities the information they need to understand the potential tax consequences resulting from these changes. It is important to understand that we share a mutual goal of promoting voluntary compliance. Government entities will comply with the law if they understand their legal requirements and in an atmosphere of change, this can be a difficult proposition. We need to continue to work together to provide the information necessary for governmental entities to be compliant.

This past year there have been two specific collaborative projects that certainly warrant recognition.

On July 25, 2012, we achieved an unprecedented accomplishment that clearly illustrates the increased level of collaboration and cooperation. On this date, representatives of all three organizations participated in the filming of a webinar titled, "Section 218 Agreements and Government Entity Restructuring." This is a very timely subject that may affect every state as they look for ways to realign their organizational structures to provide the most cost effective service possible.

The NCSSSA was represented by Nick Merrill, the State Social Security Administrator for Illinois and past president of the NCSSSA.

The SSA was represented by the two "Mark's", Marc Denos and Mark Brown. They are State and Local Government Specialists with the Office of Earnings and Program Integrity Policy.

The IRS was represented by Dianne Morse and Bob Westhoven. They both work for the Federal, State and Local Government Division otherwise known as FSLG.

We are extremely proud of this achievement. If nothing else, this project clearly demonstrates how effective we can be when we work together. A lot of hard work and collaboration went into making this venture a success. We were careful to ensure that the perspective of all three organizations was represented in developing a well balanced and informative presentation that will serve as a tremendous resource for governmental entities for years to come.

Please note that this webinar will air on August 8, 2012 at 2:00 P.M. Eastern Time. We would certainly appreciate your support of this project. I encourage each of you to register as soon as possible. You should have already received an e-mail solicitation for this event, if not, the registration link can be found at www.IRS.gov under the Government Entities tab in the category "Tax Information for Federal, State, and Local Governments." We would also appreciate your assistance in promoting this event with

the government entities in your respective states. Please help us make this a successful event.

Assessment Project

The primary reason I am here today is to discuss the progress we are making on the Section 218 Assessment Project.

FSLG Section 218 Background

Before we go into the details of our current initiative involving the Section 218 assessment project, I would like to provide a brief history of how IRS got involved in the process.

PL 99-509 (10/21/1986) amended Section 218 of the Act and Sections 3121 and 3126 of the Internal Revenue Code to transfer responsibilities for collection of Social Security contributions from the States and SSA to the IRS. Prior to 1987 the State Administrators were responsible for reporting covered wages to SSA, collecting the contributions, and depositing these amounts in the Social Security Trust Fund. Beginning in 1987 State Administrators became responsible for reporting and paying Social Security taxes directly to the IRS.

In December 1996, the Social Security Administration's inspector general issued a report concluding there was a significant risk of non-compliance by public employers because of a lack of understanding of the coverage provisions and relaxed administration of the program. This report brought a renewed emphasis concerning Section 218 compliance by the IRS in the mid 1990's, and ultimately led to the formation of FSLG which started in 2000.

On March 31, 2009, the Federal Section 218 Task Force, consisting of IRS and SSA, issued a report concerning wide-spread Section 218 compliance problems. As a result the Section 218 Investment Project was initiated to proactively work with the State Administrators and SSA to address compliance problems by increasing our working knowledge of the Section 218 climate in each state and cultivating improved working relationships with our stakeholders.

We also recognized that due to the complexity of Section 218 and the inter-relationship with state statutes and various pension plans, it was absolutely essential to document and analyze the specific Section 218 attributes on a state by state basis. Our objective is to identify commonalities between the states to enable us to proactively address potential compliance risks collaboratively with state administrators and SSA.

Overview of the Section 218 Assessment Project

FSLG has dramatically increased its investment in resources dedicated to addressing Section 218 compliance over the past few years. We recognize that Section 218 is unlike any other area we deal with at the IRS. Administration of the program requires an extensive knowledge and understanding of each state's individualized original Section 218 Agreement and Modifications as well as Section 3121 of the Internal Revenue Code, Section 218 of the Social Security Act, and State Statutes dating back to 1951, in addition to a strong understanding of various pension plans. As you all know SSA is solely responsible for making all Section 218 coverage determinations. Our role in FSLG is to ensure proper reporting by the most effective means possible. Section 218 coverage determinations are unique in that they are made based upon the facts and state laws that existed at the time the agreement or modification was executed. Section 218 issues are highly complex and require the full participation and support of the State Administrator and SSA to resolve. We strive to proactively address Section 218 problems on a macro or State wide level as opposed to the traditional approach of examining one entity at a time. It makes sense to jointly address these issues in

developing global solutions that will ensure a technically accurate application of the Section 218 agreement for all affected entities in a given state.

Overview

The Section 218 assessment project was initiated in October, 2009. We worked closely with the NCSSSA and SSA in the development of the Section 218 Assessment Tool that was utilized to secure basic information affecting each state's Section 218 agreement. Our objective was to not only gather valuable data, but to facilitate improved working relationships by engaging all three stakeholders in the process. We were highly successful in this regard. In a number of states we experienced unprecedented levels of collaboration. We completed the initial phase of data collection in December, 2010. Since that time our primary focus has been to follow up on and perfect the original data received and the development of a repository of state specific information for each of the 50 states and 2 territories. We have analyzed the data to identify commonalities that enable us to determine the specific Section 218 compliance risks for each state. I will discuss some of these specific risk areas later in this presentation.

One of the keys to our success has been the implementation of Section 218 Champions for each of our eight area groups. The Champions are now deeply involved in perfecting the information obtained with the Assessment Tool and are working closely with the FSLG Specialist assigned to each state to address any potential Section 218 compliance risks. These Area Champions will help coordinate our Section 218 efforts by promoting a consistent and technically accurate interpretation of the law. They will also oversee the collection of critical Section 218 data for each state such as the Original Section 218 Agreement, Modifications, and relevant state statutes. This repository of information will make research more efficient and help us in our succession planning when new specialists are hired to work in a particular state.

Our Section 218 Champions are as follows:

	<u>Section 218 Champion</u>	<u>Manager</u>
Central Area: (IL, IN, IA, MI, OH, WI)	Currently Vacant	Valerie Hardeman
Gulf Coast: (AL, AR, LA, MS, OK, TX)	Claire Bullock	Susan Serrano
Mid-Atlantic: (DE, DC, MD, PA, VA, WV)	James Driver	Amy Myers
Midwest: (KS, MO, NE, ND, SD, MN)	Rhonda Kingsley	Dan Wiseman
Northeast: (CT, ME, MA, NH, NY, NJ, RI, VT)	Janice Hinds	Bob Westhoven
Pacific Coast: (AK, CA, HI, NV, OR, WA, Samoa, Guam)	Clark Fletcher	Cheryl Mares
Southeast: (FL, GA, KY, NC, SC, TN, PR, Virgin Islands)	Talaka Whitlock	Willie Clayton
Western: (AZ, CO, ID, MT, NM, UT, WY)	Toni Holcomb	Dwayne Jacobs

Summary of Section 218 Compliance Risks

Public School “Teacher” Positions

The greatest compliance risk discovered during the Section 218 assessment project concerns states improperly discontinuing social security withholding on absolute coverage positions due to expansion of pension plan coverage. This is the same issue that has received so much attention the last few years. The potential for this particular issue exists in states that have pension plans that are not covered by a system-wide Section 218 modification. So far, we have identified twenty-five states and one territory that have these specific attributes. Of course, this does not necessarily mean that a problem exists. We are following up with the State Administrators to evaluate the Section 218 attributes in these states.

Policeman and Firefighter Positions

The primary Section 218 risks involving policeman and firefighter positions are similar to the risks previously discussed in regard to the public schools positions. The risk arises when governmental entities expand retirement system coverage to include absolute coverage positions. We need to work with the state administrators to ensure that entities do not erroneously discontinue Social Security coverage in these situations.

Section 414(h)(2) Issues

Generally, employee contributions to retirement plans must be included in both federal income taxable wages and in FICA taxable wages in the year of contribution. However, IRC § 414(h)(2) provides an exception for § 401(a) qualified plans established by certain State and local government entities. If an employer meets the requirements of § 414(h)(2), the contributions will be treated as employer contributions for both federal income tax purposes, and for FICA tax purposes unless the contributions are deducted from the employee’s wages subject to a salary reduction agreement.

Internal Revenue Code Section 3121(v)(1)(B) includes in wages any amounts treated as employer contributions under § 414(h)(2) where the employer picks up the contributions pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).

Entities making 414(h)(2) contributions to their retirement plans via salary reduction, and who have Section 218 modifications, would be liable for both Social Security and Medicare taxes on those contributions. Entities making these type of retirement plan contributions for employees who were hired after March 31, 1986, and who do not have Section 218 modifications, would be liable only for Medicare taxes on those contributions if the retirement plan was Social Security equivalent. If the retirement plan was not Social Security equivalent, the contribution amount would be subject to both Social Security and Medicare taxes per the mandatory rules.

The question of ‘What constitutes a Salary Reduction Agreement?’ is critical. We have encountered situations where taxpayers do not include the employee contribution to the retirement plan in FICA wages because they maintain the contributions are mandatory, thus no salary reduction agreement exists. This position has been litigated and defeated by the 10th Circuit Court of Appeals in the Shalala case.

Qualifying FICA Replacement Plans

In 1990, Congress amended the Internal Revenue Code and the Social Security Act, making Social Security and Medicare coverage mandatory for most state and local government employees who were not covered by a qualifying FICA replacement public retirement system or a Section 218 Agreement. This law became known as mandatory Social Security, which is different from mandatory Medicare. Medicare is mandatory regardless of the existence of a retirement system, but Social Security is mandatory only in the absence of a retirement system or Section 218 Agreement. However, a qualifying FICA replacement retirement system must provide a retirement benefit to the

employee that is comparable to the benefit provided under the Old-Age portion of the Old-Age, Survivor, and Disability Insurance (OASDI) program of Social Security.

In today's economic climate many states are modifying their pension plans to such an extent they may, inadvertently, no longer qualify as a FICA replacement retirement system. In this situation, with no Section 218 Agreement, employee compensation would then become subject to the mandatory Social Security provisions.

This is a prime example of why we need your assistance in monitoring information concerning the various pension plans in each state. All three stakeholders have a role to play in assisting the governmental entities in navigating these highly complex issues.

Retirement Plan Types

Many state and local governments are considering, or have enacted, retirement plans other than, or in addition to, the traditional defined benefit and/or defined contribution plans. Forty-three states enacted major public pension reform from 2009 through 2011 – 32 in 2011 alone, according to a report from the National Conference of State Legislatures.

FSLG specialists have become more aware of “401-k like” plans being implemented or considered in several states. We expect to see many of these hybrid plans in future years.

FSLG has also found numerous instances concerning ineligible employers (for example housing authorities) participating in 403(b) plans.

Again, this is an area where we all need to work together to ensure the governmental entities are eligible for the pension plans they participate in.

Government Entity Restructuring

I think everyone would agree, that given the current budgetary limitations we are working under there is increasing pressure for government entities to find more cost effective means to deliver the required services.

For example, a variety of factors ranging from declining student enrollment to budgetary considerations have led to an overall drop in the number of school districts across the country. In many instances a Section 218 referendum may be necessary when a new entity is formed for Social Security and/or Medicare tax to be legally withheld from employees' compensation. Data from our assessment project revealed that 38% of the states have not had a Section 218 modification in several years. This is indicative of a potential compliance problem. FSLG is currently following up with the State Administrators to determine if the required referendums have been held. We will also be covering this topic in our August 8, 2012 webinar entitled "Social Security Section 218 Agreements and Government Entity Restructuring." This would definitely be a good webinar for you to attend.

Charter Schools

We are working closely with state administrators and SSA in a few states on this highly complex issue.

The primary issue we have encountered is whether or not the charter school is a governmental entity. A secondary issue is then whether the charter school is covered by the local school district's Section 218 modification or if the charter school requires their own modification.

Our research indicates that currently 41 of 52 states (79%) allow charter schools as an option to public schools. This is a highly complex area of the law. We are only scratching the surface so far. We will continue to work with you in the future to ensure accurate and consistent application of the law.

Mandatory Medicare Coverage

We have found problems in this area more commonly in relation to police and firefighter positions where Medicare tax is not being withheld on payments made to anyone hired on or after April 1, 1986. We need to work together to increase awareness of this section of the law.

Part-time Positions

Incorrect Social Security and Medicare tax withholding may occur when an entity improperly interprets the Section 218 Agreement in regard to part-time exclusions. To make a proper determination, we must research the applicable state law to determine what the definition of part-time includes and to which position the exclusion may apply.

We have found that 24 of 52 states have a part-time exclusion included as part of their Section 218 Agreement. Of those 24, only 12 provided a definition of part-time while 15 stated the exclusion was made on an entity by entity basis and 7 stated it was for specific positions.

This is an example of a risk where one size does not fit all. We need to accurately document the provisions of the Section 218 Agreement and state law as it existed on the applicable date to ensure accurate and consistent application of the law.

Student Services

Our research has found thirty-three states opted to exclude student services from FICA coverage under the State's Section 218 Agreement. Sixteen states elected to provide Social Security and Medicare coverage for services performed by students in certain schools and three have virtually no Section 218 coverage.

We have determined compliance risks are greatest when the exclusion does not apply (such as during the summer when student workers are not enrolled and regularly attending classes) or there is no state-wide student exclusion.

Where do we go from here?

Over the next year we are looking to build on the foundation we began with the Section 218 Assessment Tool. The tool was intended to enhance and encourage collaboration between IRS, SSA and the state administrators by seeking participation and communication between the parties in the completion of the document. This task was successfully achieved with all 50 U.S. states, Puerto Rico and the Virgin Islands submitting a completed assessment tool. Through the perfection of the assessment tool over the next year we want to further foster that collaborative spirit to effectively assist all parties working in the Section 218 arena. There is a tremendous amount of historical information that when gathered, analyzed and understood, will aid all of us in applying Section 218 in our states. Because we are talking about law back into the early 1950s, it is imperative we gather this information now to preserve the physical documentation necessary to detail the history not only for us currently working with Section 218 but for those who will follow after us. This information contains not only that directly associated with Section 218, such as summaries and individual modifications, but also state retirement plans, state statutes and the mandatory FICA provisions. In addition, it will require a joint effort to keep this information current in order to maintain its usefulness. This may be effectuated through continuous and ongoing discussions (minimum -

yearly) between IRS, SSA and the state administrator. To these ends, we would like to concentrate on the following over the next year:

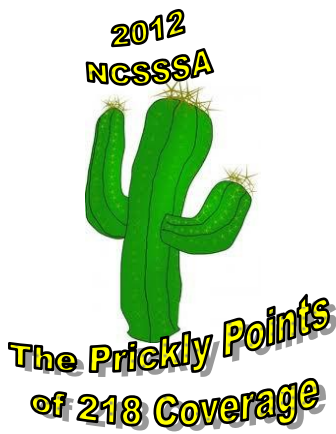
- Utilize our group Section 218 Champions to assist FSLG specialists in working with their state administrator and SSA Regional contact to
 - perfect the assessment tool.
 - document state historical information affecting Section 218 administration.
 - discuss changes made or anticipated to state or Federal law, policy or procedures that may affect Section 218 administration in the state.

- Work with SSA to ensure current approved modifications are received by FSLG staff rather than having them sent to the service center.

- Work with SSA and NCSSSA on job aids relative to specific aspects of Section 218 law.

- Work with SSA and NCSSSA on educational material for the government entities.

Our goal is to continue the collaborative process we've established with all of you to efficiently and consistently administer Section 218 law.



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Modification Process - Start to Finish”

Speaker: Dean Conder, CO – Training Committee Chair

Moderator: Barry Faison, VA

Presentation attached:

Modification Process – Start to Finish



62nd Annual NCSSSA Conference

Scottsdale, AZ July 31, 2012

Presented by: Dean J. Conder, CO

Modification Process – Start to Finish



What are the Types of Modifications?

What are we Modifying?

Who files What?

What are the Effective Dates?

Closing Agreements

Modification Process – Start to Finish

Types of Modifications



- Absolute Coverage Group
- Absolute and Retirement System Group Coverage
- Retirement System Coverage Group for Majority Vote
- Retirement System Coverage Group for Divided Vote
- Special Modifications and Notifications
- Medicare Modifications
- Closing Agreement Modifications

Reference: SLCH SL 40001.490

Modification Process – Start to Finish



What are we Modifying?

- The original agreement sets forth the basic provisions, definitions and conditions for coverage as defined by State law (State enabling legislation), within constraints of federal law. It provides the authority for covering employees of the State and political subdivisions.
- It may also specify State-wide exclusions.

Reference: SLCH SL 40001.410

Modification Process – Start to Finish

MODIFICATIONS TO THE AGREEMENT

Amendments to the original agreement are called modifications. A modification may provide additional coverage, in rare instances it may cease coverage, identify new political subdivisions joining a retirement system, and to correct errors in prior modifications or errors in coverage.



Reference: SLCH SL 40001.420

Modification Process – Start to Finish

Who Files What and Where

- The State submits to SSA:
- The State submits at least two originals with a pen and ink signature of the authorized State official. If the State wants more than one signed copy, it should provide the extra copies. The State uses the format of one of the exhibits in the State and Local Coverage Handbook (SLCH).



Reference: SLCH SL 40001.490

Modification Process – Start to Finish

Who Files What and Where

- If a new type of entity is being covered a copy of the State law authorizing the new entity should be included.
- If a referendum is necessary a Certificate of Referendum must be included.



Reference: SLCH SL 40001.490

Modification Process – Start to Finish

Who Files What and Where



The State mails or delivers the modification to the Parallel Social Security Office (PSSO). The PSSO reviews the modification for types of coverage, effective dates and optional exclusions. The PSSO forwards the modification and other documents to the regional office (RO), including the envelope or date stamp received in the PSSO – needed for effective date.

Modification Process – Start to Finish

Who Files What and Where



The RO reviews for technical accuracy and obtains a legal opinion by the regional attorney staff. After the legal clearance is obtained, the regional commissioner or the deputy signs and dates the modification. This date is called the execution date – as opposed to the effective date.

Modification Process – Start to Finish

Who Files What and Where



The State can withdraw a modification at any time before it is executed by SSA. All copies will be returned to the State.

SSA can disapprove a modification if the requirements of Federal and State law are not met. All copies will be returned with an explanation.

Modification Process – Start to Finish Absolute Coverage Groups



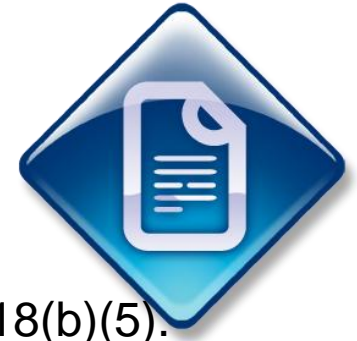
Remember: Section 218(b)(5) provides coverage for non-retirement positions. So, there are basically two modifications that can apply to this group:

Basic Absolute Coverage for all positions; and
Absolute Coverage for individuals ineligible for membership in the retirement system.

Modification Process – Start to Finish

Absolute Coverage Groups

Basic Coverage



This modification is to extend coverage pursuant to Section 218(b)(5).

MODIFICATION NO. ____
TO ____ STATE SOCIAL SECURITY AGREEMENT

The Commissioner of Social Security and the State of ____, acting through its representative designated to administer its responsibilities under the agreement of *{date original agreement executed}*, hereby accept as an additional coverage group (as defined in Section 218(b)(5) of the Social Security Act), under said agreement and acknowledge full applicability of the terms of said agreement to the following political subdivision; and, it is agreed that services performed in this coverage group shall continue to be covered by said agreement, after the effective date specified herein, for those positions, within this coverage group, that at a later date come under a retirement system.

Modification Process – Start to Finish

Absolute Coverage Groups

Basic Coverage



Political Entity (Name/Address)

EIN:

Number of Employees:

Effective Date of Coverage:

Excluded Services: {Optional Exclusions}

In accordance with section 218(e)(2) of the Act, the State of X designates the following date:_____.

(more on this later)

Modification Process – Start to Finish

Absolute Coverage Groups

System Ineligibles



Modification extends coverage to ineligibles of political entities which are covered under the agreement as absolute coverage groups. The effective date of coverage for the ineligibles may differ from the date provided for the absolute coverage group of the political entities, but it may not be earlier than the effective date for the absolute coverage group. No optional exclusions are shown in this modification because the same optional exclusions that apply to the absolute coverage group also apply to the ineligibles. Provision is made for the coverage of the ineligibles to continue if they later become eligible for membership in the retirement system.

Modification Process – Start to Finish

Absolute Coverage Groups

System Ineligibles



MODIFICATION NO. _____
TO STATE SOCIAL SECURITY AGREEMENT

The Commissioner of Social Security and the State of _____, acting through its representative designated to administer its responsibilities under the agreement of (date original agreement executed), hereby modify said agreement with respect to the following political subdivisions to which said agreement already applies to provide that said agreement shall also apply, effective as of the date specified herein with respect to each such political subdivision to services performed by employees of each such political subdivision in positions covered by the (name of retirement system), but who are ineligible to be members of such retirement system.

City of Hunt: Included in Modification No. 2
Effective Date of Coverage: _____

It is further agreed that the services of any ineligible employee shall continue to be covered by the said agreement if, after the effective date specified herein, the employee becomes eligible to be a member of the (name of retirement system)

Modification Process – Start to Finish Absolute & Retirement System Group



Modification to Extend Coverage to Absolute Coverage Group and Retirement System Coverage of Same Entity

MODIFICATION No.
TO ___ STATE SOCIAL SECURITY AGREEMENT

The Commissioner of Social Security and the State of ___, acting through its representative designated to administer its responsibilities under the agreement of (*date of original agreement executed*), hereby accept as additional coverage groups under said agreement and acknowledge fully applicability of the terms of said agreement to the following:

City of Hunt Services Covered:

1. Services of employees in all covered groups as defined in Section 218(b)(5) of the Social Security Act

Effective Date of Coverage: _____

Excluded Services: _____

2. Services performed by individuals as employees of the City of Hunt as members of a coverage group (as defined in Section 218(d)(4) of the Social Security Act) of **the (*name of retirement system*)**.

Effective Date of Coverage: _____

Excluded Services: _____

Modification Process – Start to Finish

Retirement System Group

Majority Vote



- **Modification for Section 218(d)(4) Retirement System Coverage**
- **This modification extends coverage to eligible members of a retirement system who elected coverage under the majority vote procedure. A certification by the Governor, or the designated State official, must accompany the modification.**

Modification Process – Start to Finish

Retirement System Group

Majority Vote



MODIFICATION No.____
TO__STATE SOCIAL SECURITY AGREEMENT

The Commissioner of Social Security and the State of____, acting through its representative designated to administer its responsibilities under the agreement of *(date original agreement executed)*, hereby accept as an additional coverage group under said agreement and acknowledge full applicability of the terms of said agreement to the following:

Political Subdivision Name/Address:

EIN:

Services Covered: Services performed by individuals as employees of the *(name of political subdivision)* as members of a coverage group (as defined in Section 218(d)(4) of the Social Security Act) of the _____Retirement System.

Effective Date of Coverage:

Excluded Services:

Modification Process – Start to Finish

Retirement System Group

Majority Vote



Certification of Referendum-Section 218 (d)(3) of the Act

State of ____

This is to certify that-

- (a) A referendum by secret ballot was held on *(date)* on the question of whether services of employees of *("the State" if State employees are involved, name of political subdivision, or interstate instrumentality)* in positions covered by *(name of retirement system)* should be excluded from or included under the agreement entered into on *(date of original agreement)* by the State of____, and the Commissioner of Social Security pursuant to Section 218 of the Social Security Act;
- (b) An opportunity to vote in such referendum was given, and was limited to eligible employees (as defined in Section 218(d) of such Act) of such system;
- (c) Not less than ninety days' notice of such referendum was given to all such employees;
- (d) Such referendum was conducted under the supervision of *(name of agency or individual)* duly designated by the undersigned (or Governor of the State) to conduct such referendum; and
- (e) A majority of the eligible employees voted in favor of including services of employees of in positions covered by *(name of retirement system)* under the agreement entered into on *(date)* by the State of____, and the Commissioner of Social Security pursuant to Section 218 of the Social Security Act.

No referendum has previously been held in this political subdivision on the question of whether services in positions covered by *(name of retirement system)* should be excluded or included under the agreement entered into an *(date of original agreement)* by the State of____, and the Commissioner of Social Security pursuant to Section 218 of the Social Security Act.

Done this day of , 200

Signature

Governor (or Title of Designated Official)

Modification Process – Start to Finish

Retirement System Group

Divided Vote



MODIFICATION NO. **TO ___ STATE SOCIAL SECURITY AGREEMENT**

The Commissioner of Social Security and the State of ____, acting through its representative designated to administer its responsibilities under the agreement of *(date original agreement executed)*, hereby accept as an additional coverage group under said agreement and acknowledge full applicability of the terms of said agreement to the following:

Services Covered: Services performed by individuals as employees of the following political subdivision(s) as members of a coverage group (as established by Section 218(d)(4) of the Act) of the retirement system, designated as Part B of *(name of retirement system)* (as established by Section 218(d)(6)(C) of the Act).

City of Hunt

EIN:

Effective Date of Coverage:

Excluded Services:

In accordance with Section 218(e)(2) of the Act, the State of _____ designates the following date: _____ .

Modification Process – Start to Finish

Retirement System Group

Divided Vote

Certification of Referendum Section 218(d)(7)



State of _____

This is to certify that—

- (a) A referendum by written ballot was held on *(date)* on the question of whether services of employees of *("The State" if State employees are involved, name of political subdivision or, name of interstate instrumentality)* in positions covered by *(name of retirement system)* should be included under the agreement entered into on *(date of original agreement)* by the State of _____, and the Commissioner of Social Security pursuant to Section 218 of the Social Security Act;
- (b) An opportunity to vote was given to all individuals who were members of the *(name of retirement system)* at the time the vote was held;
- (c) Not less than ninety days' notice of such vote was given to all individuals who were members of such system on the date the notice was issued;
- (d) Such vote was conducted under the supervision of *(name of agency or individual)* duly designated by the undersigned (or Governor of the State) to conduct such referendum; and
- (e) The *(name of retirement system)* was divided into two parts or divisions in accordance with the desires of the membership of the system.

Done this day of _____, 20____

Signature _____

Governor (or Title of Designated Official)

Modification Process – Start to Finish

Error Modifications



Error modifications are normally done when an entity has been reporting and paying taxes for Social Security coverage.

There are two types of error modifications:
The regular error modification; and
the section 218 (e)(3) modification.

It is the State's choice what modification to use.

Modification Process – Start to Finish

Error Modifications



SL 40001.465 Modifications to Correct Errors

A. General

A State or political subdivision may have made reports and payments for Social Security coverage of its employees to the Internal Revenue Service, under the Federal Insurance Contributions Act, in the mistaken belief that such action provided coverage for the employees.

B. Erroneous Reports Without Coverage

A political subdivision without a Section 218 agreement may be reporting Social Security for employees who are members of the public retirement system. Or, an entity without a Section 218 Agreement or a retirement system for its employees has been withholding and reporting Social Security since before July 2, 1991.

To correct erroneous reporting, the State may provide coverage through an error modification or a regular Section 218(e)(3) modification. If the error involves a retirement system, the State must comply with the referendum procedures before executing an error modification or a Section 218(e)(3) modification. If the retirement system was not in existence at the time the error was made, the coverage group would be covered as an absolute coverage group under Section 218(b)(5) of the Act and a referendum would not be necessary.

Modification Process – Start to Finish

Error Modifications



C. Error Modification

An error modification provides coverage as of the date the error first occurred. The effective date is the first day of the first period (quarter or year) for which the erroneous reports were filed, but no earlier than the date the entity came into existence. Use of an error modification sometimes results in a substantial contribution liability for the State or political subdivision. This occurs when the error exists over a long period, and there were employees of the entity who were not reported to IRS. For this reason, a modification that utilizes the provision of Section 218(e)(3) of the Act is sometimes preferable to using the error modification.

Modification Process – Start to Finish



Error Modifications

Error Mod vs. (e)(3)

There may be situations where a State or political subdivision has erroneously made payments for Social Security coverage to IRS for some current and former employees, but there are other current or former employees for which the employer did not report or make payments for Social Security coverage. The problem then arises as to which type of modification would best be suited to provide retroactive Social Security coverage for current and former employees without causing substantial hardship for the employer and the affected employees.

An error modification could be used in these situations, but it would involve also covering and making Social Security coverage payments for both current and former employees of the governmental entity who had not previously been reported for Social Security coverage. Making those additional Social Security payments for as far back as the date the error began could result in a substantial Social Security contribution liability for the governmental entity.

If a standard modification is used in these situations, retroactive coverage would only be available to those current employees who are members of the coverage group and in an employment relationship with the governmental employer on the designated controlling date of the modification. But the former employees whose earnings had been erroneously reported for Social Security would lose all Social Security coverage earned during the period still open to correction by the statute of limitations. This could mean a reduction in Social Security benefits for those former employees or, worse, loss of Social Security insured status and benefits.

Modification Process – Start to Finish

Error Modifications



A Section 218(e)(3) modification basically protects the Social Security coverage for those former employees who were erroneously reported and for whom Social Security contributions were paid for the period open to correction under the statute of limitations.

Modification Process – Start to Finish

Error Modifications



When a Section 218(e)(3) Modification Cannot be Used

There are situations where a Section 218(e)(3) modification cannot be used:

- State law limits retroactivity to current years; or
- The State chooses to use the divided vote procedure to cover the retirement system (because former employees could not vote and would not be protected).

Error Modification Versus 218(e)(3) Modification Comparison Chart

Error Modification	218(e)(3) Modification
<p>1. Effective date – Date erroneous reporting began.</p>	<p>1. Effective date – First period barred to refund under IRS statutes for which a refund has not been made.</p>
<p>2. Covered employees – All previous and current employees who are part of the coverage group.</p>	<p>2. Covered employees – All previous and current employees who were reported are deemed to be part of the coverage group on the effective date. Those current employees of the coverage group who were not reported or paid Social Security contributions are covered. There is no coverage for former employees who were not reported or paid Social Security contributions.</p>
<p>3. No additional wage reports are needed for any barred period if the State certifies in writing that reports are correct.</p>	<p>3. No additional wage reports are needed for the one barred period if the State certifies in writing that the report for that period is correct.</p>
<p>4. Statement required that refund from IRS was not made for any periods open to correction.</p>	<p>4. Statement required that refund from IRS was not made for any periods open to correction, unless the statement is included in the body of the modification.</p>

Error Modification Versus 218(e)(3) Modification Comparison Chart

<p>5. The State should ask SSA to verify the period of erroneous reporting by obtaining an Employer Query Report (ERQY) or, if not available, obtain a Detailed Earnings Report (DEQY) for the individual who has been employed the longest.</p>	<p>5. The State should ask SSA to verify the erroneous reporting in the first period barred to correction by obtaining an Employer Query Report (ERQY) or, if not available, obtain a Detailed Earnings Report (DEQY) for those employees whose payments for Social Security coverage were reported in the first period barred to correction.</p>
<p>6. Modification must show reference to appropriate section of the Social Security Act for the type of coverage wanted – “218(b)(5)” for absolute coverage, 218(d)(4)” for majority vote retirement system coverage, or “218(d)(6)” for divided vote retirement system coverage.</p>	<p>6. Modification must show reference to appropriate section of the Social Security Act for the type of coverage wanted – “218(b)(5)” for absolute coverage or “218(d)(4)” for majority vote retirement system coverage. Divided vote retirement system referendum is not permitted with a 218(e)(3) modification.</p>
<p>7. Any optional exclusions the State chooses should be shown in the modification</p>	<p>7. Same</p>
<p>8. Reference to statutory authority creating entity should be shown in the modification.</p>	<p>8. Same</p>
<p>9. FEIN used for erroneous reports to IRS should be included in the modification.</p>	<p>9. Same</p>
<p>10. Retirement system coverage can be obtained through either a majority vote referendum or, in those states where permitted, a divided vote referendum.</p>	<p>10. Retirement system coverage can only be obtained through a majority vote referendum.</p>

Modification Process – Start to Finish

Notice Modifications

Identification Mod



An identification modification is done when the entire retirement system was covered at one time. There was one referendum for coverage. Later when a new entity is created they have to be identified to SSA.

Modification Process – Start to Finish

Notice Modifications

Identification Mod



MODIFICATION (Insert No.) TO ___ STATE SOCIAL SECURITY AGREEMENT

The Commissioner of Social Security and the State of ____, acting through its representative designated to administer its responsibilities under the agreement of *(date original agreement executed)*, hereby agree that said agreement shall apply to services performed by the employees of each political subdivision listed herein in positions covered by the *(name of retirement system)* as it appears in Modification No. ____

{name of entity}

The effective date of coverage for the *(name of retirement system)* coverage group is ____, as shown in Modification No. ____ The first date this political subdivision had employees in positions covered by the *(name of retirement system)* is ____, 200__.

The purpose of this modification is to identify the additional political subdivisions joining **the *(insert exact full name of retirement system)***. **All individuals in positions covered by** such retirement system were included in the agreement by Modification No. (insert number) as a coverage group as defined in Section 218(d)(4) of the Act.

Modification Process – Start to Finish

Notice Modifications

Dissolution



A Notice of Dissolution is submitted to SSA when an entity legally goes out of existence. Evidence of the legal dissolution must be submitted.

Legal clearance is obtained and then SSA notifies the State that the dissolution has been approved.

Modification Process – Start to Finish

Notice Modifications

Dissolution



DISSOLUTION NO.

The State of ___, acting through its authorized representative^), asserts that the State is no longer legally able to comply substantially with the provisions of its agreement of (date of original agreement) with the Commissioner of Social Security with respect to coverage groups of the employees of the {*political subdivisions*} listed on Exhibit A, which were included under the agreement by the modification(s) shown on Exhibit A, because this political subdivision was dissolved by appropriate legal action as shown on Exhibit A on the dates therein indicated.

By:

(Name/Title of Designated State Official)

Date:

Exhibit "A" To Notification Entity Is Legally Dissolved Dissolution No.

<u>Name of Dissolved Political Subdivision.</u>	<u>Employer's EIN</u>	<u>Modification Number</u>	<u>Dissolved On</u>	<u>Legal Basis for Dissolution</u>
Hunt School District	00000000	100	07/25/2003	See attached*

Modification Process – Start to Finish Dates of Coverage



There are two dates to be considered:
The date coverage begins; and
The date that controls who is covered.

Modification Process – Start to Finish Dates of Coverage



Date Coverage Begins (Effective Date)

The effective date of when coverage begins is specified by the State in the agreement or modification. If more than one coverage group is listed each can have a different effective date.

Modification Process – Start to Finish Dates of Coverage



Beginning April 7, 1986 the effective date is based on the date the modification is mailed or delivered to SSA. Before this date it was based on the date of execution of the modification. The date of execution is the date the modification is signed by the SSA Regional Commissioner.

Modification Process – Start to Finish Dates of Coverage



The effective date can be no earlier than the last day of the sixth calendar year preceding the year in which the agreement or modification is mailed.

For example, if the modification was mailed November 15, 2006 the effective date could be no earlier than January 1, 2001.

Modification Process – Start to Finish Dates of Coverage

Date Controls Who is Covered



A State may designate a date to control who is entitled to retroactive coverage. The designated date cannot be earlier than the date the modification is mailed or delivered to SSA. This is known as the 218 (e)(2) date.

Modification Process – Start to Finish Dates of Coverage



If no date is designated, the date of the execution of the modification controls who is covered.

This date protects employees' retroactive coverage in case they terminate employment before the modification is executed.

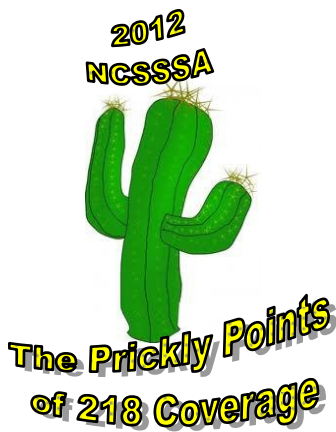
Modification Process – Start to Finish Finish



This is the process in a nutshell. In order to file modifications it is necessary to understand the coverage situation of the particular entity. Once you have determined coverage, go to the State and Local Coverage Handbook, particularly SL 300 and SL 400. Common and not so common examples can be found in SL 40001.490

(<https://secure.ssa.gov/apps10/poms.nsf/chapterlist!openview%26restrictcategory=19>)

Questions?



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“218 Council Update”

Speaker: *Paul Marmolejo, Director FSLG*

Maryann Motza, PhD, CO

Cassia Parson, SSA, OGC

Moderator: *Linda Yelverton, LA*

Presentation attached:



Section 218 Council Update

NCSSSA Conference

July 31, 2012; 10:15 to 1045 am

Panel Members:

Paul Marmolejo, Director of IRS/FSLG

Maryann Motza, PhD, Colorado State Administrator

Cassia Parson, *Esq.*, SSA Office of General Counsel

Background

- Origin of the concept of a Section 218 Council.
 - April 2010 Section 218 Conference hosted by the Social Security Administration in Baltimore, Maryland.
 - Collaboration Committee formed during the April 2010 conference.
- Process and timeframe to establish the Council.



Section 218 Charter

- Informal, multi-organizational workgroup.
- Membership includes representatives from the Social Security Administration (SSA), the Internal Revenue Service (IRS), and the National Conference of State Social Security Administrators (NCSSSA).



Council's Purpose & Scope

- Forum to increase communication between the federal agencies and state administrators.
- Provides a venue in which to raise and address developing issues and facilitate feedback regarding ongoing efforts to address State concerns.

Council's Purpose & Scope – cont.

- The Council will also attempt to reduce administrative burdens by fostering coordination between agencies; reinforce knowledge and understanding of Section 218 policy and mandatory regulatory provisions; and emphasize the importance of education and training for State and local government employees.

Council's Purpose & Scope – cont.

- The Council has no independent authority to establish or alter policy. Concerns raised and recommendations developed as part of the Council proceedings will be forwarded to the respective agency or the standing Section 218 Committee for further action.
 - NOTE: The “Section 218 Committee” refers to the multi-agency committee created by the 2002 Memorandum of Understanding, signed by IRS and SSA.

Activities During 2011-2012

- 1st conference call held September 13, 2011.
- Joint IRS, SSA, & NCSSSA webinar created regarding entity consolidations & restructuring.
- Continuation of coverage scenarios with answers for distribution by all Council members.
- Education and training funding and support.
- Periodic conference calls scheduled throughout the year to ensure on-going communication among all parties.

Questions? Comments?



Section 218 Council Charter

I. Purpose and Scope

The Section 218 Council (“The Council”) is an informal, multi-organizational workgroup consisting of representatives from the Social Security Administration (SSA), the Internal Revenue Service (IRS), and the National Conference of State Social Security Administrators (NCSSSA) intended to meet on a quarterly basis, or as needed.

The Council will serve as a forum to increase communication between the federal agencies and state administrators, provide a venue in which to raise and address developing issues, and facilitate feedback regarding ongoing efforts to address State concerns. The Council will also attempt to reduce administrative burdens by fostering coordination between agencies; reinforce knowledge and understanding of Section 218 policy and mandatory regulatory provisions; and emphasize the importance of education and training for State and local government employees.

The Council has no independent authority to establish or alter policy. The Council will consider and address concerns and make recommendations to the standing Section 218 Committee¹ for further action.

II. Membership

The Council will be comprised of representatives from SSA, IRS and NCSSSA. SSA will be represented by members of OISP, OPSOS and the Office of the General Counsel (OGC) - HQ. IRS will be represented by the Director of FSLG and Field Operations Manager. NCSSSA will have two members.

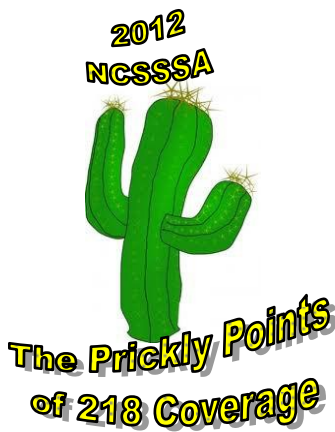
If IRS or SSA rules of disclosure prevent the involvement of non-Federal partners, the IRS and SSA members may meet without the NCSSSA representatives.

When necessary, the composition of the council may broaden to include pertinent regional specialists and the respective State Social Security Administrator (SSSA).

III. Council Activities

The Council may take any action necessary to carrying out its stated purpose, provided such action does not exceed the scope or limited authority of the Council.

¹ The “Section 218 Committee” refers to the multi-agency committee created by the 2002 Memorandum of Understanding, signed by IRS and SSA.



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

*“Financial Sustainability and Updates on
Legislative and Regulatory Issues”*

Speaker: *Leigh Snell, Federal Relations Director, National Council on Teacher Retirement (NCTR)*

Moderator: *Rick Beckstead, UT*

Mr. Snell delivered his presentation via teleconference.

Presentation attached:



NCSSSA 62nd Annual Conference

**Financial Sustainability of Public
Pensions and Update on Legislative
and Regulatory Issues**

July 31, 2012

Leigh Snell
NCTR Director of Federal Relations





What You Hear About Public Plans' Financial Sustainability:

- ***Public Plans are going broke!*** Median public pension annualized return 1/1/2011 -- 12/31/2011 was 0.8 percent! Unfunded liabilities are \$3 to \$4 trillion!
- ***Public Plans are bankrupting cities and states!*** San Bernardino and Stockton, CA; Central Falls, RI; the Federal government is considering allowing states to file.
- ***Public Plans are taking too many investment risks!*** “Rosy” investment return assumptions lead to Hedge funds! Alternative investments! Private equity!



Lions!

And tigers!!



And bears!!!



OH MY!!!!



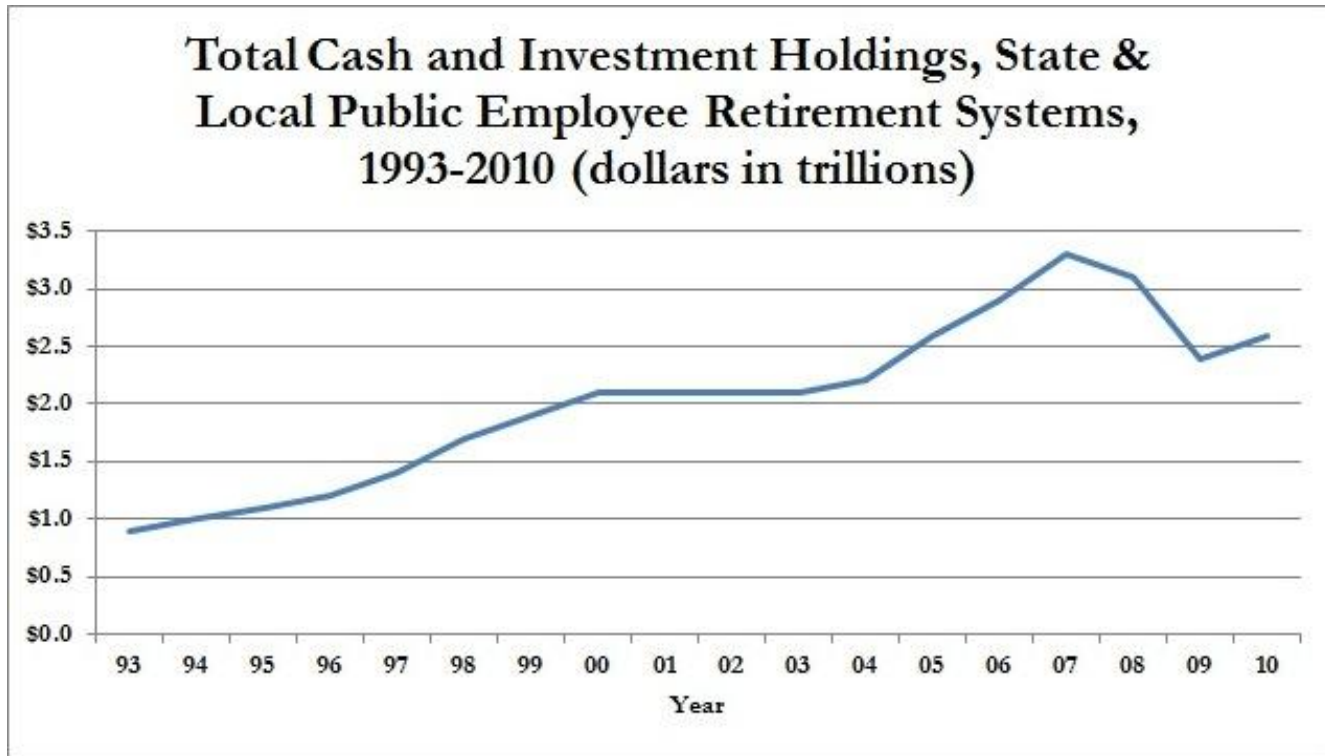


The TRUTH About Public Plans' Financial Sustainability:

- ***Public Plans are NOT going broke!*** According to the U.S. Census Bureau, total assets among state and local employee retirement systems grew in FY10 after falling for the two previous fiscal years.



The TRUTH About Public Plans' Financial Sustainability:





The TRUTH About Public Plans' Financial Sustainability:

- ***Public Plans are NOT going broke!***
 - Funding level for all state plans combined was 77% in 2011, up from 69% in 2010, according to Wilshire.
 - As of the first quarter of 2012, state and local government retirement systems held assets of approximately \$3 trillion.
 - Over \$200 billion distributed annually from pension trusts, not from general revenue.



The TRUTH About Public Plans' Financial Sustainability:

- ***Public Plans are NOT bankrupting cities and states!***
 - Based on most recent U.S. Census Bureau info, approx. 3% of all state, local government spending is used to fund their pension benefits. (As percentage of total spending, pension costs for cities are higher by about 50 percent.)
 - Since 1980, pension costs have been reliably stable, declining from around 4% to nearly 3% in 2009.
 - Over \$1 trillion in total economic output attributable to DB pension expenditures in 2009, supporting 6.5 million American jobs and \$134 billion in state, local taxes.





The TRUTH About Public Plans' Financial Sustainability:

- ***Plans are NOT taking too many investment risks!***
 - Average public pension fund asset allocation, based on latest information from the Public Fund Survey:
 - ✓ Public equities: 52%
 - ✓ Fixed income: 27%
 - ✓ Real estate: 6%
 - ✓ Alternative investments: 10%
 - ✓ Absolute/Real return: 3%
 - ✓ Cash: 2%

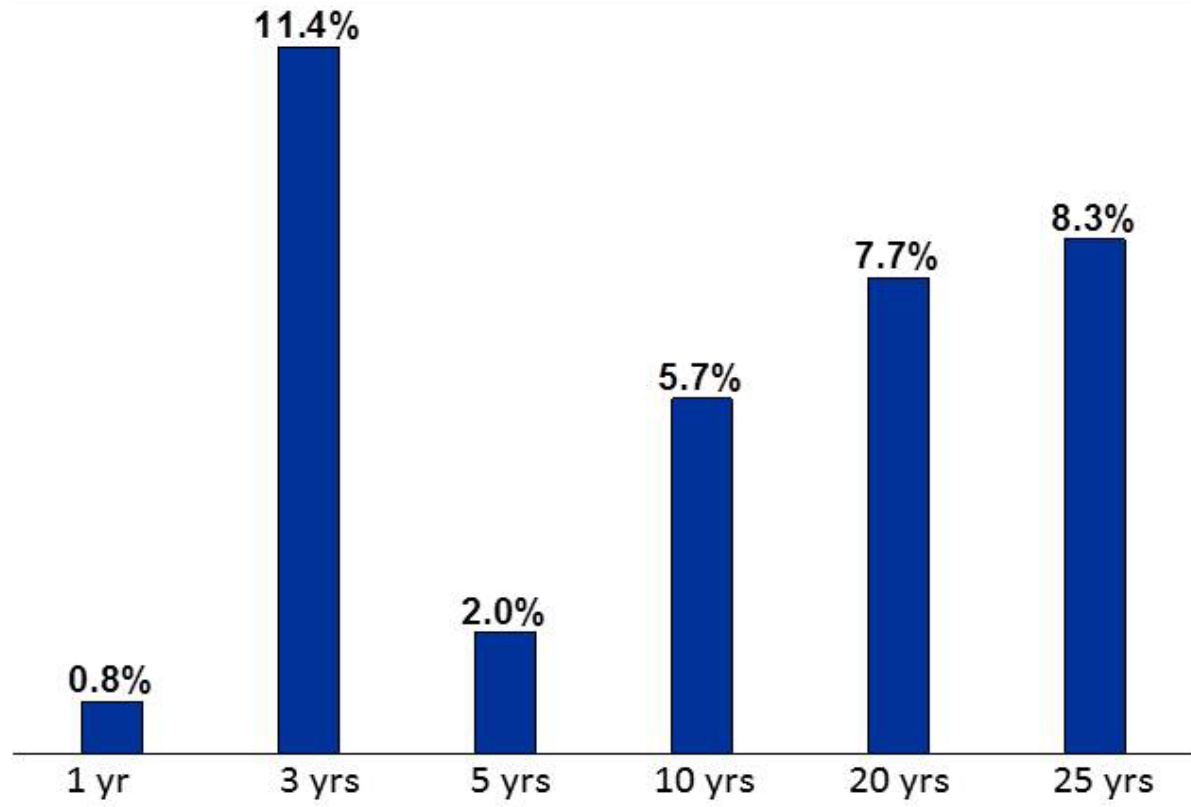


The TRUTH About Public Plans' Financial Sustainability:

- ***Plans are NOT taking too many investment risks!***
 - Discount rate controversy – use a “risk-free” rate or the expected rate of return based on the portfolio. Makes a huge difference in measuring the liabilities.
 - The discount rate is a snapshot in time – one frame out of thousands that make up a movie. It may be interesting in and of itself, but it doesn't tell the whole story.



Figure 1: Median public pension annualized investment returns for period ended 12/31/2011



Source: Callan Associates, Inc.





The TRUTH About Public Plans' Financial Sustainability:

Consider the case of a newly-hired public school teacher who is 25 years old. If this teacher chooses to make a career out of teaching school, he or she may work for 35 years, to age 60, and live another 25 years, to age 85. This teacher's pension plan will receive contributions for the first 35 years and then pay out benefits for another 25 years. During the entire 60-year period, the plan is investing assets on behalf of this participant. To emphasize the long-term nature of the investment return assumption, for a typical career employee, more than one-half of the investment income earned on assets accumulated to pay benefits is received after the employee retires. Source: NASRA





Update on Legislative and Regulatory Issues Affecting Public Pensions

1. *Where have we been?*
2. *Where are we now?*
3. *Where are we going?*





Where Have We Been: the 1970's

- 1974: The “Big Bang” -- ERISA becomes law; public plans were essentially not covered.
- 1978: Pension Task Force Report on Public Employee Retirement Systems found that “In the vast majority of public employee pension systems, plan participants, plan sponsors, and the general public are kept in the dark with regard to a realistic assessment of true pension costs.”



Where Have We Been: the 1980's

- 1980: Public Employee Retirement Income Security Act (PERISA) introduced in the House.
- 1981: President's Commission on Pension Policy endorses PERISA .
- 1981: Public Employee Pension Plan Reporting and Accountability Act (PEPPRRA) introduced in the House; reintroduced in 1984 and 1985.



Where Have We Been: the 1990's

- 1996: Small Business Job Protection Act -- *Section 415 "fix;" 457 plan assets put in trust.*
- 1997: Taxpayer Relief Act -- *purchase of permissive service credits enhanced; permanent moratorium on application of nondiscrimination testing to public plans.*
- 2001: EGTRRA -- *use of 403(b) and 457 plan assets to purchase service credits through direct trustee-to-trustee exchanges; increased 415(b) dollar limits; catch-up contributions to 401(k), 403(b), and governmental 457 plans for participants who are age 50+.*



That Was Then....



This is Now!! Welcome to the 21st Century

- Pension Protection Act of 2006 (PPA)
- MVL and the discount rate controversy
- GASB revisits Statements 25, 27
- Hedge Funds/Commodities
- Divestment
- Normal Retirement Age Regulations
- IRS Governmental Plans Roundtable; Survey Questionnaire
- SEC: Pay-to-Play; New Enforcement Unit on Public Pensions; San Diego; New Jersey settlements





Where are we now?





Where are we now -- the Congress

- 2/9/2011 – “State and Municipal Debt: The Coming Crisis?”
- 2/14/2011 – “The Role of Public Employee Pensions in Contributing to State Insolvency and the Possibility of a State Bankruptcy Chapter”
- 3/15/2011 – “State and Municipal Debt: The Coming Crisis? Part II”
- 4/14/2011 - "State and Municipal Debt: Tough Choices Ahead”
- 5/5/2011 – “Transparency and Funding of State and Local Pension Plans”



Public Employee Pension Transparency Act PEPTA

HR 567 (Nunes, Ryan, Issa); S 347 (Burr)

- Sponsors of state and local government plans to report funding information annually to the Secretary of the Treasury using market value of liabilities (MVL); Treasury could impose new, yet to be defined “comparability” standards.
- Voluntary, but failure to report information would lose sponsor the ability to issue Federal tax-exempt debt.
- Prohibits Federal bail-out of public pension debt.





PEPTA

- Congressman Nunes: “trying to smoke the rats out of their holes;” public pension underfunding could be a great as \$15 trillion.
- Higher liabilities will grease the way towards explicitly permitting states to declare bankruptcy; allowing States in bankruptcy could give them the ability to renegotiate obligations, enabling them to slash public employees’ benefits; Reuters: “From the Republican perspective, the fiscal crisis on the state level provides a golden opportunity to defund key Democratic interest group. For the GOP, it’s an economic and political win.”





Congressional Studies

Congressional Budget Office (CBO) May 2011 report, “The Underfunding of State and Local Pension Plans”

- MVL “more fully accounts for the costs that pension obligations pose for taxpayers;”
- “Most of the additional funding needed to cover pension liabilities is likely to take the form of higher government contributions and therefore will require higher taxes or reduced government services for residents;”
- If states’ financial condition worsens, “the federal government might be asked to assist in the funding of such plans” which could raise the federal deficit and debt.





Congressional Studies

Congressional Joint Economic Committee Republican Commentary, December 2011: “States Of Bankruptcy: The Coming State Pensions Crisis,” May 2012: “Eurozone USA?”

- Many plans projected to run out of money in five years;
- Massive unfunded pension liabilities and poor economic policies "are setting many states up for a Greek-style fiscal death spiral;"
- “The state pension crisis is virtually unavoidable;”
- Pre-emptive actions by Congress can “help prevent a taxpayer bailout of state pension systems.”



Congressional Studies

Senate Finance Committee Report by Ranking GOP Senator Orrin Hatch (R-UT), January , 2012, “State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America”

- When S&P downgraded United States debt in August, 2011, one of the key factors was underfunded state and local government pensions;
- Retirees may not receive their full pensions, thus threatening to increase the costs of federal poverty programs;
- “Defined benefit plans are inappropriate for state and local governments,”





Mandatory Social Security

- Then: too disruptive and costly for State and local governments; too little benefit to overall Social Security reform; unlikely to be considered separate and apart from Social Security solvency.
- Now: necessary pension reform; help states and localities “get their fiscal houses in order,” avoid Federal bailout



Mandatory Social Security

- Deficit Commission : excluding some public employees from Social Security and instead maintaining separate retirement systems “has become riskier for both government sponsors and for program participants and a potential future bailout risk for the federal government”
- The Domenici-Rivlin Task Force : requiring all newly-hired state , local employees after 2020 to be covered under Social Security will “provide better disability and survivor insurance protection for many workers who move between government employment and other jobs. ”



Mandatory Social Security

- Mandatory SS without major Social Security reform?
- If Congress becomes convinced that it must “do something” to address a perceived public pension crisis, mandatory coverage could surface as part of an overall package designed to make State and local governments “reform” their pensions to become more sustainable
- If mandatory coverage is effectively removed from the context of overall Social Security reform, where it has always been able to be argued as providing too little relief at too great a cost, it will change the entire tenor of the discussion



Where Are We Now – Treasury/IRS

Definition of a Governmental Plan ANPRM

- Governmental plans are exempt from the reporting, participation, vesting, and fiduciary standards of ERISA. Other tax code provisions treat a governmental plan differently from other plans.
- However, since ERISA became law in 1974, there have never been regulations governing the definition of what it means to be a “governmental plan.”
- This is all about to change. This is a BIG DEAL!





Where Are We Now – Treasury/IRS

Definition of a Govt Plan ANPRM Main Factors.

- Control of Governing Body.
- Public Election of Governing Body.
- Fiscal Responsibility.
- Treatment of Employees as Public Employees.
- Delegated Sovereign Powers.



Where Are We Now – Treasury/IRS

Definition of a Govt Plan ANPRM Other Factors.

- Operational Control.
- Direct Funding.
- Specific Enabling Law.
- Treatment as Govt Entity for Federal Tax Purposes.
- Treatment Under State Law.
- Court Decision.
- No Private Interest.
- Serves a Governmental Purpose.



Where Are We Now – Treasury/IRS

Definition of a Govt Plan ANPRM

- Town Hall meetings in Oakland and Cleveland
- Telephone forum
- Comments due by June 18th
- Public hearing in Washington on July 9th
- Multi-year process



Where Are We Now – Treasury/IRS

Definition of a Govt Plan ANPRM – NCTR Comments

- Safe Harbors:
 - Elected Board -- majority either controlled by State/political subdivision or elected through periodic, publicly held elections.
 - Sovereign Powers – taxation, police, eminent domain, others as defined by the state constitution.
 - Federal Tax – 218 agreement; authority to issue tax-exempt bonds; a 115 ruling (determination of status).
 - Federal Law -- treated as agency/instrumentality pursuant to a federal law (other than IRC) or by other federal agency.
 - Court Ruling -- state or federal court ruling as to status.





Where Are We Now – Treasury/IRS

Definition of a Govt Plan ANPRM – NCTR Comments

- Grandfathering (could apply to both current and future employees of the entity, but should be permissive based upon the plan provisions) if entity, as of the effective date of the final regulations:
 - has favorable private letter ruling.
 - is participating pursuant to specific terms of state or local law.
 - is in a multiple employer plan and is participating pursuant to a procedure provided for in the plan document (i.e. where plan document allows nonprofit instrumentalities to participate in plan subject to approval by plan's governing body).



Where Are We Now – Treasury/IRS

Normal Retirement Age Regulations

- Released in final form in 2007
- Extended application to governmental plans; set to apply in January Of 2013
- Problems with use of service in defining the time when employee was eligible for unreduced benefit
- Safe harbors in regs were unworkable for public plans



Where Are We Now – Treasury/IRS

Normal Retirement Age Regulations – Big Problems

- Public plans often define normal retirement “age” as more a normal retirement “date,” based on service.
- Participant can reach NRA by satisfying one of several age and service combinations; defining an NRA as a single “age” creates major problems, i.e. impairment if age is higher than the lowest age, or actuarial cost increases if age is lower than the highest age.
- Safe harbors: how to determine typical retirement age for the “industry in which the covered workforce is employed” in the diverse public sector setting.





Where Are We Now – Treasury/IRS

Normal Retirement Age Regulations – New Notice

- Notice of intent to amend regulations for public plans.
- January 2015 earliest that new regs could apply.
- Focus is on in-service distributions before age 62.
- Plans "will not fail to satisfy the requirement that the plan provide definitely determinable benefits to employees after retirement or attainment of normal retirement age merely because the pension plan does not have a definition of normal retirement age or does not have a definition of normal retirement age that satisfies the requirements of the 2007 NRA regulations."





Where Are We Now – Treasury/IRS

Normal Retirement Age Regulations – New Problems?

- What exactly is an in-service distribution?
- What about return-to-work programs?
- How would part-time work be affected?
- Does one rotten apple spoil the whole barrel?
- If the regs do apply (i.e., there are in service distributions before age 62), what about the safe harbor problems?



Where Are We Now – Treasury/IRS

Normal Retirement Age Regulations

- Comments were due by July 30th.
- When actual amendments are proposed, there will be another comment period.
- Thus, multi-year process.
- Everyone can take a breather.



Where Are We Now – SEC

- More enforcement actions in the works similar to New Jersey.
- Regulation of pension disclosures in bond offerings? NABL “considerations.”
- “Special” treatment of public pension investors.
- Independent, more reliable funding mechanism for GASB; SEC oversight.



Where Are We Now – SEC Muni Advisor Rule

- Proposed 12/20/2010: appointed trustee need to register as municipal advisors; only elected are exempt.
- NCTR/NASRA: as members of the governing body of a state or local retirement system, public pension trustees are part and parcel of the plan that they govern, and not advisers to it, and thus exempt.
- To hold otherwise would mean that any third party who provides advice to the governing body of a municipal entity would NOT be required to register as a municipal advisor, nor be subject to the other municipal advisor provisions of the Dodd-Frank Act.





Where Are We Now – SEC Muni Advisor Rule

- Extraordinary number of responses from muni advisors.
- Letter from bipartisan group of 35 members of the House of Representatives says SEC “goes far beyond the statute’s intent and scope by capturing, in the ‘municipal advisor’ definition, parties and activities that were not anticipated by Congress or authorized by the statute,” including “appointed volunteer public servants.”
- SEC Chair Mary Shapiro concedes to Congress that the agency “may have cast the net too widely.”
- Look for final rule in second half of 2012.



Where Are We Now – GASB

“New ARC” Project:

- Pension funding task force established at the request of “Big 7,” the NGA, NCSL, the Council of State Governments, NACo, NLC, U.S. Conference of Mayors, and the International City/County Management Association. In addition, NASACT, GFOA, NASRA and NCTR serve on Center for State and Local Government Excellence is the convening organization.
- Goals are (1) to have accepted, recommended funding standards, practices in place by the time new GASB rules are implemented; and (2) identify a method for voluntary compliance with recommended standards and practices.





Where Are We Now – GASB

- General Policy Objectives for Pension Funding
 - Funding plan based on actuarially determined contributions.
 - A disciplined approach to funding so that promised benefits can be paid.
 - Generational equity so that the cost of benefits are funded during an employee's working years.
 - Employer costs are a consistent percentage of payroll.
 - Clear reporting showing how, when plans will be fully funded.
- Will address actuarial cost method, asset smoothing method, and establish an amortization policy; intent is to provide guidance on both accepted practices and recommended practices.



Where are we going? **Lame Duck**

- Debt ceiling increase and GOP demands for increased deficit reduction as a trade-off raise possibilities for mandatory Social Security, repeal of employer pick-ups.
- Deal on expiring Bush tax cuts could also involve some tax reforms involving tax expenditures to offset costs.
- Must-do legislation could offer vehicle for PEPTA – it already has!



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Where are we going? 2013

Tax reform

- REFORM or reform?
- Tax expenditures – “Everything’s on the table”
- What about DBs? Will only DC’s be impacted?





Tax Expenditures



- Losses to the Treasury from granting certain deductions, exemptions, deferrals or credits; total budget impact of income tax expenditures in 2011 is almost \$1.2 trillion.
- Largest FY 2009 tax expenditures: exclusion of health benefits (\$94.4 billion); home mortgage deduction (\$86.4 billion), and net exclusion of pension contributions. earnings (\$73 billion).
- For DB plans alone, \$275.7 billion for FY 2009-2013.



Pension Tax Expenditure Recommendations

- Deficit Commission: consolidate retirement accounts; cap tax-deferred contributions to lower of \$20,000 or 20% of income.
- Domenici-Rivlin Task Force: restructure itemized deductions, eliminate “almost all” tax expenditures but retain those for DB plans; modify those for 401(k) plans, IRAs and Keogh plans, with caps of \$20,000 or 20%.
- Goal is to ensure that “qualified plans will no longer be a vehicle for wealthy individuals to convert a substantial share of their assets into tax-free retirement assets.”



THE WALL STREET JOURNAL, Friday, May 5,

Soaring Pension Costs For Public Employes Plague States, Cities

Inadequate Funding in Past
Adds to Current Burden;
Washington Worried Too

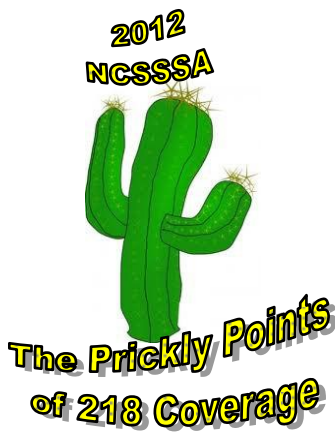


THE WALL STREET JOURNAL, Friday, May 5, 1978

Everything old is new again!!



QUESTIONS?



ational Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Consolidated Entities Joint Webinar Re-enactment”

Panel: *Robert Westhoven, Northeast Area Manager, IRS/FSLG*
Lynn Shelton, IRS, Manager Field Operations
Mark Brown, SSA OISP
Cassia Parson, SSA Office of General Counsel
Nick Merrill, IL
Moderator: *Pamella Johnson, OR*

This panel reenactment was approximately 60 minutes in length. It was a reprisal of a webinar which aired August 8, 2012, subsequent to the NCSSSA Conference. Two of the participating panel members were ‘stand-ins’ for two of the participants in the actual webinar.

At the time of the July 31, 2012 reenactment conducted at the conference it was announced that there were approximately 2,500 individuals who had enrolled to view the August 8th webinar. States were encouraged by the panel to make known this opportunity among their public entities.

This collaborative effort, with illustrations and concrete explanations was well-received by conference attendees.

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
<p>DISCLAIMER GRAPHIC FULL SCREEN</p> <p>The information contained in this presentation is current as of the date it was presented. It should not be considered official guidance.</p> <p>This program is being recorded, and will be maintained in accordance with federal record-keeping laws.</p>	<p>DIANNE: The information contained in this presentation is current as of the date it was presented. It should not be considered official guidance.</p> <p>This program is being recorded, and will be maintained in accordance with federal record-keeping laws.</p>	<p>SLIDE 1 – TITLE</p>
<p>CONTINUING EDUCATION CREDITS GRAPHIC: FULL SCREEN</p> <p>In order to receive a certificate of completion for Continuing Education credits, you must have registered for the webinar on the registration website. Only those attending the session on August 8, 2012 will be entitled to receive the completion certificate. The certificate will be emailed approximately one week following this webinar.</p> <p>This program will be archived for later viewing on our Website at www.IRVideos.gov .</p>	<p>In order to receive a certificate of completion for Continuing Education credits, you must have registered for the webinar on the registration website. Only those attending the session on August 8, 2012 will be entitled to receive the completion certificate. The certificate will be emailed approximately one week following this webinar.</p> <p>This program will be archived for later viewing on our Website at www.IRVideos.gov .</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
<p>Opening Montage for the Webinar:</p> <p>The Internal Revenue Service, the Social Security Administration and the National Conference of State Social Security Administrators</p> <p>Presents</p> <p>A Joint Government Entities Webinar</p>	<p><i>Music & Graphics</i></p>	<p>SLIDE 1 – TITLE</p>
<p>1:3</p> <p>Lower 3rd: Robert Westhoven North East Area Manager, FSLG</p>	<p>BOB:</p> <p>Hello and welcome to this IRS Federal, State, and Local Governments Webinar covering predecessor/successor situations for State and Local Government Entities. I'm Bob Westhoven, and I work for the IRS Federal, State and Local Governments Division, otherwise known as FSLG. I'd like to take a moment to introduce my co-presenters.</p>	<p>SLIDE 1 – TITLE</p>
<p>5:2</p>	<p>Dianne Morse is a fellow specialist from FSLG. Representing the Social Security Administration are Marc Denos and Mark Brown, who are State and local government specialists. The final member of our team is Nick Merrill, who is the State Social Security Administrator for Illinois and represents the National Conference of State Social Security Administrators... You will find a link to information about us on this Web page. You will also find a link to a PDF file of this presentation, in case you would like to download or print a copy.</p>	
<p>1:3</p>	<p>This joint presentation is the result of our collaborative efforts in working together to promote Section 218 compliance. Section 218, as you all know, refers to Section 218 of the</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>Social Security Act and it governs whether or not governmental employers are liable for social security and/or Medicare tax. This complicated area of the law was the subject of an earlier IRS webinar entitled “Section 218 Tools, Tips, and Compliance for Governmental Entities”, which you can access at www.IRSvideos.gov.</p> <p>Although the primary focus of this presentation is on Section 218 of the Social Security Act, it is also important to be aware of the mandatory coverage rules governed by the Internal Revenue Code.</p> <p>In today’s program, we would like to discuss how you should handle predecessor/successor situations.</p>	
<p>FULL SCREEN GRAPHIC: Today’s Discussion:</p> <ul style="list-style-type: none"> • Consolidations • Annexations • Hybrid Consolidations • Miscellaneous Transitions 	<p>We will do this by identifying each of the FOUR types of situations, which are: consolidations, annexations, hybrid consolidations and miscellaneous transitions. We will explain the unique characteristics of each situation type as well as the effect each has on Social Security coverage and the related employment tax implications.</p>	
<p>1:3</p>	<p>Marc and Dianne are going to start us off.</p>	
<p>SUB-TOPIC #1: CONSOLIDATION</p>	<p><i>Music & Graphics</i></p>	<p>SLIDE 2 - TERMS</p>
<p>2:1</p> <p>Lower 3rd: Marc Denos, SSA State/Local Government Specialist</p>	<p>MARC:</p> <p>Did you ever wonder what happens to the Social Security coverage of employees when two or more governmental entities combine, thus creating a predecessor/successor situation? Or more specifically, how about what happens to the employees of two towns when they combine to become a single city?</p>	<p>SLIDE 2 - TERMS</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
<p>Lower 3rd: Dianne Morse</p> <p>Specialist, Federal, State & Local Governments Division</p>	<p>Different terms have been used interchangeably to describe what goes on in these types of situations – merger, consolidation, acquisition, annexation.</p> <p>However, we would like to standardize its terminology to the FOUR following terms, which are ... consolidations, annexations, hybrid consolidations, and miscellaneous transitions.</p>	
	<p>DIANNE:</p> <p>A consolidation exists when two or more entities come together. As part of this process, the entities that came together must legally dissolve and cease to exist once the new entity is created. A significant aspect of a consolidation is that the successor entity exhibits BOTH a change in form and a change in substance from its predecessor entities.</p>	<p>SLIDE 3 – CONSOLIDATION</p>
	<p>MARC:</p> <p>A change in form is where the organization or structure of the successor entity is different from that of the predecessor entities. This would mean that the structure of the departments and operational processes of the newly consolidated entity differ from that of the older predecessor entities.</p> <p>A change in substance occurs when the dissolution of the predecessor entities results in their termination and the subsequent creation of a new entity. The successor entity assumes the management and control once held by the predecessor entities.</p> <p>An indication of a change in substance is a transfer of property, assets, and liabilities from the former entities to the new entity.</p>	<p>SLIDE 4 – WHAT IS ...</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	Other examples would be a change in legal status or the change in powers and functions between those of the predecessor entities and the successor entity.	
1:3	BOB: Identifying a change in form and substance sounds pretty complicated. Earlier Mark prepared a demonstration to illustrate these concepts.	SLIDE 5 - CONSOLIDATION DEMONSTRATION
Lower 3rd: Mark Brown, SSA State/Local Government Specialist	MARK: To illustrate the predecessor/successor concepts of Change in Form and Change in Substance, I would like to tell you a story. <i>Mark picks the lime up from the table.</i> Once there was the Village of Lime. It was a lovely little community where the finest limes in the state grew. <i>Mark sets the lime back down and picks up the orange.</i> Nearby, was the town of Orange where the scent of orange blossoms filled the air making all the town's residents happy. <i>Mark picks up the lime while still holding the orange in the other hand and looks at the viewers.</i> One day the councils of Lime and Orange learned that if they joined forces and consolidated, the new entity would qualify as a city, which under state law would have powers and access to additional state aid that neither a village nor town would have. So, a vote was held among the citizens of Lime and Orange, with the majority of citizens in both places choosing consolidation.	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p><i>Mark sets the orange down and grasps the juicer.</i></p> <p>Before the consolidation could take place, Lime and Orange had to legally dissolve. So, the Village of Lime went through the dissolution process first.</p> <p><i>Mark places the lime on the juicer and begins the juicing process. When all the juice has been extracted, the rind is tossed away. Mark displays the juice.</i></p>	
	<p>As you can see, there has already been a change in form. The lime has gone from being a solid to a liquid. Then, it was the Town of Orange's turn to undergo the dissolution process.</p> <p><i>Mark then goes through the same actions with the orange.</i></p> <p>Just like the lime, the solid orange has been changed to a liquid. And now, the Village of Lime and the Town of Orange completed the formal process of consolidation...</p> <p><i>Mark swirls the juices within the juicer and then displays the concoction.</i></p> <p>...to become the City of Citrusville. See, what we have here now is neither lime nor orange. The two fruits have changed both form and substance just as governmental entities do in the consolidation process.</p> <p><i>Mark sets the concoction aside.</i></p>	
1:3	<p>BOB:</p> <p>Thanks Mark! Nick will now tell us about annexations and hybrid consolidations.</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
<p>1:1</p> <p>Lower 3rd In: Nick Merrill, Illinois State Social Security Administrator</p>	<p>NICK:</p> <p>An annexation occurs when an entity absorbs or annexes one or more entities. The entities being annexed are legally dissolved and cease to exist. Although a name change might occur, the entity doing the annexing continues to exist and maintains its overall identity and structure.</p> <p>You know, all this talk about annexations is making me a bit hungry.</p> <p><i>Nick eats the bite-sized cupcake and says,</i> “Wow, another perfect annexation.”</p> <p>Now let’s move on to hybrid consolidations.</p>	<p>SLIDE 6 – ANNEXATION</p>
	<p>A hybrid consolidation is a variation of the consolidation process, which makes it much different AND less tasty than the annexation process that I just described. In a hybrid consolidation, two separate entities or political subdivisions create a single consolidated entity that assumes the responsibilities of both former entities. However, instead of both entities dissolving entirely, as in a regular consolidation, one of the two entities (in a hybrid consolidation) will dissolve and turn all its powers and functions over to the consolidated entity while the remaining other entity will turn over most, but not all, of its powers and functions.</p>	<p>SLIDE 7 - HYBRID CONSOLIDATION</p>
	<p>As a result, the consolidated entity is established as a separate political subdivision. Because the second entity retains some of its powers and functions, it does not dissolve and maintains its Section 218 Agreement to cover its remaining employees.</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
2:3	<p>BOB:</p> <p><i>Bob and Marc are sitting at a table. In front of Marc are two large balls of Play-Doh: one Black and the other Blue.</i></p> <p>Thanks Nick. Marc and I would now like to provide an example to better illustrate how hybrid consolidations work. The City of Kalmar was the county seat of Delaney County. Both Kalmar and Delaney were separate political subdivisions, and each had obtained Social Security coverage separately for their respective government employees via coverage modifications to the State’s Section 218 Agreement.</p> <p><i>Marc holds up two balls of Play-Doh (one black and one blue). Each ball has a small flag. The black named Kalmar, the blue Delaney.</i></p> <p>In an effort to cut costs and eliminate redundant services, the City of Kalmar and Delaney County considered consolidating their governments. Following a favorable referendum of both city and county voters, Kalmar and Delaney agreed to a consolidation of their governments to form a new political subdivision -- the Consolidated Government of Kalmar-Delaney.</p> <p><i>As Bob refers to Kalmar and Delaney, Marc emphasizes the respective ball—eventually bringing them together side by side.</i></p>	<p>SLIDE 8 - HYBRID CONSOLIDATION DEMONSTRATION</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>As part of the agreement, Kalmar totally dissolved, terminated its Section 218 coverage modification, and transferred all its powers, functions and employees to the Consolidated Government.</p> <p><i>Marc holds up the black (Kalmar) ball, tosses the flag over shoulder, and smashes ball into a pancake.</i></p> <p>Delaney, on the other hand, turned over most of its powers, functions and employees to the Consolidated Government, while retaining the County Sheriff's Department, Jail, Court, and Clerk's Office. The Delaney County Government did not dissolve or terminate its Section 218 coverage modification and still exists as an entity separate from the Consolidated Government. Those remaining employees of the Delaney County government retained their Social Security coverage.</p> <p><i>Marc holds up the blue (Delaney) ball, tears it into two, with the flag remaining in one portion. The flagged portion is set down. The other portion is mixed with the black pancake—being sure to smash it back into a pancake after thoroughly mixing.</i></p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>The Consolidated Government of Kalmar-Delaney became a new political subdivision and the new employer for all the former City and county government employees who were transferred to it. The Social Security coverage they had under their former employers was no longer effective.</p> <p><i>A new flag is picked up, marked "Consolidated Government" and stuck into the black/blue pancake. Both the small blue Delaney ball and the mixed consolidated government pancake should be sitting on the table.</i></p>	
	<p>MARC:</p> <p>Remember, in a regular consolidation situation, both the City and County dissolve to create the new Consolidated Government.</p> <p>Whereas in hybrid consolidations:</p> <ul style="list-style-type: none"> • one of the two predecessor entities dissolves and turns all its powers and functions over to the successor Consolidated Government; • while the second predecessor entity turns over most, but not all, of its powers and functions to the Consolidated Government – continuing to exist on its own. 	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>under the entity's Section 218 coverage modification would continue to exist; and no additional procedures would be required. Only a name change notification would be necessary for Social Security Administration record purposes.</p> <p>However, if according to State law, the miscellaneous transition results in both a change in the form and the substance of the entity, then procedures for implementing new coverage would have to be undertaken.</p>	
SUB-TOPIC #2: How Social Security Coverage is Affected by a Consolidation	<i>Music & Graphics</i>	BLANK
1:3	<p>BOB:</p> <p>Now that we have introduced the four types of predecessor/successor situations, let's discuss what happens to the employees' Social Security coverage in each situation. Staying true to form, let's start again with consolidations. Nick will start us off.</p>	
1:1	<p>NICK:</p> <p>As a result of a consolidation the coverage modifications of the former predecessor entities are no longer applicable and new modifications are needed to provide voluntary Section 218 coverage to the employees of the newly created successor entity.</p> <p>If those employees are in positions not covered by a retirement system, then a modification for voluntary coverage is needed. Otherwise, mandatory Social Security provisions apply to the employees in those non-retirement system positions, unless a specific exclusion applies under the law.</p>	SLIDE 11 - HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A CONSOLIDATION

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
<p>FULL SCREEN GRAPHIC</p> <p>Social Security Coverage via a</p> <ol style="list-style-type: none"> 1. Deemed Retirement System or 2. Single Retirement System 	<p>For those positions under a retirement system we have to determine if Social Security coverage was obtained for that retirement system on an entity by entity basis (also called a deemed retirement system), or did it obtain coverage as a single retirement system.</p>	
<p>1:3</p>	<p>Bob:</p> <p>What needs to be done if Social Security coverage is extended to a consolidated entity's employee positions on a deemed retirement system group basis?</p>	
<p>1:1</p>	<p>DIANNE:</p> <p>Well, Bob, the entity must first hold a coverage referendum among the retirement system members. If the referendum does not pass, we must next assess whether the mandatory Social Security provisions apply to the employees in those retirement system positions.</p> <p>Remember, Section 218 coverage is based on an employee's <u>position</u>. However, the determination of whether an employee is covered by mandatory social security is made on an <u>individual</u> basis.</p> <p>Public Law 101-508 mandated full social security coverage beginning July 2, 1991, for state and local government employees who are not covered under a Section 218 Agreement and who are not members of a <u>qualifying</u> public retirement system, unless a specific exclusion applies under the law. You can refer to IRS Publication 963, <u>Federal-State Reference Guide</u>, for more information regarding the requirements of a qualifying public retirement system.</p>	<p>SLIDE 12 - HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A CONSOLIDATION</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
1:3	<p>BOB:</p> <p>Thanks Dianne. A single retirement system coverage group occurs when one referendum is held for the retirement system's entire membership in all participating political subdivisions. Social Security coverage is then extended to the retirement system members as a single group.</p> <p>When a consolidated entity has positions under such a retirement system group, Social Security coverage is automatic. An additional referendum is not necessary. However, an identification modification would be required. This type of modification serves as notification that the new entity's positions are to be included under the same Section 218 modification that extends coverage to the retirement system as a whole.</p> <p>Nick will now tell us how Social Security coverage is affected by an annexation.</p>	
SUB-TOPIC #3: How Social Security Coverage is Affected by an Annexation	<i>Music & Graphics</i>	BLANK
1:1	<p>NICK:</p> <p>Determining the Social Security coverage situation following an annexation is a much easier task. The employees of the entities being annexed become the employees of the entity that continues to exist. The Social Security coverage status of the annexed employees would depend on the Social Security coverage status of the entity that continues to exist.</p>	SLIDE 13 – HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY AN ANNEXATION

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>For example, if School District A annexes School District B, the former School District B employees would then be considered School District A employees, making them subject to the same Social Security or retirement system coverage already in effect for School District A employees.</p>	
	<p>A notice of dissolution would have to be submitted for the entity or entities being annexed, but no new modification would be necessary for the entity that continues to exist if they had a modification prior to the annexation. If the annexation results in a name change for the continuing entity, a notice of the name change should be submitted to the Social Security Regional Office.</p>	<p>SLIDE 14 – HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY AN ANNEXATION</p>
<p>1:3</p>	<p>BOB:</p> <p>Let's take a look at a demonstration Mark prepared earlier.</p>	
<p>1:1</p>	<p>MARK:</p> <p><i>Mark is sitting at a table with a glass of iced tea and a packet of sugar.</i></p> <p><i>Mark holds up the glass of iced tea.</i></p> <p>For many years, the Tea School District was famous for maintaining an impressively high scholastic level among its student population and at the same time fielding the best athletic teams in the state. The school district's renown attracted more and more families to move there.</p> <p><i>Mark sets the iced tea down and picks up the sugar.</i></p> <p>However, the neighboring Sweet School District was not doing so well due to a decline in its population and tax base. In fact,</p>	<p>SLIDE 15 - ANNEXATION DEMONSTRATION</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>the Sweet School District could no longer afford to operate its school system. The prospect of school closure left the Sweet School District's students and employees in a dire situation.</p> <p><i>Mark moves the sugar packet next to the iced tea.</i></p> <p>Following negotiations between the school boards of both districts, it was agreed that the Tea School District would annex the Sweet School District, <i>(pouring the sugar in the iced tea)</i> including all the Sweet School District's property, buildings and assets, and make it part of the Tea School District.</p> <p><i>Mark stirs the sugar into the tea until it disappears. Mark holds up the glass of tea</i></p> <p>There. You can see; as a result of this annexation, the Sweet School District totally dissolved. On the other hand, the Tea School District underwent no change to its organizational structure or substance in the annexation process. The former Sweet School District employees now became Tea School District employees.</p> <p>Because the former Sweet School District had obtained Social Security coverage for its employees under the State's Section 218 Agreement, action was taken to terminate that coverage, including the State's filing of a notice of dissolution with the Social Security Administration.</p> <p><i>Mark tears up the empty sugar packet and throws it away</i></p> <p>The Social Security coverage of those former Sweet School District employees was now dependent upon the existing</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>Social Security coverage situation in the Tea School District. Fortunately, the employees of the Tea School District were also covered for Social Security under the State's Section 218 Agreement. Thus, the former Sweet School District employees continued to have Social Security coverage. And everyone lived happily ever after until...</p> <p><i>Mark takes a sip of the tea.</i></p> <p>Ah! Nice and sweet, just like my grandmother used to make.</p>	
<p>SUB-TOPIC #4: How Social Security Coverage is Affected by a Hybrid Consolidation</p>	<p><i>Music & Graphics</i></p>	<p>BLANK</p>
<p>2:3</p>	<p>BOB:</p> <p>Before Marc begins discussing hybrid consolidations, let us recall what makes a hybrid different from a regular consolidation. In a hybrid, only one of the predecessor entities fully dissolves and turns ALL of its functions over to the newly created consolidated government. Conversely, the other entity only turns over some, but not all of its functions.</p>	<p>SLIDE 16 – HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A HYBRID CONSOLIDATION</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
2:3	<p>MARC:</p> <p>In a hybrid consolidation, the former modifications are no longer applicable for the absolute coverage and deemed retirement system group positions that were brought into the newly created political entity. A new modification would be needed to provide Social Security coverage for the absolute coverage group. And the deemed retirement system group could obtain Social Security following the results of a favorable coverage referendum. If Section 218 coverage is not obtained, we must next assess whether the mandatory Social Security provisions apply to these employees.</p> <p>If the new entity has positions under a retirement system that obtained Social Security coverage for its members as a single retirement system group, a coverage referendum is not necessary. An identification modification should be submitted to Social Security, indicating that the new entity is to be included in the retirement system's coverage modification.</p> <p>A Notice of Dissolution should be filed with Social Security for the predecessor entity or entities that completely ceased to exist due to the hybrid consolidation.</p> <p>The employee positions that still remain under the existing predecessor entity that did not totally fold into the newly created entity maintain their coverage under the predecessor entity's established modifications.</p> <p>In our explanation, we referred to a hybrid consolidation as a situation consisting of only two entities—one that fully dissolves and one that partially dissolves. However, a situation involving multiple entities can be a hybrid consolidation situation, as long as at least one entity fully dissolves and one entity partially dissolves.</p> <p style="text-align: center;">- 326 -</p>	<p>SLIDE 17 – HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A HYBRID CONSOLIDATION</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
SUB-TOPIC #5: How Social Security Coverage is Affected by Miscellaneous Transitions	<i>Music & Graphics</i>	BLANK
1:3	BOB: Dianne will now discuss social security coverage for Miscellaneous Transitions.	BLANK
1:1	<p>DIANNE:</p> <p>How coverage is applied in a miscellaneous transition situation largely depends on State law. If, according to State law, the result of the change is merely a change in form but not a change in substance ... or a change in substance but not a change in form, ... then the Social Security coverage status remains the same. Only a name change notification would be required for Social Security Administration record purposes.</p> <p>However, if the former entity was legally dissolved and a new entity with a different organizational structure is created, then the employee positions would no longer be voluntarily covered for Social Security under the State's Section 218 Agreement and procedures for implementing new coverage would have to be undertaken. If Section 218 coverage is not obtained, we must <u>next assess</u> whether the mandatory Social Security provisions apply to employees of the new entity.</p>	SLIDE 18 – HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY MISCELLANEOUS TRANSITIONS
SUB-TOPIC #6: Determining the Status of a Predecessor and Successor Situation	<i>Music & Graphics</i>	BLANK

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
2:3	<p>BOB:</p> <p>By now, you're probably starting to have a fairly clear understanding of the 4 types of predecessor/successor situations. But when confronted with an actual situation, you may find yourself asking, "what's actually going on here?" Rest assured the answer is there; it's just a matter of finding it.</p> <p>And speaking from experience, there should always be a trail of documentation that two or more entities generate when they combine.</p> <p>MARC:</p> <p>So let's talk about the kinds of documentation that can exist. It will help you determine the type of situation you are encountering, as well as how Social Security and retirement system coverage is affected.</p> <ul style="list-style-type: none"> • There are often ordinances, resolutions, and other enactments, such as a notice of dissolution, for each predecessor entity leading to the consolidation, annexation, or transition. • There are also charters, bylaws, or other enactments that explain the assumed obligations of the successor entity; especially those relating to the retirement rights of the employees of each predecessor entity and the retirement rights of the successor entity employees. • And always check to see if there are ordinances or resolutions by which each predecessor and successor entity established its retirement system(s). <p>Keep in mind, the documentation may not be the same for every situation. However, you can generally count on finding at</p>	<p>SLIDE 19 - DETERMINING THE STATUS OF A PREDECESSOR AND SUCCESSOR SITUATION</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>least some of the previously mentioned document types. I promise, just a little research will go a long way towards accurately determining the effect that your situation has on coverage and the resulting employment tax consequences.</p> <p>BOB:</p> <p>Now that Marc and I have explained the possible document types, Nick and Mark are going to share an example of how the documentation can be used in the determination process.</p>	
2:1	<p>NICK:</p> <p>The Village of Cloverdale and the Town of Barberry have voted in favor of the resolution to consolidate their two communities and create the new City of Thorndale. Upon its consolidation, employees of the former Cloverdale expressed their concern over what would happen to their Social Security and retirement system coverage.</p> <p>Prior to the consolidation, Cloverdale employees participated in the Village Retirement System. They were also covered for Social Security through the system's single retirement system Section 218 Agreement.</p> <p>Community leaders informed Cloverdale employees that when they transition into their role as Thorndale employees, they will no longer participate in the Village Retirement System, but will begin participating in the equivalent City Retirement System. However, the employees were still unsure what this meant, and rightfully so. Thus, they enlisted the help of their State Social Security Administrator, and presented the question, "Is</p>	SLIDE 20- PREDECESSOR AND SUCCESSOR SITUATION EXAMPLE

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>the new City Retirement System just a continuation of the former Village Retirement System, or is it in fact an entirely new retirement system?" The state administrator contacted his Social Security Regional Office contact, and the two of them began to work it out.</p>	
2:1	<p>MARK:</p> <p>If the city retirement system is just a continuation of the village retirement system and not an entirely new system, then Social Security coverage would continue, uninterrupted, to the employees, via the system-wide single retirement system Section 218 Agreement – even if the consolidation resulted in the creation of new positions. A name change notification would be necessary for the retirement system ... for Social Security Administration record purposes.</p>	
<p>FULL SCREEN GRAPHIC Submit all evidence and documentation for Social Security to make an accurate determination.</p>	<p>The Social Security Administration's policy is that if the Village Retirement System was completely abolished and the City Retirement System was an entirely new retirement system, then Social Security could only be effectuated through a new Section 218 coverage modification. However, regardless of the outcome, it is imperative that States submit all evidence and documentation in order for Social Security to make an accurate determination.</p>	
1:1	<p>With that advice in mind, and after careful analysis and review of the available ordinances and resolutions by which Cloverdale and Thorndale established their retirement systems, it was determined that the City Retirement System was not a continuation of the former Village Retirement System. Thus, the State would have to hold a referendum and submit a Section 218 coverage modification, along with</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>supporting documentation, to Social Security in order to cover the City Retirement System positions for voluntary Social Security. If Section 218 coverage is not obtained, we must next assess whether the mandatory Social Security provisions apply to employees of the City of Thorndale.</p>	
<p>1:3</p>	<p>BOB:</p> <p>We're now more than half-way through our presentation, so... let's take a moment to talk about some of the situations that you may encounter. There are times when you're going to run across situations – when despite your best efforts, and the preponderance of evidence that you've collected – you're simply not going to be able to determine which of the four predecessor/successor categories your situation falls into. And when these situations occur, and trust me – they will, don't worry; there are measures that can be taken that we have not yet discussed. Nick and Marc will tell us who you can contact if you're not sure what to do.</p>	<p>SLIDE 21 - WHO TO CONTACT</p>
<p>3:1</p>	<p>NICK:</p> <p>Contact your State Social Security Administrator. Through your State Administrator, you may be put in contact with the Social Security Administration. Generally, issues are resolved at this point – as Federal law governs determinations involving State and local coverage. These determinations may be based on specific issues to which Federal law is applied and other issues to which State law is applied. Social Security will make that distinction.</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>MARC: However, if there are questions involving State law still needing to be resolved, it may be necessary to obtain the State Attorney General’s opinion. The Attorney General’s opinion will be given due weight; although, the Social Security Administration is not required to defer to the opinion in making its final determination in these matters.</p> <p>If the State Attorney General is unable or unwilling to render an opinion on the legal status of the entities involved, the issue should be referred to the Social Security Regional Office for resolution.</p> <p>Additionally, the IRS FSLG Specialist in your area is available to discuss the employment tax implications of the Social Security Administration’s final determination.</p>	
SUB-TOPIC #7: Consolidation Examples	<i>Music & Graphics</i>	BLANK
1:3	<p>BOB:</p> <p>So far, we’ve taken a look at the four predecessor/successor situations (consolidation, annexation, hybrid consolidation, and miscellaneous transitions). We also examined how Social Security coverage is affected in each case, and we reviewed the documentation necessary for determining the status as well as the employment tax implications.</p> <p>Let’s now take a look at some examples of real life situations. <i>Only the names have been changed.</i></p> <p>Dianne will start us off with consolidations.</p>	SLIDE 22 – CONSOLIDATION EXAMPLE

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
1:1	<p>DIANNE:</p> <p>The Maplesville School District covered both its non-retirement system positions and those positions under the State Teachers Retirement System (or STRS) through a Section 218 coverage modification. STRS obtained Social Security coverage on an entity by entity (or deemed retirement system) basis.</p> <p>The Oak County School District also covered both its non-retirement system and its STRS positions for Social Security through a Modification.</p> <p>Some years later, an act was approved by a local referendum providing for the consolidation of the two districts into a “single county-wide system” to be called the “Deciduous School District.” The act also stated that each of the former school districts shall dissolve and that the <u>new</u> consolidated school district shall constitute its <u>own</u> political subdivision of the State. When <u>requested</u>, the State Attorney General issued an opinion affirming the consolidation of the two school districts. The Social Security Administration <u>concurred</u> with the State Attorney General’s opinion.</p> <p>Once the Deciduous School District became operational, the <u>non-retirement system positions</u> of the two former districts were carried over to the new Deciduous School District, as were the STRS positions as well as the subsequent employment tax liability.</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
<p>FULL SCREEN GRAPHIC</p> <p>How Social Security coverage for the non-retirement system positions was affected by the consolidation.</p>	<p>Let's discuss how the Social Security coverage for the non-retirement system positions was affected by the consolidation.</p>	
<p>1:1</p>	<p>Because the Maplesville and Oak County school districts <u>ceased to exist</u> and were <u>dissolved</u>, their Section 218 coverage modifications would no longer be in effect. The non-retirement system positions of the new entity, the Deciduous School District, would either be covered for Social Security under the mandatory Social Security provisions, <u>or</u> ... Social Security coverage could be extended to them as an absolute coverage group by a Section 218 modification.</p>	
<p>FULL SCREEN GRAPHIC</p> <p>How Social Security coverage for the STRS positions was affected by the consolidation.</p>	<p>Now let's talk about how the Social Security coverage for the <u>STRS positions</u> was affected by the consolidation.</p>	
<p>1:1</p>	<p>Because the Maplesville and Oak County school districts ceased to exist and were dissolved, their Section 218 coverage modifications would no longer be in effect. If a political subdivision is dissolved and replaced by a new political subdivision, the deemed retirement system for the dissolved subdivision does <u>not continue</u> with respect to the newly created subdivision. Since Social Security coverage for the STRS positions in the Maplesville and Oak County School Districts was extended on a deemed retirement system (<u>or</u> entity-by-entity) basis, then voluntary Social Security coverage for the STRS positions of the new entity, the Deciduous School</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	District, can only be effectuated by a coverage referendum. If the referendum is not held or does not pass ... and the retirement system is not a qualifying public retirement system...employees in these positions would be subject to the mandatory Social Security provisions.	
1:3	<p>BOB:</p> <p>We just talked about deemed retirement systems, but we've also heard a lot about single retirement systems. Mark has an excellent example addressing how Social Security coverage would be affected for a single retirement system in a consolidation.</p>	SLIDE 23 – CONSOLIDATION EXAMPLE #2
1:1	<p>MARK:</p> <p>The town of Cedar Grove covered non-retirement system positions for Social Security through a modification. Cedar Grove's retirement system positions were under the Public Employee Retirement System (PERS). Social Security coverage had been extended to PERS system-wide as a single retirement system under a modification following a favorable majority vote referendum.</p> <p>The Village of Rosedale had no positions under a retirement system, but covered all its employees for Social Security as an absolute coverage group through another modification. Following the passage of ordinances and resolutions in both Cedar Grove and Rosedale, the two entities dissolved and consolidated to become the City of Silver River. The Silver River Charter stated that all assets and territory which belonged to the predecessor entities "shall be a body corporate with the official name and title of the 'City of Silver River.'"</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>With the establishment of the City of Silver River, all employee positions were placed under PERS.</p> <p>So I'm sure you're now wondering how the Social Security coverage and subsequent employment tax liability of the City of Silver River's employees were affected by the consolidation.</p> <p>Well, because Cedar Grove and Rosedale ceased to exist and were dissolved, their Section 218 coverage agreements would no longer be in effect and Notices of Dissolution would have to be submitted to Social Security. However, upon its establishment, the City of Silver River covered all its employee positions under PERS, and since PERS had obtained Social Security coverage as a single retirement system (system-wide), all entities joining PERS were automatically covered for Social Security, and a coverage referendum was not necessary for the City of Silver River. An identification modification was all that was needed.</p>	
SUB-TOPIC #8: Annexation Example (Fayette)	<i>Music & Graphics</i>	BLANK
1:3	<p>BOB:</p> <p>I believe we're now ready to move on to annexations and I think Nick has something prepared for us.</p>	BLANK
1:1	<p>NICK:</p> <p>The Village of Broadmoor had some positions that were covered under the Broadmoor Unified Retirement Group (or BURG). These positions were not covered for Social Security. The village also had some positions that were not covered by BURG. These non-retirement system positions did, however,</p>	SLIDE 24 – ANNEXATION EXAMPLE

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>have coverage through a Section 218 modification.</p> <p>The City of Fayette covers all its employee positions under the Public Employees Retirement Fund (or PERF). Entities covered by PERF can obtain Social Security on a deemed retirement system (or entity-by-entity) basis via coverage referendums. The City of Fayette has not held a coverage referendum, and, thus, its employee positions are not covered for Social Security.</p> <p>Following the passage of ordinances and resolutions by the governments of Broadmoor and Fayette, the Village of Broadmoor dissolved and its assets and territory were formally annexed by the City of Fayette. Included in the annexation, was the dissolution of BURG. All former Broadmoor employee positions were carried over by Fayette and placed under PERF coverage.</p> <p>How then was the Social Security coverage of the former Broadmoor non-retirement system employees affected by the annexation?</p>	
	<p>The answer is that since the Village of Broadmoor dissolved and ceased to exist, its Section 218 coverage agreement for the non-retirement system positions would no longer be in effect. Generally, when one entity ceases to exist and the positions and functions are turned over to another entity, employees of the dissolved entity become employees of the entity that took over. Their coverage status would depend on the conditions of coverage for the entity which continues in existence. In this case, the Social Security coverage of Broadmoor's non-retirement system employees ended on the</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>date of annexation by the City of Fayette. They then became employees of the City of Fayette and obtained coverage under PERF, which was not covered by a Section 218 Agreement. However, if PERF is not a <u>qualifying</u> public retirement system, employees in these positions would be subject to the mandatory Social Security provisions.</p>	
<p>SUB-TOPIC #9: Miscellaneous Transition Example (Diamondville)</p>	<p><i>Music & Graphics</i></p>	<p>BLANK</p>
<p>1:3</p>	<p>BOB:</p> <p>Now Marc has a miscellaneous transition example for us.</p>	
<p>1:3</p>	<p>MARC:</p> <p>Social Security coverage was extended by a modification to The Village of Diamondville's non-retirement system positions as well as those positions covered by the Municipal Employees' Retirement System (MERS). Coverage had been obtained on an entity by entity basis, or, as we've learned today a deemed retirement system. The Village of Diamondville was legally dissolved, and on the same date, the City of Diamondville was incorporated. As part of the transition from village to city, the non-retirement system positions of the former village were now placed under MERS while the former village positions under MERS retained membership. In effect, all employees of the City of Diamondville would be covered under MERS.</p>	<p>SLIDE 25– MISCELLANEOUS TRANSITION EXAMPLE</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>Despite the dissolution of the Village of Diamondville, Social Security was concerned whether the result of the change from Village to Incorporated City was merely a change in form, but not in substance. If it were just a change in form, then the same positions would continue to exist and a new referendum to extend Social Security coverage to them would not be necessary. If, on the other hand, the old entity was actually terminated and a new one created, the positions involved would be new positions and a referendum of the City employees in positions covered by MERS would have to be held.</p> <p>Social Security advised that the opinion of the State Attorney General should be obtained concerning the effect of the dissolution of the Village of Diamondville and the incorporation of the City of Diamondville.</p> <p>The State Attorney General opined that the dissolution of the Village and simultaneous incorporation of the City was just a change in form, and, thus, the Social Security coverage of the MERS positions would carry over from the Village of Diamondville to the City of Diamondville. The Social Security Administration agreed with the State Attorney General's opinion; and, thus, a coverage referendum of the City of Diamondville's MERS employees was not necessary. All the City of Diamondville's MERS positions were covered for Social Security from the date of incorporation.</p>	
SUB-TOPIC #10: Hybrid Consolidation Example	<i>Music & Graphics</i>	BLANK

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
1:3	<p>BOB:</p> <p>Dianne will wrap up this section of our presentation with an example of a Hybrid Consolidation.</p>	BLANK
1:1	<p>DIANNE:</p> <p>The City of Pine first covered its employees for Social Security under a modification to the State’s Section 218 Agreement. Conifer County also covered its employees for Social Security, but under a separate modification.</p> <p>The governments of the City of Pine and of Conifer County agreed to consolidate, but this would not be a true consolidation.</p> <p>Pine dissolved, and its Section 218 coverage modification terminated. With its dissolution, Pine turned over all its governmental powers, functions and workforce to a new entity to be called the Metropolitan Government of Evergreen or Metro Government. Although the Conifer County Government turned over most of its governmental powers, functions and workforce to the Metro Government, it did retain some of its powers, functions and workforce and did not dissolve or terminate its Section 218 coverage modification. Although a mere shell of its former self, Conifer County continues to exist as an entity separate from the Metro Government—with its Section 218 coverage modification still intact for the remaining employees.</p>	<p>SLIDE 26 – HYBRID CONSOLIDATION EXAMPLE</p>

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>Once the City of Pine dissolved, the Social Security coverage for the former City of Pine employees ended. However, after they became employees of the Metro Government, Social Security coverage was extended to the employees of the Metro Government through a modification to the State's Section 218 Agreement, effective with the date the Metro Government was established. They were again covered for Social Security.</p>	
<p>SUB-TOPIC #11: Let's Review</p>	<p><i>Music & Graphics</i></p>	
<p>1:3</p>	<p>BOB:</p> <p>Thanks everyone, those were helpful examples. Now, before ending today's discussion, let's recap some of the major points you need to remember when dealing with predecessor/successor situations. Let's start with the four types of predecessor/successor situations. They are...number one, consolidation; that's when two or more entities come together to create a new entity. The former entities cease to exist. The new entity represents both a change in form and a change in substance from the former entities.</p> <p>Number two, annexation. This occurs when one entity absorbs another entity entirely. The annexed entity completely dissolves. This is probably the easiest one to understand.</p>	<p>SLIDE 27– REVIEW</p>
	<p>Number three, hybrid consolidation, is a rare type of consolidation in which one entity retains some of its features, while the other entity turns over all its functions to the new entity.</p> <p>The fourth and final predecessor/successor situation, miscellaneous transitions, is probably the most difficult to</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>describe. Let's just say that it is a "catch all" for situations involving entity changes that don't fall under any of the three categories discussed earlier. In some miscellaneous transitions, an entity may undergo just a change in form, but not a change in substance, or vice versa. While in other miscellaneous transitions, a change may occur in both an entity's form and substance. The type of change the entity undergoes may affect its Social Security coverage.</p> <p>I'd now like to ask my colleagues to review how each situation affects social security coverage.</p>	
3:1	<p>DIANNE:</p> <p>Each predecessor/successor situation has its own unique effect on Social Security coverage. For example, in a consolidation, Social Security coverage obtained by the former entities through a Section 218 coverage modification is generally not carried over to the new entity. In order for the new entity to provide Social Security coverage under the State's Section 218 agreement, a new coverage modification will be needed.</p> <p>NICK:</p> <p>With an annexation, the Social Security coverage situation is much easier to handle. The entity being annexed assumes the same coverage as the entity doing the annexing.</p>	

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>MARK:</p> <p>In a hybrid consolidation, coverage obtained through a Section 218 modification is generally not carried over by the entity that submits itself fully to the consolidated government. While the entity that submits itself in part, retains its existing coverage for the employee positions that were not turned over to the consolidated government.</p>	
1:3	<p>MARC:</p> <p>How Social Security coverage is affected in a miscellaneous transition, depends on whether the transition results in a change in form, or a change in substance, or both. If only a change in form, or just in substance, then coverage remains the same.</p> <p>If both a change in form AND substance occurs, coverage obtained by a Section 218 modification would not be carried over. In that case, new modifications would be needed to provide Social Security coverage under the State's Section 218 Agreement. If Section 218 coverage is not obtained, we must then assess whether the employees in these positions would be subject to the mandatory Social Security provisions.</p>	
SUB-TOPIC #12: Additional Resources	<i>Music & Graphics</i>	BLANK
1:3	<p>BOB:</p> <p>For additional material on predecessor/successor situations as well as other State and local government employer and</p>	SLIDE 28 – ADDITIONAL RESOURCES

Video Graphics:	Video Script & Audio: 7/23/2013	Power Point Slides:
	<p>employee issues, we encourage you to consult and utilize the resources found on the websites listed on slide 28 of the PowerPoint available as part of this presentation for... the:</p> <ul style="list-style-type: none"> • IRS Office of Federal State and Local Governments, the • SSA State and Local Governments and • the National Conference of State Social Security Administrators. <p>In particular, please review these resources for information regarding the continuing employment exception in relation to predecessor and successor situations as well as the mandatory Medicare provisions which were not addressed in this webinar.</p>	
SUB-TOPIC #13: Thank You!	Music & Graphics	SLIDE 29– THANK YOU!
5:2	<p>BOB:</p> <p>This concludes our webinar on predecessor/successor situations.</p> <p>We value your comments and would appreciate your feedback. Please send your comments to: tege.fslg.feedback@irs.gov</p> <p>On behalf of the Internal Revenue Service, the Social Security Administration, and the National Conference of State Social Security Administrators we thank you for watching. Have a good day.</p>	

Social Security Section 218 Agreements and Government Entity Restructuring



The Internal Revenue Service (IRS)
Federal, State and Local Governments



The Social Security Administration (SSA)
Office of Income Security Programs

**The National Conference of
State Social Security Administrators
(NCSSSA)**



Consolidation

ANNEXATION

Hybrid Consolidation

Miscellaneous Transitions

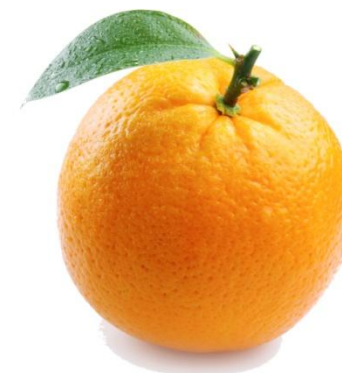
CONSOLIDATION

- Two or more entities come together to create a new entity.
- The predecessor entities cease to exist.
- *Successor entity exhibits a **change in form AND substance** from its predecessor entities.*

WHAT IS . . .

- **Change in Form** - organization or structure of the successor entity differs from the predecessor entities.
- **Change in Substance** - termination of the predecessor entities and creation of a new successor entity.

CONSOLIDATION DEMONSTRATION



ANNEXATION

- An entity absorbs or annexes one or more entities.
- The entities being annexed cease to exist.
- Entity doing the annexing continues to exist and maintains its overall identity and structure, although a name change might occur.

HYBRID CONSOLIDATION

- Two predecessor entities
 - One dissolves and turns all its powers & functions to the successor consolidated government
 - Other turns most, but not all, of its powers and functions to the consolidated government. It continues to exist separate from the consolidated government.

HYBRID CONSOLIDATION DEMONSTRATION



MISCELLANEOUS TRANSITIONS

- “Catch all” for situations that don’t fall under consolidation, annexation, or hybrid consolidation.
- Examples:
 - Village or township decides to incorporate itself as a city.
 - Independent college joins a state university system.

!!!REMEMBER!!!

- **Change in Form** - organization or structure of the successor entity is different from that of the predecessor entities.
- **Change in Substance** - termination of the predecessor entities and creation of a new successor entity.

HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A CONSOLIDATION

- Former Section 218 modifications are no longer applicable.
- New modifications are needed to provide Social Security coverage for the employees.

HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A CONSOLIDATION

- Section 218 coverage based on employee's position
- Mandatory Social Security
- Refer to [IRS Publication 963](#)

HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY AN ANNEXATION

- Employees of the annexed entities become the employees of the now existing entity.
- Social Security coverage status of the annexed employees depends on coverage situation for the now existing entity.

HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY AN ANNEXATION

- A notice of dissolution has to be submitted for the annexed entities.
- No new modification is necessary for the existing entity if it had a modification prior to the annexation.
- If the continuing entity has a new name, submit a name change notice to SSA, through the Regional Office.

ANNEXATION DEMONSTRATION



HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A HYBRID CONSOLIDATION



+



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HOW SOCIAL SECURITY COVERAGE IS AFFECTED BY A HYBRID CONSOLIDATION

- Former modifications no longer applicable for employee positions in the consolidated entity.
- Must obtain new modification.
- File a notice of dissolution for the dissolved entity.
- Employee positions remaining in the entity that did not totally dissolve maintain their coverage under the entity's established modifications.

HOW SOCIAL SECURITY IS AFFECTED BY A MISCELLANEOUS TRANSITION

Coverage depends on State law:

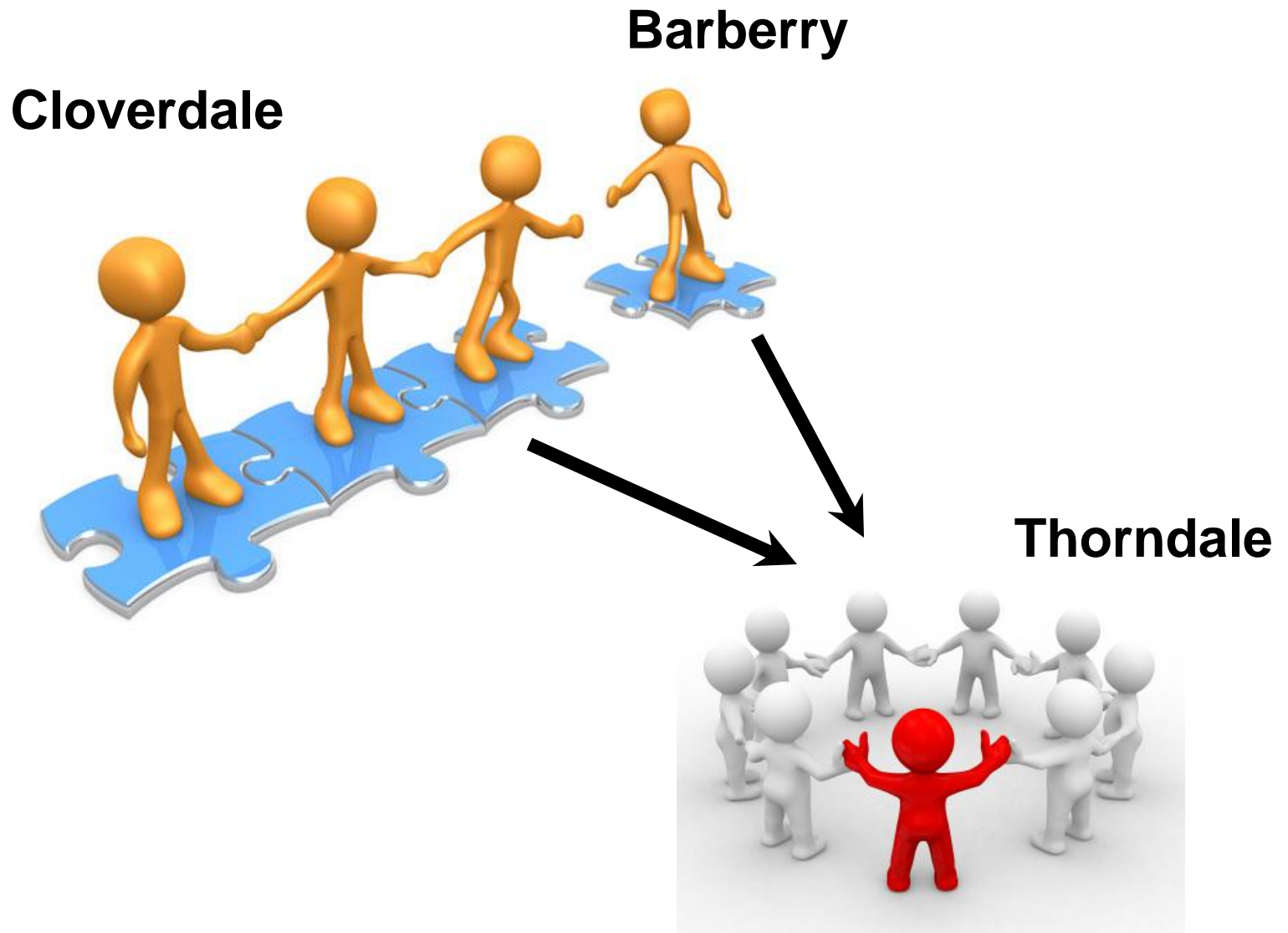
- Is there a change in form, but not substance?
- How about a change in substance, but not form?
- What if the former entity is dissolved and a new one is created, and there is a change in **both** form and substance?

DETERMINING STATUS OF A PREDECESSOR / SUCCESSOR SITUATION

Useful Documentation

- Ordinances & resolutions addressing predecessor entity's terms of annexation, consolidation or transition
- Charter & bylaws addressing predecessor and successor employee retirement obligations
- Ordinances or resolutions regarding each predecessor entity's retirement system(s).

PREDECESSOR AND SUCCESSOR SITUATION EXAMPLE



WHO TO CONTACT

- State Social Security Administrator
- Social Security Regional Office
- IRS FSLG Specialist

CONSOLIDATION EXAMPLE



**Maplesville
School District**

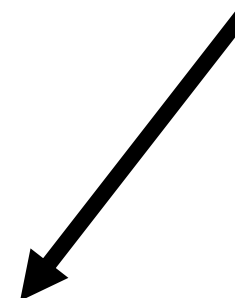
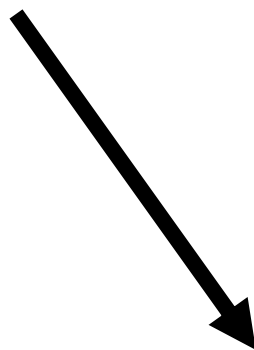
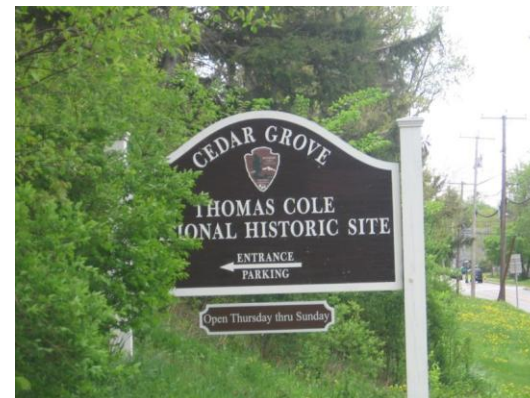


**Oak County
School District**



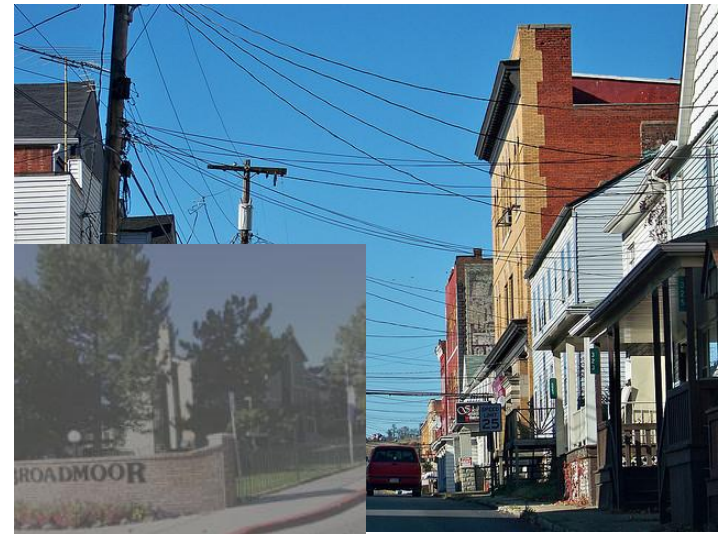
**Deciduous
School District**

CONSOLIDATION EXAMPLE # 2



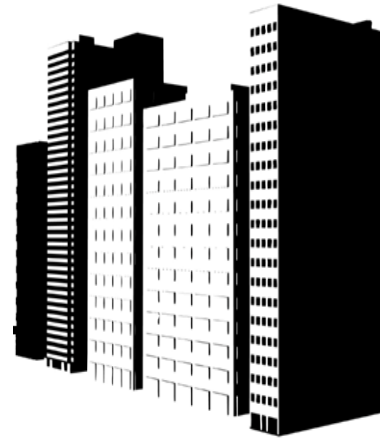
**City of
Silver River**

ANNEXATION EXAMPLE

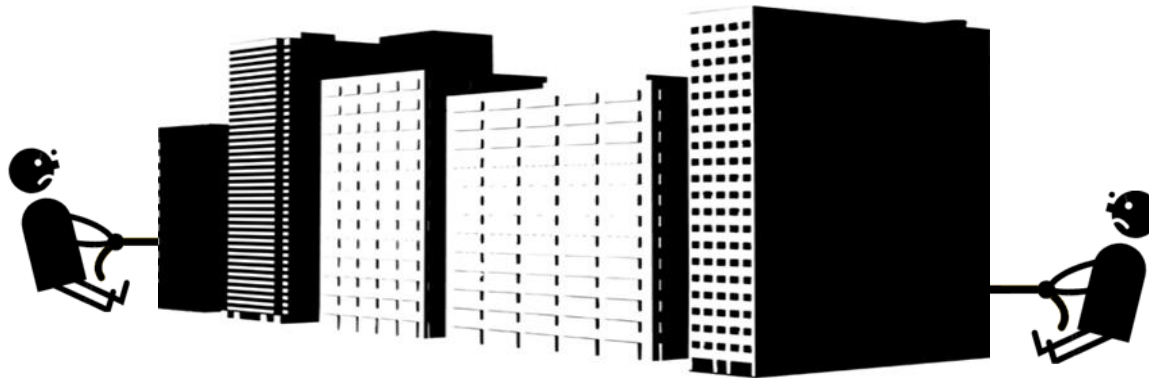


MISCELLANEOUS TRANSITION EXAMPLE

(BEFORE)



(AFTER)



HYBRID CONSOLIDATION EXAMPLE

Pine City



Conifer County



Four types of predecessor / successor situations

- Consolidation
- Annexation
- Hybrid Consolidation
- Miscellaneous Transition

ADDITIONAL RESOURCES

[IRS: Federal, State, and Local Governments \(FSLG\) Website](#)

[SSA: State and Local Government Employers \(SLGE\) Website](#)

[SSA: State and Local Coverage Handbook](#)

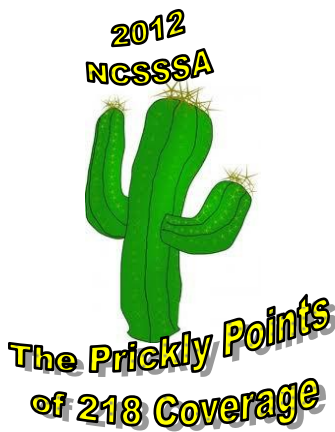
[SSA Handbook](#)

[NCSSSA Handbook for State Social Security Administrators](#)

THANK YOU!

Please send comments to

tege.fslg.feedback@irs.gov



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Error Modifications and Modifications to Correct Errors”

Speaker: Fred C. Sanchez, Supervisory Attorney
Social Security Administration, Office of the Regional Chief Counsel,
Chicago – Region V

Moderator: Danielle Huffine

Mr. Sanchez began his Federal career in April 2001, with the Office of the General Counsel, Social Security Administration, Chicago, and currently serves as a Supervisory Attorney in that office. He provides legal counsel and advice on a broad range of programmatic topics for the agency and serves as the resource for state and local coverage matters for the Chicago Region, which includes Illinois, Indiana, Ohio, Michigan, Wisconsin, and Minnesota. In addition to managing a dozen employees under his supervision, Mr. Sanchez oversees a number of practice areas including state and local, disclosure, representative sanctions, attorney fee litigation, cases arising under Federal Tort Claim Act, and his office’s fraud project. Mr. Sanchez graduated *cum laude* with a Bachelor of Arts degree in History from Loyola University Chicago and received his Juris Doctor from Northwestern University School of Law in Chicago. He has been married for 16 years and is the proud father of four beautiful children: Arica, Evan, Isabelle, & Liv.

His presentation is attached:

Modifications to Correct Errors: Common Reporting Problems and How to Correct the Mistakes that Happen

Presented by:
Fred Sanchez
Supervisory Attorney
Office of the Regional Chief Counsel – Region V
Social Security Administration



**Scottsdale, Arizona
62nd Annual NCSSSA Conference**

Types of Errors

1. Minor Errors in Previously Approved Modifications.
2. More Serious Errors in Previously Approved Modifications.
3. Reporting FICA Incorrectly.
4. Erroneous Reporting without a 218 Agreement.

Types of Remedies

1. Written Request of a State Official.
2. A Standard Modification.
3. An Error Modification.
4. A 218(e)(3) Modification.

State and Local Handbook POMS SL 40001.450A – Typographical or Clerical Errors
POMS SL 40001.470 – Political subdivision in more than one modification
POMS SL 40001.420 – Minor Corrections Before Executing the Modification

Written Request by a State Official

Some errors do not require a modification:

- For instance, a modification is not needed to correct minor typographical or clerical errors.
- Also, if a State extends the same coverage to the same political subdivision in more than one modification, the error must be corrected. A new modification is not required to correct the error.

When Is a New Modification Required?

When the error relates to:

- the extent of coverage, or
- the date of coverage

20 C.F.R. § 404.1216(a)

State and Local Handbook POMS SL 40001.450B - Modification Errors

NCSSSA State Administrator Handbook p. 20

*What if the Political
Subdivision Has Been
Reporting FICA without
a Modification?*

Types of Remedies

1. A Standard Modification.
2. An Error Modification.
3. A 218(e)(3) Modification.

A Standard Modification

- Coverage under a modification may not be earlier than the last day of the sixth year preceding the year in which the agreement or modification is mailed or delivered by other means to SSA.
- Some State laws do not permit the modification to be retroactive for this long.
- A State may designate in modifications executed after August 28, 1958, a date to control for purposes of who is entitled to retroactive coverage (as distinguished from the effective date of retroactivity). The date designated by the State cannot be earlier than the date the agreement or modification is mailed or otherwise delivered to SSA. If no date is designated, the date the agreement or modification is executed by SSA.

42 U.S.C. § 218(e)

20 C.F.R. § 404.1216(b)

20 C.F.R. § 404.1276(b)

State and Local Handbook POMS SL 30001.375(A)(1)

**State and Local Handbook POMS SL 40001.420(G) – Closing Agreement for Retroactive Coverage
Beyond the Statute of Limitations Period**

The Error Modification

A State or political subdivision may have made reports and payments for Social Security coverage of its employees to the Internal Revenue Service, under the Federal Insurance Contributions Act, in the mistaken belief that such action provided coverage for the employees.

What must be established before using an error modification?

- The individuals or agencies intended to provide coverage and took every action they believed necessary to do so, but failed to accomplish this objective, and
- Reporting practices were consistent with the intent to provide coverage.

20 C.F.R. § 404.1216(a)

State and Local Handbook POMS SL 40001.450B - Modification Errors

State and Local Handbook POMS SL 40001.465 - Modification to Correct Errors

NCSSSA State Administrator Handbook, p. 20

What Does an Error Modification Do?

- It provides coverage to all current and former employees.
- It provides coverage as of the date the error first occurred.
 - For error modifications, the date of the error is the date that controls who is entitled to retroactive coverage. If the error involves erroneous reporting to IRS, the effective date of coverage is the first day of the first period for which the erroneous reports were made to IRS, if State law permits.

State and Local Handbook POMS SL 40001.450B - Modification Errors
State and Local Handbook POMS SL 40001.465 - Modification to Correct Errors
State and Local Handbook POMS SL 30001.375 – Effective Dates of Coverage
NCSSSA State Administrator Handbook, p. 20



Common Reporting Errors

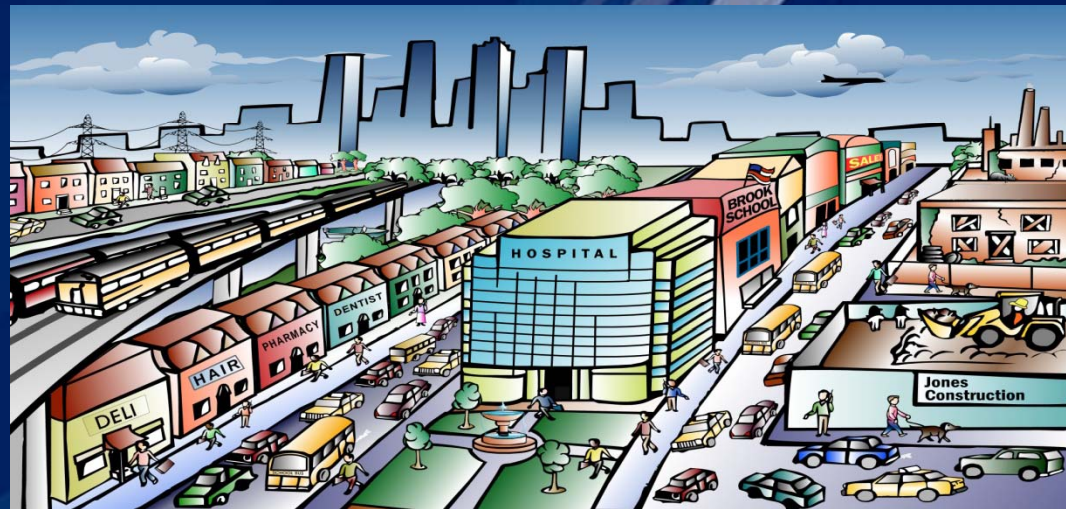


No 218 Agreement, But . . . Retirement System Employees Paying FICA



Example 1

The City of Arizonis does not have a modification to the State's 218 Agreement. The City covered its employees under the State's Public Employee Retirement Fund in 2009. Since that time, the City also has been withholding FICA from its employees and reporting Social Security.



State and Local Handbook POMS SL 40001.465(B) - Erroneous Reports Without Coverage
NCSSSA State Administrator Handbook, p. 22

What Should the Error Modification Include?

The error modification should:

1. list the entity,
2. show the services covered,
3. optional exclusions,
4. the FEIN under which the erroneous reports were filed,
5. and provide for coverage to begin on the first day of the period for which reports were first erroneously made to IRS.
6. A statement that a refund from the IRS was not received.

No 218, No Retirement System, But Withholding FICA.

Sometimes an entity without a Section 218 Agreement or a retirement system for its employees has been withholding FICA, generally since before July 2, 1991.

Solution: Exhibit 20 at POMS SL 40001.490F

Entity Not Withholding Proper Amount



State and Local Handbook POMS SL 40001.465B

Example 2

The state has not executed a modification increasing the FICA exclusion threshold amount from \$100 to \$1,500 for election workers. Unfortunately, the City of Lincoln was under the impression that the election worker exclusion had been increased by Congress and, as a result, has not withheld FICA from its election workers. The IRS discovered the cities and counties were not withholding the proper amount from the payments to their election workers. What can the State Administrator do?



State Does Not Report the Existence of a New Entity and Dissolution of a Prior Entity



Example 3

A recent retiree from a political subdivision was denied benefits by the Social Security Administration because the political subdivision where he had worked did not have a 218 Agreement.

The recent retiree explains that he previously worked for an entity with a 218 coverage that consolidated with another entity to form a new political subdivision two years ago. That new political subdivision had a qualified retirement system, but no 218 Agreement.

What is necessary to provide coverage to the employees of this political subdivision?



And then there is the special case
of the 218(e)(3) modification

Section 218(e)(3)



Example 4

A State or political subdivision has erroneously made payments for Social Security coverage to IRS for some current and former employees, but there are other current or former employees for which the employer did not report or make payments for Social Security coverage.

Solution #1: A Standard Modification

Problem:

Retroactive coverage would only be available to those current employees who are members of the coverage group and in an employment relationship with the governmental employer on the designated controlling date of the modification (usually the date it is mailed to SSA) (POMS SL 30001.375B-C).

Solution #2: Error Modification

Problem:

Employer may owe Social Security coverage payments for both current and former employees of the governmental entity who had not previously been reported for Social Security coverage.

Solution #3: 218(e)(3) Modification

- Standard Modification
- But gives former employees retroactive coverage, **if:**
 1. Payments were made to the IRS, and
 2. No refund of those payments has been received.
- Coverage is elected through the use of a majority referendum only.

What the State Must Do When Submitting a Section 218 (e)(3) Modification

- designate the date the agreement is made applicable to the coverage group ([POMS SL 30001.375B](#)); and
- specify that former employees who were reported are deemed to be a part of the coverage group on that date

Use Appropriate Language:

- **Absolute Coverage Group**
- or
- **Retirement System Coverage Group**

Choosing a Section 218(e)(3) Modification

By using a 218(e)(3) Modification:

- The erroneously reported earnings of former and current employees would be protected;
- All future employees would be covered for Social Security;
- All former employees who were not reported would not be covered.
- Current employees who did not have FICA withheld are only liable for the period open to the IRS statute of limitations.

When a Section 218(e)(3) Modification Cannot Be Used

There are situations where a Section 218(e)(3) modification cannot be used where:

1. State law limits retroactivity to current years; or
2. The State chooses to use the divided vote procedure to cover the retirement system (because former employees could not vote and would not be protected).

Resources

Section 218 of the Social Security Act

http://www.socialsecurity.gov/OP_Home/ssact/title02/0218.htm

Social Security Regulations 20 C.F.R. 404-1200-404.1219

http://www.socialsecurity.gov/slge/ss_regulations.htm

State and Local Coverage Handbook

<https://s044a90.ssa.gov/apps10/poms.nsf/chapterlist?openview&restricttcategory=19>

NCSSSA Handbook for State and Social Security Administrators

<http://www.ncssa.org/saguide.pdf>



Fred C. Sanchez
Supervisory Attorney

Office of the Regional Chief Counsel – Region V

Social Security Administration

Tel: (877) 800-7578, Ext. 19157

E-mail: Alfred.Sanchez@ssa.gov

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Compilation of the Social Security Laws

[Social Security Act Home](#)

VOLUNTARY AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES^[219]



Purpose of Agreement

Sec. 218. [42 U.S.C. 418] (a)(1) The Commissioner of Social Security shall, at the request of any State, enter into an agreement with such State for the purpose of extending the insurance system established by this title to services performed by individuals as employees of such State or any political subdivision thereof. Each such agreement shall contain such provisions, not inconsistent with the provisions of this section, as the State may request.

(2) Notwithstanding section [210\(a\)](#), for the purposes of this title the term “employment” includes any service included under an agreement entered into under this section.

Effective Date of Agreement

(e)(1) Any agreement or modification of an agreement under this section shall be effective with respect to services performed after an effective date specified in such agreement or modification; except that such date may not be earlier than the last day of the sixth calendar year preceding the year in which such agreement or modification, as the case may be, is mailed or delivered by other means to the Commissioner of Social Security.

(2) In the case of service performed by members of any coverage group—

(A) to which an agreement under this section is made applicable, and

(B) with respect to which the agreement, or modification thereof making the agreement so applicable, specifies an effective date earlier than the date of execution of such agreement and such modification, respectively,

the agreement shall, if so requested by the State, be applicable to such services (to the extent the agreement was not already applicable) performed before such date of execution and after such effective date by any individual as a member of such coverage group if he is such a member on a date, specified by the State, which is earlier than such date of execution, except that in no case may the date so specified be earlier than the date such agreement or such modification, as the case may be, is mailed, or delivered by other means, to the Commissioner of Social Security.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of services performed by individuals as members of any coverage group to which an agreement under this section is made applicable, and with respect to which there were timely paid in good faith to the Secretary of the Treasury amounts equivalent to the sum of the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986^[226] had such services constituted employment for purposes of chapter 21 of such Code^[227] at the time they were performed, and with respect to which refunds were not obtained, such individuals may, if so requested by the State, be deemed to be members of such coverage group on the date designated pursuant to paragraph (2).

POMS Section: SL 40001.420

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Effective Dates: 08/25/2011 - Present

TN 7 (08-11)

SL 40001.420 Modifications to the Original Agreement

A. Purpose of modifications

Modifications amend the original agreement to

- extend coverage to new groups of employees;
- identify new political subdivisions joining a public retirement system;
- correct errors in previous modifications (For Error Modifications see [SL 40001.450](#) and for Modifications to Correct Errors see [SL 40001.465](#));
- implement changes in Federal or State law; and
- exclude services or positions previously covered (under very limited circumstances).

B. Preparing modifications

1. The State

When preparing a modification

- clearly state its purpose;
- use the sample language in the exhibits (For Agreement and Modification Exhibits see [SL 40001.490](#));
- request assistance from the PSSO or RO if special language is required;
- list all optional exclusions; and
- include all statewide optional exclusions, from the original agreement, in each modification.

If you exclude part-time positions or a class (classes) of part-time positions, include the definition of part-time position in the modification. If duplications of the name exist in the State for entities such as townships and school districts, add the county designation for precise identification.

After preparing the modification

- Request a preliminary review from the Regional Office (RO) through the Parallel Social Security Office (PSSO) if the modification is complex or there is a question concerning the legality of any provision.
- Submit two original modifications with the pen-and-ink signature(s) of the authorized State official(s) to the PSSO. Provide extra copies if you want more than one signed copy.

2. The PSSO

Review the modification to determine whether the

- State official has signature authority,
- modification number is in sequential order,
- entity is not already covered under Section 218,
- supporting documentation is appropriate.

After reviewing the modification

- send the modification and documentation to the RO for technical review, legal clearance, and execution on behalf of the Commissioner of Social Security; and
- maintain a photocopy for the pending file.

C. Forwarding additional information with modification

Provide additional information on a separate sheet or include in the modification itself. Additional information may be necessary in these instances:

- If the status of the entity is not apparent from the name, the State should include a reference to the statutory authority, which established its status. Each modification must provide the Internal Revenue Service (IRS) issued Federal Employer Identification Numbers (FEIN) for each entity.
- If a retirement system coverage group is included in a modification, the modification must have the certification of the governor or his designate.

D. Minor corrections before executing the modification

If minor corrections (i.e., misspellings, typos) are necessary before executing a modification, the RO must ask the State to provide written authority for the change. Written authority can be in the form of a letter, email, or fax, and must include the:

- name of the authorizing document,
- details of the change, and
- name, title, and contact information of the authorizing State official.

If the RO receives a phone call from the State requesting a minor correction, the RO may use an SSA-5002 (Report of Contact) form to document the request but must also ask the State to provide written authority to validate the correction. The RO must retain the State's written authority with the modification and annotate the correction in pen and ink on the modification:

- identifying the authorizing document,
- showing the name and title of the authorizing State official, and
- showing the name of the person making the change and the date of the change.

EXAMPLE: The state administrator mistyped the entity name on a pending modification as School District 12, when it should have been School District 13. The state administrator calls the RO Specialist to report the mistake and asks that he or she correct the typo. The RO Specialist should:

- ask the state administrator to provide written authority (e.g., an email) requesting the

correction;

- change “12” to “13”, in pen and ink on the modification;
- add a parenthetical, “per 8/1/11 email from S. Smith, SSA”; and
- sign and date the entry and attach the email with the modification.

Major changes may require the State to rewrite the modification. If this is necessary, the RO copy of the initial modification establishes the date of its submittal.

E. Notification of approval

After executing the modification the RO must

1. Send the State Administrator a notification of approval letter with an executed copy(s) of the modification and if any, a copy of the State's authorization for any changes.
2. Send a photocopy of the notification approval letter and the executed modification to:
 - PSSO (this copy replaces pending file copy),
 - *ORDP, OISP, OEPIP, State and Local Coverage
Room 4430-42, West High Rise
6401 Security Blvd
Baltimore, MD 21235*

and

 - *IRS Ogden Service Center
1973 North Rulon White Blvd., Mail Stop 6273
Ogden, Utah 84404*
3. Send a copy of Regional Chief Counsel Opinions substantiating approval to OEPIP.

NOTE: In lieu of mailed paper, the RO Specialist can email scanned copies to the OEPIP Specialist assigned to your region. The State and the RO should each maintain an original, signed modification as a permanent record.

F. Effective date of coverage

Show the effective date of coverage in the modification to extend coverage. The **effective date** identifies when coverage begins. The **date of execution** is the date SSA signed the modification.

G. Closing agreement for retroactive coverage beyond the statute of limitations period

When submitting a Social Security or Medicare-only modification to SSA for approval, a state or local government entity can specify an effective date of the modification as early as “the last day of the sixth calendar year preceding the year” the modification is mailed or delivered to SSA ([Section 218 \(e\)\(1\) of the Social Security Act](#)).

However, the Internal Revenue Code (IRC) limits the statute period of assessment and collection of taxes to the 3-year period after the taxpayer files the tax return for a particular year. This IRS rule can come into conflict with SSA’s Section 218 effective date of retroactivity when a state or local

government entity seeks a retroactive modification to a Section 218 agreement covering a 5-year period. Generally, the IRS bars the earliest 2 years for tax collection from assessment.

Thus, SSA can only process and approve any modification to a Section 218 Agreement requesting a period of coverage in excess of the 3 years beyond the statute period for FICA tax collection only if the taxpayer agrees to execute a closing agreement with the IRS.

1. Definition of a closing agreement

A closing agreement is a written agreement between a taxpayer and the IRS, which conclusively settles

- the tax liability of the taxpayer for a taxable year ending prior to the date of the agreement; or
- one or more issues affecting the taxpayer's tax liability.

Such an agreement is a determination conclusive on both the taxpayer and the IRS unless the taxpayer demonstrates fraud or misrepresentation as to a material fact. [I.R.C. §721](#)

2. Terms of the closing agreement

SSA requires that a State or local government entity seeking a retroactive coverage modification for a period beyond the three-year statute of limitations period enter into a closing agreement with IRS to ensure that the FICA taxes due for the entire period of retroactivity are paid. SSA MUST sign and execute the modification before the closing agreement process begins (this is a key point). If SSA does not sign and execute the modification, IRS will not pursue a closing agreement because there is no tax liability to collect on UNTIL SSA executes the modification.

The entity agrees to

- a waiver of the statute of limitations for assessment,
- an assessment in the amount of the tax to be paid, and
- make full payment.

3. Required language to add to a modification needing a closing agreement

The State Social Security Administrator should insert the following language into a modification for retroactive coverage under a Section 218 Agreement, which requires a closing agreement. This language informs the entity that ratifying the modification is contingent upon their executing a closing agreement with the IRS. The IRS's closing agreement

- informs the entity that this agreement is final and conclusive; and
- gives the Commissioner of the IRS the right to assess and collect the taxes identified, and that the entity waives all defenses with regard to the collection of the tax liability.

Required language:

(Name of Political Entity) _____ promises to pay, to the Department of the Treasury, contributions equal to the sum of the taxes, which would have been required from employers and employees under the Federal Insurance Contribution Act (FICA) as of the effective date of coverage. (Name of Political Entity) _____ also promises to enter into a closing agreement with the Internal Revenue Service (IRS) to effectuate this modification, including the agreement to pay all FICA contributions for the entire period of coverage. This modification is contingent upon the execution of a closing agreement between (Name of Political Entity) _____ and the IRS.

For exhibits of closing agreement modifications, see [SL 40001.490H](#).

4. Closing agreement is mandatory

To effectuate the modification, the affected entity must enter into a closing agreement with IRS, which includes the agreement to pay all FICA taxes due for the entire period of coverage. SSA will not approve the modification, unless the entity agrees that it will execute the closing agreement. IRS will not begin the closing agreement process UNTIL SSA signs and executes the modification.

For questions concerning the closing agreement process, contact the FSLG Closing Agreement Coordinator, Wanda Valentine, by email at: wanda.valentine@irs.gov or in writing at the following address:

Internal Revenue Service

SE:T:GE:FSL

Attn: FSLG Closing Agreement Coordinator

1111 Constitution Ave.

Washington, D.C. 20224

5. Exhibit of Closing Agreement

View the Closing Agreement on Final Determination of Tax Liability and Covering Specific Matters provided by IRS OGC in Agreement and Modification Exhibits.

[View PDF Version](#)

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/1940001420>

*SL 40001.420 - Modifications to the Original Agreement - 08/25/2011
Batch run: 08/25/2011
Rev:08/25/2011*



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Effective Dates: 12/10/2003 - Present
BASIC (12-03)

SL 40001.450 Error Modifications

A. CLERICAL OR TYPOGRAPHICAL ERRORS

A clerical or typographical error made in the preparation of a modification which does not affect the coverage, e.g., School District No. 12 incorrectly typed as School District No. 13, may be corrected by a statement over the signature of the State official.

B. MODIFICATION ERRORS

If an error relates to the extent of the coverage or the effective date of coverage, an error modification is necessary. The error modification must clearly explain the nature of the error and request its correction. The State must provide evidence which establishes an error actually occurred. An example of acceptable evidence is a copy of the intrastate agreement of coverage between the State and the political entity. If this is not available, other evidence may include minutes of meetings or statements by appropriate officials stating the intent at the time Social Security coverage was requested. In addition, reporting practices must have been consistent with intent.

Generally, an error in an agreement or modification which can be corrected by a subsequent modification results from a situation where all individuals or agencies concerned took every action they believed necessary to effectuate the coverage desired, but through a clerical error, or some similar reason, failed to accomplish the objective.

Corrections are not limited to errors made by the State agency itself as an error on the part of a political entity may also be corrected.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/1940001450>

SL 40001.450 - Error Modifications - 12/10/2003
Batch run: 01/27/2009
Rev: 12/10/2003



Effective Dates: 12/10/2003 - Present
BASIC (12-03)

SL 40001.455 Error Modification to Delete Political Entities Which Did Not Exist or Have Employees

A political entity which was listed in an agreement or modification, but was not in existence at the time of execution, or on the designated date, or did not have any employees to whom the agreement could be made applicable, should be removed from the agreement. A modification is required for this purpose. A modification to correct such an error should be accompanied by evidence which establishes the error.

A political entity which had no employees at the time it was included in the agreement, but may have employees in the foreseeable future should not be removed from the agreement.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/1940001455>

SL 40001.455 - Error Modification to Delete Political Entities Which Did Not Exist or Have Employees - 12/10/2003

Batch run: 01/27/2009

Rev:12/10/2003



Effective Dates: 12/10/2003 - Present
BASIC (12-03)

SL 40001.460 Error Modification to Delete Nongovernmental Entity

If a nongovernmental entity was erroneously listed as a political subdivision in an agreement or modification, a modification must be submitted to delete the entity involved. The modification should be accompanied by evidence to establish the error. This should include a reference to the statutory or other authority under which the entity was created and any other evidence establishing its status; for example a ruling from the Railroad Retirement Board that the entity is covered under the Railroad Retirement Act.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/1940001460>

SL 40001.460 - Error Modification to Delete Nongovernmental Entity - 12/10/2003

Batch run: 01/27/2009

Rev: 12/10/2003



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Effective Dates: 12/10/2003 - Present
BASIC (12-03)

SL 40001.470 Political Entity Erroneously Included in More Than One Modification

If a State extends the same coverage to the same political subdivision in more than one modification, the error must be corrected. The State should forward a written request to the PSSO for the deletion of the reference to the political subdivision in the later modification. A new modification is not required to correct the error.

To Link to this section - Use this URL:

<http://policy.ssa.gov/poms.nsf/lnx/1940001470>

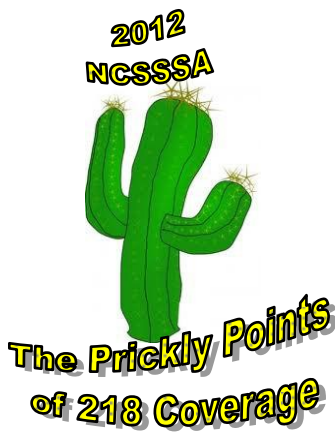
SL 40001.470 - Political Entity Erroneously Included in More Than One Modification - 12/10/2003

Batch run: 01/27/2009

Rev: 12/10/2003



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National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Rehired Annuitants”

Speaker: Vandee DeVore, MO – Training Committee

Moderator: Kevin Mack, NY

Vandee DeVore is the “working” State Administrator from Missouri. She currently works in the State of Missouri’s Administrative Accounting Division and has worked all of her 23 year career in various departments within the State of Missouri.

Vandee has earned a MBA from Columbia College and a BA in Accounting from William Woods University. Vandee also educates our future accountants as an Adjunct Instructor of governmental/non-profit and managerial accounting courses at Columbia College. In addition, she holds a Certified Government Financial Manager (CGFM) designation and is currently a member of the Professional Certification Board for the Association of Government Accountants (AGA), the past National Certification Coordinator for AGA, and has held many leadership positions in her local Mid-Missouri AGA Chapter. She is also a very active member of NCSSSA, participating in several of our committees.

Vandee is here to talk about Rehired Annuitants. Vandee experienced the complexities of Rehired Annuitants when a retired school bus driver went to a Social Security Office to inquire about benefits.....the rest is known as the “Missouri Situation,” a phrase you’ve probably heard more than you care to over the past few years!

REHIRED ANNUITANTS

NCSSSA 2012 Conference, Scottsdale, Arizona

Vandee DeVore

Missouri State Social Security Administrator

Definitions You Need To Know

- **Rehired Annuitant** --- A retiree of a State or Political Subdivision or Instrumentality who participated in a retirement system AND who is rehired by either:
 - His/her former employer OR
 - Another employer that participates in the same retirement system.
- The Rehired Annuitant is either:
 - Receiving a retirement benefit from the retirement system OR
 - Has reached retirement age under that retirement system.

Definitions You Need To Know

- **Retirement System Ineligible**--- An employee who performs services in a position under a retirement system but who is personally ineligible for membership in that system because of a personal disqualification, e.g., age, length of service, number of hours worked, or date of hiring. (Another employee who has no such personal disqualification from membership who occupies the same position would be eligible for membership in that retirement system.)
- **ALL STATES BE AWARE:** Know the rules of the retirement system for Membership as ineligibles may or may not be covered for Social Security under the 218 agreements.

More on Ineligibles

- **See SL 30001.340 (C) Ineligibles with Absolute Coverage Groups:** Ineligibles, other than ineligibles in police officer and firefighter positions, who are not already covered may be covered as a part of, or as an addition to, their absolute coverage group. If the absolute coverage group is now being included under the agreement, the ineligibles can be included as a part of the coverage group. The same effective date of coverage and the same optional exclusions apply to all the employees in the coverage group including the ineligibles.
 - If the absolute coverage group is already covered, the ineligibles may be covered (by a modification) as an addition to that coverage group. The optional exclusions already taken for the coverage group apply also to the ineligibles. The State may select the same effective date of coverage as was provided for the absolute coverage group or it may choose a different effective date of coverage for the ineligibles. The effective date must be consistent with Federal and State laws. The effective date of coverage for the ineligibles cannot be earlier than the effective date of coverage for the other employees in the absolute coverage group.
- Ineligibles continued.....

Ineligibles continued....

- **See SL 30001.340 (D) Ineligibles with Majority Vote Retirement System Groups:** Ineligibles who are not already covered are automatically covered when a retirement system coverage group made up of all employees in positions under the retirement system is brought under the agreement. Thus, ineligibles who are not covered with an absolute coverage group are covered if a retirement system coverage group which includes all positions under the retirement system is brought under the agreement through a majority-vote referendum and their services or positions are not optionally excluded from the retirement system coverage group.
- **See SL 30001.340 (E) Ineligibles with Divided Vote Retirement System Groups:** A State may provide coverage for ineligibles of a retirement system either as additional services to a retirement system coverage group already included under the agreement or may provide the coverage at the time coverage is first provided for the retirement system coverage group. These ineligibles do not have the right of individual choice. If the ineligibles are included as a part of or an addition to the retirement system coverage group, all the ineligibles are mandatorily covered.
 - **Note:** This provision does not apply to police officers or firefighters who are in positions under a retirement system but who are ineligible to become members.

218 or 210

- When determining Social Security coverage for a REHIRED ANNUITANT, evaluation of the Position is the first step.
 - Need to know your Mods!!!
 - Is the position covered for SS as part of an Absolute Coverage Group?
 - Are Ineligibles specifically SS covered in agreements or subsequent mods?
 - Is the PERSON covered for SS by a Divided Vote?—more later!
- If position is NOT covered under your 218 agreements, then the provisions of Section 210 (“Mandatory SS”) must be considered.

BUT....

- A Rehired Annuitant not covered by a 218 agreement is EXCLUDED from Mandatory Social Security coverage because of IRS Regulations.

From Another Angle

- If the Rehired Annuitant becomes a member of a FICA Equivalent retirement plan (same or different plan) which does not have a 218 coverage agreement, then he would be EXCLUDED from Mandatory SS as a member of a FICA Equivalent retirement plan.
- If the Rehired Annuitant is not covered by a non-FICA Equivalent retirement plan with no 218 agreement, OR is not covered by a retirement plan at all in this new position, then he is EXCLUDED from “Mandatory” Social Security coverage under IRS regulations as a Rehired Annuitant.

Majority vs Divided

● Majority vote:

- Explanations we just talked about apply.

● Divided vote:

- Additional factors need to be considered.....

Divided Vote Retirement Systems

- If a rehired annuitant performs services in a position under the same covered divided retirement system from which the annuitant retired and the annuitant was part of the system that did not vote for coverage, the Social Security coverage status of the rehired annuitant's services depends on whether the annuitant is considered a new member of the retirement system upon reemployment.
- If the rehired annuitant is considered a new member of the divided retirement system, services performed by the rehired annuitant are covered under the State's Agreement with that division of the retirement system that voted for Social Security coverage, in accordance with Section 218(d)(6)(C) of the Act.
- If the rehired annuitant is not considered to be a new member of the divided retirement system upon reemployment, the rehired annuitant retains their vote (Social Security coverage status) under this same divided retirement system before retirement. If the rehired annuitant was part of the retirement system that did not vote for Social Security coverage, the IRS rules for mandatory coverage determine the Social Security coverage status of the rehired annuitant.

Medicare

- Under the IRS Regulations, rehired annuitants are exempt from Mandatory (210) Social Security coverage, but not Medicare withholding.
 - Beginning April 1, 1986, rehired annuitants are mandatorily covered for Medicare. The continuing employment exception to Medicare does not apply because the original employment relationship terminated at retirement.
 - Rehired annuitants may start paying Medicare when they were not required to in the past with the same employer.
- Rule of Thumb---if paying Social Security, then also pay Medicare. (rule does not work in reverse!!)

Scenario #1

- Ms Janet Jones is a teacher for the Washington School District and a member of TRS. The School District does not have a voluntary agreement. She is age 65 with 38 years of service under TRS thru this District. On July 28, 2010 she retires her teaching position. On July 31, 2010 she is rehired as a secretary at Washington School District, a position not under TRS or any other retirement system.

Is Janet covered for Social Security and Medicare?

Janet retired and then was rehired by her former employer – the classic rehired annuitant scenario. Although her current secretary position is not covered for SS under the State’s Section 218 Agreement or in a qualifying retirement system, she is excluded from mandatory Social Security due to the rehired annuitant provisions. She will be covered by Mandatory Medicare.

Scenario #2

- Beth was hired in her first job at South County School District on August 1, 1983 in a position covered by their Teachers' Retirement System. South County entered into a 218 agreement in 1953 that excluded the employees in the Teacher's Retirement System. Beth retires at the end of the 2011-12 school year and returns as a substitute teacher in the fall of 2012. A substitute teacher is not a position covered by the Teacher's Retirement System.

When Beth returns as a substitute, is she covered by SS? Medicare?

Since the substitute teacher has not been a retirement system position, it was covered for Social Security as an absolute coverage position when the South County School District obtained Social Security coverage for its absolute coverage positions in 1953. When Beth returns to work in the fall of 2012, she will pay into Social Security as well as Medicare because her position is covered under the State's Section 218 Agreement. Remember Section 218 takes precedence over the Section 210 mandatory Social Security provisions.

Scenario #3

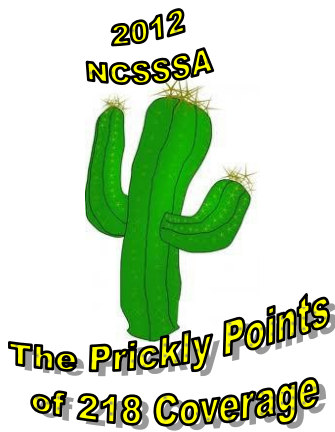
- Danbury School District entered into a 218 agreement in 1952 excluding positions covered by TRS. In 1965, Danbury amended their agreement on a subsequent Modification to also cover the Ineligibles to TRS. Anyone working less than 500 hours per year is considered an Ineligible of TRS. Janet began working at Danbury in 1982 and retired in 2010 when she began drawing her annuity from TRS. In 2011, Janet returned to work as a substitute teacher, being cautious not to work more than 500 hours and thereby becoming a member of TRS again, which would also jeopardize her TRS retirement benefit.

Is Janet covered for Social Security? Medicare?

Although TRS is not covered for Social Security, Section 218 voluntary Social Security coverage was extended to the Danbury School District's TRS ineligibles through a modification in 1965. Janet's subsequent return to employment in the Danbury School District following her retirement makes her a rehired annuitant. It appears in this example that the substitute teacher position in the Danbury School District is a position under TRS; however, due to the hours worked, Janet is a TRS ineligible during her new period of employment. Because of the TRS ineligible Section 218 modification, Janet is covered for both Social Security and Medicare.

QUESTIONS

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National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Auditing Committee

Chair

Richard Beckstead, Utah

Members

Kevin Brinckerhoff, Ohio

Erin Gorney, Wyoming

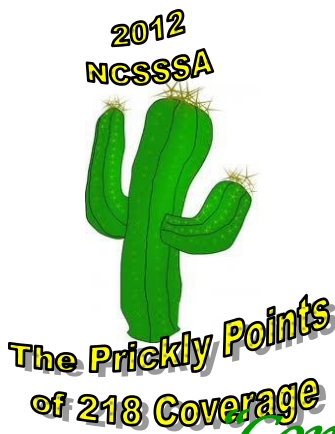
Shirley Sessoms, Mississippi

The audit committee met on July 29, 2012 for the purpose of reviewing the financial records of the National Conference of State Social Security Administrators (NCSSSA). The Treasurer's records of receipts and disbursements were found to be in order. The committee commends Kathleen Baxter for both her record keeping and her dedicated service to NCSSSA.

There were no findings or recommendations offered after the review of the records.

Respectfully submitted,

Richard Beckstead



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Constitution and By-Laws Committee”

Chair

Thomas J. Reardon

Members

Andrew Marcaccio, RI

Shirley Sessoms, MS

Paul Brugger, NV

The purpose of the NCSSSA Constitution and By-Laws Committee is to Maintain, revise and distribute the NCSSSA's Constitution and bylaws. Provide expertise to the Executive Committee and members regarding the historical basis for these materials..

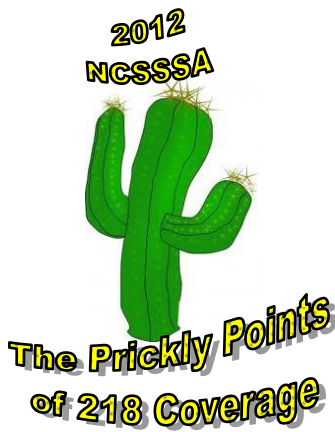
Over the past year, the Constitution and By-Laws Committee reviewed the current Constitution and By-laws. We sought input from members of the NCSSSA regarding any perceived need for changes. The Constitution and By-Laws Committee then convened a meeting via conference call and discussed the current state of the Constitution and By-laws. The Committee discussed suggestions for changes or modifications. The Committee then determined there was no need to amend the Constriction or change the By-laws this year.

As chairperson of the Constitution and By-Laws Committee, I want to thank the members of the Committee for their contributions and support of the efforts of the Committee. The members undertook their duties with the solemnity appropriate to the task.

Respectfully submitted,

Thomas J. Reardon, Chairperson

NCSSSA Constitution and By-Laws Committee, 2011-2012



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Hospitality Committee”

Chair

Angie Dowdy (LA)

Members

Kevin Brinckerhoff (OH), Barry Faison (VA), Danielle Huffine (IA), Karen Lawrence (OK),
Amanda Schmitgen (SD), Barbara Taylor (MS) and Linda Yelverton (LA)

The Hospitality Committee is responsible for extending the hospitality of the NCSSSA to newcomers, guests and conference attendees throughout their conference stay as well as managing the Conference's Hospitality Room. Hospitality Committee members assisted the Program Committee as needed.

There were approximately twelve (12) new conference attendees and two (2) new guests, Karen and Ron Park's grandchildren, Ana and Alex. Every attempt was made to ensure all conference attendees and guests were treated in a hospitable and welcoming manner on the part of NCSSSA.

Hospitality Committee members efficiently managed the daily operation of the Hospitality room which provides a comfortable environment that encourages interaction between new conference attendees, long-time colleagues guests and friends alike.

I would like to thank all members of the Hospitality Committee; Kevin Brinckerhoff, Barry Faison, Danielle Huffine, Karen Lawrence, Amanda Schmitgen, Barbara Taylor and Linda Yelverton for their hard work throughout the conference.

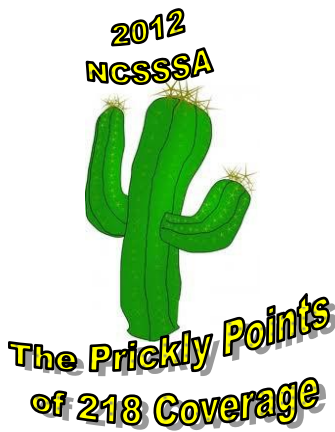
Our thanks to Michele Briggs for her help and support with the Hospitality Committee responsibilities and for hosting this years' conference in the beautiful state of Arizona.

A Special Thank You goes to Karen and Ron Park, Teresa and Steve Commeau and Edith Faison for the invaluable help they provided to the Hospitality Committee.

Sincerely,

A handwritten signature in blue ink that reads 'Angie Dowdy'.

Angie Dowdy,
Hospitality Committee Chair



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Internet Communications Committee”

Chair

Tammy Taylor, Kentucky

Members

Barry Faison, Virginia
Amanda Schmitgen, South Dakota

DATE: July 24, 2012

SUBJECT: Internet Communications Committee Report

Roster changes for State Administrators and Social Security Regional contacts are current as of July 2012. Updates are made in as timely manner as possible as new information is made available to the Committee.

The NCSSSA website will be updated for 2013 committee assignments as soon as they are made available.

NCSSSA email addresses have been created for the members of the Executive Committee and posted to the website.

Over the past few months, the NCSSSA website has been undergoing a redesign. This has been done offline to ensure a minimum amount of disruption to website visitors. The new website is ready to go live after approval from the Executive Committee. A beta test site has been created and the link was sent to members of the Executive Committee and Internet Committee to preview. Once the redesign is approved, the website will be unavailable for a short period of time for online construction of the new website.

Respectfully submitted,

Tammy Taylor

Tammy Taylor



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Legislative Committee”

Chair

Maryann Motza, PhD

Members

**Dean Conder (CO), Vandee DeVore (MO), Joe Lancaster (KY),
Nick Merrill (IL), and T.J. Reardon (MD).**

The purpose of the NCSSSA Legislative Committee is to: maintain, assess, and disseminate proposed legislative, policy, or regulatory changes affecting Social Security and employment tax programs and, as needed, to testify on behalf of the NCSSSA before Congress or in Federal forums, representing the NCSSSA public sector position.

The Legislative Committee was extremely active again this year, having accomplished the following:

1. Held eight (8) conference calls from October 12, 2011, through July 11, 2012. During the first conference call it was decided that the most efficient way to approach the Committee’s responsibilities was to divide up the workload and assignments among all Committee members. An agenda was distributed prior to each meeting and summary notes, including action items, were provided after each conference call.
2. Continued networking/liason relationship with thirteen (13) organizations or policy-making bodies at the national level that have similar issues and concerns to NCSSSA, i.e.:
 - Association of Government Accountants (AGA)
 - Government Finance Officer’s Association (GFOA)
 - National Association of Counties (NAC)
 - National Association of State Retirement Administrators (NASRA)
 - National Conference of Public Employees Retirement Systems (NCPERS)
 - National Conference of State Legislatures (NCSL)
 - National Council on Teacher Retirement Systems (NCTRS)
 - National Governor’s Conference (NGA)
 - National League of Cities (NLC)
 - Public Pension Network (PPN)
 - State Auditors, Comptrollers and Treasurers (SACT)
 - U.S. House Ways and Means Committee
 - U.S. Senate Finance Committee

Between conference calls, informational e-mails and reports from the above organizations were shared with members of the Legislative Committee and the NCSSSA leadership to ensure they were kept apprised of significant national-level issues and developments.

3. Continued its active involvement in the Public Pension Network, which began during 2007-2008, after Ms. Barrie Tabin-Berger, Assistant Director, Federal Liaison Center, GFOA, sponsored NCSSSA's membership. The Public Pension Network consists of a group of organizations that lobby Congress and Federal agencies regarding many issues with which NCSSSA members are also concerned. Among participating organizations in the Network, in addition to the GFOA, are: National Conference of Public Employees Retirement Systems (NCPERS), National Association of State Retirement Administrators (NASRA), the National Council on Teacher Retirement (NCTR), National Association of Government Defined Contribution Administrators (NAGDCA), and the National Conference of State Legislatures (NCSL). Involvement in the Public Pension Network has proven to be extremely valuable to NCSSSA in two major ways:
 - A. Ensures that NCSSSA is apprised immediately of any Federal-level developments (Presidential, Congressional, or regulatory) that impacts any aspects of NCSSSA's areas of interest, e.g., Social Security, Medicare, employment taxes, and public pension system requirements and oversight.
 - B. Provides high-profile exposure for NCSSSA on significant national issues when NCSSSA signs on to letters expressing concern or support for proposed actions at the Federal level.
4. NCSSSA was again this year a signatory on letters sent to Congress or administrative oversight boards or officials by the PPN (see attached copies of letters for details):
 - A. Letter to the Governmental Accounting Standards Board (GASB) that was sent October 14, 2011, addressing concerns about the proposed revisions to GASB Statements 25 and 27 which provide standards for accounting and reporting on the pension benefits that governments provide to their employees.
 - B. Letters to Congress requesting the repeal of Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222), which required federal, state, and local governments to withhold three percent on payments made for most goods and services. The last letter in that series, sent to the House of Representatives in November 2011 is included in the appendix to this report. Also included in the appendix are various emails regarding the passage and the repeal's ultimate signing into law by the President on November 21, 2011.
 - C. Letter to U.S. House of Representative Ron Kind of Wisconsin thanking him for including a very important provision in legislation you recently championed, H.R. 3561, the Small Business Pension Promotion Act of 2011. The provision addresses Internal Revenue Service regulations, which if fully implemented in their current form, will have devastating impacts on the retirement benefits of long-service employees in both the public and private sectors, and additionally conflict with state and local retirement statutes.

NOTE: The letter mentions that a regulatory solution was in process with the U.S. Treasury Department/Internal Revenue Service. In April 2012, the Treasury Department/IRS issued Notice 2012-29 to announce their intent to provide guidance on the applicability of Treas. Reg. section 1.401(a)-1(b) (the 2007 Normal Retirement Age regulations) to Internal Revenue Code section 414(d) governmental plans. According to the announcement posted on the IRS website at: <http://www.irs.gov/retirement/article/0,,id=256684.00.html>,

“The guidance under consideration would:

- clarify that governmental plans don’t need to have a definition of normal retirement age if they don’t provide for in-service distributions before age 62, and
- expand the age-50 safe harbor rule in the 2007 NRA regulations, which currently applies only for plans in which substantially all of the participants are qualified public safety employees, to also apply to a group substantially all of whom are qualified public safety employees (see Treas. Reg. section 1.401(a)-1(b)(2)(v)). This would mean that a governmental plan could satisfy the normal retirement age requirement by using a NRA as low as 50 for qualified public safety employees, and a later NRA that otherwise satisfies the requirements in the 2007 NRA regulations for other participants.

The notice also states the IRS and Treasury’s intention to extend the effective date of the 2007 NRA regulations for governmental plans to annuity starting dates that occur in plan years beginning on or after the later of:

- January 1, 2015, or
- the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register.

Governmental plan sponsors may rely on Notice 2012-29 for the extension until the 2007 NRA regulations are amended.”

5. NCSSSA’s Legislative Committee researched and drafted letters that were signed by Michele Briggs, NCSSSA President, which expressed concerns of the NCSSSA membership and its constituents, as follows:
 - A. Letters to Congressional leaders in both the Senate and House of Representatives expressing support for the Voluntary Medicare Tax Opt-in Provision that is being proposed (“proposal”) to allow a Voluntary Medicare Opt-in provision for state and local government (public) employees. This proposal represents the needs of our members, but more importantly, of our constituents by closing the Medicare Payroll tax gap while ensuring Medicare coverage can be obtained by those individual public employees who cannot otherwise qualify for the benefit.

As of July 2012, the opt-in proposal is being drafted into legislative language by House Legislative Counsel at the request of a member of the U.S. House of Representatives. The proposal is not likely to be raised in a serious way until late in calendar year 2012 or early 2013 when broad tax and Medicare legislation will be on the table at the Federal level.

- B. Submitted comments on the U.S. Treasury Department and Internal Revenue Service's Advance Notice of Proposed Rulemaking ("ANPRM") concerning the definition of a governmental plan. The letter (attached to this report), highlighted the following major concerns:
1. This regulation will be used as persuasive authority in other matters and contexts;
 2. It lacks sufficient deference to state and local laws;
 3. It provides for rules to change the status of an entity without due consideration of the effects to Social Security coverage of state and local governments; and
 4. It adds unnecessary complexity that impairs voluntary compliance.
6. Legislative Committee (and other NCSSSA) members continued their participation in the follow-up efforts coordinated by the U.S. Social Security Administration that were created after the "Administering Section 218 – Can We Do Better?" conference was held in Baltimore, Maryland, April 27 – 29, 2010. The most significant long-term development out of the 2010 conference was the creation, in September 2011, of the Section 218 Council. The purpose and scope of the Council is:

"The Section 218 Council ("The Council") is an informal, multi-organizational workgroup consisting of representatives from the Social Security Administration (SSA), the Internal Revenue Service (IRS), and the National Conference of State Social Security Administrators (NCSSSA).

"The Council will serve as a forum to increase communication between the federal agencies and state administrators, provide a venue in which to raise and address developing issues, and facilitate feedback regarding ongoing efforts to address State concerns. The Council will also attempt to reduce administrative burdens by fostering coordination between agencies; reinforce knowledge and understanding of Section 218 policy and mandatory regulatory provisions; and emphasize the importance of education and training for State and local government employees.

"The Council has no independent authority to establish or alter policy. Concerns raised and recommendations developed as part of the Council proceedings will be forwarded to the respective agency or the standing Section 218 Committee for further action.¹" *Source:* Section 218 Council Charter (copy included with the attachments to this report).

¹ The "Section 218 Committee" refers to the multi-agency committee created by the 2002 Memorandum of Understanding, signed by IRS and SSA.

7. The Legislative Committee drafted legislative briefing materials for the NCSSSA leadership team (President Michele Briggs, First Vice-President Angie Dowdy, and Vice-President Designate Rita Foltman). The Issues Statement was used by the leadership team during the meetings with U.S. House Ways and Means Committee staff and with representatives from several of NCSSSA's Public Pension Network partners while participating in the leadership meetings in Washington, D.C. and Baltimore in April 2012 (see attachment).

As chairperson of the Legislative Committee, I want to personally thank the other members of the Committee for their contributions and continued support of the efforts of the Committee: Dean Conder (CO), Vandee DeVore (MO), Joe Lancaster (KY), Nick Merrill (IL), and T.J. Reardon (MD). Their work and dedication to the committee was invaluable to ensuring NCSSSA members are kept informed in a timely manner of critical national level regulatory and legislative developments that are of importance to State Administrators and public employers/employees throughout the country and that NCSSSA's voice is heard at the national level on important policy issues.

Respectfully submitted,



Maryann Motza, PhD, (CO), Chairperson
NCSSSA Legislative Committee, 2011-2012

Attachments

Public Pension Network Participation by NCSSSA

**National Conference of State Legislatures
National Association of Counties
National League of Cities
United States Conference of Mayors
International City/County Management Association
Government Finance Officers Association
International Municipal Lawyers Association
National Public Employer Labor Relations Association
International Public Management Association for Human Resources
American Federation of State, County and Municipal Employees
American Federation of Teachers
National Education Association
International Association of Fire Fighters
Fraternal Order of Police
National Association of Police Organizations
National Association of State Retirement Administrators
National Council on Teacher Retirement
National Association of Government Defined Contribution Administrators
National Conference on Public Employee Retirement Systems
National Conference of State Social Security Administrators
AARP**

October 14, 2011

Director of Research and Technical Activities
Governmental Accounting Standards Board
Project No. 34
Via email: director@gasb.org

On behalf of the above-named organizations, we are responding to the Governmental Accounting Standards Board's Exposure Draft (ED) on revisions to GASB Statements 25 and 27, providing standards for accounting and reporting on the pension benefits that governments provide to their employees. Our organizations represent a wide range of users of governmental and retirement system financial reports, including state, county and local governments, policymakers, elected and appointed officials, public employee unions and retirees, public pension trustees, and other governing or sponsoring bodies of governmental pension plans. While many of us will be submitting comments separately, we wish to collectively relay our continued support for transparent and useful financial reporting standards that account for the specific nature and needs of governmental jurisdictions and their stakeholders and changes that further promote this objective.

Given the significant departure the EDs make from existing governmental pension accounting standards, we strongly urge GASB to be even more deliberative in reviewing and implementing the proposed changes than they have been in preparing them. While we are pleased GASB is field testing the new standards, we are concerned that the timeline may be too compressed to properly assess the impact on all of the stakeholders or to provide adequate time to receive feedback and to evaluate the costs and benefits of all aspects of the proposed rules. This will be critical not only in determining needed final revisions, but also the necessary education and transition time for implementation.

GASB should continue to include the annual required contribution as an integral and essential part of its pension accounting and reporting standards. GASB's proposed changes would significantly alter the way state and local governments account for pension benefits. In particular, governments would be required to put the net pension liability on their balance sheets rather than the existing practice of reporting their payment of the annual required contribution. While GASB has continued to recognize the long-term nature of governments and their obligations in a number of respects, the Board's decision to separate pension accounting from long-term funding costs represents a radical departure from long-held practice.

This departure will create much confusion in that the numbers used for accounting purposes would no longer be the same as what is used for pension funding and governmental budgeting purposes. Even though the proposed accounting numbers should not be interpreted as reflecting the funded status or required contributions to the retirement system, there already has been serious misunderstanding in this area. Furthermore, for the numerous retirement systems that share costs across multiple jurisdictions, as proposed, the EDs could result in an assignment of liabilities to jurisdictions that are in direct conflict with how they are allocated under their state statutes and trust law.

However, if GASB is going to move forward on separating governmental pension accounting from funding, it should, at a minimum, clearly and specifically articulate in the final rules that new accounting measures are not based on, and should not be used for, governmental pension funding or budgeting. Furthermore, we again urge GASB to allow time for sponsoring governments to fully understand this departure and recognize the impacts of the proposal before the rules are finalized and implemented.

Thank you for the opportunity to offer our views as you move forward with this important project.

National Conference of State Legislatures (Michael Bird, 202-624-5400)

National Association of Counties (Deseree Gardner 202-942-4204)

National League of Cities (Neil Bomberg, 202-626-3000)

United States Conference of Mayors (Larry Jones, 202-861-6709)

International City/County Management Association (Elizabeth Kellar, 202-962-3611)

Government Finance Officers Association (Barrie Tabin Berger, 202-393-8020)

International Municipal Lawyers Association (Chuck Thompson 202-742- 1016)

International Public Management Association for Human Resources (Tina Chiappetta, 703-549-7100 x244)

National Public Employer Labor Relations Association (Christi Layman, 703-533-1019)

American Federation of State, County and Municipal Employees (Steve Kreisberg, 202-429-1000)

American Federation of Teachers (Bill Cunningham, 202-393-6301)

National Education Association (Al Campos, 202-822-7345)

Fraternal Order of Police (Breanna Bock-Nielsen, 202-547-8189)

International Association of Fire Fighters (Jim Cho, 202-737-8484)

National Association of Police Organizations (Bill Johnson, 703-549-0775)

National Association of State Retirement Administrators (Jeannine Markoe Raymond, 202-624-1417)

National Conference on Public Employee Retirement Systems (Hank Kim, 202-624-1456)

National Council on Teacher Retirement (Leigh Snell, 540-333-1015)

National Association of Government Defined Contribution Administrators (Susan White, 703-683-2573)

National Conference of State Social Security Administrators (Maryann Motza, 303-318-8061)

AARP (Gerri Madrid-Davis, 202-434-3797)

Maryann Motza

From: Jeannine Markoe-Raymond [jeannine@nasra.org]
Sent: Monday, October 17, 2011 4:02 PM
To: ekellar@ICMA.org; michael.bird@ncsl.org; spattison@nasbo.org; Parkhurst, David; ljones@usmayors.org; Neil Bomberg; Barrie Tabin Berger; Cornelia Chebinou; Tina Chiappetta; bcunning@aft.org; 'bkasinitz@iaff.org'; Jim Cho (jcho@iaff.org); Ed Jayne; 'acampos@nea.org'; Saralee Todd (saralee.todd@seiu.org); Timothy M. Richardson (trichardson@fop.net); Susan J. White; Dann, Dara; Noel, Diana H; Gerri Madrid-Davis (gmadrid@aarp.org); Kevin Johnson; 'bjohnson@napo.org'; Isnell@nctr.org; 'Deseree Gardner'; Anthony J. Roda (ajroda@wms-jen.com); Maryann Motza; Christi Layman; Keith Brainard; Kim, Hank
Subject: Final Letter and P&I Article
Attachments: National Public Organization Letter on GASB ED 10-14-2011[1] copy.pdf

Attached is the final letter that went to GASB on Friday and below is an article that appeared in Pensions & Investments Daily this afternoon. Thanks for everyone's contributions!

Groups urge GASB to slow down

By Hazel Bradford <<http://www.pionline.com/staff/hbradford>>

Published: October 17, 2011

Public pension plan and government employee groups worried about sweeping new accounting rules for public pension plans proposed by the GASB are asking for more time.

In an Oct. 14 letter to the Governmental Accounting Standards Board, 21 organizations — including AARP, the National Conference of State Legislatures and multiple public employer groups — expressed their concern that GASB's timeline for finalizing its proposal "may be too compressed to properly assess the impact" of the proposed changes and the transition time needed for the new rules.

The GASB first proposed the changes July 8 in two exposure drafts — one for government employers and one for public pension plans — that were designed to bring what GASB Chairman Robert H. Attmore called "more robust disclosure." The GASB planned to finalize the proposals by next summer, after public hearings and field studies.

One of the biggest proposed changes would have plans highlight their net pension liability on their balance sheets, instead of in the footnotes. That is "a radical departure" from the current practice of reporting annual required contributions, the groups wrote in their letter. "This departure will create much confusion." While the proposed accounting numbers should not be used to evaluate the funded status or required contributions, "there already has been serious misunderstanding in this area," and the GASB should at least consider adding a warning in the

final rules, the groups argued.

Recognizing the significant financial reporting issues involved, the GASB on Sept. 23 extended its comment period and field studies timeline by two weeks. At that time, GASB spokeswoman Christine Klimek promised further outreach: "The comment period is not the end of the process," she said.

In a separate letter also sent Oct. 14, 131 representatives of public pension plans in 37 states wrote to express concern about the overall proposed rules. "Everybody is interested in transparency, but the widespread concern is implementation. Employers who have to do this have not gotten engaged to understand what's coming," a source familiar with the GASB rulemaking process said.

GASB officials were not available to comment on the Oct. 14 letters.

National Governors Association (NGA)
National Conference of State Legislatures (NCSL)
The Council of State Governments (CSG)
National Association of Counties (NACo)
National League of Cities (NLC)
The United States Conference of Mayors (USCM)
International City/County Management Association (ICMA)
Government Finance Officers Association (GFOA)
National Association of State Auditors, Comptrollers and Treasurers (NASACT)
National Association of State Budget Officers (NASBO)
National Association of State Chief Information Officers (NASCIO)
National Association of State Procurement Officials (NASPO)
National Association of State Retirement Administrators (NASRA)
National Conference of State Social Security Administrators (NCSSSA)
National Council on Teacher Retirement (NCTR)

November , 2011

The Honorable
The United States House of Representatives
Washington, DC 20515

Dear Representative :

We are writing on behalf of the state and local government organizations above to request your immediate support for H.R. 674 as amended. H.R. 674 repeals Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222), which requires federal, state, and local governments to withhold three percent on payments made for most goods and services.

Repeal of Section 511 enjoys strong bipartisan support, with 405 members of the House voting in favor of repeal on October 27. The Administration also expressed its support for repeal in a statement of Administration policy issued on October 25.

On November 10, the Senate amended and passed H.R. 674 by a vote of 95-0. The amended legislation not only repeals the onerous withholding requirement but also addresses tax delinquency by calling for a Treasury study on the matter and strengthening the federal levy program to clarify congressional intent that payments for property can be levied along with payments for goods and services. State and local governments support the amended legislation aimed at addressing tax non-compliance.

Please vote in favor of H.R. 674 as amended. Immediate action to repeal this onerous requirement is of the utmost importance to state and local governments, as the sophistication of systems necessary to capture and report the required data vary greatly between governments, and those entities simply do not have the resources, capacity or staff to undertake the required withholding and remittance. The goal of our tens of thousands of members representing state and local governments is, and needs to remain, focusing on the very important task of delivering vital

public services. If Section 511 is not repealed, state and local governments will be forced to start spending scarce resources now in order to comply with a January 2013 deadline.

Should you have questions, or if we can be of assistance in any way, please contact our representatives in Washington.

David Quam, NGA, (202) 624- 5300
Michael Bird, NCSL, (202) 624-8686
Chris Whatley, CSG, (202) 624-5460
Michael Belarmino, NACo, (202) 942-4254
Lars Etzkorn, NLC, (202) 626-3173
Larry Jones, USCM, (202) 861-6709
Elizabeth Kellar, ICMA, (202) 962-3611
Susan Gaffney, GFOA, (202) 393-8020
Cornelia Chebinou, NASACT, (202) 624-5451
Brian Sigritz, NASBO, (202) 624-8439
Pam Walker, NASCIO, (202) 624-8477
Jack Gallt, NASPO, (859) 514-9159
Jeannine Markoe Raymond, NASRA, (202) 624-1417
Michele Briggs, NCSSSA, 602-240-2022
Leigh Snell, NCTR, (540) 333-1015

Maryann Motza

From: Chebinou, Cornelia [cchebinou@nasact.org]
Sent: Friday, November 11, 2011 12:20 PM
To: Gaffney, Susan; mbelarmino@naco.org; ekellar@icma.org; 'Michael Bird'; Pattison, Scott; Ben Husch; Quam, David; Dparkhurst@Nga.org; Isnell@nctr.org; Maryann Motza; ljones@usmayors.org; Chris Whatley; Jack Gallt; jeannine@nasra.org; Pam Walker; Lars Etzkorn
Cc: Poynter, Kinney
Subject: One Last Letter -3%
Follow Up Flag: Follow up
Due By: Monday, November 14, 2011 1:00 PM
Flag Status: Red
Attachments: letter_to_House_-final_repeal[1][1].docx

As you already have heard, the Senate approved an amended version of HR 674 on Thursday afternoon. The bill now goes back to the House for a vote. We have been working with Ways and Means staff who suggest that our letter address the provision that was added in the Senate to require a study and bolster the federal levy process to include property. The attached letter is very brief and similar to past correspondence however does include language regarding the amendment as suggested by staff (see paragraph 3). As you may be aware from recent coalition correspondence, the bill could be voted as early as Tuesday but more likely will be taken up Wednesday. I would appreciate if you could let me know if you do not wish to remain on the letter as soon as possible but no later than 2:00 pm on Monday. Thanks, looking forward to popping the champagne soon!. -C

7/6/2012

Maryann Motza

From: Isnell@nctr.org
Sent: Wednesday, November 16, 2011 7:43 PM
To: 'Chebinou Cornelia'; 'NSAA Auditors'; 'NSAA Auditors CCs'; 'NASC Comptrollers'; 'NASC Comptrollers CCs'; 'State Treasurers'; 'State Treasurers CCs'
Cc: 'Poynter Kinney'; 'Lawniczak Jonathan'; 'Gaffney Susan'; 'David Parkhurst'; 'Michael Bird'; 'Quam David'; 'elizabeth kellar'; 'Leigh Snell'; 'jeannine@nasra.org'; 'mbelarmino@naco.org'; 'Larry Jones'; Maryann Motza; 'lars etzkorn'; 'Jack Gallt'; 'Hutchko Neal'; 'Rowland Sherri'; 'O'Ryan Kim'; 'Johnson Glenda'; 'chris whatley'; 'Johnson Keith'
Subject: Re: Fwd: 3% Passes

Congratulations to all of you who worked so diligently on this issue. NASACT and Cornelia did a great job.

Finally, some good news for a change!

Leigh

----- Original Message -----

From:

"Chebinou Cornelia" <cchebinou@nasact.org>

To:

"NSAA Auditors" <NSAAAuditors@nasact.org>, "NSAA Auditors CCs" <NSAAAuditorsCCs@nasact.org>, "NASC Comptrollers" <NASCComptrollers@nasact.org>, "NASC Comptrollers CCs" <NASCComptrollersCCs@nasact.org>, "State Treasurers" <StateTreasurers@nasact.org>, "State Treasurers CCs" <StateTreasurersCCs@nasact.org>

Cc:

"Poynter Kinney" <kpoynter@nasact.org>, "Lawniczak Jonathan" <jlawniczak@csg.org>, "Gaffney Susan" <sgaffney@gfoa.org>, "David Parkhurst" <dparkhurst@NGA.ORG>, "Michael Bird" <michael.bird@ncsl.org>, "Quam David" <dquam@nga.org>, "elizabeth kellar" <ekellar@icma.org>, "Leigh Snell" <lsnell@nctr.org>, "jeannine@nasraorg" <jeannine@nasra.org>, "mbelarmino@naco.org" <mbelarmino@naco.org>, "Larry Jones" <ljones@usmayors.org>, "Maryann Motza" <Maryann.Motza@state.co.us>, "lars etzkorn" <etzkorn@nlc.org>, "Jack Gallt" <jgallt@amrms.com>, "Hutchko Neal" <nhutchko@nasact.org>, "Rowland Sherri" <srowland@nasact.org>, "O'Ryan Kim" <koryan@nasact.org>, "Johnson Glenda" <gjohnson@nasact.org>, "chris whatley" <cwhatley@csg.org>, "Johnson Keith" <keith.xjohnson@oracle.com>

Sent:

Wed, 16 Nov 2011 18:04:39 -0500

Subject:

Fwd: 3% Passes

Good Evening: It is with great pleasure that I inform you that early this

7/6/2012

evening the US House of Representatives **passed HR 674 to repeal the 3% withholding requirement.** This action is the final step in the long journey to repeal this onerous provision as the legislation now proceeds to President Obama who has indicated that he will sign the bill into law. **Congratulations to all NASACT members** who worked diligently to have the provision repealed.

As you recall, the 3% withholding requirement was passed in 2006 as part of the “Tax Increase Prevention and Reconciliation Act” and was purported to raise approximately 7 billion dollars (the original estimate in 2006) in revenue by requiring governments to withhold 3% on certain payments to persons providing property or services. In addition to being a revenue raiser, the provision was established as an attempt to address misreporting by certain government vendors.

While well intended, the provision was added with little knowledge during conference negotiations without the benefit of informed discussion and debate. As a result, the implementation burdens and administrative costs for Federal, state and local governments would far exceed the anticipated revenue the provision was estimated to recover. The provision would also have penalized tax compliant contractors and had a detrimental impact on small business.

Congratulations, we will be back in touch once the President has signed the bill!

Cornelia Chebinou, Washington Director

NASACT

444 North Capitol Street, Suite 234

Washington, DC 20001

202-624-5451

202-624-5472 (Fax)

www.nasact.org

Maryann Motza

From: DeVore, Vandee [Vandee.DeVore@oa.mo.gov]
Sent: Monday, November 21, 2011 10:40 AM
To: Dean Conder; Maryann Motza; 'Nick.Merrill@SRS.ILLINOIS.GOV'; 'joe.lancaster@ky.gov'; 'tjreardon@dbm.state.md.us'
Cc: 'micheleb@azasrs.gov'; 'Angie.Dowdy@LA.GOV'; 'rfoltman@sco.idaho.gov'
Subject: Fw: President Signs 3% Withholding

Vandee DeVore

From: Chebinou, Cornelia [mailto:cchebinou@nasact.org]
Sent: Monday, November 21, 2011 11:34 AM
To: NSAA Auditors <NSAAAuditors@nasact.org>; NASC Comptrollers <NASCComptrollers@nasact.org>; NASC Comptrollers CCs <NASCComptrollersCCs@nasact.org>; State Treasurers <StateTreasurers@nasact.org>
Cc: Poynter, Kinney <kpoynter@nasact.org>; Johnson, Glenda <gjohnson@nasact.org>; Hutchko, Neal <nhutchko@nasact.org>; NSAA Auditors CCs <NSAAAuditorsCCs@nasact.org>; State Treasurers CCs <StateTreasurersCCs@nasact.org>
Subject: President Signs 3% Withholding

Good afternoon: As you may already be aware, President Obama signed HR 674 repealing the 3% withholding requirement into law this morning.
Thank you to everyone who helped make 3% repeal a reality. I sincerely appreciate all the efforts of the membership over the last 6 years. Thank you. –Cornelia



Maryann Motza

From: Angie Dowdy [Angie.Dowdy@LA.GOV]
Sent: Friday, January 13, 2012 6:46 AM
To: 'Maryann Motza'; Michele Briggs
Cc: Maryann Motza
Subject: RE: Normal Retirement Age (Service-Based Retirements) Letter to Rep. Kind
Attachments: H.R. 3561 referenced in Kind letter.docx

Hi Maryann,

I know it's after the fact but I approve NCSSSA being added in support of this letter. In Section 7(f)(3)(B) RULES it states:

Not later than 180 after the date of the enactment of this Act, the Secretary of the Treasury shall modify the rules for determining normal retirement age under sections 401(a) and 411 of the Internal Revenue Code of 1986, including Treasury Regulation 1.401(a)-1, to be consistent with the amendment made by this paragraph.

I'm sure this means days, correct, just an oversight? I know this isn't final legislation, just making sure.

From: Maryann Motza [mailto:mmotza@msn.com]
Sent: Thursday, January 12, 2012 11:10 PM
To: Michele Briggs; Angie Dowdy
Cc: Maryann Motza
Subject: FW: Normal Retirement Age (Service-Based Retirements) Letter to Rep. Kind

Michele & Angie,

This letter came to my attention when I was attending the GFOA meeting in Washington, D.C. earlier this week. I couldn't forward it to you until now because of travel back to Denver and doctor appointments today.

Maryann

*Maryann Motza, PhD
 State Social Security Administrator
 Public Employees' Social Security Program
 Colorado Department of Labor & Employment
 633 17th Street, Suite 700
 Denver, CO 80202-3660
 Work Telephone: (303) 318-8061
 Work FAX: (303) 318-8069
 Work E-mail: maryann.motza@state.co.us
 Home E-mail: MMotza@msn.com
 Home Phone: 303-751-2346*

Subject: FW: Normal Retirement Age (Service-Based Retirements) Letter to Rep. Kind

7/24/2012

Date: Thu, 12 Jan 2012 21:58:01 -0700
From: Maryann.Motza@state.co.us
To: mmotza@msn.com

From: Barrie Tabin Berger [mailto:btberger@gfoa.org]
Sent: Wed 1/11/2012 8:50 AM
To: Maryann Motza
Subject: FW: Normal Retirement Age (Service-Based Retirements) Letter to Rep. Kind

Hi Maryann,

I'm finally getting the chance to forward the normal retirement age letter on. I've asked Jeannine to include NCSSSA on the letter.

Talk with you soon.

Barrie

From: Jeannine Markoe-Raymond [mailto:jeannine@nasra.org]
Sent: Monday, January 09, 2012 10:40 AM
To: Alfred Campos; Anthony Roda; Barrie Berger; Bill Cunningham; Bill Johnson; Christi Layman; Cornelia Chebinou; David Parkhurst; Deseree Gardner; Diane Oakley; Don Marlais; Ed Jayne; Elizabeth Kellar; Kim, Hank; Jeff Hurley; Jim Cho; Jim Miller; John Stanton; Joshua Franzel; Larry Jones; Leigh Snell; Michael Bird; Neil Bomberg; Rachel Hedge; Saralee Todd; Scott Pattison; Tina Chiappetta; Timothy Richardson; Dara Dann; Susan White; Reginald Felton; Gerri Madrid-Davis; Barry Kasinitz; Tom Lussier; Cathie Eitelberg
Subject: Normal Retirement Age (Service-Based Retirements) Letter to Rep. Kind

Good morning, everyone. Per our discussion at the PPN meeting last Friday, attached is a joint letter to Rep. Kind thanking him for adding language to his legislation (H.R. 3561) to clarify that service-based normal retirement provisions are allowed in state and local pension statutes. As you may know, Rep. Kind was including a provision for rural electric cooperatives permitting them to allow workers to qualify for normal retirement after 30 years of service. Many felt it was important to add clarifying language for state and local plans. The letter also notes that a regulatory solution is still underway with Treasury.

Please let me know by noon tomorrow (sorry for the short turnaround, but staff has asked for this date) if you are able to sign onto the letter. Thanks!

7/24/2012

DRAFT

Dear Rep. Kind
U.S. House of Representatives
1406 Longworth House Office Building
Washington, DC 20515

Dear Congressman Kind:

The above-listed organizations, representing state and local government employers, employees, retirees, and their retirement systems, thank you for including a very important provision in legislation you recently championed, H.R. 3561, the Small Business Pension Promotion Act of 2011. The provision addresses Internal Revenue Service regulations, which if fully implemented in their current form, will have devastating impacts on the retirement benefits of long-service employees in both the public and private sectors, and additionally conflict with state and local retirement statutes.

Many members of our national workforce – including those in the U.S. military, our nation’s electric utilities, and state and local first responders and teachers – have their retirement benefits conditioned on years of service. However, a recent IRS regulation prohibited this long-standing practice in the private sector and left uncertain the status of such policies contained within state and local government retirement statutes – the IRS has yet to resolve this question, twice extending the application of the rules to governments, with the effective date currently set for January 1, 2013.

Your legislation includes a provision that would again permit private sector retirement plans to allow workers to qualify for normal retirement benefits based on years of service in addition to the attainment of a minimum age. We greatly appreciate your also adding clarifying language that state and local governments may also include service-based qualifications in their retirement statutes. For decades, nearly all state and local governments have based eligibility for retirement benefits, in whole or in part, on the completion of a stated number of years of service, and have received favorable determination letters from the IRS regarding the federal tax qualification status of their plans. We are very concerned that overturning this long-standing public policy would require state and local governments to amend their pension statutes, possibly violating contract or constitutional protections, and would prohibit many workers from receiving benefits that have been earned over decades of service.

Our representatives have been working with the IRS and other Treasury Department officials for the last several years in an effort to favorably resolve this matter, and understand they may soon be modifying the regulation. While we hope the full extent of our concerns will be addressed, nevertheless, with the pending application of the IRS regulations now less than one year away, we greatly appreciate your readying legislation to properly remedy the harmful affects of the pending regulation.

If we can be of further assistance to your efforts in this regard, please feel free to contact our representatives, listed below.



Guidance on Normal Retirement Age Rules for Governmental Plans

The IRS and Department of Treasury recently issued [Notice 2012-29](#) to announce their intent to issue guidance on the applicability of Treas. Reg. section [1.401\(a\)-1\(b\)](#) (the 2007 Normal Retirement Age regulations) to Internal Revenue Code section 414(d) governmental plans.

The guidance under consideration would:

- clarify that governmental plans don't need to have a definition of normal retirement age if they don't provide for in-service distributions before age 62, and
- expand the age-50 safe harbor rule in the 2007 NRA regulations, which currently applies only for plans in which substantially all of the participants are qualified public safety employees, to also apply to a group substantially all of whom are qualified public safety employees (see Treas. Reg. section 1.401(a)-1(b)(2)(v)). This would mean that a governmental plan could satisfy the normal retirement age requirement by using a NRA as low as 50 for qualified public safety employees, and a later NRA that otherwise satisfies the requirements in the 2007 NRA regulations for other participants.

The notice also states the IRS and Treasury's intention to extend the effective date of the 2007 NRA regulations for governmental plans to annuity starting dates that occur in plan years beginning on or after the later of:

- January 1, 2015, or
- the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register.

Governmental plan sponsors may rely on Notice 2012-29 for the extension until the 2007 NRA regulations are amended.

Page Last Reviewed or Updated: April 18, 2012

**Letters Sent to the
U.S. House of Representatives
Ways and Means Committee Chair
and to the U.S. Senate
Committee on Finance Chair
Supporting a Proposal to Permit
Voluntary Medicare Tax Opt-in for
State and Local Government
Employees**



**National Conference of
State Social Security Administrators**

February 24, 2012

Honorable Dave Camp, Chairman
Ways and Means Committee Office
1102 Longworth House Office Building
Washington D.C. 20515

RE: Voluntary Medicare Tax Opt-in for State and Local Government Employees

Dear Chairman Camp:

I write on behalf of the National Conference of State Social Security Administrators (NCSSSA) to voice our support for the Voluntary Medicare Tax Opt-in Provision that is being proposed ("proposal") to allow a Voluntary Medicare Opt-in provision for state and local government (public) employees. This proposal represents the needs of our members, but more importantly, of our constituents by closing the Medicare Payroll tax gap while ensuring Medicare coverage can be obtained by those individual public employees who cannot otherwise qualify for the benefit.

NCSSSA was established in 1952 to provide a unified state perspective at the federal level to ensure there is an ongoing mechanism for problem-solving and to maintain an open forum for the development of new policy. Since its formation in 1952, the NCSSSA has worked closely with SSA and IRS to address Social Security/Medicare coverage and employment tax issues raised by state and local governmental employers and State Social Security Administrators throughout the United States. The NCSSSA works with the federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of federal tax policy, and resolution of problems arising at the state and local levels. NCSSSA is the only professional organization for the nation's State Social Security Administrators.

The current proposal recognizes the need of many state and local government employees who desire Medicare coverage, but due to the current statutory framework, are excluded from Medicare-only coverage. This issue has a profound effect on civil servants (most notably police, firefighters, and school teachers) that is otherwise not found in any other sector of the workforce and must be addressed to avoid significant hardship as those people retire and need the Medicare coverage in the future.

The proposal addresses this issue in the most effective and pragmatic way. NCSSSA supports this proposal because it allows individual employees currently excluded from Medicare-only coverage to voluntarily opt-in via a payroll process and allows for the

same tax treatment as those who are self-employed while still ensuring they are clearly treated as employees for all other purposes. It allows maximum flexibility to state and local employers, as the proposal would require the employee to contribute both shares of the Medicare tax; thus, eliminating any potential strain to already stringent state and local government budgets. Furthermore, the proposal protects the Medicare Trust fund by providing additional revenues and does not change the eligibility requirements (number of credits) for coverage.

NCSSSA, therefore, strongly urges the passage of the Voluntary Medicare Tax Opt-in Provision for state and local government employees. Please let me know if I can be of assistance in this matter, my contact information is below.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Michelle Briggs', with a stylized flourish at the end.

Michelle Briggs, President (2011-2012)
National Conference of State Social Security Administrators
602-240-2022

cc: Ms. Angie Dowdy, NCSSSA First Vice-President
Ms. Rita Foltman, NCSSSA Vice President Designate
Dr. Maryann Motza, NCSSSA Legislative Committee Chair

February 24, 2012

Honorable Dave Camp, Chairman
Ways and Means Committee Office
1102 Longworth House Office Building
Washington D.C. 20515

RE: Voluntary Medicare Tax Opt-in for State and Local Government Employees

Dear Chairman Camp:

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NCSSSA, therefore, strongly urges the passage of the Voluntary Medicare Tax Opt-in Provision for state and local government employees. Please let me know if I can be of assistance in this matter, my contact information is below.

Sincerely yours,



Michelle Briggs, President (2011-2012)
National Conference of State Social Security Administrators
602-240-2022

cc: Ms. Angie Dowdy, NCSSSA First Vice-President
Ms. Rita Foltman, NCSSSA Vice President Designate
Dr. Maryann Motza, NCSSSA Legislative Committee Chair

February 24, 2012

Honorable Max Baucus, Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Voluntary Medicare Tax Opt-in for State and Local Government Employees

Dear Chairman Baucus:

I write on behalf of the National Conference of State Social Security Administrators (NCSSSA) to voice our support for the Voluntary Medicare Tax Opt-in Provision that is being proposed (“proposal”) to allow a Voluntary Medicare Opt-in provision for state and local government (public) employees. This proposal represents the needs of our members, but more importantly, of our constituents by closing the Medicare Payroll tax gap while ensuring Medicare coverage can be obtained by those individual public employees who cannot otherwise qualify for the benefit.

NCSSSA was established in 1952 to provide a unified state perspective at the federal level to ensure there is an ongoing mechanism for problem-solving and to maintain an open forum for the development of new policy. Since its formation in 1952, the NCSSSA has worked closely with SSA and IRS to address Social Security/Medicare coverage and employment tax issues raised by state and local governmental employers and State Social Security Administrators throughout the United States. The NCSSSA works with the federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of federal tax policy, and resolution of problems arising at the state and local levels. NCSSSA is the only professional organization for the nation’s State Social Security Administrators.

The current proposal recognizes the need of many state and local government employees who desire Medicare coverage, but due to the current statutory framework, are excluded from Medicare-only coverage. This issue has a profound effect on civil servants (most notably police, firefighters, and school teachers) that is otherwise not found in any other sector of the workforce and must be addressed to avoid significant hardship as those people retire and need the Medicare coverage in the future.

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Medicare-only coverage to voluntarily opt-in via a payroll process and allows for the same tax treatment as those who are self-employed while still ensuring they are clearly treated as employees for all other purposes. It allows maximum flexibility to state and local employers, as the proposal would require the employee to contribute both shares of the Medicare tax; thus, eliminating any potential strain to already stringent state and local government budgets. Furthermore, the proposal protects the Medicare Trust fund by providing additional revenues and does not change the eligibility requirements (number of credits) for coverage.

NCSSSA, therefore, strongly urges the passage of the Voluntary Medicare Tax Opt-in Provision for state and local government employees. Please let me know if I can be of assistance in this matter, my contact information is below.

Sincerely yours,



Michelle Briggs, President (2011-2012)
National Conference of State Social Security Administrators
602-240-2022

cc: Ms. Angie Dowdy, NCSSSA First Vice-President
Ms. Rita Foltman, NCSSSA Vice President Designate
Dr. Maryann Motza, NCSSSA Legislative Committee Chair

**Letter Sent to the Internal
Revenue Service Commenting on
the Advance Notice of Proposed
Rulemaking Concerning the
Definition of a Governmental Plan**

June 1, 2012

CC:PA:LPD:PR (REG-157714-06)
Courier's Desk
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Ladies and Gentlemen:

Thank you for giving us the opportunity to comment on your Advance Notice of Proposed Rulemaking ("ANPRM") concerning the definition of a governmental plan. As current President of the National Conference of State Social Security Administrators (NCSSSA), I want to express our organization and membership's appreciation for the deliberative approach the Internal Revenue Service ("IRS") and Department of Treasury have taken on this critical issue.

To provide you with the context for our comments, I thought some background information about NCSSSA might be beneficial. The NCSSSA was established in 1952 to provide a unified state perspective at the federal level to ensure there is an ongoing mechanism for problem-solving and to maintain an open forum for the development of new policy. Since its formation in 1952, the NCSSSA has worked closely with the U.S. Social Security Administration (SSA) and the Internal Revenue Service (IRS) to address Social Security/Medicare coverage and employment tax issues raised by state and local governmental employers and State Social Security Administrators throughout the United States. The NCSSSA works with the federal officials to ensure legislative and regulatory changes address state and local concerns. The NCSSSA provides leadership to state and local governments through accurate interpretation of federal laws and regulations, communication of federal tax policy, and resolution of problems arising at the state and local levels. Thus, based on our organization's knowledge and experience in this area, NCSSSA offers the following comments about the ANPRM:

Concerns:

NCSSSA members have carefully considered the draft regulation contained in the ANPRM, and we wish to comment on the following specific issues: (1) that this regulation will be used as persuasive authority in other matters and contexts; (2) that it lacks sufficient deference to state and local laws; (3) it provides for rules to change the status of an entity without due consideration of the effects to Social Security coverage of

state and local governments; and (4) adds unnecessary complexity that impairs voluntary compliance.

1. While we recognize the efforts to constrain this regulation to its intended purpose, i.e., defining the term “governmental plan” for the purposes of Internal Revenue Code (IRC) §414(d), we are concerned that, while not controlling authority in other matters and contexts, it will become persuasive authority for purposes of Section 218 of the Social Security Act (codified at 42 U.S.C. 418).
2. The NCSSEA is concerned that the proposed regulation fails to account for the different definitions of “political subdivision” each individual state has used (as is authorized by Section 218 and, indeed, mandated by the 10th Amendment to the U.S. Constitution) in entering into voluntary Social Security / Medicare agreements with the federal government. All 52 States (Puerto Rico and the Virgin Islands are considered states for §218 purposes – a distinction lacking in the proposed regulation) have established their specific definitions of political subdivisions. For example, for Section 218 purposes, the State of Missouri considers school districts to be political subdivisions of the state; while the State of Colorado specifically excludes school districts from the definition of political subdivision.
3. Likewise, we are concerned that the provision of the proposed regulation that allows for rules to change the status of an entity may have dramatic effects upon the Social Security/ Medicare coverage of employees of state and local governments. Absent tailoring the rules very narrowly, changing the status of entities from governmental to private will invariably cause employees (some close to retirement) to lose benefits (whether pension or Social Security) that they have used to plan their post-employment life. Further, changing the status of existing entities will cause great confusion among employers, employees, and the legal and financial advisors of public employers and pension systems...
4. Lastly, the NCSSEA cautions against the implementation of the aspects of the proposed regulation with which we are concerned as it adds unnecessary complexity that impairs voluntary compliance. Even with safe harbor provisions (which we support – see our Recommendations, below, if the Treasury Department and IRS feel compelled to retain the provisions that concern our members), adding more regulation and associated administrative rules and interpretations impairs an entity’s ability to voluntarily comply with an already complex set of laws at both the federal and state levels of government.

Recommendations:

Given the NCSSEA’s concerns above, we wish to make the following recommendations:

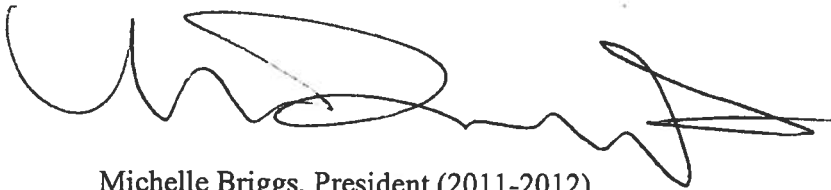
1. To avoid our concerns of differing state laws and definitions and the proposed rule becoming persuasive authority, we strongly encourage the inclusion of safe

harbor provisions that allow greater deference to state and local law and greatly curtail its use in areas of state and local government Social Security / Medicare coverage. Such safe harbor provisions need to grant primacy to Section 218 of the Social Security Act.

2. We encourage the use of closing agreements to minimize the effects of changing an entity's status that would set forth the status of a particular entity. When an entity's status is changed, the closing agreement should grant "grandfather" treatment as to the entity's prior status.
3. The NCSSSA also strongly encourages the Employee Plan Section of the Tax Exempt and Government Entities Division of the IRS to use the State Social Security Administrators in each state as a resource in all their interactions with state and local governments. The State Administrators (and their files) contain a wealth of information addressing issues like "juristic entity" and "body politic." Consulting with the State Administrators can help ameliorate the negative impacts to state and local government Social Security coverage, noted above in our list of concerns.

Thank you for the opportunity to comment on the ANPRM. We would be happy to respond to any questions. My contact information is listed below.

Sincerely yours,



Michelle Briggs, President (2011-2012)
National Conference of State Social Security Administrators
602-240-2022

cc: Ms. Angie Dowdy, NCSSSA First Vice-President
Ms. Rita Foltman, NCSSSA Vice President Designate
Dr. Maryann Motza, NCSSSA Immediate Past President

Charter of the Section 218 Council

Section 218 Council Charter

I. Purpose and Scope

The Section 218 Council (“The Council”) is an informal, multi-organizational workgroup consisting of representatives from the Social Security Administration (SSA), the Internal Revenue Service (IRS), and the National Conference of State Social Security Administrators (NCSSSA).

The Council will serve as a forum to increase communication between the federal agencies and state administrators, provide a venue in which to raise and address developing issues, and facilitate feedback regarding ongoing efforts to address State concerns. The Council will also attempt to reduce administrative burdens by fostering coordination between agencies; reinforce knowledge and understanding of Section 218 policy and mandatory regulatory provisions; and emphasize the importance of education and training for State and local government employees.

The Council has no independent authority to establish or alter policy. Concerns raised and recommendations developed as part of the Council proceedings will be forwarded to the respective agency or the standing Section 218 Committee for further action.¹

II. Membership

The Council will be comprised of representatives from SSA, IRS and NCSSSA. SSA will be represented by members of Office of Income Security Programs (OISP), Office of Public Service and Operations Support (OPSOS), and the Office of the General Counsel (OGC) - HQ. IRS will be represented by the Director of Federal, State, and Local Governments (FSLG) and Field Operations Manager. NCSSSA will be represented by two members appointed by the current President.

If IRS or SSA rules of disclosure prevent the involvement of non-Federal partners, the IRS and SSA members may meet without the NCSSSA representatives.

When necessary, the composition of the Council may broaden to include pertinent regional specialists and the respective State Social Security Administrator (SSSA).

III. Council Activities

The Council may take any action necessary to carrying out its stated purpose upon a majority vote by its members, provided such action does not exceed the scope or limited authority of the Council.

¹ The “Section 218 Committee” refers to the multi-agency committee created by the 2002 Memorandum of Understanding, signed by IRS and SSA.

IV. Meeting Frequency

The Council will meet quarterly.

Should the need arise, the Council may meet more frequently upon agreement by its members.

V. Charter Review

The charter may be amended by a majority vote of the Council members.

Amendments may not enlarge the scope of Council beyond its limited authority.

VI. Working Committees

The Council will form working committees from time to time, as needed, in furtherance of its purpose and objectives.

**Issues Statement Prepared for the
NCSSSA Leadership Team to
Present to Congressional Staff**

ISSUES STATEMENT

Background on NCSSSA

The National Conference of State Social Security Administrators (NCSSSA) was founded in 1952, after the U.S. Social Security Act was amended by Congress to include Section 218 in 1950. The NCSSSA was established to provide a unified state perspective at the federal level, an on-going medium for problem solving, and an open forum for the development of new policy with the federal government. Since its inception, the NCSSSA has provided an effective network of communication for federal, state, and local governments concerning Social Security coverage and federal employment tax policy.

Section 218 allowed states the option of voluntarily providing Social Security coverage for state and local government employees. The responsibility for administering the Social Security program for state and local government (public) employees varies depending on each state's enabling legislation.

Issues of Concern to NCSSSA

The following issues are of most concern to NCSSSA. For further information on any or all of these issues, please contact either Maryann Motza (NCSSSA President) or Michele Briggs (NCSSSA First Vice-President) (contact information is listed at the end of this statement):

1. **We have two proposals that would change state and local governments' FICA requirements which would increase revenue into both the Social Security Trust Fund and the Medicare Trust Fund and assist in reducing the tax gap:**
 - A. Specifically name the State Social Security Administrator position as an authorized recipient of tax information from the IRS under Internal Revenue Code (IRC) §6103. The restriction on open communication with State Administrators places IRS Federal State Local Government Specialists (FSLG) at a disadvantage, since specific coverage issues on individual government entities cannot be requested. Historically, requests by State Social Security Administrators to receive such information have been rebuffed by the IRS and Treasury Counsel, due to their interpretation of §6103. The IRS FSLG specialist has insufficient information and knowledge to accurately perform compliance reviews and/or examinations of state and local government employers. By specifically naming State Administrators in IRC §6103, we can assist the IRS FSLG specialists in understanding the coverage requirements of public employers and employees, thus ensuring accurate assessment of employment taxes by the IRS. We can also intervene and educate our state and local government employers about audit problems other entities (which would not be named by the Administrator during education sessions) have encountered. Such interventions will allow State Administrators nationwide to focus our limited resources on education, which will increase voluntary compliance among state and local governments with the FICA tax laws, thereby, relieving the IRS and SSA of this burden.
NOTE: This request is formally described in the letter, dated February 9, 2011, addressed to Chairman Dave Camp, a copy of which is being provided with this Issue Statement.
 - B. Eliminate the need for State Social Security Administrators throughout the United States to conduct Medicare-only referenda under 42 U.S.C. §418(n) for Medicare Exempt Government Employees (i.e., those hired on or before March 31, 1986, who have been in continuous employment with a government employer) to be covered by Medicare. The proposed statutory change would add a minimum of \$1 billion of revenue to the Medicare Trust Fund, but still preserve states' rights granted by the 10th amendment.
NOTE: NCSSSA is currently working with the Social Security Administration (SSA) and the Centers for Medicare and Medicaid Services (CMS) on preparing a legislative package for submission to Congress related to this proposal.
2. **Mandatory (or universal) Social Security.** As NCSSSA has indicated in the past¹, our organization strongly opposes universal or mandatory Social Security coverage for state and local government employees for several reasons:

¹ Previous NCSSSA position papers on this topic (available upon request), i.e., (1) Statement submitted by Steve Lortz, NCSSSA President, for the printed record of the hearing on restoring the long-term solvency of Social Security conducted by the House Ways and Means Committee's Subcommittee on Social Security, September 27, 1994; and (2) Position Paper entitled "Mandatory Social Security Coverage for all State and Local Government Employees", dated March 16, 1999, sent to House Ways and Means Committee Chairman Archer (TX) and Senate Finance Chair Senator Roth (DE), and a House Budget Committee member (Representative Clement, TN), on March 16, 1999.

- The principal reason is simple: the powers reserved to the states and to the people by the 10th Amendment to the U.S. Constitution and the associated restriction on imposing a tax on the states or their political subdivisions.
- The Omnibus Budget Reconciliation Act (OBRA) of 1990 required Social Security coverage for any employee not covered by a voluntary Section 218 Social Security Agreement or a public pension plan. Thus, basic protections are already ensured for all public sector employees, thereby precluding the need for Congress to mandate full Social Security coverage to protect workers.
- Another important consideration is the negative financial implications for state and local governments, their entire state economies, and even the national economy of the United States if the 2,659 public retirement systems in the nation² are decimated because Social Security is mandated for all public employees. Most public pension plans currently involve combined employee and employer contributions of 21 percent of payroll³. If Congress mandates full Social Security for all state and local government employees, it would be financially impossible for the vast majority of state and local governments and their employees to continue contributing to the public retirement systems at the current contribution level while also having to contribute an additional 12.4 percent of payroll to Social Security.

The implications of such a Congressional mandate would be devastating not only to the beneficiaries of those pension systems, but also to the very economy of our country itself. Further details are available upon request.

3. **Public Pension Systems.** To paraphrase Mark Twain, "The death of public pension plans has been greatly exaggerated." That aptly summarizes the state and local (public) pension plans in the nation, which are actually significant economic engines for the total economy. The vast majority of public pension plans are financially sound and are well-managed. State and local government pension plans do not want, nor need, Federal financial assistance. Indeed, the majority of the public pension plans are in far better financial shape than are either the Social Security or Medicare Trust Funds. NCSSSA fully supports the press statement and fact sheet (copies of both are attached, for ease of reference) that was recently issued by ten major national, state, and local government organizations, correcting the misinformation that has been distributed by supporters of defined contribution plans and some media outlets.
4. **NCSSSA is concerned about Section 511 of the 2005 Tax Increase Prevention and Reconciliation Act – P.L. 109-222 (TIPRA)**, which requires governments that spend more than \$100 million per year on goods and services to withhold 3 percent of the payments made to vendors and contractors, and remit that 3 percent to the federal government. The withholding requirement is set to begin January 1, 2012. We support H.R. 275 and S. 292 which would repeal section 511 of TIPRA.

In particular, we are concerned about the estimated costs to states and local governments for administering this provision which, according to the CBO, could be approximately \$62 million per year. We are further concerned that vendors will increase their costs by three percent, which will be a cost burden to state and local governments during a time of decreased revenue, not to mention the increased tax burden on the public if the governments are forced to pass along those costs to taxpayers.

For further information, please contact:

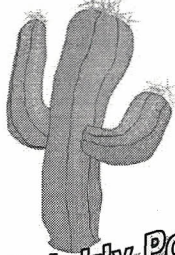
Maryann Motza, PhD
 NCSSSA President (2010-2011)
 Colorado State Social Security Administrator
 Telephone: (303) 318-8061
 E-mail: maryann.motza@state.co.us

Michele Briggs
 NCSSSA First Vice-President and Program Committee Chair (2010-2011)
 Arizona State Social Security Administrator
 Telephone: (602) 240-2022
 E-mail: micheleb@asrs.state.az.us

² U.S. Department of Commerce. U.S. Census Bureau. Governments Division. Table 5b. Coefficient of Variation for Number and Membership of State and Local Government Employee-Retirement Systems by State: Fiscal Year 2003-04. Created: September 28 2005, and last revised: September 28 2005.

³ Testimony provided by Ms. Priya Sara Mathur, elected member of the Board of Administration of the California Public Employees' Retirement System (CalPERS) before the Subcommittee on Social Security, Pensions and Family Policy, U.S. Senate Committee on Finance, on November 6, 2007, p. 2.

2012
NCSSSA



The Prickly Points
of 218 Coverage

National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Membership Committee

Chair

Rita Foltman, Idaho

Members

Kevin Mack, New York
Richard Beckstead, Utah
R.J. Reardon, Maryland
Barbara Taylor, Mississippi

Matt Stohr, Wisconsin
Vandee Devore, Missouri
Kim Smith, Washington

The Chair of the Membership Committee solicited comments from the members regarding the mission of the Committee.

The following suggestions were submitted:

PURPOSE:

Evaluate the merits of broadening participation in the NCSSSA. Develop on-going strategies to maximize Conference participation and networking via other, national organizations.

RESPONSIBILITIES:

1. Review current membership criterion and outlook of sustaining the current membership. Assess those factors that both contribute and deter from, participation by all 50 states, Puerto Rico and the Virgin Islands.

Continue with target-specific initial contact – such as the city/county clerks. States often receive most of the Social Security coverage inquiries from municipalities and counties followed by the remaining political subdivisions such as local districts (conservation, water, irrigation, cemetery), planning and development, and hospitals.

On-site training for new administrators has been effective and beneficial to all members of NCSSSA. As a continuation of the new administrator training, members of the Committee could visit non-member/dormant states in the proximity and invite them to join the training sessions. As budget allows, NCSSSA members could conduct site visits to non-member/dormant State Social Security

Administrators to determine the reason for the inactive status and to provide guidance on the importance of becoming active and complying with federal and state laws.

Track turnover after elections in non-member/dormant states. Newly elected governors and appointees may be receptive to NCSSSA contact and Social Security coverage issues.

Institute quarterly conference calls for general questions and answers on a pre-determined topic. New/non-member/dormant Administrators could be invited to participate as an introduction to the Section 218 requirements and responsibilities.

2. Evaluate the merits of extending membership to other professional and governmental organizations (GFOA, NTRS, NTaT, etc.). Identify the pros and cons of such action and propose committee recommendation(s).

The Committee recommends reviewing a partnership with the National Governor's Association.

The NGA Office of Federal Relations mission is to ensure that governors' views are represented in the shaping of federal policy. NGA policy positions, reflecting governors' principles on priority issues, guide the association's efforts to influence federal laws and regulations affecting states.

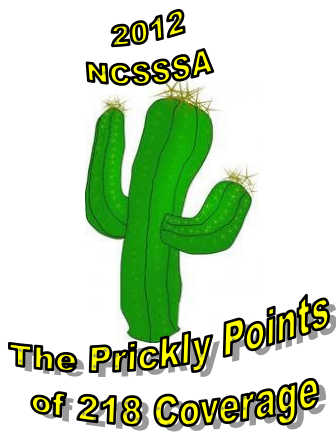
As Universal Social Security coverage has entered into the public thinking, it is critical that the governors understand and present the fiscal impact of universal coverage for state and local government entities. An NCSSSA/NGA partnership will provide the information (NCSSSA) and the access (NGA) to Congress allowing for full understanding of the fiscal impact to public budgets and operations.

3. Evaluate the merits, should new memberships warrant Conference support, whether these memberships should be restricted (non-voting members, unable to hold office, etc.) or enjoy the full benefits afforded State Administrators. Identify the pros and cons of such action and propose Committee recommendation(s).
4. Prepare and present, by the Chairperson or designee, a report to the Conference outlining the committee's findings and recommendations. The report shall be prepared per the Secretary's prescribe requirements.
5. Prepare and submit (outgoing Chairperson), within 30 days from the Annual Conference, any proposed changes to the above procedures to the Research and Information Committee.



Rita Foltman, Chair
Membership Committee

August 1, 2012
Date



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Nominating Committee”

Chair

Linda Yelverton, LA

Members

Dean Conder, CO, Kevin Mack, NY

The purpose of the NCSSSA Nominating Committee is to assess NCSSSA members' qualifications to hold elected office. Recommend a slate of nominees by placing their names before the membership at the Annual Conference.

After having solicited nominations and verifying the nominees' willingness to serve, the Nominating Committee makes the following motion to the NCSSSA membership for approval:

President: Angie Dowdy, Louisiana

First Vice President: Rita Foltman, Idaho

Vice President Designate: Vandee DeVore, Missouri
Kevin Brinkerhoff, Ohio

Treasurer: Beth Dillon, Missouri
Rick Beckstead, Utah

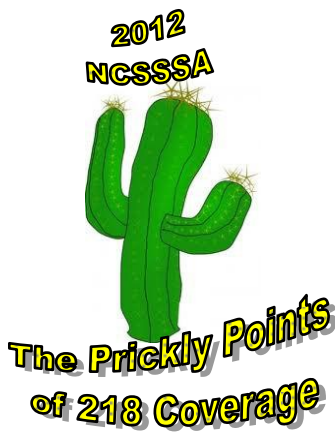
Secretary: Joe Lancaster will be serving the second year of a two-year term

I would like to thank Dean Conder and Kevin Mack for serving on the Nominating Committee and all the NCSSSA members who made nominations.

Respectfully submitted,

Linda Yelverton

Linda Yelverton (LA), Chairperson
NCSSSA Nominating Committee, 2011-2012



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Program Committee”

Chair

Angie Dowdy (LA)

Members

Kevin Brinckerhoff (OH), Beth Dillon (MO), Vandee DeVore (MO), Barry Faison (VA),
Danielle Huffine (IA), Linda Yelverton (LA)

The purpose of the Program Committee is to develop an agenda for the NCSSSA’s upcoming conference. Our group works directly with the President (who is also the Host State Administrator), Executive Committee and, this year, the Training and Succession Planning Committee to select topics that are relevant to our audience and obtain effective speakers for presentation of those topics.

The Program Committee held monthly meetings to discuss the theme, topics, lodging, speakers, transportation issues, meals, layout of the program, hotel contract, technical equipment needed, meeting areas, pre-site visits, registration, etc.

It was evident early in the planning stages of the conference agenda that a decline in conference attendees would be inevitable due to the economic constraints on states and our federal partners alike. Fewer attendees can mean fewer topics covered and fewer speakers to present. While this could have been detrimental in planning the agenda, Training and Succession Planning Committee members, Dean Conder, Chair, Kevin Brinckerhoff, Vandee DeVore, Mary Griffin, Maryann Motza and T.J. Reardon stepped in to help by using the New State Administrator Training material to create session topics that were relevant and beneficial to all conference attendees. So much so, that I would suggest the Program and Training Committees work together in future years when planning the conference agenda.

I would like to thank the members of the Program Committee for help and support throughout the year. I would also like to thank the Training Committee members for their hard work on the agenda and presentations during the conference.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Angie Dowdy'.

Angie Dowdy
First Vice President



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Research and Information Committee”

Chair

Madison Davis

Members

Barbara Taylor

Erin Gorney

Paul Brugger

The Committee’s purpose is to maintain, update and distribute NCSSSA procedures, reports, informational releases as well as perform specific research as requested by the Executive Committee. In addition, during the past year our responsibilities have included:

1. Distribute via the Internet, within 30 days after Committee assignments are announced each year, a current copy of the NCSSSA Standard Operating Procedures Manual to each Committee Chairperson, Vice or Co-Chairperson and Executive Committee Member.
2. Prepare and distribute to NCSSSA members any informational or newsletter releases as assigned by the NCSSSA President. Releases shall be prepared consistent with the President's requirements and authorization.
3. Assess, via a minimum of one contact per State per Conference year, informational needs of the States, interests of Conference Members and Executive Committee. Prepare and distribute information as requested.
4. Prepare and present to the Executive Committee a committee report at least 30 days to commencement of the Conference of significant changes to the Standard Operating Procedures Manual on Committee activities. The report must be prepared consistent with the Secretary's prescribed requirements.
5. Secure written modifications, from each Chairperson no later than 30 days after each Annual Conference, for inclusion in the Standard Operating Procedures Manual. All proposed modifications shall be presented and approved or denied by the incoming Executive Committee. Upon approval, update the Standard Operating Procedures Manual

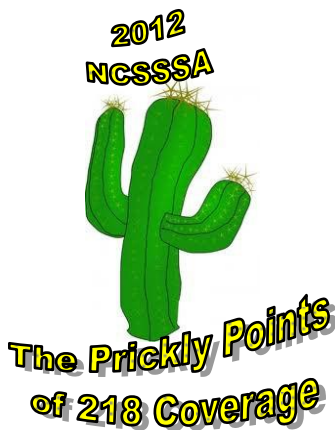
and distribute the new version to the incoming Research and Information Committee Chairperson.

The Research and Information Committee has been in constant contact during this year. Significant changes were made to NCSSSA's Standard Operating Procedures in 2011 and none were submitted for this year.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Madison Davis", with a large, sweeping flourish at the end.

Madison Davis
Chairman, Research and Information Committee



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Resolution Committee”

Barry Faison, Virginia (Chair)
Beth Dillon, Missouri
Amanda Schmitgen, South Dakota

The Resolution Committee offers the following Resolutions at the 62nd NCSSSA Annual Conference in Scottsdale, Arizona:

NCSSSA:

- | | |
|--------------------------------|-----------------------------|
| 2 – Michelle Briggs, AZ | 18 – Barry Faison, VA |
| 3 – Angie Dowdy, LA | 19 – Dean Conder, CO |
| 4 – Rita Foltman, ID | 20 – Kevin Brinckerhoff, OH |
| 5 – Joe Lancaster, KY | 21 – Mary Griffin, TN |
| 6 – Kathleen Baxter, AL | 23 – Paul Brugger, NV |
| 7 – Kevin Mack, NY | 24 – Amanda, Schmitgen, SD |
| 8 – TJ Reardon, MD | 26 – Meghann Butler, MT |
| 9 – Barbara Taylor, MS | 29 – Melanie Piccin, WA |
| 10 – Diana Felsmann, WI | 31 – Danielle Huffine, IA |
| 11 – Vandee DeVore, MO | 36 – Nick Merrill, IL |
| 12 – Richard Beckstead, UT | 37 – Pamela Johnson, OR |
| 13 – Lim Smith, WA | 38 – Erin Gorney, WY |
| 14 – Dr. Maryann Motza PhD, CO | 39 – Shirley Sessoms, MS |
| 15 – Tammy Taylor, KY | 40 – Karen Kawrence, OK |
| 16 – Linda Yelverton, LA | 41 – Beth Dillon, MO |
| 17 – Madison Davis, AR | |

SPECIAL GUESTS:

- 22 – The Honorable Bill Zielinski, SSA San Francisco Regional Commissioner
34 – Leigh Snell, Director of Federal Relations - National Council on Teacher Retirement

SSA OFFICIALS:

- | | |
|------------------------|-------------------------|
| 25 – Mark Brown, OISP | 30 – Fred Sanchez, OGC |
| 27 – Sue Bussman, OLCA | 33 – Cassia Parson, OGC |

IRS OFFICIALS:

- | | |
|---------------------------|--------------------------|
| 28 – Lynn Shelton, FSLG | 35 – Bob Westhoven, FSLG |
| 32 – Paul Marmolejo, FSLG | |

RETIREMENT/WELL WISHES:

- 1 – Tim Kelley, SSA

OTHER:

- 42 – Karen Park, OR Retiree
43 – DoubleTree Paradise Valley Resort, Scottsdale, AZ
44 – Heard Museum, Monday Night Event - Venue
45 – Cultural Dance Show (Derrick Suwaima Davis and Associate), Monday Night Event - Entertainment
46 – All Aboard America, Monday Night Event - Transportation
47 – Arizona Taste Catering, Monday Night Event - Dinner

Copies of all resolutions have been forwarded to the Conference Secretary.

Respectfully submitted this 29th day of July, 2012.

Barry C, Faison, Chair

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators, desires to recognize Mr. Tim Kelley, upon his retirement from the Social Security Administration; and

WHEREAS, Tim Kelley has generously and regularly shared his knowledge and expertise of complex topics related to the Social Security Act, including WEP and GPO, Mandatory Medicare and Social Security, Universal Social Security, and Social Security Solvency, with the members of the National Conference of State Social Security Administrators; and

WHEREAS, the National Conference of State Social Security Administrators recognizes and honors Tim Kelley for his efforts that added immensely to the conference in the sharing of his experience and knowledge and wishes to express its sincere appreciation to Tim Kelley; and

WHEREAS, the National Conference of State Social Security Administrators, duly expresses its grateful appreciation and sincere thankfulness to Tim Kelley;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, by unanimous vote, hereby extends best wishes for a continued active life, good health and a happy retirement to Tim Kelley and presents to him an honorary lifetime membership as an "active" retired member of the National Conference of State Social Security Administrators; and

BE IT FURTHER RESOLVED, that the conference president forwards this resolution to Tim Kelley along with an invitation to all future NCSSSA Annual Conferences. Details for each year will be posted at www.ncssa.org.

ADOPTED THIS 14th DAY OF DECEMBER, 2011.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Special Resolution 2012-01

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Michele Briggs, NCSSSA President 2011-2012, Arizona; and

WHEREAS, Ms. Briggs presented the sessions "Conference Attendees' Introduction Session" and "The President's Welcome to Arizona"; and

WHEREAS, Ms. Briggs served the National Conference of State Social Security Administrators in the executive position of President;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Briggs for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference First Vice-President forwards this resolution to Ms. Michele Briggs.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Angie Dowdy, Louisiana
First Vice-President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-02

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Angie Dowdy, NCSSSA First Vice-President 2011-2012, Louisiana; and

WHEREAS, Ms. Dowdy served the National Conference of State Social Security Administrators in the executive position of First Vice-President, and as the Chair of the Program Committee and the Chair of the Hospitality Committee; and

WHEREAS, as a presenter for the session "Majority and Divided Vote Referenda", Ms. Dowdy provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Dowdy for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Angie Dowdy.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-03

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Rita Foltman**, NCSSSA Vice-President Designate 2011-2012, Idaho; and

WHEREAS, **Ms. Foltman** served the National Conference of State Social Security Administrators in the executive position of Vice-President Designate, and as the Chair of the Membership Committee; and

WHEREAS, **Ms. Foltman** further aided the success of the Annual Conference as Moderator for the "SSA Legislative Update" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. Foltman** for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Rita Foltman**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-04

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Joe Lancaster, NCSSSA Secretary 2011-2012, Kentucky; and

WHEREAS, Mr. Lancaster served the National Conference of State Social Security Administrators in the executive position of Secretary; and

WHEREAS, Mr. Lancaster supported the National Conference of State Social Security Administrators as an integral member of the Legislative Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Lancaster for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Joe Lancaster.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Angie Dowdy, Louisiana
First Vice-President 2011-2012

Resolution 2012-05

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Kathleen Baxter, NCSSSA Treasurer 2011-2012, Alabama; and

WHEREAS, Ms. Baxter served the National Conference of State Social Security Administrators in the executive position of Treasurer; and

WHEREAS, Ms. Baxter actively supported the National Conference of State Social Security Administrators;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Baxter for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Kathleen Baxter.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-06

NCSSSA

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Kevin Mack, NCSSSA Region I Vice-President 2011-2012, New York; and

WHEREAS, Mr. Mack served the National Conference of State Social Security Administrators in the executive position of Region I Vice-President; and

WHEREAS, Mr. Mack supported the National Conference of State Social Security Administrators as an integral member of the Membership Committee and the Nominating Committee; and

WHEREAS, Mr. Mack further aided the success of the Annual Conference as Moderator for the "Rehired Annuitants" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Mack, for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Kevin Mack,

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-07

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. T.J. Reardon**, NCSSSA Region II Vice-President 2011-2012, Maryland; and

WHEREAS, **Mr. Reardon** served the National Conference of State Social Security Administrators in the executive position of Region II Vice-President and Chair of the Constitution and By-Laws Committee; and

WHEREAS, **Mr. Reardon** supported the National Conference of State Social Security Administrators as an integral member of the Training and Succession Planning Committee, the Legislative Committee, and the Membership Committee; and

WHEREAS, as a presenter for the session "Majority and Divided Vote Referenda", **Mr. Reardon** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Reardon** for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. T.J. Reardon**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-08

NCSSSA

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Barbara Taylor, NCSSSA Region III Vice-President 2011-2012, Mississippi; and

WHEREAS, Ms. Taylor served the National Conference of State Social Security Administrators in the executive position of Region III Vice-President; and

WHEREAS, Ms. Taylor supported the National Conference of State Social Security Administrators as an integral member of the Hospitality Committee, the Membership Committee, and the Research and Information Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Taylor for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Barbara Taylor.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-09

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Diana Felsmann, NCSSSA Region IV Vice-President 2011-2012, Wisconsin; and

WHEREAS, Ms. Felsmann served the National Conference of State Social Security Administrators in the executive position of Region IV Vice-President; and

WHEREAS, Ms. Felsmann supported the National Conference of State Social Security Administrators as an integral member of the Membership Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Felsmann for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Diana Felsmann.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-11

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Vandee DeVore**, NCSSSA Region V Vice-President 2011-2012, Missouri; and

WHEREAS, **Ms. DeVore** served the National Conference of State Social Security Administrators in the executive position of Region V Vice-President and as Chair of the Time and Place Committee; and

WHEREAS, **Ms. DeVore** supported the National Conference of State Social Security Administrators as an integral member of the Training and Succession Planning Committee, the Legislative Committee, the Membership Committee, and the Program Committee; and

WHEREAS, as a presenter for the session "Rehired Annuitants", **Ms. DeVore** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. DeVore** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Vandee DeVore**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-11

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Richard Beckstead, NCSSSA Region VI Vice-President 2011-2012, Utah; and

WHEREAS, Mr. Beckstead served the National Conference of State Social Security Administrators in the executive position of Region VI Vice-President and as Chair of the Auditing Committee; and

WHEREAS, Mr. Beckstead supported the National Conference of State Social Security Administrators as an integral member of the Membership Committee; and

WHEREAS, Mr. Beckstead further aided the success of the Annual Conference as Moderator for the "Financial Sustainability and Updates on Legislative and Regulatory Issues" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Beckstead for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Richard Beckstead.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-12

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Kim Smith, NCSSSA Region VII Vice-President 2011-2012, Washington; and

WHEREAS, Ms. Smith served the National Conference of State Social Security Administrators in the executive position of Region VII Vice-President; and

WHEREAS, Ms. Smith supported the National Conference of State Social Security Administrators as an integral member of the Membership Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Smith for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Kim Smith.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-13

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Dr. Maryann Motza**, NCSSSA Immediate Past President 2011-2012, Colorado; and

WHEREAS, **Dr. Motza** served the National Conference of State Social Security Administrators in the executive position of Immediate Past President and Chair of the Legislative Committee; and

WHEREAS, **Dr. Motza** supported the National Conference of State Social Security Administrators as an integral member of the Training and Succession Planning Committee; and

WHEREAS, as a presenter for the session "Roles and responsibilities" and as a panel member for the "218 Council Update", **Dr. Motza** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Dr. Motza** for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Dr. Maryann Motza**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-14

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Tammy Taylor, Kentucky; and

WHEREAS, Ms. Taylor served the National Conference of State Social Security Administrators in the executive position of Chair of the Internet Communications Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Taylor for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Tammy Taylor.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-15

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Linda Yelverton, Louisiana; and

WHEREAS, Ms. Yelverton served the National Conference of State Social Security Administrators as Chair of the Nominating Committee; and

WHEREAS, Ms. Yelverton supported the National Conference of State Social Security Administrators as an integral member of the Hospitality Committee and the Program Committee; and

WHEREAS, Ms. Yelverton further aided the success of the Annual Conference as Moderator for the "218 Council Update" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Yelverton for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Linda Yelverton.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-16

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Madison Davis, Arkansas; and

WHEREAS, Mr. Davis served the National Conference of State Social Security Administrators as Chair of the Research and Information Committee; and

WHEREAS, Mr. Davis further aided the success of the Annual Conference as Moderator for the "Majority and Divided Vote Referenda" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Davis for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Madison Davis.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-17

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Barry Faison, Virginia; and

WHEREAS, Mr. Faison served the National Conference of State Social Security Administrators as Chair of the Resolutions Committee; and

WHEREAS, Mr. Faison supported the National Conference of State Social Security Administrators as an integral member of the Hospitality Committee, the Internet Communications Committee, and the Program Committee; and

WHEREAS, Mr. Faison further aided the success of the Annual Conference as Moderator for the "Modification Process – Start to Finish" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Faison for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Barry Faison.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-18

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Dean Conder** Colorado; and

WHEREAS, **Mr. Conder** served the National Conference of State Social Security Administrators as Chair of the Training and Succession Planning Committee; and

WHEREAS, **Mr. Conder** supported the National Conference of State Social Security Administrators as an integral member of the Legislative Committee and the Nominating Committee; and

WHEREAS, as a presenter for the sessions “Conference Attendees’ Introduction Session”, “Social Security and Medicare Coverage”, and “Modification Process – Start to Finish”, **Mr. Conder** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Conder** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Dean Conder**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-19

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Kevin Brinckerhoff**, Ohio; and

WHEREAS, **Mr. Brinckerhoff** supported the National Conference of State Social Security Administrators as an integral member of the Training and Succession Planning Committee, the Auditing Committee, the Hospitality Committee, the Program Committee, and the Time and Place Committee; and

WHEREAS, as a presenter for the session "Exclusions Will Drive You Crazy if You Let Them", **Mr. Brinckerhoff** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Brinckerhoff** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Kevin Brinckerhoff**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-20

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Mary Griffin, Tennessee; and

WHEREAS, Ms. Griffin supported the National Conference of State Social Security Administrators as an integral member of the Training and Succession Planning Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Griffin for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Mary Griffin.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-21

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, desires to express its sincere appreciation for the Keynote speech presented by the Social Security Administration Regional Commissioner for the San Francisco region, *The Honorable William Zielinski*; and

WHEREAS, the National Conference of State Social Security Administrators gratefully acknowledges the dedicated and sincere efforts of *Mr. Zielinski* to make the National Conference of State Social Security Administrators' Annual Conference a success;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to *Mr. Zielinski* for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to *Mr. William Zielinski*.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-22

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Paul Brugger, Nevada; and

WHEREAS, Mr. Brugger supported the National Conference of State Social Security Administrators as an integral member of the Constitution and By-Laws Committee and the Research and Information Committee; and

WHEREAS, Mr. Brugger further aided the success of the Annual Conference as Moderator for the "Roles and Responsibilities" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Brugger for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Paul Brugger.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-23

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Amanda Schmitgen, South Dakota; and

WHEREAS, Ms. Schmitgen supported the National Conference of State Social Security Administrators as an integral member of the Hospitality Committee, the Internet Communications Committee, and the Resolutions Committee; and

WHEREAS, Ms. Schmitgen further aided the success of the Annual Conference as Moderator for the "Social Security and Medicare Coverage" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Schmitgen for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Amanda Schmitgen.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-24

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Mark Brown**, Social Security Administration Office of Income Security Programs; and

WHEREAS, as a presenter for the session "Exclusions Will Drive You Crazy if You Let Them" and as a panel member for the "Consolidated Entities Joint Webinar Reenactment", **Mr. Brown** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Brown** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Mark Brown**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-25

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of *Ms. Meghann Butler*, Montana; and

WHEREAS, *Ms. Butler* further aided the success of the Annual Conference as Moderator for the “Exclusions Will Drive You Crazy if You Let Them” session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to *Ms. Butler* for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to *Ms. Meghann Butler*.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-26

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Sue Bussman**, Social Security Administration Office of Legislation and Congressional Affairs; and

WHEREAS, as a presenter for the session "SSA Legislative Update", **Ms. Bussman** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. Bussman** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Sue Bussman**.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-27

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Lynn Shelton**, Internal Revenue Service Federal State and Local Government Field Operations; and

WHEREAS, as a presenter for the session "IRS Assessment Tool" and as a panel member for the "Consolidated Entities Joint Webinar Reenactment", **Ms. Shelton** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. Shelton** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Lynn Shelton**.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-28

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of *Ms. Melanie Piccin*, Washington; and

WHEREAS, *Ms. Piccin* further aided the success of the Annual Conference as Moderator for the "IRS Assessment Tool" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to *Ms. Piccin* for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to *Ms. Melanie Piccin*.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-29

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Fred Sanchez**, Social Security Administration Office of General Counsel, and

WHEREAS, as a presenter for the session "Error Modifications and Modifications to Correct errors", **Mr. Sanchez** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Sanchez** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Fred Sanchez**.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-30

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Danielle Huffine, Iowa; and

WHEREAS, Ms. Huffine supported the National Conference of State Social Security Administrators as an integral member of the Hospitality Committee, the Program Committee and the Time and Place Committee; and

WHEREAS, Ms. Huffine further aided the success of the Annual Conference as Moderator for the "Error Modifications and Modifications to Correct Errors" session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Huffine for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Danielle Huffine.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-31

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Paul Marmolejo**, Internal Revenue Service, Director of Federal State and Local Government; and

WHEREAS, as a panel member for the "218 Council Update", **Mr. Marmolejo** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Marmolejo** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Paul Marmolejo**.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-32

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Cassia Parson**, Social Security Administration Office of General Counsel; and

WHEREAS, as a panel member for the “218 Council Update” and for “Consolidated Entities Joint Webinar Reenactment”, **Ms. Parson** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. Parson** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Cassia Parson**.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-33

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Leigh Snell**, Director of Federal Relations for the National Council on Teacher Retirement; and

WHEREAS, as a presenter for the session "Financial Sustainability and Updates on Legislative and Regulatory Issues", **Mr. Snell** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Snell** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Leigh Snell**.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-34

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Mr. Robert Westhoven**, Internal Revenue Service Northeast Area Manager, Federal State and Local Government; and

WHEREAS, as a presenter for the session “IRS Assessment Tool” and as a panel member for the “Consolidated Entities Joint Webinar Reenactment”, **Mr. Westhoven** provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Mr. Westhoven** for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Mr. Robert Westhoven**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-35

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Mr. Nick Merrill, Illinois; and

WHEREAS, Mr. Merrill supported the National Conference of State Social Security Administrators as an integral member of the Legislative Committee; and

WHEREAS, as a presenter for the session "Consolidated Entities Joint Webinar Reenactment", Mr. Merrill provided tremendous value for the attendees and made a significant contribution to the overall success of the Annual Conference;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Mr. Merrill for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Mr. Nick Merrill.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-36

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of *Ms. Pamela Johnson*, Oregon; and

WHEREAS, *Ms. Johnson* further aided the success of the Annual Conference as Moderator for the “Consolidated Entities Joint Webinar Reenactment” session;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to *Ms. Johnson* for helping create a successful Conference and educational opportunity for all of the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to *Ms. Pamela Johnson*.

ADOPTED THIS 1ST DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-37

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Erin Gorney, Wyoming; and

WHEREAS, Ms. Gorney supported the National Conference of State Social Security Administrators as an integral member of the Auditing Committee and the Research and Information Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Gorney for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Erin Gorney.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-38

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Shirley Sessoms, Mississippi; and

WHEREAS, Ms. Sessoms supported the National Conference of State Social Security Administrators as an integral member of the Auditing Committee and the Constitution and By-Laws Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Sessoms for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Shirley Sessoms.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-39

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of Ms. Karen Lawrence, Oklahoma; and

WHEREAS, Ms. Lawrence supported the National Conference of State Social Security Administrators as an integral member of the Hospitality Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to Ms. Lawrence for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to Ms. Karen Lawrence.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-40

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Beth Dillon**, Missouri; and

WHEREAS, **Ms. Dillon** supported the National Conference of State Social Security Administrators as an integral member of the Program Committee and the Resolutions Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. Dillon** for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Beth Dillon**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-41

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, gratefully acknowledges the participation of **Ms. Karen Park**, Oregon Retiree; and

WHEREAS, **Ms. Park** supported the National Conference of State Social Security Administrators as an integral member of the Training and Succession Planning Committee;

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our heartfelt appreciation and sincere thankfulness to **Ms. Park** for helping create a successful Conference and educational opportunity for the participants; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to **Ms. Karen Park**,

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-42

N C S S S A

National Conference of State Social Security Administrators



*WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, desires to express its sincere appreciation to the **DoubleTree Paradise Valley Resort**, Scottsdale, Arizona; and*

*WHEREAS, the National Conference of State Social Security Administrators wishes to specifically express our appreciation to the management and staff of the **DoubleTree Paradise Valley Resort**, and in particular **Sandy Bruno** and **Nadine Stamper**, for their extremely efficient service which overwhelmingly contributed to the overall success of the Annual Conference; and*

*WHEREAS, the comfort, convenience and activities of the Annual Conference attendees and guests have been professionally and courteously attended to by staff of the **DoubleTree Paradise Valley Resort**,*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our sincere thankfulness to **DoubleTree Paradise Valley Resort**; and*

*BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to the management of the **DoubleTree Paradise Valley Resort**.*

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-43

N C S S S A

National Conference of State Social Security Administrators



*WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, desires to express its sincere appreciation to the **Heard Museum**, Scottsdale, Arizona; and*

*WHEREAS, the National Conference of State Social Security Administrators wishes to specifically express our appreciation to the management and staff of the **Heard Museum**, for their most interesting exhibits, their hospitality, and their extremely efficient service which overwhelmingly contributed to the overall success of the Annual Conference; and*

*WHEREAS, the comfort, convenience and activities of the Annual Conference attendees and guests have been professionally and courteously attended to by staff of the **Heard Museum**,*

*THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our sincere thankfulness to **Heard Museum**; and*

*BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to the management of the **Heard Museum**.*

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-44

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, desires to express its sincere appreciation to the **Cultural Dance Show**; and

WHEREAS, the National Conference of State Social Security Administrators wishes to specifically express our appreciation to the members of the **Cultural Dance Show**, specifically **Derrick Surwaima Davis and his associate**, for their most enthusiastic and interesting performance which overwhelmingly contributed to the overall success of the Annual Conference; and

WHEREAS, the activities of the Annual Conference attendees and guests have been enhanced by the educational information provided during the performance of the **Cultural Dance Show**,

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our sincere thankfulness to **Cultural Dance Show**; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to the **Cultural Dance Show**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-45

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, desires to express its sincere appreciation to the *All Aboard America*, Scottsdale, Arizona; and

WHEREAS, the National Conference of State Social Security Administrators wishes to specifically express our appreciation to the management and staff of the *All Aboard America*, for their hospitality and efficiency in meeting the transportation needs for the Conference which overwhelmingly contributed to the overall success of the Annual Conference; and

WHEREAS, the Monday Night Event's transportation needs of the Annual Conference attendees and guests have been professionally and courteously attended to by staff of the *All Aboard America*,

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our sincere thankfulness to *All Aboard America*; and

BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to the management of the *All Aboard America*,

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-46

N C S S S A

National Conference of State Social Security Administrators



WHEREAS, the National Conference of State Social Security Administrators at its 62nd annual meeting in Scottsdale, Arizona, desires to express its sincere appreciation to the **Arizona Taste Catering**, Scottsdale, Arizona; and

WHEREAS, the National Conference of State Social Security Administrators wishes to specifically express our appreciation to the management and staff of the **Arizona Taste Catering**, for their food preparation and extremely efficient dinner service which overwhelmingly contributed to the overall success of the Annual Conference; and

WHEREAS, the comfort, convenience and activities of the Annual Conference attendees and guests have been professionally and courteously attended to by staff of the **Arizona Taste Catering**,

THEREFORE, be it resolved that the National Conference of State Social Security Administrators, duly expresses our sincere thankfulness to **Arizona Taste Catering**; and

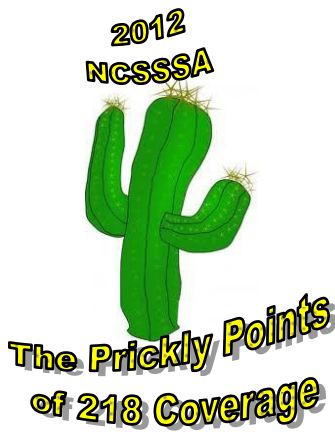
BE IT FURTHER RESOLVED, that the Conference President forwards this resolution to the management of the **Arizona Taste Catering**.

ADOPTED THIS 1st DAY OF AUGUST, 2012 AT THE NCSSSA 62ND ANNUAL MEETING IN SCOTTSDALE, ARIZONA.

Michele Briggs, Arizona
President 2011-2012

Joe L. Lancaster, Jr., Kentucky
Secretary 2011-2012

Resolution 2012-47



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Time and Place Committee

Chair

Vandee DeVore, Missouri

Members

Kevin Brinckerhoff, Ohio

Danielle Huffine, Iowa

Beth Dillon, Missouri (volunteer)

Angie Dowdy, Louisiana (volunteer)

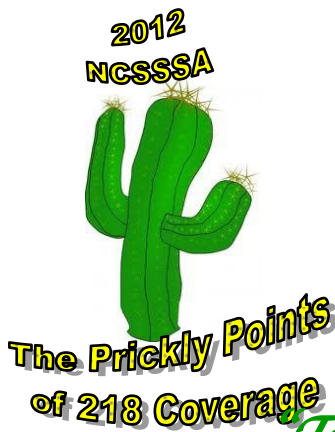
After soliciting for a Host State for the 2014 Conference location, the State of Louisiana volunteered and was accepted by the Committee.

The New Orleans Convention and Visitor's Bureau was contacted and asked to communicate our Request for Proposal to their area hotels. The Committee received 16 proposals from various hotels. The Committee reviewed and evaluated all bids, and recommended four hotels for site visits. Angie Dowdy (LA) toured each of those hotels and reported her findings back to the Committee.

After further negotiations with the four hotels, the Bourbon Orleans Hotel was selected as the recommendation to the Executive Committee for contracting.

The Executive Committee approved the Bourbon Orleans Hotel's contract proposal and authorized the Chair to proceed with that contract.

The contract has been signed and can now be announced that the 2014 NCSSSA Annual Conference will be held on July 27-30, 2014 at the Bourbon Orleans Hotel in New Orleans, Louisiana.



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Training and Succession Planning Committee”

Chair

Dean J. Conder, CO

Members

TJ Reardon, MD; Vandee DeVore, MO; Dr. Maryann Motza, CO; Kevin Brinckerhoff, OH;
Mary Griffin, TN

The purpose of the Training and Succession Planning Committee (Committee) is to assess the needs for membership training and provide training to state and federal officials in the area of state and local government FICA compliance. Educate state administrators and other officials on the responsibilities of the state administrator and provide advice on succession planning.

The Committee started this conference year by again surveying NCSSSA membership to discern training needs. The results of the survey showed that a great majority (~76%) of State Social Security Administrator had five or fewer years of experience and that on average spent ~51% of their time on state and local government FICA issues.

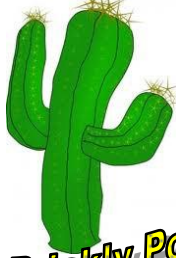
With these results, the Committee committed to focus on Level I training. Two very successful Level I Regional Training sessions were held this year – one in Columbus, Ohio (17 state and federal attendees) and the other in Carson City, Nevada (6 state and federal attendees). These trainings focused on fundamentals of state and local FICA coverage.

The Committee also reviewed and provided comments and feedback to SSA regarding revision to the *SSA Section 218 Guide*. The Committee provided comments to the §218 Council and initiated training materials for distribution through the §218 Council to both state and federal officials clarifying (and giving examples) of the difference between §210 (mandatory Social Security) and §218 (voluntary Social Security).

Additionally, Committee members were active with new and uninvolved states to encourage them to participate in the Conference and the training offered.

Beginning in June 2012, members of the NCSSSA Training Committee were invited to the Program Committee conference calls, to help incorporate training and continuing education opportunities throughout the entire program.

2012
NCSSSA



The Prickly Points
of 218 Coverage

National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

"Treasurer Report"

Kathleen Baxter

7/26/2012

Balance Sheet - As of 7/26/2012
As of 7/26/2012 (Cash Basis)

Page 1

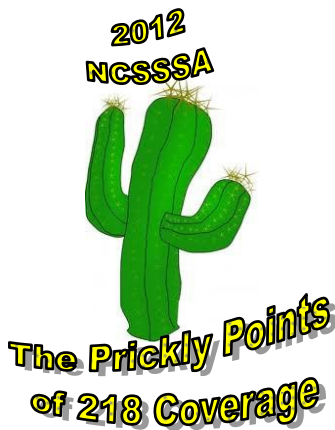
Account	7/26/2012 Balance
ASSETS	
Cash and Bank Accounts	
Checking	28,207.87
Money Market	31,831.50
TOTAL Cash and Bank Accounts	60,039.37
TOTAL ASSETS	60,039.37
LIABILITIES & EQUITY	
LIABILITIES	
	0.00
EQUITY	
	60,039.37
TOTAL LIABILITIES & EQUITY	60,039.37

7/26/2012

Cash Flow
9/1/2011 through 7/26/2012

Page 1

Category Description	9/1/2011- 7/26/2012
INFLOWS	
2011 CONFERENCE REGISTRATION	63.00
2012 Conference Registration	17,011.00
2012 NCSSSA Dues	9,250.00
Interest Inc	45.41
TOTAL INFLOWS	26,369.41
OUTFLOWS	
2012 Conference Expenses	9,709.66
2014 CONFERENCE EXPENSES	3,250.00
Bank Fees	757.43
Biz Travel	5,437.56
Biz Utilities	
Internet, Biz	111.48
TOTAL Biz Utilities	111.48
Dues and Subscriptions	199.00
Postage and Delivery	200.61
TOTAL OUTFLOWS	19,665.73
OVERALL TOTAL	6,703.68



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Secretary Report

2011-2012

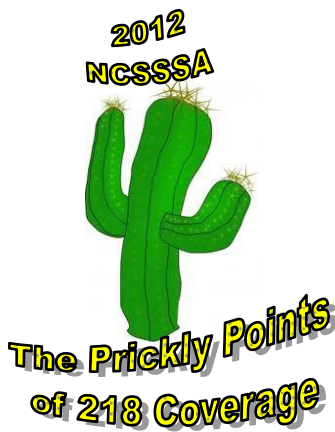
Joe L. Lancaster, Jr., Kentucky

The Proceedings Book for the NCSSSA 61st Annual Conference held in Scottsdale, Arizona was provided in CD format for the Conference attendees. The State Social Security Administrator, or the designate, from not represented at the Conference will receive the Proceedings Book (CD) by mail. A copy of the Proceedings Book (CD) has been provided to the Social Security Historian as a permanent historical record. The Proceedings Book will be available on the NCSSSA, www.ncsssa.org website.

Many thanks are extended to Michele Briggs, Arizona, for hosting the NCSSSA Annual Conference. Further thanks to all NCSSSA officers and Committee members, State Social Security Administration members, Federal Social Security Administration officials, Federal Internal Revenue Service officials, and other attendees for the 2011-2012 Annual Conference development, presentations, and participation.

Respectfully submitted,

***Joe L. Lancaster, Jr., Secretary
2011-2012 NCSSSA Annual Conference***



62nd Annual Conference
Scottsdale, Arizona
July 29 - August 1, 2012

Region I:
Vice-President Report
2011-2012

Vice-President
Kevin Mack, New York

Members

_____ , Connecticut	Kevin Mack , New York
Stephanie Fecteau , Maine	_____ , Puerto Rico
_____ , Massachusetts	_____ , Rhode Island
_____ , New Hampshire	_____ , Vermont
_____ , New Jersey	_____ , Virgin Islands

Region I held its regional caucus on Sunday, July 29th, 2012.

States Represented

Of the 10 states in Region 1, there were a total of 2 representatives from 2 states in attendance. The members in attendance include:

- ❖ Kevin Mack, New York
- ❖ Stephanie Fecteau, Maine

Also in attendance was Teresa Commeau, State of New Hampshire Social Security Administrator, and Retired. She now lives in Arizona.

The following Region I states were not able to attend this year’s conference:

- ❖ Connecticut, Massachusetts, New Hampshire, New Jersey, Puerto Rico, Rhode Island, Vermont, Virgin Islands.

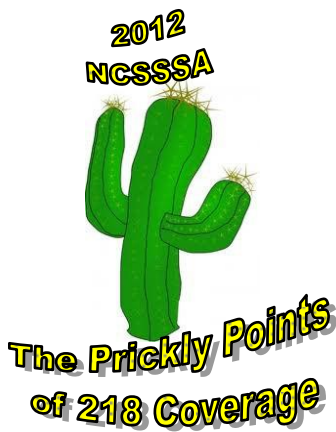
Topics Discussed

- ❖ Stephanie and I were both pleased to speak with Teresa. She shared a great deal of her experience with us and we both learned much from her.
- ❖ I discussed the steps New York was taking toward coming into compliance with the State’s responsibilities regarding the §218 Agreement.
- ❖ We discussed the differences between the states coverage, Rehired Annuitants, etc...
- ❖ Throughout the year I forwarded email communications to all the Region 1 states.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Kevin Mack', with a long horizontal flourish extending to the right.

Kevin Mack, Region I: Vice President 2011-2012



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

*Region II:
Vice-President Report
2011-2012*

Vice-President

T.J. Reardon, Maryland

Members

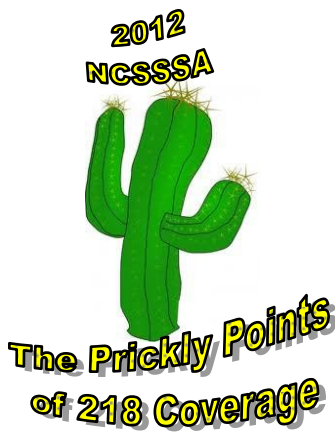
Omar Masood, Delaware

T.J. Reardon, Maryland

Robert Murphy, Pennsylvania

Barry Faison, Virginia

_____ , West Virginia



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

Region III:
Vice-President Report
2011-2012

Vice-President
Barbara Taylor, Mississippi

Members

Kathleen Baxter, Alabama
_____, Florida
_____, Georgia
Joe Lancaster, Kentucky

Barbara Taylor, Mississippi
_____, North Carolina
David Avant, South Carolina
Mary Griffin, Tennessee

Region III held its regional caucus on Sunday, July 29, 2012. The following states were represented at the meeting:

Alabama, Kathleen Baxter
Kentucky, Joe Lancaster
Mississippi, Barbara Taylor
South Carolina, David Avant
Tennessee, Mary Griffin

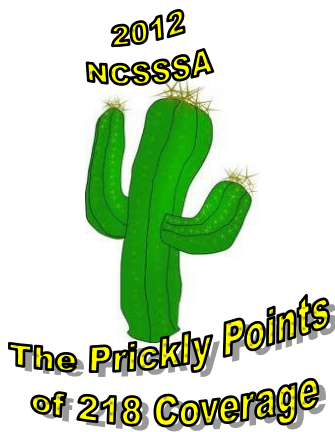
The following states were not in attendance: Georgia, Florida, and North Carolina

Each state administrator representative provided insight to the new state administrator for the State of Tennessee on the duties/responsibilities of an administrator and offered strategies to handle the issues/concerns of the job. No other issues were presented.

Region III unanimously voted Tammy Taylor to serve as its regional vice president for 2012-2013.

Respectfully Submitted

Barbara A. Taylor, Region III: Vice President 2011-2012



National Conference of State Social Security Administrators

62nd Annual Conference

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Region IV

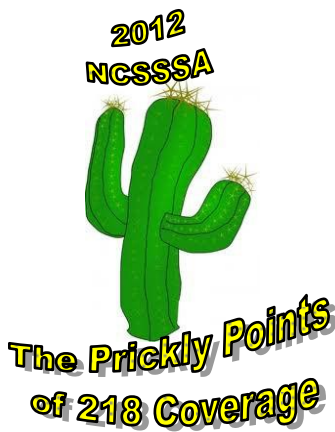
Vice-President: Diana Felsmann

Region IV communicated with the states in our Region primarily through the use of emails. Since the 2011 NCSSSA Conference, we contacted the states in our Region with information regarding issues related to NCSSSA training, the Social Security Administration (SSA), and the Internal Revenue Service (IRS). Below, please find several examples of the types of information we communicated to states in our region:

- Letters to the states not in attendance at the 2011 conference that included conference booklets.
- Letters to the states not in attendance at the 2011 conference informing them to contact us if questions or concerns arose related to Social Security.
- Emails requesting the states in our Region contact the SSA in connection with providing the SSA with links to state-based websites.
- Emails promoting attendance at the April 24-25, 2012 Regional Training in Columbus, Ohio.
- Emails regarding the NCSSSA-sponsored regional trainings and upcoming webinar on Social Security Section 218 Agreements and Government Entity Restructuring.
- Emails about the 2012 NCSSSA Conference.

We continue to monitor potential legislative changes impacting Region IV. No major issues have been reported to us by the states in our region.

There will be a regional meeting held at the 2012 NCSSA Conference.



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

“Region V”

Vice-President: Vandee DeVore, Missouri

The following states are included in Region V:

- Arkansas
- Iowa
- Kansas (non-member)
- Louisiana
- Missouri
- Nebraska
- New Mexico (non-member)
- Oklahoma
- Texas

Each state was contacted about renewed membership. Kansas has declined due to funding issues and lack of administration support. It is unknown the status of New Mexico’s dues payment.

Several communications from NCSSSA leadership was forwarded to each state administrator throughout the year. Occasional questions from state administrators are using the Googlegroup email to poll other administrators &/or get answers to their questions.

Louisiana’s legislature made changes to their retirement plan during their session. That is causing research and communication issues for the State Administrator’s Office.

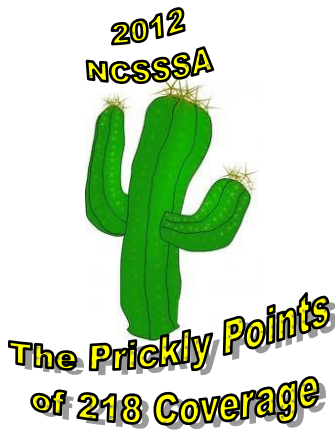
Missouri’s legislature passed changes to law allowing for additional Charter Schools in all areas of the State. Depending on the sponsoring entity, coverage may need extended to their employees. Also, the SSSA is awaiting an AG Opinion on governance of County Health Departments that was requested by SSA.

Iowa noted continued delays in getting finalized documents back from the Regional Office. Staffing in the SL position has been inconsistent.

Arkansas has done research and surveys on Charter Schools.

Oklahoma is working on proposals to get all historical documents scanned and purchase appropriate file cabinets.

No other major issues have been reported within Region V, but the nationwide trend to pension reform may affect each state. All State Administrators need to monitor their state’s legislative changes and its affect on Social Security coverage.



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

*Region VI:
Vice-President Report*

2011-2012

Vice-President

Richard Beckstead, Montana

Members

Maryann Motza, Colorado
Dean Conder, Colorado
Meghann Butler, Montana
_____, North Dakota

Amanda Schmitgen, South Dakota
Richard Beckstead, Utah
Erin Gorney, Wyoming

Region VI held its regional caucus on Sunday, July 29, 2012.

States Represented

Of the 6 states in Region VI, there were a total of 6 representatives from 5 states in attendance. The following are the members in attendance:

Topics Discussed at the regional caucus:

Medicare Only Referendums

State mod to allow Police and Firefighter coverage

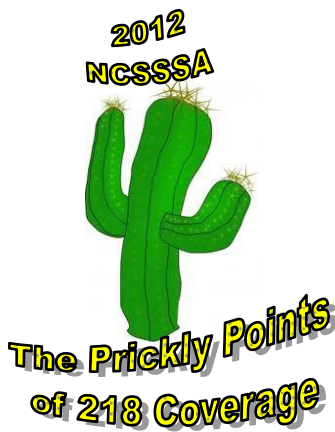
Who qualifies as a "Fire Protection" employee

Record retention questions from new state personnel.

Meghann Butler was elected as the new Regional Vice-President for 2012-2013.

Respectfully submitted,

Richard Beckstead, Region VI: Vice President 2011-2012



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

*Region VII:
Vice-President Report*

2011-2012

**Vice-President
Kim Smith, Washington**

Members

_____, Alaska
Michele Briggs, Arizona
Steve Propp, California
_____, Hawaii
Rita Foltman, Idaho

Paul Brugger, Nevada
Pam Johnson, Oregon
Kim Smith, Washington
Melanie Piccin, Washington

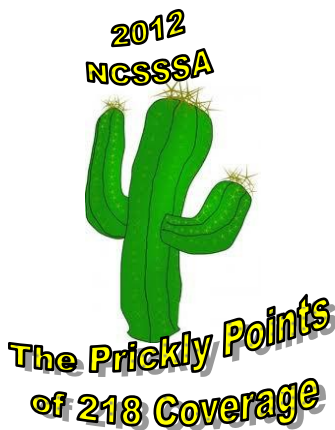
Region VII held its regional meeting on Sunday, July 29, 2012. Six of the eight states were represented this year; the following states were not in attendance: Hawaii and Alaska.

During the meeting each state was given the opportunity to discuss concerns and issues they were experiencing. Many issues were discussed from litigation, charter schools, training issues and error modifications.

Kim Smith was elected as the Region VII Vice President for the next conference year.

Respectfully Submitted,

Kimberly Smith, Region VII Vice President 2011-2012



National Conference of State Social Security Administrators

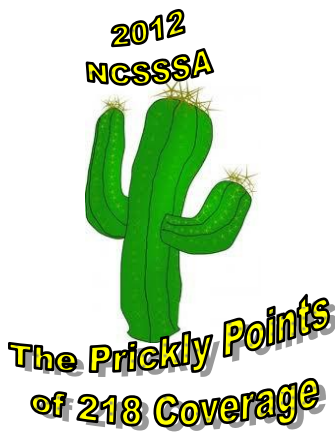
62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

"Past Presidents"

1952-53	William Farris, Tennessee	1984-85	Daniel J. McAuley, New York
1953-54	Charles H. Smith, Virginia	1985-86	Gary R. King, Maine
1954-55	Donald M. O'Hara, Michigan	1986-87	Dennis B. Snodgrass, Missouri
1955-56	Bruce Parkinson, Arizona	1987-88	Michael K. Blankenship, Illinois
1956-57	Tatum W. Gressette, South Carolina	1988-89	Patrick L. Doyle, Kentucky
1957-58	Steven E. Schanes, New Jersey	1989-90	Bobby J. Malley, Mississippi
1958-59	James B. Atlee, Texas		
1959-60	Edward W. Bush, Illinois	1990-91	James A. Correll, North Carolina
		1991-92	Nicholas C. Merrill, Jr., Illinois
1960-61	W. Frank DeLamar, Georgia	1992-93	Nicholas C. Merrill, Jr., Illinois
1961-62	Frederick N. MacMillin, Wisconsin	1993-94	Daryl Dunagan, Kentucky
1962-63	John F. Sasek, Montana	1994-95	Steve Lortz, Nebraska
1963-64	B. E. "Bus" Friday., Arkansas	1995-96	Dawn Evans, California
1964-65	William J. Cudding, Pennsylvania	1996-97	Johnnie Morales Sr., Texas
1965-66	Carl J. Blechinger, California	1997-98	Russell Graves, Oklahoma
1966-67	Lawrence L. Farrell, Michigan	1998-99	Charles R. Severn, Idaho
1967-68	Murray L. Biegalle, Kentucky	1999-00	Donald C. Rohan, Arizona
1968-69	Robert A. Healy, Delaware		
1969-70	Arnold W. Jaeger, North Dakota	2000-01	Doug Peterson, South Dakota
		2001-02	Maryann Motza, Colorado
1970-71	Sidney M. VanDeventer, Oklahoma	2002-03	Steve Delaney, Oregon
1971-72	Abe Domain, Georgia	2003-04	Teresa Commeau, New Hampshire
1972-73	Fred E. Henne, Arkansas	2004-05	Barry Faison, Virginia
1973-74	Alta E. Moore, Wisconsin	2005-06	Dean Conder, Colorado
1974-75	Edward A. Baublits, Colorado	2006-07	Dean Conder, Colorado
1975-76	William J. Joseph, New Jersey	2007-08	James Driver, Kentucky
1976-77	Harold G. Purser, Oklahoma	2008-09	James Driver, Kentucky
1977-78	Gerald P. Slaybaugh, Kansas	2009-10	Linda Yelverton, Louisiana
1978-79	Edwin C. Gallison, Vermont		
1979-80	Purvis W. Collins, South Carolina	2010-11	Maryann Motza, PhD, Colorado
1980-81	Starlene Mitchell, South Dakota		
1981-82	David I. Herbert, Pennsylvania		
1982-83	Carlos A. Gallegos, New Mexico		
1983-84	Jim Larche, Georgia		



National Conference of State Social Security Administrators

62nd Annual Conference

Scottsdale, Arizona

July 29 - August 1, 2012

"Past Conference Sites"

1951	Bloomington, Indiana	1985	Topeka, Kansas
1952	Nashville, Tennessee	1986	Park City, Utah
1953	Chicago, Illinois	1987	Myrtle Beach, South Carolina
1954	Baltimore, Maryland	1988	Boston, Massachusetts
1955	Baltimore, Maryland	1989	Baltimore, Maryland
1956	Atlanta, Georgia	1990	Kansas City, Missouri
1957	Denver, Colorado	1991	Washington, D. C.
1958	St. Louis, Missouri	1992	Newport, Rhode Island
1959	Chicago, Illinois	1993	Louisville, Kentucky
1960	Philadelphia, Pennsylvania	1994	Olympia, Washington
1961	San Francisco, California	1995	Des Moines, Iowa
1962	Miami Beach, Florida	1996	Denver, Colorado
1963	Billings, Montana	1997	Chicago, Illinois
1964	Boston, Massachusetts	1998	Biloxi, Mississippi
1965	Milwaukee, Wisconsin	1999	San Antonio, Texas
1966	Gearheart, Oregon	2000	Baltimore, Maryland
1967	Fort Lauderdale, Florida	2001	San Diego, California
1968	Tucson, Arizona	2002	Rapid City, South Dakota
1969	San Juan, Puerto Rico	2003	Portland, Oregon
1970	Louisville, Kentucky	2004	Merrimack, New Hampshire
1971	Hot Springs National Park, Arkansas	2005	Denver, Colorado
1972	Seattle, Washington	2006	Williamsburg, Virginia
1973	New Orleans, Louisiana	2007	Anaheim, California
1974	Sante Fe, New Mexico	2008	Louisville, Kentucky
1975	Mobile, Alabama	2009	Chicago, Illinois
1976	Las Vegas, Nevada	2010	Kansas City, Missouri
1977	Kansas City, Missouri	2011	Cheyenne, Wyoming
1978	Sun Valley, Idaho		
1979	Williamsburg, Virginia		
1980	Hershey, Pennsylvania		
1981	Biloxi, Mississippi		
1982	Hartford, Connecticut		
1983	Portland, Oregon		
1984	St. Paul, Minnesota		

**ROSTER
NATIONAL CONFERENCE OF
STATE SOCIAL SECURITY ADMINISTRATORS**

ALABAMA

Region III

Thomas L. White
Comptroller
RSA Union Building
100 North Union Street, Suite 274
Montgomery, AL 36130-2602

334-242-7063

***Kathleen D. Baxter**
Accounting Director
Department of Finance

334-242-4857
Fax: 334-353-0147

kathleen.baxter@comptroller.alabama.gov

Sue Blanton
Department of Finance

334-242-7075
sue.blanton@comptroller.alabama.gov

ALASKA

Region VII

Division of Retirement & Benefits
6th Floor Office Building
333 Willoughby Avenue
P O Box 110203
Juneau, AK 99811-0203

***Kay Gouyton**
Division Auditor/State Social Security Administrator Fax:

907-465-5707
907-465-4469
kay.gouyton@alaska.gov

Robert Gregg
Internal Auditor/State Social Security Assistant

907-465-4469
robert.gregg@alaska.gov

ARIZONA

Region VII

***Michele Briggs**
Administrator
Arizona State Retirement System
3300 North Central
P O Box 33910
Phoenix, AZ 85067-3910

602-240-2022
Fax: 602-240-5303
micheleb@azasrs.gov

ARKANSAS**Region V**

Gail Stone
 Social Security Administrator
 Arkansas Public Employees' Retirement System
 One Union National Plaza
 124 W Capital, Suite 400
 Little Rock, AR 72201

501-682-7855
gail.stone@arkansas.gov

Michele Williams
 Deputy Director

501-682-7855
michele.williams@arkansas.gov

***Madison Davis**
 Social Security Manager

501-683-0890
madison.davis@arkansas.gov

Jay Wills, III
 Legal Counsel

501-682-7856
jay.wills@arkansas.gov

CALIFORNIA**Region VII**

Rand Anderson, Division Chief
 State Social Security Administrator
 California Public Employees' Retirement System (CALPERS)
 P O Box 942709
 Sacramento, CA 94229-2709

888 CALPERS
 Fax: 916-795-1523

***Steven Propp**
 Social Security Manager

916-795-9390
steven_propp@calpers.ca.gov

COLORADO**Region VI**

***Maryann Motza, PhD**
 State Social Security Administrator
 Public Employees' Social Security Program
 Colorado Department of Labor & Employment
 633 17th Street, 7th Floor
 Denver, CO 80202-2117

303-318-8061
 Fax: 303-318-8069
maryann.motza@state.co.us

Dean Conder
 Deputy State Social Security Administrator

303-318-8060
dean.conder@state.co.us
 WEBSITE: <http://pess.cdle.state.co.us/>

CONNECTICUT

Jeanne Kopek
Acting Director
Retirement & Benefit Services Division
Office of the State Comptroller
55 Elm Street
Hartford, CT06106-1797

Region I

860-702-3481

***Jeffrey G. Bieber**
Coordinator
Social Security Unit

860-702-3524
Fax: 860-702-3489
jeff.bieber@po.state.ct.us

DELAWARE

Chipman L. Flowers, Jr.
Delaware State Treasurer
820 Silver Lake Boulevard, Suite 100
Dover, DE 19904

Region II

302-672-6701
800-722-7300
Fax: 302-739-5635
chip.flowers@state.de.us

***Richard Rexrode**
Deputy State Treasurer

302-672-6704
Fax: 302-739-2254
richard.rexrode@state.de.us

FLORIDA

Sarabeth Snuggs
State Retirement Director
Division of Retirement
P O Box 9000
Tallahassee, FL 32315-9000

Region III

850-488-5540
Fax: 850-921-0371
sarabeth.snuggs@dms.myflorida.com

***Cathy Smith**
Bureau of Enrollment & Contributions

850-414-6371
Fax: 850-410-2030
cathy.smith@dms.myflorida.com

GEORGIA

Joseph B. Doyle, Commissioner
State Personnel Administration
Floyd Veterans Memorial Building
Twin Towers (West)
2 Martin Luther King, Jr. Drive, SE
Atlanta, GA 30334-5100

Region III

404-656-2705
joseph.doyle@spa.ga.gov

***Megan Schuam**
Social Security Coordinator

404-603-5615
Fax: 404-350-6309
megan.schuam@ers.ga.us

HAWAII***Betty Tachibana**

Administrator
Employees Retirement System of Hawaii
201 Merchant Street, Suite 1400
Honolulu, HI 96813-2929

Region VII

808-586-1700
Fax: 808-586-1677
tachibanab@hiers.org

Wesley Machida
Assistant Administrator

808-587-5380
machidaw@hiers.org

Darrick Tokuda

808-586-1722
tokudad@hiers.org

IDAHO

Donna M. Jones, Controller
State Social Security Administrator
Joe R. Williams Building
700 West Street
P O Box 83720
Boise, ID 83720-0011

Region VII

208-334-3100

Brandon Woolf
Administrator
Office of Statewide Payroll

208-334-2394
Fax: 208-334-3338
bwoolf@sco.idaho.gov

***Rita Foltman**

State Social Security Coordinator

208-332-8734
rfoltman@sco.idaho.gov

ILLINOIS

Timothy B. Blair
Executive Secretary
State Employees' Retirement System
2101 South Veterans Parkway
P O Box 19255
Springfield, IL 62794-9255

Region IV

217-785-7444

***Nicholas C. Merrill, Jr.**
Accounting Division Manager

217-785-2340
Fax: 217-785-7019
nick.merrill@srs.illinois.gov

INDIANA

Terren (Terry) B. Magid
 Executive Director
 Public Employees' Retirement Fund
 143 West Market Street, Suite 500
 Indianapolis, IN 46204

Region IV

317-233-4133
 888-526-1687

***Tom Parker**

Legal Benefits Analyst
 1 North Capitol, Suite 001
 Indianapolis, IN 46204

317-233-4146
tparker@perf.in.gov

IOWA***Danielle Huffine**

State Social Security Administrator
 7401 Register Drive
 Des Moines, IA 50321

Region IV

515-281-0089
 Fax: 515-281-0053
danielle.huffine@ipers.org

KANSAS***Kent E. Olson, Director**

Department of Administration
 Division of Accounts and Reports
 Landon State Office Building
 900 SW Jackson Street, Room 351S
 Topeka, KS 66612-1248

Region V

785-296-2314
 Fax: 785-296-6841
kent.olson@da.ks.gov

Roger Basinger

Division of Accounts and Reports

785-296-2474
roger.basinger@da.ks.gov

KENTUCKY

Vacant, Director
 Division of Local Government Services
 501 High Street, 4th Floor – Station 11
 P O Box 639
 Frankfort, KY 40602-0639

Region III

502-564-6879
 Fax: 502-564-2124
 Website: www.sssa.ky.gov

***Joe Lancaster**

Assistant Director

502-564-6888
joe.lancaster@ky.gov

Tammy Taylor
 Internal Policy Analyst III

502-564-6915
tammy.taylor@ky.gov

LOUISIANA

John Neely Kennedy, Administrator
 Department of Treasury
 Division of Social Security
 P O Box 44154
 Baton Rouge, LA 70804-4154

Region V

Website: www.treasury.state.la.us/Home%20Pages/SocialSecurity.aspx

***Linda Yelverton**

Social Security Program Director

225-342-0026

Fax: 225-342-1650

linda.yelverton@la.gov

Angie Dowdy

Social Security Program Analyst

225-342-0295

angie.dowdy@la.gov

MAINE

Sandra J. Matheson
 Executive Director
 Maine State Retirement System
 #46 State Station
 Augusta, ME 04333

Region 1

207-512-3190

800-451-9800

Fax: 207-512-3282

John Milazzo

Chief Deputy Executive Director and Legal Counsel

207-512-3105

800-451-3284

jmilazzo@msrs.org

*Stephanie Fecteau

207-512-3305

Fax: 207-623-4507

stephanie.fecteau@mainepers.org

MARYLAND

***Thomas J. (T.J.) Reardon**
 State Social Security Administrator
 Office of Personnel Services and Benefits
 Department of Budget and Management
 301 West Preston Street
 Baltimore, MD 21201-2305

Region II

410-767-4716

Fax: 410-333-5262

ckollner@dbm.state.md.us

Personnel Administrator

410-767-4773

tjreardon@dbm.state.md.us

MASSACHUSETTS***Nick Favorito**

Deputy Treasurer/Executive Director
State Board of Retirement
One Ashburton Place #219
Boston, MA 02108-1518

Region I

607-367-7770 Ext 302
Fax: 617-723-1438
nfavorito@tre.state.ma.us

MICHIGAN***Lois Musbach**

Social Security Coordinator
State of Michigan Office of Retirement Services
P O Box 30171
Lansing, MI 48909

Region IV

517-322-5187
800-381-5111
Fax: 517-322-1116
musbachl@michigan.gov

MINNESOTA

Mary Most Vanek
Social Security Administrator

Region IV***Cheryl Keating**

Administrative Services Manager
Public Employees' Retirement Association (PERA)
60 Empire Drive, Suite 200
Saint Paul, MN 55103-2088

651-355-0055
cheryl.keating@mnpera.org

Scott McLeod

651-355-0059
scott.mcleod@mnpera.org

Chris Arcand

651-355-0050
chris.arcand@mnpera.org

MISSISSIPPI

Pat Robinson
Executive Director
Public Employees' Retirement System
429 Mississippi Street
Jackson, MS 39201-1005

Region III

601-359-3589

***Shirley Sessoms**

Deputy Director
Wage and Contributions Division

601-359-2257
Fax: 601-359-2124
shirley_sessoms@pers.state.ms.us

Barbara Taylor
Wage and Contributions Division

601-359-2534
btaylor@pers.ms.gov

MISSOURI

Stacy Neal, Director
Division of Accounting
Office of Administration
P O Box
Jefferson City, MO 65102-0809

***Vandee DeVore**
Assistant Director

Beth Dillon

Region V

573-751-4013
Fax: 573-526-9810
stacy.neal@oa.mo.gov

573-751-3289
vandee.devore@oa.mo.gov

beth.dillon@oa.mo.gov

MONTANA

***Meghann Butler**
Social Security Administrator
Department of Administration
P O Box 200102
Helena, MT 59620-0102

Region VI

406-444-2596
mbutler@mt.gov

NEBRASKA

***Michael Keays**
Social Security Administrator
Department of Administrative Services
P O Box 94664
State Capitol
Lincoln, NE 68509

Region V

402-471-0600
Fax: 402-471-2583
micheal.keays@nebraska.gov

Ron Carlson
Assistant

402-471-0619
Fax: 402-471-2583
ron.carlson@nebraska.gov

Wes Mohling

wes.mohling@nebraska.gov

NEVADA

***Paul R. Brugger**
Division of Employment Security
500 East Third St
Carson City, NV 89713

Region VII

775-684-6384
Fax: 775-684-6397
pbrugger@nvdetr.org

NEW HAMPSHIRE

James Fredyma
Controller
NH Dept. of Health & Human Services
129 Pleasant ST
Concord, NH 03301-3857

Region I

603-271-4333
Fax: 603-271-4232
jfredyma@dhhs.state.nh.us

Anne Mattice
Administrator
DHHS - Bureau of Finance

603-271-4203

***Constance Manus**
DHHS – Bureau of Finance

603-271-4207
Fax: 603-271-2896
Constance.Manus@dhhs.state.nh.us

NEW JERSEY

***Florence Sheppard, Acting Director**
NJ Division of Pension Benefits
50 West State St
Post Office Box 295
Trenton, NJ 08625

Region I

609-292-3678

***Peter Gorman**
Executive Assistant
Social Security Agency

609-292-0132
Fax: 609-393-4606
peter.gorman@treas.state.nj.us

NEW MEXICO

***Mary M. Frederick**
Deputy Executive Director
Department of Administrative Services
P O Box 94664
State Capitol
Lincoln, NE 68509

Region V

505-476-9303
Fax: 505-954-0379
mary.frederick@state.nm.us
Website: www.pera.state.nm.us

NEW YORK

***Kevin Mack**
Administrator
Disability Services Bureau
New York State & Local Retirement Systems
110 State St
Albany, NY 12244

Region I

518-474-0033
Fax: 518-474-3091
kmack@osc.state.ny.us

NORTH CAROLINA

Michael L. Williamson
Deputy State Treasurer and Director
Of Retirement Systems Division
Department of State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385

Region III

919-508-5377

***Don Perry**

Research and Planning Officer

919-508-5377

Fax: 919-508-1022

don.perry@nctreasurer.com

NORTH DAKOTA***Jeff Gitter**

State Social Security Administrator
Job Service – North Dakota
P O Box 5507
Bismarck, ND 58506-5507

Region VI

701-328-1680

Fax: 701-328-1882

jgitter@nd.gov

OHIO***Kevin Brinkerhoff**

State Social Security Administrator
Department of Administrative Services
Human Resource Division
30 E. Broad St – 27th Floor
Columbus, OH 43215

Region IV

614-466-2942

Fax: 614-466-1565

kevin.brinkerhoff@das.state.oh.us

OKLAHOMA***Karen Lawrence**

State Administrator
Department of Human Services
P O Box 25352
Room 327
Oklahoma City, OK 73125-0352

Region V

405-521-3555

Fax: 405-522-2082

Karen.Lawrence@okdhs.org

Website: www.okdhs.org/programsandservices/ss/default.htm

OREGON

Paul Cleary, Executive Director
Oregon Public Employees' Retirement System
P O Box 23700
Tigard, OR 97281-3700

Steve Rodeman
Deputy Director

***Pamella Johnson**

State Social Security Coordinator
Oregon PERS

Karen Park

Region VII

503-603-7633

Fax: 503-598-1218

pamella.johnson@state.or.us

conferencencssa@yahoo.com

PENNSYLVANIA***Arthur Doherty**

State Administrator
Department of Labor and Industry
Social Security for Public Employees
PA Dept Labor and Industry Room 1424
7th & Forster Streets
Harrisburg, PA 17120

Region II

717-783-8860

Fax: 717-772-3351

adoherty@state.pa.us

Website: www.state.pa.us keyword-SSPE

PUERTO RICO***Mr. Alejandro Sanchez-Rivera**

Assistant Secretary for Central Government Accounting
State Administrator for the Commonwealth of Puerto Rico
Department of Treasury
P O Box 9024 140
San Juan, PR 00902-4140

Region I

787-721-2020

Fax: 787-723-6215

asanchez@hacienda.gobierno.pr

RHODE ISLAND***Gayle Mambro-Martin**

Internal Legal Counsel
Employees Retirement System of Rhode Island
40 Fountain St. 1st Floor
Providence, RI 02903

Region I

401-457-3949

Fax: 401-222-2430

gmambro@ERSRI.org

SOUTH CAROLINA

Peggy G. Boykin, CPA
Director
SC Retirement Systems
P O Box 11960
Columbia, SC 29211-1960

Region III

803-737-6906
Fax: 803-737-6947

***David Avant**
Senior Managing Counsel

803-737-6811
davant@retirement.sc.gov

SOUTH DAKOTA

***Eric Fahrendorf**
Director
State Social Security-IRS Division
State Auditor's Office
500 E. Capitol Avenue
Pierre, SD 57501-5070

Region VI

605-773-6926
Fax: 605-773-4942

Amanda Scmidtgen

605-773-3341
Amanda.schmitgen@state.sd.us

TENNESSEE

***Mary Griffin**
State Social Security Administrator-OASI
Treasury Department
Tennessee Consolidated Retirement System
502 Deaderick St
10th Floor Andrew Jackson Building
Nashville, TN 37243

Region III

615-741-7902
mary.e.griffin@tn.gov
Website: www.treasury.state.tn.oasi/index.htm

TEXAS

***James Sawyer**
State Social Security Administrator
Employees Retirement System of Texas
P O Box 13207
Austin, TX 78711-3207

Region V

512-867-7373
Fax: 512-867-3379
jsawyer@ers.state.tx.us

UTAH

***Rick Beckstead, CPA**

State Accountant
Division of Finance
2110 State Office Building
Salt Lake City, UT 84114

Region VI

801-538-3100
Fax: 801-538-3562
rbeckstead@utah.gov

Brandon Bagley
Accounting Operations Manager

801-538-3110
bbagley@utah.gov

VERMONT

***Laurie Lanphear, Director**

Social Security Division
Office of the State Treasurer
109 State St, 4th Fl
Montpelier, VT 05609-6901

Region I

802-828-2302
Fax: 802-828-5182
laurie.lanphear@state.vt.us

Mary Graves
Payroll Manager

802-828-2314

VIRGINIA

Robert P. Schultz
Director
Virginia Retirement System
P O Box 2500
Richmond, VA 23218-2500

Region II

804-344-3120
Fax: 804-786-1541
rschultze@varetire.org

***Barry Faison**
Chief Financial Officer

804-344-3128
Fax: 804-786-1425
bfaison@varetire.org

VIRGIN ISLANDS

Claudette Watson-Anderson
Commissioner
Department of Finance
Government of the Virgin Islands
2314 Kronprindsens Gade
Charlotte Amalie, VI 00802

Region I

340-774-1553
Fax: 340-776-4028
candercpa@dof.gov.vi

***William Belardo**
Director, Central Payroll

340-774-4750 Ext. 2252
wbelardo@dof.gov.vi

WASHINGTON***Kim Smith**

State Social Security Administrator
 Department of Retirement Systems
 P O Box 48380
 Olympia, WA 98504-8380

Melanie Piccin
 Social Security Coordinator

Region VII

360-664-7107

kims@drs.wa.gov

360-664-7165

melanie.p@drs.wa.gov**WEST VIRGINIA**

Glen B. Gainer III, State Auditor
 State Administrator for Social Security
 State Auditor's Office
 West Wing, 100 State Capitol Building
 Charleston, WV 25305-0002

Todd Childers, CPA
 Deputy State Auditor
 State Capitol Building, Room W-112

Carrie Chambers
 Auditor Assistant

***Eric Wagner**

Director of Accounting
 Deputy Social Security Administrator

Region II

304-558-2251

FAX: 304-558-5200

Glen.Gainer@wvsao.gov

304-558-2261 Ext. 2146

FAX: 304-558-4155

Todd.Childers@wvsao.govcarrie.chambers@wvsao.gov

304-558-2250 Ext. 2186

FAX: 304-558-4155

Eric.wagner@wvsao.gov**WISCONSIN**

Matt Stohr
 State Social Security Administrator
 Department of Employee Trust Funds
 P O Box 7391
 Madison, WI 53707

Diana Felsmann*Region IV**

608-266-6725

matt.stohr@etf.wi.us

608-266-6725

dianna.felsman@etf.wi.us**WYOMING**

Thomas Williams
 Wyoming Retirement System
 6101 Yellowstone Rd, 5th Floor West
 Cheyenne, WY 82002-0001

***Harry Wales**

Deputy Director

Region VI

307-777-6762

307-777-6109

FAX: 307-777-5995

hwales@state.wy.us