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## MANDATORY SOCIAL SECURITY TAXES ON PUBLIC SAFETY WORKERS

### BACKGROUND AND POSITION

The Social Security program is an important source of future retirement security for millions of Americans. NAPO realizes that the program needs to be restructured and its financing put on sound footing for future generations of retirees, in view of the projections that by the year 2041 the Social Security Trust Fund will be exhausted. We commend the President and the Congress for their efforts to consider various alternatives.

NAPO supports a long-term solution, *so long as* such a solution does not mandate that all or some state and local government employees, including newly hired ones and their employing agencies, be required to pay Social Security taxes. Adding presently non-covered public safety workers will not fix the basic problems of Social Security. While it will bring new workers into the Social Security system, the system will also have to assume a liability for these new workers which will eventually have to be paid.

Forcing state and local governments and employees to pay a combined 12.4 percent tax would have major consequences. Specifically, mandating Social Security taxes on the 70 percent of public safety officers not presently covered would have a dramatic and negative impact on the recruitment and retention of well-qualified public safety officers. In addition, it would constitute an unfunded mandate on public safety agencies, amounting to over \$1 billion in the first year alone. Under a mandatory Social Security system, law enforcement officers would pay more for fewer benefits, when compared to their current pension plans.

Even if Social Security taxes were limited to new hires, the likely consequences of mandatory Social Security taxes--reduced benefits, lower salaries, or frozen cost-of-living increases--would make law enforcement and fire safety work less financially desirable. It makes no sense whatsoever to tamper with a system of pension funds that is working well and paying needed benefits to those who serve and protect the public.

### **Points in Support of NAPO's Position:**

- State and local governments were excluded from the Social Security Act of 1935 for two reasons. First, there were (and still are) questions as to the extent to which the federal government could tax state and local governments. Second, many state and local governments had their own excellent pension systems. The 1950 amendments to the Act allowed these governments to participate voluntarily in Social Security and a number have joined the system. Then, in July of 1991, Social Security was made mandatory for state and local government employees who do not participate in any employer/employee retirement system.
- Social Security was not designed for and does not address the special needs of law enforcement officers as follows:
  1. First, officers and their families need the security of service-connected disability and death benefits. Social Security benefits do not provide anywhere near the same level of benefits of current public safety pension plans, and provide no disability benefits unless one is totally unable to perform any work, not just public safety work.
  2. Second, Social Security is not appropriate for public safety officers who normally retire prior to or around 55 years of age, due to the stresses and dangers they face every day. Unlike current plans where officers

may retire after 20 or more years of service, Social Security will not pay these individuals until they reach 62, 67, or even 70 years of age.

- A majority of government entities would both pay the newly imposed 6.2 percent tax (the employer's half of the 12.4 percent Social Security tax) and retain their current pension systems, because they are required by law or collective bargaining agreement to do so. Imposing Social Security taxes on these state and local governments would strain their budgets and would have serious consequences on the pay and working conditions of their public safety officers. (For example, it is estimated that California governmental entities and their newly hired employees would have to pay \$440 million in new Social Security taxes, if newly hired workers were covered.)
- Because raising taxes to make up the difference is not politically feasible, state and local governments would likely take two or more of the following actions: (1) decrease the number of public safety officers to retain current pay levels and benefits; (2) reduce the pay of law enforcement officers, (3) freeze future cost-of-living increases; or (4) not provide public safety officers with the essential equipment (such as bullet resistant vests) and resources needed to effectively perform their work.
- Officers would automatically suffer a minimum *de facto* pay decrease through the newly imposed 6.2 percent tax (the employee's half of the 12.4 percent Social Security tax), in order for them to keep their current pension benefits. Their ability, through collective bargaining and the political process, to obtain adequate compensation for their service would be severely weakened, and it would become more difficult to retain the best qualified officers.
- Most of the remaining state and local governments would pay the 6.2 percent tax by reducing proportionally their contributions to current pension systems. Trying to blend the special needs of actuarially funded pensions systems with the structure of Social Security would create serious complications and costs for benefit design and administration, as well as collective bargaining. And over time, mandatory Social Security taxes, even if applied to only new hires, would threaten the financial viability of sound, secure, and long-standing retirement systems, eventually destroying the existing retirement and disability benefits for public safety officers.
- Reducing employer and employee contributions to current pension plans in order to pay Social Security taxes would have serious repercussions for those employees already having vested rights and would make it difficult to recruit the best candidates for public safety work. Over time, the increasing transfer of significant contributions (of both employers and employees) from the pension funds to Social Security would severely reduce the investment income, as more grandfathered employees in the current systems retire and new employees covered by Social Security are hired to replace them. This would cause pension funds to be underfunded and would reduce benefits, seriously harming the future benefits paid to retirees.
- Significantly scaling back and reducing current retirement pensions, death benefits, and line-of-duty disability pay for public safety officers, even if done only for new hires, would provide public safety officers and their families with much less protection. This would cause law enforcement and firefighting to become much less desirable as careers. Retention of current public safety officers and recruitment of new officers would therefore become difficult.

### **RECENT LEGISLATIVE HISTORY**

#### **109<sup>th</sup> Congress (2005-2007):**

- With NAPO's support, on March 3, 2005, eleven Senators sent a letter to the Senate Finance Committee, urging members of that panel not to support mandatory Social Security coverage for state and local workers. Senators Dianne Feinstein (D-CA) and George Voinovich (R-OH) sponsored the letter, which was also signed by Mike DeWine (R-OH), Richard Durban (D-II), Barack Obama (D-II), Edward Kennedy (D-MA), Christopher Dodd (D-Conn), Kit Bond (R-MO), James Inhofe (R-OK), Mary Landrieu (D-LA), and Ken Salazar (D-CO).

108<sup>th</sup> Congress (2003-2005)

- H.Con.Res. 25, expressing the sense of the Congress that Social Security reform measures should not force State and local government employees into Social Security coverage. Introduced by Representative Mark Green (R-WI). On 2/4/2003, H.Con.Res. 25 was referred to the House Subcommittee on Social Security. No further action was taken on the bill.

*For information on the legislative history of this issue prior to the 108<sup>th</sup> Congress please contact the NAPO office at (800) 322-NAPO (6276).*