H. R. 376

To amend the Internal Revenue Code of 1986 to provide recruitment and retention incentives for volunteer emergency service workers.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2011

Mr. KING of New York (for himself, Mr. PASCRELL, Mr. ISRAEL, Mr. BISHOP of New York, Mrs. LOWEY, Mr. CROWLEY, Mr. HOLDEN, Mr. COURTNEY, Mr. HINCHELY, and Mr. BRALEY of Iowa) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend the Internal Revenue Code of 1986 to provide recruitment and retention incentives for volunteer emergency service workers.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Volunteer Emergency
5 Services Recruitment and Retention Act of 2011”.
SEC. 2. ELECTIVE TREATMENT OF LENGTH OF SERVICE AWARD PROGRAMS AS ELIGIBLE DEFERRED COMPENSATION PLANS.

(a) In General.—Subsection (e) of section 457 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(19) Special rules applicable to length of service award plans.—

“(A) In general.—The term ‘eligible deferred compensation plan’ shall include, at the election of its sponsor, any length of service award plan. Any such election shall be irrevocable. In the case of a length of service award plan whose sponsor has elected to have such plan treated as an eligible deferred compensation plan, such plan shall be administered in a manner consistent with the requirements of this section and such sponsor shall be treated as an eligible employer described in paragraph (1)(A).

“(B) Length of service award plan.—For purposes of this paragraph—

“(i) In general.—The term ‘length of service award plan’ means any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on
account of qualified services performed by such volunteers.

“(ii) BONA FIDE VOLUNTEER.—An individual shall be treated as a bona fide volunteer if the only compensation received by such individual for performing qualified services is in the form of—

“(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

“(II) reasonable benefits (including length of service awards), and fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

“(iii) QUALIFIED SERVICES.—The term ‘qualified services’ means fire fighting and prevention services, emergency medical services, ambulance services, and emergency rescue services.

“(C) MAXIMUM DEFERRAL AMOUNT.—In the case of a length of service award plan whose sponsor has elected to have such plan treated as
an eligible deferred compensation plan, subsection (b)(2) shall be applied by striking ‘the lesser of—’ and all that follows and inserting ‘the applicable dollar amount,’.

“(D) DISTRIBUTION REQUIREMENTS.—In the case of a length of service award plan whose sponsor has elected to have such plan treated as an eligible deferred compensation plan, subsection (d)(1)(A)(ii) shall be applied by deeming a severance from employment to have occurred at the later of—

“(i) the payment date under the terms of the plan, or

“(ii) the date on which the plan participant ceases to perform qualified services.

“(E) LIMITATION ON ACCRUALS.—

“(i) IN GENERAL.—In the case of a length of service award plan that is a defined benefit plan (as defined in section 414(j)) whose sponsor has not elected to have such plan treated as an eligible deferred compensation plan, such plan shall be treated as not providing for the deferral of compensation if the aggregate amount
of length of service awards accruing with respect to any year of service for any bona fide volunteer does not exceed $5,500. In the case of a length of service award plan described in the preceding sentence that is a defined benefit plan (as defined in section 414(j)), the limitation on the annual deferral shall apply to the actuarial present value of the aggregate amount of length of service awards accruing with respect to any year of service. Such actuarial present value shall be calculated using reasonable actuarial assumptions and methods assuming payment shall be made under the most valuable form of payment of the length of service award under the program with payment commencing at the later of the earliest age at which unreduced benefits are payable under the program or the participant’s current age.

“(ii) COST-OF-LIVING ADJUSTMENT.—
In the case of taxable years beginning after December 31, 2012, the Secretary shall adjust the $5,500 amount under clause (i) at the same time and in the
same manner as under section 415(d), ex-
cept that the base period shall be the cal-
endar quarter beginning July 1, 2011, and
any increase under this paragraph that is
not a multiple of $500 shall be rounded to
the next lowest multiple of $500.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (11) of section 457(e) of such
Code is amended to read as follows:

“(11) CERTAIN PLANS EXCLUDED.—Any bona
fide vacation leave, sick leave, compensatory time,
severance pay, disability pay, or death benefit plan
shall be treated as not providing for the deferral of
compensation.”.

(2) Section 3121(a)(5)(I) of such Code is
amended by striking “section 457(e)(11)(A)(ii)” and
inserting “section 457(e)(19)”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2011.

SEC. 3. EXEMPTION OF LENGTH OF SERVICE AWARD PRO-
GRAMS FROM THE EMPLOYEE RETIREMENT
INCOME SECURITY ACT OF 1974.

The Secretary of Labor shall issue guidance clari-
fying that a length of service award program described
in section 457(e)(19) of the Internal Revenue Code of 1986 is not an employee pension benefit plan under section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).