H. R. 675

To extend protections to part-time workers in the areas of employer-provided health insurance, family and medical leave, and pension plans.

IN THE HOUSE OF REPRESENTATIVES

February 13, 2013

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, House Administration, and Oversight and Government Reform, 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 extend protections to part-time workers in the areas of employer-provided health insurance, family and medical leave, and pension plans.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Part-Time Worker Bill of Rights Act of 2013”.


SEC. 2. EXTENSION OF EMPLOYER HEALTH INSURANCE

COVERAGE MANDATE TO PART-TIME EMPLOYEES.

(a) LARGE EMPLOYERS NOT OFFERING HEALTH COVERAGE.—

(1) IN GENERAL.—Subsection (a) of section 4980H of the Internal Revenue Code of 1986 is amended—

(A) by striking “full-time employees” in paragraph (1) and inserting “employees”,

(B) by striking “full-time employee” in paragraph (2) and inserting “employee”, and

(C) by striking “hereby imposed on the employer” and all that follows and inserting “hereby imposed on the employer, with respect to each employee employed by the employer during such month, an assessable payment equal to the applicable payment amount with respect to such employee.”.

(2) PRORATION OF APPLICABLE PAYMENT AMOUNT FOR PART-TIME EMPLOYEES.—Paragraph (1) of section 4980H(c) of such Code is amended to read as follows:

“(1) APPLICABLE PAYMENT AMOUNT.—The term ‘applicable payment amount’ means, with respect to any employee for any month—
“(A) in the case of a full-time employee, 
1/12 of $2,000, and

“(B) in the case of any other employee, the amount which bears the same ratio to the amount determined under subparagraph (A) as—

“(i) the average hours of service per week of such employee for such month, bears to

“(ii) 30.”.

(b) Large Employers Offering Coverage With Employees Who Qualify for Premium Tax Credits or Cost-Sharing Reductions.—

(1) In general.—Paragraph (1) of section 4980H(b) of such Code is amended—

(A) by striking “full-time employees” each place it appears in subparagraphs (A) and (B) and inserting “employees”, and

(B) by striking “hereby imposed on the employer” and all that follows and inserting “hereby imposed on the employer, with respect to each employee described in subparagraph (B) for such month, an assessable payment equal to 1/12 of $3,000.”.
(2) PRORATION FOR PART-TIME EMPLOYEES.—

Subsection (b) of section 4980H of such Code is amended by adding at the end the following new paragraph:

“(3) PRORATION FOR PART-TIME EMPLOYEES.—In the case of any employee other than a full-time employee, paragraph (1) shall be applied by substituting for ‘$3,000’ the dollar amount which bears the same ratio to $3,000 as—

“(A) the average hours of service per week of such employee for the month with respect to which such paragraph applies, bears to

“(B) 30.”.

(3) APPLICATION OF OVERALL LIMITATION.—

Paragraph (2) of section 4980H(b) of such Code is amended to read as follows:

“(2) OVERALL LIMITATION.—The aggregate amount of tax determined under paragraph (1) with respect to any applicable large employer for any month shall not exceed the aggregate amount of tax which would have been determined under subsection (a) with respect to such employer for such month if such employer were described in subsection (a)(1).”.

(c) APPLICATION OF HOURS OF SERVICE RULES.—

Subparagraph (B) of section 4980H(c)(4) of such Code
is amended by striking “for the application of this para-
graph to” and inserting “with respect to”.

(d) Effective Date.—The amendments made by
this section shall apply to months beginning after Decem-
ber 31, 2013.

SEC. 3. ELIMINATION OF HOURS OF SERVICE REQUIRE-
MENT FOR FMLA LEAVE.

(a) Amendment.—Section 101(2)(A) of the Family
and Medical Leave Act of 1993 (29 U.S.C. 2611(2)(A))
is amended to read as follows:

“(A) In general.—The term ‘eligible em-
ployee’ means an employee who has been em-
ployed, either as a full-time or part-time em-
ployee, for at least 12 months by the employer
with respect to whom leave is requested under
section 102.”.

(b) Effective Date.—The amendment made by
subsection (a) shall take effect beginning on the date that
is one year after the date of enactment of this Act.

SEC. 4. TREATMENT OF EMPLOYEES WORKING AT LESS
THAN FULL-TIME UNDER PARTICIPATION,
VESTING, AND ACCRUAL RULES GOVERNING
PENSION PLANS.

(a) Participation Rules.—
(1) IN GENERAL.—Section 202(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(3)) is amended by adding at the end the following new subparagraph:

“(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the 12-month period referred to in subparagraph (A)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

“(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.”.
(2) CONFORMING AMENDMENT.—Section 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E)) is amended by striking “section 202(a)(3)(A)” and inserting “subparagraphs (A) and (E) of section 202(a)(3)”.

(b) VESTING RULES.—

(1) IN GENERAL.—Section 203(b)(2) of such Act (29 U.S.C. 1053(b)(2)) is amended by adding at the end the following new subparagraph:

“(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

“(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accord-
ance with such regulations as the Secretary may prescribe

providing for consideration of facts and circumstances pe-
cular to the work-force constituting the participants in

such plan.”.

(2) 1-YEAR BREAKS IN SERVICE.—Section

203(b)(3) of such Act (29 U.S.C. 1053(b)(3)) is

amended by adding at the end the following new

subparagraph:

“(F)(i) For purposes of this paragraph, in the case

of any employee who, as of the beginning of the period
designated by the plan pursuant to subparagraph (A)—

“(I) has customarily completed 500 or more

hours of service per year but less than 1,000 hours

of service per year, or

“(II) is employed in a type of position in which

employment customarily constitutes 500 or more

hours of service per year but less than 1,000 hours

of service per year,

completion of 250 hours of service within such period shall

be treated as completion of 500 hours of service.

“(ii) For purposes of this subparagraph, the extent

to which employment in any type of position customarily

constitutes less than 1,000 hours of service per year shall

be determined with respect to each pension plan in accord-

ance with such regulations as the Secretary may prescribe
providing for consideration of facts and circumstances peculiar to the work-force constituting the participants in such plan.”.

(c) ACCRUAL RULES.—Section 204(b)(4)(C) of such Act (29 U.S.C. 1054(b)(4)(C)) is amended—

(1) by inserting “(i)” after “(C)”; and

(2) by adding at the end the following new clauses:

“(ii) For purposes of this subparagraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to clause (i)—

“(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

“(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

“(iii) For purposes of clause (ii), the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary may prescribe pro-
viding for consideration of facts and circumstances pecu-
liar to the work-force constituting the participants in such
plan.”.

(d) **Effective Dates.**—

(1) **In General.**—Except as provided in sub-
section (b), the amendments made by this section
shall apply with respect to plan years beginning on
or after the date that is one year after the date of
the enactment of this Act.

(2) **Special Rule for Collectively Bargained Plans.**—In the case of a plan maintained
pursuant to 1 or more collective bargaining agree-
ments between employee representatives and 1 or
more employers ratified on or before the date of the
enactment of this Act, the amendments made by this
section shall not apply to plan years beginning be-
fore the later of—

(A) the earlier of—

(i) the date on which the last of the
collective bargaining agreements relating to
the plan terminates (determined without
regard to any extension thereof agreed to
after the date of the enactment of this
Act); or
(ii) the date that is 3 years after the date of the enactment of this Act; or

(B) the date that is 1 year after the date of the enactment of this Act.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.