

113TH CONGRESS
1ST SESSION

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 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 “Part-Time Worker Bill
5 of Rights Act of 2013”.

1 **SEC. 2. EXTENSION OF EMPLOYER HEALTH INSURANCE**
2 **COVERAGE MANDATE TO PART-TIME EM-**
3 **PLOYEES.**

4 (a) **LARGE EMPLOYERS NOT OFFERING HEALTH**
5 **COVERAGE.—**

6 (1) **IN GENERAL.—**Subsection (a) of section
7 4980H of the Internal Revenue Code of 1986 is
8 amended—

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

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

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

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

24 “(1) **APPLICABLE PAYMENT AMOUNT.—**The
25 term ‘applicable payment amount’ means, with re-
26 spect to any employee for any month—

1 “(A) in the case of a full-time employee,
2 $\frac{1}{12}$ of \$2,000, and

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

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

10 “(ii) 30.”.

11 (b) LARGE EMPLOYERS OFFERING COVERAGE WITH
12 EMPLOYEES WHO QUALIFY FOR PREMIUM TAX CREDITS
13 OR COST-SHARING REDUCTIONS.—

14 (1) IN GENERAL.—Paragraph (1) of section
15 4980H(b) of such Code is amended—

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

19 (B) by striking “hereby imposed on the
20 employer” and all that follows and inserting
21 “hereby imposed on the employer, with respect
22 to each employee described in subparagraph (B)
23 for such month, an assessable payment equal to
24 $\frac{1}{12}$ of \$3,000.”.

1 (2) PRORATION FOR PART-TIME EMPLOYEES.—
2 Subsection (b) of section 4980H of such Code is
3 amended by adding at the end the following new
4 paragraph:

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

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

13 “(B) 30.”.

14 (3) APPLICATION OF OVERALL LIMITATION.—
15 Paragraph (2) of section 4980H(b) of such Code is
16 amended to read as follows:

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

24 (c) APPLICATION OF HOURS OF SERVICE RULES.—
25 Subparagraph (B) of section 4980H(c)(4) of such Code

1 is amended by striking “for the application of this para-
2 graph to” and inserting “with respect to”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to months beginning after Decem-
5 ber 31, 2013.

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

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

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

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect beginning on the date that
19 is one year after the date of enactment of this Act.

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

24 (a) PARTICIPATION RULES.—

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

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

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

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

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

17 “(ii) For purposes of this subparagraph, the extent
18 to which employment in any type of position customarily
19 constitutes less than 1,000 hours of service per year shall
20 be determined with respect to each pension plan in accord-
21 ance with such regulations as the Secretary may prescribe
22 providing for consideration of facts and circumstances pe-
23 culiar to the work-force constituting the participants in
24 such plan.”.

1 (2) CONFORMING AMENDMENT.—Section
2 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E))
3 is amended by striking “section 202(a)(3)(A)” and
4 inserting “subparagraphs (A) and (E) of section
5 202(a)(3)”.

6 (b) VESTING RULES.—

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

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

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

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

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

22 “(ii) For purposes of this subparagraph, the extent
23 to which employment in any type of position customarily
24 constitutes less than 1,000 hours of service per year shall
25 be determined with respect to each pension plan in accord-

1 ance with such regulations as the Secretary may prescribe
2 providing for consideration of facts and circumstances pe-
3 culiar to the work-force constituting the participants in
4 such plan.”.

5 (2) 1-YEAR BREAKS IN SERVICE.—Section
6 203(b)(3) of such Act (29 U.S.C. 1053(b)(3)) is
7 amended by adding at the end the following new
8 subparagraph:

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

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

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

19 completion of 250 hours of service within such period shall
20 be treated as completion of 500 hours of service.

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

1 providing for consideration of facts and circumstances pe-
2 culiar to the work-force constituting the participants in
3 such plan.”.

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

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

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

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

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

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

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

21 “(iii) For purposes of clause (ii), the extent to which
22 employment in any type of position customarily constitutes
23 less than 1,000 hours of service per year shall be deter-
24 mined with respect to each pension plan in accordance
25 with such regulations as the Secretary may prescribe pro-

1 viding for consideration of facts and circumstances pecu-
2 liar to the work-force constituting the participants in such
3 plan.”.

4 (d) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in sub-
6 section (b), the amendments made by this section
7 shall apply with respect to plan years beginning on
8 or after the date that is one year after the date of
9 the enactment of this Act.

10 (2) SPECIAL RULE FOR COLLECTIVELY BAR-
11 GAINED PLANS.—In the case of a plan maintained
12 pursuant to 1 or more collective bargaining agree-
13 ments between employee representatives and 1 or
14 more employers ratified on or before the date of the
15 enactment of this Act, the amendments made by this
16 section shall not apply to plan years beginning be-
17 fore the later of—

18 (A) the earlier of—

19 (i) the date on which the last of the
20 collective bargaining agreements relating to
21 the plan terminates (determined without
22 regard to any extension thereof agreed to
23 after the date of the enactment of this
24 Act); or

1 (ii) the date that is 3 years after the
2 date of the enactment of this Act; or

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

5 For purposes of subparagraph (A), any plan amend-
6 ment made pursuant to a collective bargaining
7 agreement relating to the plan which amends the
8 plan solely to conform to any requirement added by
9 this section shall not be treated as a termination of
10 such collective bargaining agreement.

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