

108TH CONGRESS  
1ST SESSION

# H. R. 1893

To amend the Age Discrimination in Employment Act of 1967 with respect to voluntary early retirement benefits and medical benefits.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2003

Mr. PETRI (for himself, Mr. KIND, Mr. SENSENBRENNER, Mr. GREEN of Wisconsin, Ms. BALDWIN, and Mr. RYAN of Wisconsin) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Age Discrimination in Employment Act of 1967 with respect to voluntary early retirement benefits and medical benefits.

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 “Teacher Voluntary  
5 Early Retirement Incentive Act of 2003”.

1 **SEC. 2. GOVERNMENTAL AND HIGHER EDUCATION VOL-**  
2 **UNTARY EARLY RETIREMENT INCENTIVE**  
3 **PLANS.**

4 (a) AMENDMENT.—Section 4(m) of the Age Discrimi-  
5 nation in Employment Act of 1967 (29 U.S.C. 623) is  
6 amended to read as follows:

7 “(m) VOLUNTARY RETIREMENT INCENTIVE  
8 PLANS.—Notwithstanding subsection (f)(2)(b), it shall  
9 not be a violation of subsection (a), (b), (c), or (d) solely  
10 because a voluntary early retirement incentive plan main-  
11 tained by a local educational agency (as defined in section  
12 9101 of the Elementary and Secondary Education Act of  
13 1965) or an institution of higher education (as defined in  
14 section 101 of the Higher Education Act of 1965), pro-  
15 vides for supplemental benefits to an employee that are  
16 reduced or eliminated on the basis of the employee’s age  
17 at the time of such employee’s retirement, if—

18 “(1) the employer does not implement with re-  
19 spect to such employee any age-based reduction or  
20 elimination of benefits that are not such supple-  
21 mental benefits, except as permitted by other provi-  
22 sions of this Act;

23 “(2) such supplemental benefits are in addition  
24 to any retirement or severance benefits which have  
25 been offered generally to employees, independent of

1 any early retirement or exit-incentive plan, within  
2 the preceding 365 days; and

3 “(3) with respect to any plan supplemental ben-  
4 efits for which an employee first becomes eligible  
5 after the enactment of the Teacher Voluntary Early  
6 Retirement Incentive Act of 2003—

7 “(i) any employee who attains the min-  
8 imum age and satisfies all non-age based condi-  
9 tions for receiving a benefit under the plan has  
10 an opportunity lasting not less than 180 days  
11 to elect to retire, and the plan does not require  
12 retirement to occur sooner than 180 days after  
13 such election; and

14 “(ii) any employee who is not eligible to re-  
15 ceive the maximum supplemental benefits pro-  
16 vided under the plan because of the age of such  
17 employee at the time of retirement was afforded  
18 a reasonable opportunity to receive such max-  
19 imum benefits at a previous time in such em-  
20 ployee’s employment.”.

21 (b) CONSTRUCTION.—Except as otherwise provided  
22 in section 4(m)(3) of the Age Discrimination in Employ-  
23 ment Act of 1967 (29 U.S.C. 623(m)(3)), the amendment  
24 made by subsection (a) shall apply in determining whether  
25 a voluntary employee early retirement incentive plan main-

1 tained by a local educational agency (as defined in section  
 2 9101 of the Elementary and Secondary Education Act of  
 3 1965) or an institution of higher education (as defined in  
 4 section 101 of the Higher Education Act of 1965), was  
 5 in violation of subsection (a), (b), (c), or (e) of section  
 6 4 of the Age Discrimination in Employment Act of 1967  
 7 (29 U.S.C. 621 et seq.) after January 1, 1996.

8 **SEC. 3. RETIREE MEDICAL BENEFITS COORDINATED WITH**  
 9 **MEDICARE AND OTHER GOVERNMENTAL AND**  
 10 **EMPLOYER BENEFIT PLANS; VOLUNTARY**  
 11 **EARLY RETIREMENT INCENTIVE PLANS**  
 12 **MAINTAINED BY LOCAL EDUCATIONAL AGEN-**  
 13 **CIES.**

14 (a) VOLUNTARY EARLY RETIREMENT INCENTIVE  
 15 PLANS MAINTAINED BY LOCAL EDUCATIONAL AGEN-  
 16 CIES.—Section 4(l)(1) of the Age Discrimination in Em-  
 17 ployment Act of 1967 (29 U.S.C. 623(l)(1)) is amended  
 18 by adding at the end the following:

19 “A voluntary early retirement incentive plan maintained  
 20 by a local educational agency (as defined in Section 9101  
 21 of the Elementary and Secondary Education Act of 1965)  
 22 which makes payments or supplements as provided in  
 23 clauses (i) or (ii) of subparagraph (B) in coordination with  
 24 a defined benefit plan (as defined in Section 3(35) of the  
 25 Employee Retirement Income Security Act of 1974 (29

1 U.S.C. 1002(35) maintained by a state or an agency  
2 thereof shall itself be deemed to constitute a defined ben-  
3 efit plan for purposes of subparagraph (B).”.

4 (b) RETIREE MEDICAL BENEFITS COORDINATED  
5 WITH MEDICARE BENEFITS.—Section 4(*l*) of the Age  
6 Discrimination in Employment Act of 1967 (29 U.S.C.  
7 623(*l*)) is amended by adding to the end the following:

8 “(4) It shall not be a violation of subsection (a), (b),  
9 (c), or (e) solely because an employee benefit plan (as de-  
10 fined in section 3 of the Employment Retirement Income  
11 Security Act of 1974 (29 U.S.C. 1002(3)) provides for  
12 medical benefits for retired participants that are altered,  
13 reduced, or eliminated when the participant is eligible for  
14 medical benefits under title XVIII of the Social Security  
15 Act (42 U.S.C. 1395 et seq.) or an employee benefit plan  
16 maintained by a State or an agency thereof.”.

17 (c) CONSTRUCTION.—(1) The amendments made by  
18 subsections (a) and (b) shall apply in determining whether  
19 a voluntary early retirement incentive plan maintained by  
20 a local educational agency (as defined in Section 9101 of  
21 the Elementary and Secondary Education Act) or an em-  
22 ployee benefit plan (as defined in Section 3 of the Em-  
23 ployee Retirement Income Security Act of 1974 (29  
24 U.S.C. 1002(3)) providing medical benefits for retired  
25 participants, was in violation of subsection (a), (b), (c),

1 or (e) of section 4 of the Age Discrimination in Employ-  
2 ment Act of 1967 (29 U.S.C. 623) at any time subsequent  
3 to January 1, 1996.

4 (2) No inference may be drawn from the amendment  
5 made by subsection (a) as to whether a voluntary early  
6 retirement incentive plan maintained by a local edu-  
7 cational agency constitutes, or at any time before or after  
8 the effective date of subsection (a) constituted, a defined  
9 benefit plan (as defined in Section 3(35) of the Employee  
10 Retirement Income Security Act of 1974 (29 U.S.C.  
11 1002(35))) for any purpose, including section 4 of the Age  
12 Discrimination in Employment Act of 1967.

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