

111TH CONGRESS  
1ST SESSION

# H. R. 1413

To amend the Internal Revenue Code of 1986 to allow certain public employees a deduction for distributions from governmental plans for health and long-term care insurance, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2009

Mr. CROWLEY (for himself and Mr. McHUGH) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow certain public employees a deduction for distributions from governmental plans for health and long-term care insurance, and for other purposes.

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 “Healthcare Enhance-  
5 ment for Local Public Servants Act of 2009”.

1 **SEC. 2. DISTRIBUTIONS FROM GOVERNMENTAL PLANS FOR**  
2 **HEALTH AND LONG-TERM CARE INSURANCE**  
3 **ALLOWED FOR OTHER PUBLIC EMPLOYEES.**

4 (a) IN GENERAL.—

5 (1) DISTRIBUTIONS ALLOWED FOR OTHER PUB-  
6 LIC EMPLOYEES.—Paragraph (1) of section 402(l)  
7 of the Internal Revenue Code of 1986 (relating to  
8 distributions from governmental plans for health and  
9 long-term care insurance) is amended by striking  
10 “retired public safety officer who makes the election  
11 described in paragraph (6)” and inserting “retired  
12 public employee”.

13 (2) RETIRED PUBLIC EMPLOYEE.—

14 (A) Paragraph (4) of section 402(l) of  
15 such Code is amended—

16 (i) by striking “(B) ELIGIBLE RE-  
17 TIRE D PUBLIC SAFETY OFFICER.—The  
18 term ‘eligible retired public safety’ officer  
19 means” and all that follows through the  
20 period at the end and inserting the fol-  
21 lowing:

22 “(B) ELIGIBLE RETIRED PUBLIC EM-  
23 PLOYEE.—

24 “(i) IN GENERAL.—The term ‘eligible  
25 retired public employee’ means an indi-  
26 vidual, who by reason of disability or at-

1           tainment of the earliest date on which he  
2           may retire and receive a retirement benefit  
3           from the governmental plan which is not  
4           reduced by reason of the individual's age  
5           or years of service, separates from service  
6           as a public safety officer, public school per-  
7           sonnel, or other public employee with the  
8           employer who maintains the eligible retire-  
9           ment plan from which distributions subject  
10          to paragraph (1) are made.”,

11           (ii) by redesignating subparagraph  
12          (C) as clause (ii), by moving such clause  
13          (as so redesignated) 2 ems to the right,  
14          and by inserting after such clause (as so  
15          redesignated) the following new clauses:

16           “(iii) PUBLIC SCHOOL PERSONNEL.—  
17          The term ‘public school personnel’ shall  
18          have the same meaning given such term by  
19          section 4151(10) of the elementary and  
20          secondary education Act of 1965 (20  
21          U.S.C. 7161(10)) whether employed by an  
22          institution of higher education (as defined  
23          in section 101 of the Higher Education  
24          Act of 1965 (20 U.S.C. 1001) or a local  
25          educational agency (as defined in section

1           9101 of the Elementary and Secondary  
 2           Education Act of 1965 (20 U.S.C.  
 3           7801(26)).

4           “(iv) PUBLIC EMPLOYEE.—The term  
 5           ‘public employee’ means any employee of a  
 6           State, political subdivision of a State, or  
 7           agency or instrumentality of a State or po-  
 8           litical subdivision of a State.”.

9           (3) CONFORMING AMENDMENT.—

10           (A) Subsection (l) of section 402 of such  
 11           Code (as amended by this section) is amended  
 12           by striking “retired public safety officer” in  
 13           each place it appears and inserting “retired  
 14           public employee”.

15           (B) Subparagraph (D) of section 402(l)(4)  
 16           of such Code is redesignated as subparagraph  
 17           (C).

18           (b) EFFECTIVE DATE.—The amendments made by  
 19           this section shall apply to distributions in taxable years  
 20           beginning after December 31, 2009.

21   **SEC. 3. DISTRIBUTION ALLOWED AS DEDUCTION RATHER**  
 22           **THAN EXCLUDED FROM GROSS INCOME.**

23           (a) IN GENERAL.—

24           (1) DEDUCTION ALLOWED.—Paragraph (1) of  
 25           section 402(l) of the Internal Revenue Code of 1986

1 is amended by striking “gross income of such em-  
2 ployee for such taxable year does not include” and  
3 all that follows through the period at the end and  
4 inserting the following: “there shall be allowed as a  
5 deduction from gross income for the taxable year an  
6 amount equal to the aggregate amount of distribu-  
7 tions from an eligible retirement plan of the indi-  
8 vidual in the taxable year to the extent that such  
9 amount does not exceed the amount paid by such  
10 employee or paid on behalf of such employee by de-  
11 ductions from distributions by the eligible retirement  
12 plan to the providers of the accident or health plans  
13 or qualified long-term care contracts for qualified  
14 health premiums for such taxable year.”

15 (2) DEDUCTION WITH RESPECT TO SURVIVING  
16 SPOUSE.—Subsection (1) of section 402 of such Code  
17 is amended by striking paragraph (6) and inserting  
18 the following new paragraph:

19 “(6) SPECIAL RULE FOR SURVIVING SPOUSE.—  
20 In the case of a deceased individual with respect to  
21 whom a deduction was allowed under paragraph (1)  
22 for the taxable year closed by reason of the individ-  
23 ual’s death, the surviving spouse of such individual  
24 shall be treated as the employee with respect to the

1 plan for purposes of paragraph (1) for all subse-  
 2 quent taxable years.”.

3 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-  
 4 PAYER ITEMIZES.—Subsection (a) of section 62 of such  
 5 Code is amended by inserting after paragraph (21) the  
 6 following new paragraph:

7 “(22) DISTRIBUTIONS FROM GOVERNMENTAL  
 8 RETIREMENT PLANS FOR HEALTH AND LONG-TERM  
 9 CARE INSURANCE FOR PUBLIC EMPLOYEES.—The  
 10 deduction allowed by section 402(l).”.

11 (c) CONFORMING AMENDMENTS.—

12 (1) Paragraph (1) of section 402(l) of such  
 13 Code is amended by striking “of the employee, his  
 14 spouse, or dependents (as defined in section 152)”.

15 (2) Paragraph (2) of section 402(l) of such  
 16 Code is amended by striking “The amount which  
 17 may be excluded from gross income for the taxable  
 18 year by reason of paragraph (1)” and inserting  
 19 “The amount allowable as a deduction under para-  
 20 graph (1) for the taxable year”.

21 (3) Paragraph (3) of section 402(l) of such  
 22 Code is amended to read as follows:

23 “(3) DISTRIBUTIONS MUST BE INCLUDED IN  
 24 GROSS INCOME.—An amount shall be treated as a  
 25 distribution for purposes of paragraph (1) only to

1 the extent that such amount is included in gross in-  
 2 come for the taxable year.”.

3 (4) Paragraph (7) and (8) of section 402(l) of  
 4 such Code are each amended by striking “The  
 5 amounts excluded from gross income” and inserting  
 6 “Any amount allowable as a deduction”.

7 (5) Subsection (a) of section 403 of such Code  
 8 is amended by striking paragraph (2).

9 (6) Subsection (a) of section 457 of such Code  
 10 is amended by striking paragraph (3).

11 (d) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to distributions in taxable years  
 13 beginning after December 31, 2009.

14 **SEC. 4. FURTHER MODIFICATIONS RELATING TO 402(l).**

15 (a) IN GENERAL.—

16 (1) Subsection (l) of section 402 of the Internal  
 17 Revenue Code of 1986 is amended by adding at the  
 18 end the following new paragraph:

19 “(9) COST-OF-LIVING ADJUSTMENT.—In the  
 20 case of taxable years beginning after December 31,  
 21 2009, the Secretary shall adjust the \$3,000 amount  
 22 under paragraph (2) at the same time and in the  
 23 same manner as under section 415(d), except that  
 24 the base period shall be the calendar quarter begin-  
 25 ning July 1, 2008, and any increase under this

1 paragraph which is not a multiple of \$100 shall be  
2 rounded to the next lowest multiple of \$100.”.

3 (2) Subparagraph (A) of section 402(l)(4) of  
4 such Code (defining eligible retirement plan) is  
5 amended to read as follows:

6 “(A) ELIGIBLE RETIREMENT PLAN.—For  
7 purposes of paragraph (1), the term ‘eligible re-  
8 tirement plan’ means a plan described in—

9 “(i) subsection (c)(8)(B)(iii) (and is a  
10 governmental plan within the meaning of  
11 section 414(d)),

12 “(ii) subsection (c)(8)(B)(iv) (and is  
13 maintained by an employer which is a  
14 State, a political subdivision of a State, or  
15 an agency or instrumentality of a State or  
16 political subdivision of a State),

17 “(iii) subsection (c)(8)(B)(v), or

18 “(iv) subsection (c)(8)(B)(vi) (and is  
19 maintained by an employer which is a  
20 State, a political subdivision of a State, or  
21 an agency or instrumentality of a State or  
22 political subdivision of a State).”.

23 (3) Subparagraph (C) of section 402(l)(4) of  
24 such Code (as redesignated by this Act) is amend-  
25 ed—



1           (A) by inserting “(as defined in section  
2           152, determined without regard to subsections  
3           (b)(1), (b)(2), and (d)(1)(B) thereof)” after  
4           “dependents”, and  
5           (B) by striking “insurance”.

6           (4) Paragraph (5) of section 402(l) of such  
7           Code is amended to read as follows:

8           “(5) RELATED PLANS TREATED AS 1 PLAN.—  
9           For purposes of this subsection, all eligible retire-  
10          ment plans of an employer shall be treated as a sin-  
11          gle plan.”.

12          (b) EFFECTIVE DATE.—The amendments made by  
13          this section shall apply to distributions in taxable years  
14          beginning after December 31, 2009.

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