

113TH CONGRESS
2D SESSION

H. R. 5523

To amend the Employee Retirement Income Security Act of 1974 and the National Labor Relations Act to protect the health benefits of retirees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2014

Ms. SLAUGHTER (for herself and Mr. JONES) introduced the following bill;
which was referred to the Committee on Education and the Workforce

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the National Labor Relations Act to protect the health benefits of retirees, 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 “Employee Benefits
5 Protection Act of 2014”.

6 **SEC. 2. NOTIFICATION OF EXTENT TO WHICH HEALTH BEN-**
7 **EFITS CAN BE MODIFIED OR TERMINATED.**

8 (a) INCLUSION IN SUMMARY PLAN DESCRIPTION.—
9 Section 102(b) of the Employee Retirement Income Secu-

1 rity Act of 1974 (29 U.S.C. 1022) is amended by inserting
2 “; in the case of a group health plan (as so defined),
3 whether the provisions of the plan permit the plan sponsor
4 or any employer participating in the plan to unilaterally
5 modify or terminate the benefits under the plan with re-
6 spect to employees, retired employees, and beneficiaries,
7 and when and to what extent benefits under the plan are
8 fully vested with respect to employees, retired employees,
9 and beneficiaries” after “the name and address of such
10 issuer”.

11 (b) PRESUMPTION THAT RETIRED EMPLOYEE
12 HEALTH BENEFITS CANNOT BE MODIFIED OR TERMI-
13 NATED.—Section 502 of the Employee Retirement Income
14 Security Act of 1974 (29 U.S.C. 1132) is amended by
15 adding at the end the following new subsection:

16 “(n) In the case of a suit brought under this title
17 by a participant or beneficiary relating to benefits of a
18 retired employee or the dependents of a retired employee
19 under a group health plan (as defined in section
20 733(a)(1)), the presumption for purposes of such suit
21 shall be that as of the date an employee retires or com-
22 pletes 20 years of service with the employer, benefits avail-
23 able under the plan during retirement of the employee are
24 fully vested and cannot be modified or terminated for the
25 life of the employee or, if longer, the life of the employee’s

1 spouse. This presumption can be overcome only upon a
2 showing, by clear and convincing evidence, that the terms
3 of the group health plan allow for a modification or termi-
4 nation of benefits available under the plan and that the
5 employee, prior to becoming a participant in the plan, was
6 made aware, in clear and unambiguous terms, that the
7 plan allowed for such modification or termination of bene-
8 fits.”.

9 **SEC. 3. PROTECTION OF RETIREES UNDER CERTAIN COL-**
10 **LECTIVELY BARGAINED AGREEMENTS.**

11 Section 8 of the National Labor Relations Act (29
12 U.S.C. 158) is amended by adding at the end the fol-
13 lowing:

14 “(h) It shall be an unfair labor practice for any labor
15 organization and any employer to enter into any contract
16 or agreement, express or implied, whereby the organiza-
17 tion and employer agree to modify the terms of any pre-
18 vious agreement in a manner that would result in a reduc-
19 tion or termination of retiree health insurance benefits
20 provided to an employee or a dependent of an employee
21 under the previous agreement, if such modification of the
22 terms of the previous agreement occurs after the date on
23 which the employee retires.”.

1 **SEC. 4. COMPTROLLER GENERAL REPORT.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 date of enactment of this Act, the Comptroller General
4 of the United States shall submit to Congress a report
5 on the strategies that corporations use to avoid obligations
6 to pay promised employee and retiree benefits.

7 (b) CONTENTS.—The report under subsection (a)
8 shall include a discussion of—

9 (1) the use of spin-offs, mergers, subsidiaries,
10 bankruptcies, asset sales, and other strategies to
11 avoid obligations to pay promised employee and re-
12 tiree benefits;

13 (2) the impact of such avoidance on the finan-
14 cial, physical, and mental well-being of employees
15 and retirees;

16 (3) the impact on Federal and State budgets
17 when employers terminate or reduce the benefits of
18 employees and retirees, including the costs that are
19 incurred when employees and retirees seek assist-
20 ance from Federal and State government programs
21 and services as a result of the termination or reduc-
22 tion of their employment-related benefits; and

23 (4) recommendations to prevent corporations
24 from evading contractual obligations to pay em-
25 ployee and retiree benefits.