

111TH CONGRESS  
1ST SESSION

# H. R. 1792

To amend the Internal Revenue Code of 1986 to provide recruitment and retention incentives for volunteer emergency service workers.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2009

Mr. KING of New York (for himself, Mr. PASCRELL, Mr. CROWLEY, and Mr. SHULER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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

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## A BILL

To amend the Internal Revenue Code of 1986 to provide recruitment and retention incentives for volunteer emergency service workers.

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 “Volunteer Emergency  
5 Services Recruitment and Retention Act of 2009”.

1 **SEC. 2. ELECTIVE TREATMENT OF LENGTH OF SERVICE**  
2 **AWARD PROGRAMS AS ELIGIBLE DEFERRED**  
3 **COMPENSATION PLANS.**

4 (a) IN GENERAL.—Section 457(e) of the Internal  
5 Revenue Code of 1986 (relating to other definitions and  
6 special rules) is amended by adding at the end the fol-  
7 lowing new paragraph:

8 “(19) SPECIAL RULES APPLICABLE TO LENGTH  
9 OF SERVICE AWARD PLANS.—

10 “(A) IN GENERAL.—The term ‘eligible de-  
11 ferred compensation plan’ shall include, at the  
12 election of its sponsor, any length of service  
13 award plan. Any such election shall be irrev-  
14 ovable. In the case of a length of service award  
15 plan whose sponsor has elected to have such  
16 plan treated as an eligible deferred compensa-  
17 tion plan, such plan shall be administered in a  
18 manner consistent with the requirements of this  
19 section and such sponsor shall be treated as an  
20 eligible employer described in paragraph (1)(A).

21 “(B) LENGTH OF SERVICE AWARD  
22 PLAN.—For purposes of this paragraph—

23 “(i) IN GENERAL.—The term ‘length  
24 of service award plan’ means any plan pay-  
25 ing solely length of service awards to bona  
26 fide volunteers (or their beneficiaries) on

1 account of qualified services performed by  
2 such volunteers.

3 “(ii) BONA FIDE VOLUNTEER.—An in-  
4 dividual shall be treated as a bona fide vol-  
5 unteer if the only compensation received by  
6 such individual for performing qualified  
7 services is in the form of—

8 “(I) reimbursement for (or a rea-  
9 sonable allowance for) reasonable ex-  
10 penses incurred in the performance of  
11 such services, or

12 “(II) reasonable benefits (includ-  
13 ing length of service awards), and fees  
14 for such services, customarily paid by  
15 eligible employers in connection with  
16 the performance of such services by  
17 volunteers.

18 “(iii) QUALIFIED SERVICES.—The  
19 term ‘qualified services’ means fire fighting  
20 and prevention services, emergency medical  
21 services, ambulance services, and emer-  
22 gency rescue services.

23 “(C) MAXIMUM DEFERRAL AMOUNT.—In  
24 the case of a length of service award plan whose  
25 sponsor has elected to have such plan treated as

1 an eligible deferred compensation plan, sub-  
2 section (b)(2) shall be applied by striking ‘the  
3 lesser of—’ and all that follows and inserting  
4 ‘the applicable dollar amount,’.

5 “(D) DISTRIBUTION REQUIREMENTS.—In  
6 the case of a length of service award plan whose  
7 sponsor has elected to have such plan treated as  
8 an eligible deferred compensation plan, sub-  
9 section (d)(1)(A)(ii) shall be applied by deeming  
10 a severance from employment to have occurred  
11 at the later of—

12 “(i) the payment date under the terms  
13 of the plan, or

14 “(ii) the date on which the plan par-  
15 ticipant ceases to perform qualified serv-  
16 ices.

17 “(E) LIMITATION ON ACCRUALS.—

18 “(i) IN GENERAL.—In the case of a  
19 length of service award plan that is a de-  
20 fined benefit plan (as defined in section  
21 414(j)) whose sponsor has not elected to  
22 have such plan treated as an eligible de-  
23 ferred compensation plan, such plan shall  
24 be treated as not providing for the deferral  
25 of compensation if the aggregate amount

1 of length of service awards accruing with  
2 respect to any year of service for any bona  
3 fide volunteer does not exceed \$5,500. In  
4 the case of a length of service award plan  
5 described in the preceding sentence that is  
6 a defined benefit plan (as defined in sec-  
7 tion 414(j)), the limitation on the annual  
8 deferral shall apply to the actuarial present  
9 value of the aggregate amount of length of  
10 service awards accruing with respect to  
11 any year of service. Such actuarial present  
12 value shall be calculated using reasonable  
13 actuarial assumptions and methods assum-  
14 ing payment shall be made under the most  
15 valuable form of payment of the length of  
16 service award under the program with pay-  
17 ment commencing at the later of the ear-  
18 liest age at which unreduced benefits are  
19 payable under the program or the partici-  
20 pant's current age.

21 “(ii) COST-OF-LIVING ADJUSTMENT.—

22 In the case of taxable years beginning  
23 after December 31, 2010, the Secretary  
24 shall adjust the \$5,500 amount under  
25 clause (i) at the same time and in the

1 same manner as under section 415(d), ex-  
2 cept that the base period shall be the cal-  
3 endar quarter beginning July 1, 2009, and  
4 any increase under this paragraph that is  
5 not a multiple of \$500 shall be rounded to  
6 the next lowest multiple of \$500.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 457(e)(11) of the Internal Revenue  
9 Code of 1986 is amended to read as follows:

10 “(11) CERTAIN PLANS EXCLUDED.—Any bona  
11 fide vacation leave, sick leave, compensatory time,  
12 severance pay, disability pay, or death benefit plan  
13 shall be treated as not providing for the deferral of  
14 compensation.”.

15 (2) Section 3121(a)(5)(I) of such Code is  
16 amended by striking “section 457(e)(11)(A)(ii)” and  
17 inserting “section 457(e)(19)”.

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

21 **SEC. 3. EXEMPTION OF LENGTH OF SERVICE AWARD PRO-**  
22 **GRAMS FROM THE EMPLOYEE RETIREMENT**  
23 **INCOME SECURITY ACT OF 1974.**

24 The Secretary of Labor shall issue guidance clari-  
25 fying that a length of service award program described

1 in section 457(e)(19) of the Internal Revenue Code of  
2 1986 is not an employee pension benefit plan under sec-  
3 tion 3(2) of the Employee Retirement Income Security Act  
4 of 1974 (29 U.S.C. 1002(2)).

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