

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1268

To amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits.

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## IN THE SENATE OF THE UNITED STATES

JULY 20 (legislative day, JUNE 30), 1993

Mr. WOFFORD introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health 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 “Retiree Health Bene-  
5       fits Protection Act”.

1 **SEC. 2. RULES GOVERNING LITIGATION INVOLVING THE**  
2 **TERMINATION OR REDUCTION OF RETIREE**  
3 **HEALTH BENEFITS.**

4 (a) IN GENERAL.—Part 5 of subtitle B of title I of  
5 the Employee Retirement Income Security Act of 1974  
6 (29 U.S.C. 1131 et seq.) is amended by adding at the end  
7 the following new section:

8 **“SEC. 516. RULES GOVERNING LITIGATION INVOLVING RE-**  
9 **TIREE HEALTH BENEFITS.**

10 “(a) MAINTENANCE OF BENEFITS.—If—

11 “(1) retiree health benefits are to be terminated  
12 or reduced under an employee welfare benefit plan,  
13 and

14 “(2) an action is brought to enjoin or otherwise  
15 modify such termination or reduction,

16 the court shall order the plan to maintain the retiree  
17 health benefits at the level in effect immediately before  
18 the termination or reduction while the action is pending.  
19 The preceding sentence shall not apply to any action which  
20 the court determines is clearly without merit.

21 “(b) BURDEN OF PROOF.—If, in any action described  
22 in subsection (a)(2), the terms of the employee welfare  
23 benefit plan (as in effect at the time of an employee’s re-  
24 tirement or disability) are ambiguous or silent as to  
25 whether retiree health benefits may be terminated or re-  
26 duced under the plan, the benefits shall not be terminated

1 or reduced unless the plan (or the employer or employers  
 2 maintaining it) establishes by a preponderance of the evi-  
 3 dence that the plan (as so in effect) allows such termi-  
 4 nation or reduction.

5 “(c) REPRESENTATION.—Notwithstanding any other  
 6 provision of law, an employee representative of any retired  
 7 employee or the employee’s spouse or dependents may—

8 “(1) bring an action described in subsection  
 9 (a)(2) on behalf of such employee, spouse, or de-  
 10 pendents, or

11 “(2) appear in such an action on behalf of such  
 12 employee, spouse, or dependents.

13 “(d) RETIREE HEALTH BENEFITS.—For purposes of  
 14 this section, the term ‘retiree health benefits’ means  
 15 health benefits (including coverage) which are provided  
 16 to—

17 “(1) retired or disabled employees who, imme-  
 18 diately before the termination or reduction, are enti-  
 19 tled to receive such benefits upon retirement or be-  
 20 coming disabled, and

21 “(2) their spouses and dependents.”

22 (b) CONFORMING AMENDMENT.—The table of con-  
 23 tents in section 1 of such Act is amended by inserting  
 24 after the item relating to section 515 the following new  
 25 item:

“Sec. 516. Rules governing litigation involving retiree health benefits.”

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to actions relating to terminations  
3 or reductions of retiree health benefits which are pending,  
4 or brought, on or after July 20, 1993.

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