

107TH CONGRESS
2D SESSION

S. 2852

To amend the Internal Revenue Code of 1986 to provide for employee benefits for work site employees of certain corporations operating on a cooperative basis.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mr. TORRICELLI introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for employee benefits for work site employees of certain corporations operating on a cooperative basis.

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. COOPERATIVE EMPLOYING UNIT.**

4 (a) IN GENERAL.—Section 414 of the Internal Rev-
5 enue Code of 1986 (relating to definitions and special
6 rules) is amended by adding at the end the following new
7 subsection:

8 “(w) COOPERATIVE EMPLOYING UNIT.—

1 “(1) PLANS MAINTAINED BY COOPERATIVE EM-
2 PLOYING UNIT.—If a cooperative employing unit es-
3 tablishes or maintains one or more plans to provide
4 employee benefits to work site employees, then, for
5 purposes of applying the provisions of this title ap-
6 plicable to such benefits—

7 “(A) each such plan shall be treated as a
8 single employer plan established and main-
9 tained by the cooperative employing unit, and

10 “(B) the cooperative employing unit shall
11 be treated as the employer of the work site em-
12 ployees eligible to participate in each such plan.

13 “(2) DEFINITIONS.—For purposes of this
14 subsection—

15 “(A) COOPERATIVE EMPLOYING UNIT.—
16 The term ‘cooperative employing unit’ means
17 any corporation to which part I of subchapter
18 T applies pursuant to section 1381(a) if—

19 “(i) all the shareholders of the cor-
20 poration report business operations using
21 the same standard industrial classification
22 code (or successor method of economic
23 classification adopted by the Office of
24 Management and Budget),

1 “(ii) the corporation has at least 21
2 shareholders, and

3 “(iii) the corporation has entered into
4 a written agreement with each shareholder
5 which provides, with respect to every work
6 site employee providing services to such
7 shareholder, that the corporation shall—

8 “(I) assume responsibility for
9 payment of wages to the work site
10 employee,

11 “(II) with respect to such wages,
12 assume responsibility for the with-
13 holding and payment of any applicable
14 taxes under subtitle C, and for com-
15 plying with the reporting requirements
16 under this title relating to such taxes,

17 “(III) assume responsibility for
18 any employee benefits provided under
19 the agreement,

20 “(IV) assume shared responsi-
21 bility with the shareholder for termi-
22 nating the employment of the work
23 site employee and for recruiting and
24 hiring any new worker, and

1 “(V) maintain employee records
2 relating to the work site employee.

3 Clause (iii) shall be applied without regard to
4 the receipt or adequacy of payment from the
5 shareholder for services to such shareholder.

6 “(B) WORK SITE EMPLOYEE.—The term
7 ‘work site employee’ means every individual
8 providing services to one or more shareholders
9 of the cooperative employing unit pursuant to
10 an agreement described in paragraph (2)(A)(iii)
11 between the shareholder and the cooperative
12 employing unit.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2002.

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