

111TH CONGRESS
2D SESSION

S. 3319

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

IN THE SENATE OF THE UNITED STATES

MAY 5, 2010

Ms. COLLINS (for herself and Mr. DODD) 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 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 2010”.

6 **SEC. 2. ELECTIVE TREATMENT OF LENGTH OF SERVICE**

7 **AWARD PROGRAMS AS ELIGIBLE DEFERRED**

8 **COMPENSATION PLANS.**

9 (a) IN GENERAL.—Section 457(e) of the Internal
10 Revenue Code of 1986 (relating to other definitions and

1 special rules) is amended by adding at the end the fol-
 2 lowing new paragraph:

3 “(19) SPECIAL RULES APPLICABLE TO LENGTH
 4 OF SERVICE AWARD PLANS.—

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

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

18 “(i) IN GENERAL.—The term ‘length
 19 of service award plan’ means any plan pay-
 20 ing solely length of service awards to bona
 21 fide volunteers (or their beneficiaries) on
 22 account of qualified services performed by
 23 such volunteers.

24 “(ii) BONA FIDE VOLUNTEER.—An in-
 25 dividual shall be treated as a bona fide vol-

1 unteer if the only compensation received by
2 such individual for performing qualified
3 services is in the form of—

4 “(I) reimbursement for (or a rea-
5 sonable allowance for) reasonable ex-
6 penses incurred in the performance of
7 such services, or

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

14 “(iii) QUALIFIED SERVICES.—The
15 term ‘qualified services’ means firefighting
16 and prevention services, emergency medical
17 services, ambulance services, and emer-
18 gency rescue services.

19 “(C) MAXIMUM DEFERRAL AMOUNT.—In
20 the case of a length of service award plan whose
21 sponsor has elected to have such plan treated as
22 an eligible deferred compensation plan, sub-
23 section (b)(2) shall be applied by striking ‘the
24 lesser of—’ and all that follows and inserting
25 ‘the applicable dollar amount,’.

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

8 “(i) the payment date under the terms
9 of the plan, or

10 “(ii) the date on which the plan par-
11 ticipant ceases to perform qualified serv-
12 ices.

13 “(E) LIMITATION ON ACCRUALS.—

14 “(i) IN GENERAL.—In the case of a
15 length of service award plan that is a de-
16 fined benefit plan (as defined in section
17 414(j)) whose sponsor has not elected to
18 have such plan treated as an eligible de-
19 ferred compensation plan, such plan shall
20 be treated as not providing for the deferral
21 of compensation if the aggregate amount
22 of length of service awards accruing with
23 respect to any year of service for any bona
24 fide volunteer does not exceed \$5,500. In
25 the case of a length of service award plan

1 described in the preceding sentence that is
2 a defined benefit plan (as defined in sec-
3 tion 414(j)), the limitation on the annual
4 deferral shall apply to the actuarial present
5 value of the aggregate amount of length of
6 service awards accruing with respect to
7 any year of service. Such actuarial present
8 value shall be calculated using reasonable
9 actuarial assumptions and methods assum-
10 ing payment shall be made under the most
11 valuable form of payment of the length of
12 service award under the program with pay-
13 ment commencing at the later of the ear-
14 liest age at which unreduced benefits are
15 payable under the program or the partici-
16 pant's current age.

17 “(ii) COST-OF-LIVING ADJUSTMENT.—

18 In the case of taxable years beginning
19 after December 31, 2010, the Secretary
20 shall adjust the \$5,500 amount under
21 clause (i) at the same time and in the
22 same manner as under section 415(d), ex-
23 cept that the base period shall be the cal-
24 endar quarter beginning July 1, 2009, and
25 any increase under this paragraph that is

1 not a multiple of \$500 shall be rounded to
2 the next lowest multiple of \$500.”.

3 (b) CONFORMING AMENDMENTS.—

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

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

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

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

17 **SEC. 3. EXEMPTION OF LENGTH OF SERVICE AWARD PRO-**
18 **GRAMS FROM THE EMPLOYEE RETIREMENT**
19 **INCOME SECURITY ACT OF 1974.**

20 The Secretary of Labor shall issue guidance clari-
21 fying that a length of service award program described
22 in section 457(e)(19) of the Internal Revenue Code of
23 1986 is not an employee pension benefit plan under sec-

1 tion 3(2) of the Employee Retirement Income Security Act
2 of 1974 (29 U.S.C. 1002(2)).

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