



Legislative Bulletin.....June 19, 2008

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H.R. 5781—Federal Employees Paid Parental Leave Act of 2008

Summary of the Bill Under Consideration Today:

Total Number of New Government Programs: 1

Total Cost of Discretionary Authorizations: \$60 million in FY 2009 and \$850 million over the FY 2009—FY 2013 period

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: \$0

Total New Private Sector Mandates: \$0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 5781—Federal Employees Paid Parental Leave Act of 2008
(Maloney, D-NY)

Order of Business: H.R. 5781 is scheduled to be considered on Thursday, June 19, 2008, under a structured rule ([H.Res. 1277](#)). The rule waives all points of order against consideration of the bill (except those for PAYGO and earmarks), provides for one hour of general debate, and makes one amendment in order (summarized at the bottom of this document).

Summary: H.R. 5781 would amend the Family Medical Leave Act of 2003 (FMLA) to provide federal employees with four weeks of paid parental leave in connection with the birth of a child or the placement of an adopted or foster child. Under current law, FMLA requires private employers with 50 employees or more and all federal employers to provide employees with up to 12 weeks of unpaid medical leave from work in connection with the birth or placement of a child. H.R. 5781 would provide federal employees that had been in their job for at least one full year with four weeks of paid FMLA parental leave during a 12 month period. The bill would not provide paid FMLA leave for employees taking care of family members with serious health problems.

Under H.R. 5781, federal employees would be paid their full salary for the first four work weeks of their FMLA leave. The bill would allow a federal employee to receive paid vacation or sick leave as income during the additional eight weeks of leave authorized under FMLA. The four weeks of paid parental leave would be paid through funds appropriated for federal employee salaries. Paid parental leave would not be considered against annual vacation leave and would not accumulate or roll over if it is not used by the end of a calendar year.

The bill would also allow the Director of the Office of Personnel Management (OPM) to unilaterally increase the amount of paid parental leave to federal employees to a total of eight weeks. The bill would require the Director of OPM to take the following circumstances into consideration before extending paid parental leave benefits to a total of eight weeks:

- The benefits of providing increased paid parental leave, including enhanced recruitment and retention of employees.
- The cost to the federal government of increasing paid parental leave to eight weeks.
- Trends in the private sector and state and local governments.
- The “federal government’s role as a model employer.”
- Any other factors as the Director of OPM considers necessary.

H.R. 5781 would provide four weeks of paid parental leave to employees of all federal agencies, Congress, the Government Accountability Office (GAO), and the Library of Congress. The bill would not, however, apply to military service members.

The legislation would require GAO to submit a report to Congress on the feasibility of providing federal employees with a short-term disability insurance benefit to allow an employee to receive partial or total wage replacement during FMLA leave that an employee takes to care for themselves or a family member suffering from serious health condition.

According to CBO, H.R. 5781 would cost the federal government \$60 million in FY 2009, \$190 million in FY 2010, and \$850 million over the FY 2009—FY 2013 period. However, CBO bases its estimate on the cost of four weeks of paid parental leave for federal employees. H.R. 5781 would authorize the Director of OPM to increase the length of paid parental leave to eight weeks without Congress’ approval. If the Director of OPM were to double the length of paid parental leave for federal employees, the cost of H.R. 5781 would drastically increase.

Background on FMLA and Federal Employee Benefits: The Family Medical Leave Act of 1993 mandated that private sector employers with at least 50 employees, or public sector employers of any size, must provide employees with at least 12 weeks of job-protected, unpaid leave every 12 months for certain medical reasons. To be eligible for FMLA leave, an employee must have worked for the same employer for at least 12 months prior to the leave. Under the law, employees are eligible to take unpaid leave in order to care for a child, parent, or spouse with a serious health condition, or in connection with the birth, adoption, or placement of a foster child. According to the Congressional Research Service (CRS), about two-thirds of employees who take time off for FMLA reasons received some form of compensation during their leave by applying accrued sick leave or vacation time. The majority of FMLA leave-takers (72% according to CRS) received full paychecks during their absence.

Federal employees often accrue sick leave and vacation time—which can be used to provide income during FMLA leave—at a faster rate than private sector workers. According to the [Statement of Administration Policy](#) (SAP) regarding H.R. 5781, the Administration reported that federal employees between the age of 20 and 45 have an average paid leave balance of seven weeks at any given time. New federal employees earn 13 sick leave days and 13 vacation days each year, and those days accrue and roll over to the next year if they are not used. In addition, according to *Roll Call*, 80% of House employees and 96% of Senate employees are already provided some sort of paid leave from their offices when they take FMLA leave in connection with birth or adoption. Currently, the average House employee is given 7.6 weeks of paid parental leave, while the average Senate employee receives 6.8 weeks of paid parental leave. The fact that federal employees are generally pleased with their paid leave benefits was highlighted by the 2006 Federal Human Capital Survey, which reported that 86% of employees were “very satisfied” or “satisfied” with paid leave for medical and family reasons. Given the amount of paid leave already offered to federal employees, the SAP states that “the Administration strongly opposes House passage of H.R. 5781 because it would provide a costly, unnecessary, new paid leave entitlement.”

Proponents of H.R. 5781 have argued that providing federal employees with paid parental leave benefits will enable the federal government to better compete with the private sector for highly skilled employees. According to the Committee on Oversight and Government Reform, [in House Report 110-624](#), this legislation will “have a positive impact on the ability of the federal government to attract and retain a highly qualified workforce.”

Similarly, the bill’s sponsor, Rep. Carolyn Maloney, declared on [her Website](#) that “the Federal Government is actually lagging behind the private sector when it comes to paid leave for the birth or adoption of a child. Federal workers must rely on accrued vacation or sick leave if they want a paycheck during their parental leave.” Although Rep. Maloney’s remarks indicated that private sector employees are regularly granted paid parental FMLA leave, the Bureau of Labor Statistics (BLS) reported that only 8% of private sector employees were provided paid FMLA leave in connection with birth or adoption in 2007. In fact, labor and wage statistics from the Office of Personnel Management (OPM), the Census Bureau, and BLS all show that federal employees earn significantly more compensation than their private sector counterparts, both in terms of wages and benefits.

While a very small portion of private sector employees receive paid leave in connection with birth or adoption under FMLA, federal employees receive far more annual compensation and employee benefits than private sector workers on average. According to statistics from the OPM and the Census Bureau, the average federal employee earned \$64,659 in 2006. In contrast, the average individual wage for all American was only \$30,353 in the same year. When benefits are taken into consideration, federal employees continue to earn more than twice as much as private sector employees. According to the Cato Institute's Director of Tax Policy Studies, Chris Edwards, "the new data for 2006 shows that 1.8 million federal civilian workers earned an average \$111,180 in total compensation (wages plus benefits). That is more than double the \$55,470 average earned by U.S. workers in the private sector."

When retirement, medical, and vacation benefits are taken into consideration, the average federal worker out-earns the average private sector employee in virtually every measurable category. The following is a brief list of examples:

- According to the Bureau of Labor Statistics (BLS), 61% of workers in the private sector have access to an employer sponsored retirement plan, as compared to 90% of government employees.
- USA Today reports that only 21% of private sector employees have a *defined benefit* pension—a retirement plan that guarantees a certain level of benefits—while 80% of federal, state, and local government employees have access to defined benefit plans.
- All federal retirees with defined benefit pension plans receive annual cost-of-living adjustments (COLAs). On the other hand, only 7% of defined benefit pension plans for private sector employees offer an annual COLA, according to CRS.
- While most private sector pension plans base average income on the employees' top five earning years, government retirement benefits are generally based on the top three earning years, increasing the benefits provided to government workers.
- According to CRS, federal employees in the Basic Federal Employee Health Benefit Program keep pay an average of \$198 in monthly premiums for family health plans in 2008, while private employees keep pay an average of \$215 per month.
- The Federal Employee Health Benefit Program provides federal employees with medical coverage after retirement, while most new private sector health coverage plans do not extend to employees after their retirement. General Motors, for instance, has not provided employer-assisted health care after retirement for newly hired employees since 1993.

As an alternative to increasing federal employee benefits at the expense of taxpayers, the Administration and Congressional Republicans have proposed a short-term disability insurance program that would allow federal employees to voluntarily purchase reasonably priced coverage to pay for medical and parental leave. In addition to saving taxpayer dollars, the short-term disability insurance program would allow employees to use their paid leave for a variety of

medical and family reasons, not only in the case of birth or adoption. Rather than taking up a bill to provide short-term disability insurance for federal employees, House Democrats have decided to consider H.R. 5781, which provides federal workers with superfluous paid parental leave at the expense of American taxpayers.

Administration Position: A [Statement of Administration Policy](#) (SAP) released on June 17, states, “if H.R. 5781 were presented to the President, his senior advisors would recommend that he veto the bill.”

Outside Groups: H.R. 5781 is opposed by the National Taxpayers Union (NTU). In [a letter](#) distributed on June 18, 2008, NTU states, “Roll call votes on H.R. 5781 will be included in our 2008 Rating of Congress. We encourage you to vote with the taxpayer by voting ‘no.’”

Possible Conservative Concerns: Some conservatives may be concerned that H.R. 5781 would provide four weeks of paid parental leave to federal employees at a cost of \$850 million over five years. Federal employees are already able to roll over accrued sick and vacation days from year to year, and some conservatives may be concerned that federal employees are able to use their accrued sick and vacation days to receive full pay for up to 12 weeks of parental leave in connection with a birth or adoption under current law. Some conservatives may believe that providing four weeks of paid parental leave in addition to sick leave and vacation time is an unnecessary increase in government spending that will ultimately be paid for by the nation’s taxpayers.

Some conservatives may be concerned about labor statistics showing that the average federal employee already receives much more generous benefits and compensation than the average private sector employee. In 2006, for instance, federal civilian workers earned an average \$111,180 in total compensation (wages and benefits) while the average earned by workers in the private sector was \$55,470. In addition, only 8% of private sector employees receive any paid leave in connection with a birth or an adoption. Some conservatives may be concerned that H.R. 5781 uses taxpayer dollars to further increase the large disparity between federal and private sector benefits.

Some conservatives may also be concerned that H.R. 5781 would allow the Director of the Office of Personnel Management (OPM) to increase the paid parental leave period from four weeks to eight weeks (thus doubling the cost of the bill) for a variety of reasons, including upholding the “federal government’s role as a model employer,” and “enhancing recruitment.” Some conservatives may be concerned that the Director of OPM would be granted the power to double the cost of the legislation without approval from Congress.

Committee Action: H.R. 5781 was introduced on April 14, 2008, and referred to the Committee on Oversight and Government Reform and the Committee on House Administration. On April 16, 2008, the Committee on Oversight and Government reform held a mark-up and reported the bill by a vote of 21-10. On May 8, 2008, the Committee on House Administration discharged the bill without taking any official action.

Cost to Taxpayers: According to CBO, H.R. 5781 would cost \$60 million in FY 2009 (represents a half year) and \$850 million over the FY 2009—FY 2013 period, subject to appropriation. However, CBO’s score is based on a four week paid parental leave period for federal employees under FMLA. H.R. 5781 would allow the Director of Office of Personnel Management to increase the length of FMLA paid leave for federal employees following the birth, adoption, or fostering of a child to eight weeks without the approval of Congress. If the Director of OPM did extend the length of the paid leave to eight weeks, it would drastically increase the cost of the bill.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. H.R. 5781 creates a new category of leave for federal employees under the Family Medical Leave Act of 2003. The new category provides four weeks of paid parental leave for federal employees who take FMLA leave in connection with birth or adoption.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits? The Committee on Science and Technology, in [House Report 110-624](#), states that “H.R. 5781 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.”

Constitutional Authority: The Committee on Transportation and Infrastructure, in [House Report 110-624](#), cites constitutional authority in Article I, Section 8, Clause 18 (the “necessary and proper” clause).

AMENDMENT MADE IN ORDER

1. Davis (D-IL). The amendment clarifies that federal employees are **not** required to use paid sick and vacation leave before being allowed to use four weeks of paid parental leave. The amendment also makes section 4 of the bill (which provides paid parental leave to employees of the GAO and the Library of Congress) not effective with respect to any birth or placement that occurs within six months of the bill’s enactment. Finally, the amendment strikes section 5 of the bill which requires GAO to report on the feasibility of providing federal employees with a family and medical leave insurance benefit.

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