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108th Congress }
2d Session }

SENATE

{ REPORT
108-283 }

AMENDING CHAPTER 90 OF TITLE 5, UNITED STATES
CODE, TO INCLUDE EMPLOYEES OF THE DISTRICT
OF COLUMBIA COURTS AS PARTICIPANTS IN LONG
TERM CARE INSURANCE FOR FEDERAL EMPLOY-
EES

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2322

AMENDING CHAPTER 90 OF TITLE 5, UNITED STATES CODE, TO
INCLUDE EMPLOYEES OF THE DISTRICT OF COLUMBIA COURTS
AS PARTICIPANTS IN LONG TERM CARE INSURANCE FOR FED-
ERAL EMPLOYEES



JUNE 21, 2004.—Ordered to be printed

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IN LONG TERM CARE INSURANCE FOR FEDERAL EMPLOYEES

JUNE 21, 2004.—Ordered to be printed

Ms. COLLINS, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

[To accompany S. 2322]

The Committee on Governmental Affairs, to whom was referred the bill (S. 2322) to amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long term care insurance for Federal employees, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The Long-Term Care Security Act (LTCSA)¹ was established to permit qualified Federal employees to purchase at their own expense private long-term care insurance at a group discount. While employees of the District of Columbia courts were permitted to participate in the Federal government's long-term care insurance program in 2003, they were inadvertently removed from the program with passage of the FY 2004 National Defense Authorization Act (NDAA). S. 2322 would restore eligibility for employees of the D.C.

¹ Public Law No. 106-265 (2000).

courts to participate in the Federal employee's long-term care insurance program.

II. BACKGROUND

The Long-Term Care Security Act (LTCSA) was enacted to permit Federal civilian employees, members of the uniformed services, as well as civilian and military retirees to purchase private, long-term care insurance for themselves and qualified relatives at a group discount.

"Long-term care" refers to a broad range of supportive, medical, personal, and social services designed for individuals who are limited in their ability to function independently on a daily basis. Long-term care needs may arise at any time due to an injury, chronic illness, or the effects of the natural aging process. Functional dependency is generally defined as the inability to function independently, perform essential activities of daily living such as dressing, bathing, eating, transferring (e.g., from a bed to a chair), walking, or the inability to perform instrumental activities of daily living such as shopping, preparing meals, taking medicine, and housekeeping.² Assistance with these activities may require hands-on assistance or direction, instruction, or supervision from another individual. Long-term care services can be provided in a nursing home, an assisted living facility, the community, or in the home.³

According to the Office of Personnel Management (OPM), as of April 30, 2004, there were 202,818 Federal and postal employees enrolled in the long-term care program.⁴ Before the program's enactment, OPM estimated that the program could reduce the cost of long-term care insurance premiums for covered employees by up to 20 percent.⁵

DISTRICT OF COLUMBIA EMPLOYEES

The LTCSA initially precluded the participation of employees of the District of Columbia government from participating in the long-term care program. However, on February 20, 2003, the Consolidated Appropriations Resolution for FY 2003 was signed into law.⁶ The legislation included a provision that amended the definition of an eligible employee under the LTCSA to specifically extend eligibility to employees of District of Columbia courts. According to the Senate Appropriations Committee Report on the FY 2003 District of Columbia Appropriations bill, the Committee recommended the provision allowing employees of the District of Columbia courts to enroll in the Federal long-term care insurance program in order to be consistent with other Federal benefits provided to D.C. court employees.⁷ Long-term care insurance is available to other quasi-Federal agencies and to other District agencies under Federal oversight pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997 and the Court Services and Of-

²House Report No. 106-610, p. 5.

³Ibid.

⁴Data from the FSA, Life and Long Term Care Insurances Group in the Office of the Assistant Director for Insurance Services Program in the Center for Retirement and Insurance Services Program in the Division for Human Resources Products and Services at the U.S. Office of Personnel Management (June 7, 2004).

⁵House Report No. 106-20, p. 61.

⁶Public Law No. 108-007 (2003).

⁷Senate Report No. 107-225, p. 23.

fender Supervision Agency.⁸ Employees of the D.C. courts are individuals employed by the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, and the District of Columbia Court System.

From May 1, 2003, to June 30, 2003, an open season was held for employees of the D.C. courts. According to OPM, 46 of the 1462 court employees eligible to apply for the insurance are enrolled in the program.⁹ In addition all 70 annuitants of the D.C. courts are eligible to participate in the program.

In 2003, Congress passed the FY 2004 National Defense Authorization Act. One provision in that Act amended the LTCSA by including employees of the D.C. government hired before October 1, 1987.¹⁰ However, in attempting to include these D.C. government employees, Congress inadvertently removed employees of the D.C. courts.

Both D.C. court employees and employees of the D.C. government hired before October 1, 1987, participate in the Federal Employees' Health Benefits Program,¹¹ the Federal Employees' Group Life Insurance Program,¹² and the Civil Service Retirement System or the Federal Employees' Retirement System,¹³ which are all administered by OPM. District of Columbia government employees hired on or after October 1, 1987, participate in the health, retirement, and other benefit programs offered by the D.C. government rather than those offered by the Federal government.

In order to be consistent in the application of Federal benefits to D.C. court employees and as a matter of technical administration, the Committee believes that employees of the District of Columbia courts should again be allowed to participate in the Federal government's long-term care insurance program.

III. LEGISLATIVE HISTORY

S. 2322 was introduced on April 20, 2004, by Senator Akaka and Senator Voinovich, and was referred to the Committee on Governmental Affairs. On May 6, 2004, the bill was referred to the Subcommittee on Financial Management, the Budget, and International Security and polled out of the Subcommittee on May 27, 2004. On June 2, 2004, the Committee considered S. 2322 and ordered the bill reported by voice vote. Senators present were as follows: Collins, Lieberman, Voinovich, Bennett, Fitzgerald, Levin, Akaka, Carper, and Lautenberg.

⁸ Ibid. See also H.R. Conf. Rep. No. 108-10, at 802-803 (2003).

⁹ Office of Personnel Management, *supra* note 4.

¹⁰ Public Law No. 108-136 (2003).

¹¹ See Public Law No. 105-33 (1997) at §11246(b) (relating to employees of the D.C. courts) and 5 U.S.C. 8901(1)(E) (relating to D.C. government employees hired before October 1, 1987).

¹² See Public Law No. 105-33 (1997) at §11246(b) (relating to employees of the D.C. courts) and 5 U.S.C. 8701(a)(6) (relating to D.C. government employees hired before October 1, 1987).

¹³ See Public Law No. 105-33 (1997) at §11246(b) (relating to employees of the D.C. courts) and 5 U.S.C. 8331(1)(G) (relating to D.C. government employees hired before October 1, 1987).

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Long term care insurance coverage for employees of the District of Columbia courts

This section would amend 5 U.S.C. 9001(1) to include employees of the District of Columbia courts as participants in the long-term care insurance program for Federal employees.

V. ESTIMATED COST OF LEGISLATION

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 2004.

Hon. SUSAN M. COLLINS
*Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2322, a bill to amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long-term care insurance for federal employees.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julia Christensen.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 2322—A bill to amend chapter 90 of title 5, United States Code, to include employees of the District of Columbia courts as participants in long term care insurance for federal employees

S. 2322 would reinstate eligibility for employees of the District of Columbia courts in the long-term care insurance program sponsored by the federal government. The program allows certain federal employees (those eligible to enroll in the Federal Employees Health Benefits program) and qualified relatives access to private long-term care insurance at a group discount. Employees of the D.C. courts were originally allowed to participate in the program but the National Defense Authorization Act for Fiscal Year 2004 removed them from the eligibility rolls.

CBO estimates that enacting S. 2322 would have no effect on the federal budget. The federal government does not contribute toward enrollees' premiums, and the contractors offering long-term care insurance reimburse the Office of Personnel Management for the costs it incurs in administering the program.

This legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act; any net costs to the D.C. government would be minimal.

The CBO staff contact for this estimate is Julia Christensen. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

VI. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on state, local, or tribal governments. The Committee has determined that the enactment of this legislation will not have a significant regulatory impact.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law, in which no change is proposed, is shown in roman):

TITLE 5, UNITED STATES CODE

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**GOVERNMENT ORGANIZATION AND
EMPLOYEES**

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PART III—EMPLOYEES

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Subpart G—Insurance and Annuities

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CHAPTER 90—LONG-TERM CARE INSURANCE

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§ 9001. Definitions

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For purposes of this chapter:

- (1) **EMPLOYEE.**—The term “employee” means—
 - (A) an employee as defined by section 8901(1);
 - (B) an individual described in section 2105(e);
 - (C) an individual employed by the Tennessee Valley Authority; **[and]**
 - (D) an employee of a nonappropriated fund instrumentality of the Department of Defense described in section 2105(c)**[.]** ; and
 - (E) *an employee of the District of Columbia courts.*

* * * * *