



COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

July 30, 2007

**“Ledbetter” Bill Places U.S. Retirement System in the
Crosshairs**

American Benefits Council: “It would be very unfortunate to risk the retirement security of large numbers of plan participants.”

Dear Colleague:

An increasingly vocal coalition of stakeholders from across the nation continues to express its firm opposition to the *Lilly Ledbetter Fair Pay Act* (H.R. 2831). The measure is slated for a House vote later today. This coalition – some 40-plus groups strong – agrees that H.R. 2831’s dramatic change to civil rights law would have an incredibly far-reaching impact – one that supporters of the bill have yet to take the time to thoroughly and appropriately consider. One area likely to be most dramatically impacted is that of our nation’s retirement system.

In a June 26, 2007 letter to Congress, the American Benefits Council noted, *“This proposed legislation could possibly raise very serious retirement plan issues... [Under H.R. 2831’s new guidelines] the plan could become woefully underfunded, undermining the retirement security of thousands of other plan participants.”*

In short, because H.R. 2831 holds employers liable for decisions made 10, 20, 30, or even 40 years ago, so too are their pension plans. As the American Benefits Council explained in its June letter, assume that an alleged act of discrimination occurred 30 years ago. Assume further that the individuals who allegedly discriminated are all deceased, and the claim of discrimination is based purely on oral statements. In that case, the company may have no effective way to defend the case.

So, how would a judgment in favor of the plaintiff affect the company’s retirement plan? The answer: **we don’t know.**

Though some of the bill’s supporters claim retirement plans are protected under H.R. 2831 – citing non-binding language included in the “findings” section of the legislation – the fact is, the bill maintains original legislative language that could undermine the solvency of pension plans far into the future. As a result, the financial and retirement security of millions of American workers and retirees could be placed at significant risk.

This concern was underscored by yet another letter sent to Congress just hours ago by the American Benefits Council. In its letter, the organization simply stated:

“We urge that this legislation not be considered by the full House until the possible ramifications of the bill are fully understood. We are very mindful of the concerns that led to the drafting of this proposed legislation but we continue to have concerns about its application to

employer sponsored retirement plans in its current form. It would be very unfortunate to risk the retirement security of large numbers of plan participants as a result of failing to address the question of how a judgment in favor of a plaintiff affects the employer's retirement plans."

The full text of the letter is copied below and attached.

Join me and the American Benefits Council in opposing this ill-advised, over-reaching overhaul of civil rights law that could have a devastating impact on our retirement system in the process. **Vote NO on H.R. 2831.** For more information on the bill, please contact the Education and Labor Committee Republican staff at x5-7101.

Sincerely,

/s/

Howard P. "Buck" McKeon (R-CA)
Senior Republican Member
Education and Labor Committee