

110TH CONGRESS
2D SESSION

H. R. 6961

To amend the Internal Revenue Code of 1986 to allow certain public employees a deduction for distributions from governmental plans for health and long-term care insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2008

Mr. CROWLEY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow certain public employees a deduction for distributions from governmental plans for health and long-term care insurance, and for other purposes.

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 “Healthcare Enhance-
5 ment for Local Public Servants Act of 2008”.

1 **SEC. 2. DISTRIBUTIONS FROM GOVERNMENTAL PLANS FOR**
2 **HEALTH AND LONG-TERM CARE INSURANCE**
3 **ALLOWED FOR OTHER PUBLIC EMPLOYEES.**

4 (a) IN GENERAL.—

5 (1) DISTRIBUTIONS ALLOWED FOR OTHER PUB-
6 LIC EMPLOYEES.—Paragraph (1) of section 402(l)
7 of the Internal Revenue Code of 1986 (relating to
8 distributions from governmental plans for health and
9 long-term care insurance) is amended by striking
10 “retired public safety officer who makes the election
11 described in paragraph (6)” and inserting “retired
12 public employee”.

13 (2) RETIRED PUBLIC EMPLOYEE.—

14 (A) Paragraph (4) of section 402(l) of
15 such Code is amended—

16 (i) by striking “(B) ELIGIBLE RE-
17 TIRE D PUBLIC SAFETY OFFICER.—The
18 term ‘eligible retired public safety officer’
19 means” and inserting the following:

20 “(B) ELIGIBLE RETIRED PUBLIC EM-
21 PLOYEE.—

22 “(i) IN GENERAL.—The term ‘eligible
23 retired public employee’ means”,

24 (ii) by inserting “, public school per-
25 sonnel, or other public employee” after

1 “public safety officer” in subparagraph
2 (B), and

3 (iii) by redesignating subparagraph
4 (C) as clause (ii), by moving such clause
5 (as so redesignated) 2 ems to the right,
6 and by inserting after such clause (as so
7 redesignated) the following new clauses:

8 “(iii) PUBLIC SCHOOL PERSONNEL.—
9 The term ‘public school personnel’ shall
10 have the same meaning given such term by
11 section 4151(10) of the elementary and
12 secondary education Act of 1965 (20
13 U.S.C. 7161(10)) whether employed by an
14 institution of higher education (as defined
15 in section 101 of the Higher Education
16 Act of 1965 (20 U.S.C. 1001) or a local
17 educational agency (as defined in section
18 9101 of the Elementary and Secondary
19 Education Act of 1965 (20 U.S.C.
20 7801(26)).

21 “(iv) PUBLIC EMPLOYEE.—The term
22 ‘public employee’ means any employee of a
23 State, political subdivision of a State, or
24 agency or instrumentality of a State or po-
25 litical subdivision of a State.”.

1 (3) CONFORMING AMENDMENT.—

2 (A) Subsection (l) of section 402 of such
3 Code (as amended by this section) is amended
4 by striking “retired public safety officer” in
5 each place it appears and inserting “retired
6 public employee”.

7 (B) Subparagraph (D) of section 402(l)(4)
8 of such Code is redesignated as subparagraph
9 (C).

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to distributions in taxable years
12 beginning after December 31, 2008.

13 **SEC. 3. DISTRIBUTION ALLOWED AS DEDUCTION RATHER**
14 **THAN EXCLUDED FROM GROSS INCOME.**

15 (a) IN GENERAL.—

16 (1) DEDUCTION ALLOWED.—Paragraph (1) of
17 section 402(l) of the Internal Revenue Code of 1986
18 is amended by striking “gross income of such em-
19 ployee for such taxable year does not include” and
20 all that follows through the period at the end and
21 inserting the following: “there shall be allowed as a
22 deduction from gross income for the taxable year an
23 amount equal to the aggregate amount of distribu-
24 tions from an eligible retirement plan of the indi-
25 vidual in the taxable year to the extent that such

1 amount does not exceed the amount paid by such
2 employee for qualified health premiums for such tax-
3 able year.”

4 (2) DEDUCTION WITH RESPECT TO SURVIVING
5 SPOUSE.—Subsection (1) of section 402 of such Code
6 is amended by striking paragraph (6) and inserting
7 the following new paragraph:

8 “(6) SPECIAL RULE FOR SURVIVING SPOUSE.—
9 In the case of a deceased individual with respect to
10 whom a deduction was allowed under paragraph (1)
11 for the taxable year closed by reason of the individ-
12 ual’s death, the surviving spouse of such individual
13 shall be treated as the employee with respect to the
14 plan for purposes of paragraph (1) for all subse-
15 quent taxable years.”.

16 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
17 PAYER ITEMIZES.—Subsection (a) of section 62 of such
18 Code is amended by inserting after paragraph (21) the
19 following new paragraph:

20 “(22) DISTRIBUTIONS FROM GOVERNMENTAL
21 RETIREMENT PLANS FOR HEALTH AND LONG-TERM
22 CARE INSURANCE FOR PUBLIC EMPLOYEES.—The
23 deduction allowed by section 402(1).”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) Paragraph (1) of section 402(l) of such
2 Code is amended by striking “of the employee, his
3 spouse, or dependents (as defined in section 152)”.

4 (2) Paragraph (2) of section 402(l) of such
5 Code is amended by striking “The amount which
6 may be excluded from gross income for the taxable
7 year by reason of paragraph (1)” and inserting
8 “The amount allowable as a deduction under para-
9 graph (1) for the taxable year”.

10 (3) Paragraph (3) of section 402(l) of such
11 Code is amended to read as follows:

12 “(3) DISTRIBUTIONS MUST BE INCLUDED IN
13 GROSS INCOME.—An amount shall be treated as a
14 distribution for purposes of paragraph (1) only to
15 the extent that such amount is included in gross in-
16 come for the taxable year.”.

17 (4) Paragraph (7) and (8) of section 402(l) of
18 such Code are each amended by striking “The
19 amounts excluded from gross income” and inserting
20 “Any amount allowable as a deduction”.

21 (5) Subsection (a) of section 403 of such Code
22 is amended by striking paragraph (2).

23 (6) Subsection (a) of section 457 of such Code
24 is amended by striking paragraph (3).

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions in taxable years
3 beginning after December 31, 2008.

4 **SEC. 4. FURTHER MODIFICATIONS RELATING TO 402(I).**

5 (a) IN GENERAL.—

6 (1) Subsection (l) of section 402 of the Internal
7 Revenue Code of 1986 is amended by adding at the
8 end the following new paragraph:

9 “(9) COST-OF-LIVING ADJUSTMENT.—In the
10 case of taxable years beginning after December 31,
11 2009, the Secretary shall adjust the \$3,000 amount
12 under paragraph (2) at the same time and in the
13 same manner as under section 415(d), except that
14 the base period shall be the calendar quarter begin-
15 ning July 1, 2008, and any increase under this
16 paragraph which is not a multiple of \$100 shall be
17 rounded to the next lowest multiple of \$100.”.

18 (2) Subparagraph (A) of section 402(l)(4) of
19 such Code (defining eligible retirement plan) is
20 amended to read as follows:

21 “(A) ELIGIBLE RETIREMENT PLAN.—For
22 purposes of paragraph (1), the term ‘eligible re-
23 tirement plan’ means a plan described in—

1 “(i) subsection (c)(8)(B)(iii) (and is a
2 governmental plan within the meaning of
3 section 414(d)),

4 “(ii) subsection (c)(8)(B)(iv) (and is
5 maintained by an employer which is a
6 State, a political subdivision of a State, or
7 an agency or instrumentality of a State or
8 political subdivision of a State),

9 “(iii) subsection (c)(8)(B)(v), or

10 “(iv) subsection (c)(8)(B)(vi) (and is
11 maintained by an employer which is a
12 State, a political subdivision of a State, or
13 an agency or instrumentality of a State or
14 political subdivision of a State).”.

15 (3) Subparagraph (C) of section 402(l)(4) of
16 such Code (as redesignated by this Act) is amend-
17 ed—

18 (A) by inserting “(as defined in section
19 152, determined without regard to subsections
20 (b)(1), (b)(2), and (d)(1)(B) thereof)” after
21 “dependents”, and

22 (B) by striking “insurance”.

23 (4)(A) Subparagraph (B) of section 402(l)(4) of
24 such Code is amended by striking “normal retire-
25 ment age” and inserting “normal retirement date”.

1 (B) Paragraph (4) of section 402(l) of such
2 Code is amended by adding at the end the following
3 new subparagraph:

4 “(D) NORMAL RETIREMENT DATE.—The
5 term ‘normal retirement date’ means the ear-
6 liest date on which the individual may retire
7 and receive a retirement benefit from the gov-
8 ernmental plan which is not reduced by reason
9 of the individual’s age or years of service.”.

10 (5) Paragraph (5) of section 402(l) of such
11 Code is amended to read as follows:

12 “(5) RELATED PLANS TREATED AS 1 PLAN.—
13 For purposes of this subsection, all eligible retire-
14 ment plans of an employer shall be treated as a sin-
15 gle plan.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to distributions in taxable years
18 beginning after December 31, 2008.

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