THE INTRODUCTION OF THE TAX CODE SECTION 415 RELIEF BILL

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 25, 1999

Mr. WELLER. Mr. Speaker, a great deal of attention is being focused on retirement security by this Congress and by the Administration. Most of us recognize the need to make saving for retirement, through private pension plans and personal savings, a priority for all Americans. And, many of us recognize that complex and irrational pension rules in the Internal Revenue Code actually discourage retirement savings. Among such rules are limits under Code section 415 they deny workers the full benefits they have earned.

I rise today to introduce legislation on behalf of workers who have responsibly saved for retirement through collectively bargained, multiemployer defined benefit pension plans. These workers are being unfairly penalized under limits imposed by Code section 415. They are being denied the full benefits that they earned through many years of labor and on which they and their spouses have counted in planning their retirement.

We can all appreciate their frustration and anger when they are told, upon applying for their pension, that the federal government won't let the pension plan pay them the full amount of the benefits that they earned under the rules of their plan.

For some workers, this benefit cutback means they will not be able to retire when they wanted or needed to. For other workers, it means retirement with less income to live on. And, for some, it means retirement without health care coverage and other necessities of life.

The bill that I am introducing today will give all of these workers relief from the most confiscatory provisions of Section 415 and enable them to receive the full measure of their retirement savings.

Congress has recognized and corrected the adverse effects of Section 415 on government employee pension plans. Most recently, as part of the Tax Relief Act of 1997 (Public Law 105–34) and the Small Business Jobs Protection Act of 1996 (Public Law 104–188), we exempted government employee pension plans from the compensation-based limit, from certain early retirement limits, and from other provisions of Section 415. Other relief for government employee plans was included in earlier legislation amending Section 415.

Section 415 was enacted more than two decades ago when the pension world was quite different than it is today. The Section 415 limits were designed to contain the tax-sheltered pensions that could be received by highly paid executives and professionals. The passage of time and Congressional action has stood this original design on its head. The limits are forcing cutbacks in the pensions of rank-and-file workers. Executives and professionals are now able to receive pensions far in excess of the Section 415 limits by establishing non-qualified supplemental retirement programs.

COMPENSATION-BASED LIMITS

Generally, Section 415 limits the benefits payable to a worker by defined benefit pension plans to the lessor of: (1) the worker's average annual compensation for the three consecutive years when his compensation was the highest, the so-called ''compensation-based limit''; and (2) a dollar limit that is sharply reduced for retirement before the worker's Social Security normal retirement age.

The compensation-based limit assumes that the pension earned under a plan is linked to each worker's salary, as is typical in corporate pension plans (e.g., a percentage of the worker's final year's salary for each year of employment). That assumption is wrong as applied to multiemployer pension plans. Multiemployer plans, which cover more than ten million individuals, have long based their benefits on the collectively bargained contribution rates and years of covered employment with one or more of the multiple employers which contribute to the plan. In other words, benefits earned under a multiemployer plan have no relationship to the wages received by a worker from the contributing employers. The same benefit level is paid to all workers with the same contribution and covered employment records regardless of their individual wage histories.

A second assumption underlying the compensation-based limit is that workers' salaries increase steadily over the course of their careers so that the three highest salary years will be the last three consecutive years. While this salary history may be the norm in the corporate world, it is unusual in the multiemployer plan world. In multiemployer plan industries like building and construction, workers' wage earnings typically fluctuate from year-to-year according to several variables, including the availability of covered work and whether the worker is unable to work due to illness or disability. An individual worker's wage history may include many dramatic ups-and-downs. Because of these fluctuations, the three highest years of compensation for many multiemployer plan participants are not consecutive. Consequently, the Section 415 compensation-based limit for these workers is artificially low; lower than it would be if they were covered by corporate plans.

Thus, the premises on which the compensation-based limit is founded do not fit the reality of workers covered by multiemployer plans. And, the limit should not apply.

My bill would exempt workers covered by multiemployer plans from the compensation-based limit, just as government employees are now exempt.

EARLY RETIREMENT LIMIT

Section 415's dollar limit is forcing severe cutbacks in the earned pensions of workers who retire under multiemployer pension plans before they reach age 65.

Construction work is physically hard, and is often performed under harsh climatic conditions. Workers are worn down sooner than in most other industries. Often, early retirement is a must. Multiemployer pension plans accommodate these needs of their covered workers by providing for early retirement, disability, and service pensions that provide a subsidized, partial or full pension benefit.

Section 415 is forcing cutbacks in these pensions because the dollar limit is severly reduced for each year younger than the Social Security normal retirement age that a worker is when he retires. For a worker who retires at age 50, the reduced dollar limit is now about $40,000 per year.

This reduced limit applies regardless of the circumstances under which the worker retires and regardless of his plan's rules regarding retirement age. A multiemployer plan participant worn out after years of physical challenge who is forced into early retirement is nonetheless subject to a reduced limit. A construction worker who, after 30 years of demanding labor, has well earned a 30-and-out service pension at age 50 is nonetheless subject to the reduced limit.

My bill will ease this early retirement benefit cutback by extending to workers covered by multiemployer plans some of the more favorable early retirement rules that now apply to government employee pension plans and other retirement plans. These rules still provide for a reduced dollar limit for retirements earlier than age 62, but the reduction is less severe than under the current rules that apply to multiemployer plans.

Finally, I am particularly concerned that early retirees who suffer pension benefit cutbacks will not be able to afford the health care coverage they need. Workers who retire before the Medicare eligibility age of 65 are typically required to pay all or a substantial part of the cost of their health insurance. Section 415 pension cutbacks deprive workers of income they need to bear these health care costs. This is contrary to the sound public policy of encouraging workers and retirees to responsibly provide for their health care.

THURGOOD MARSHALL UNITED STATES COURTHOUSE

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1999

Mr. RANGEL. Mr. Speaker, I rise today to support H.R. 130, a bipartisan bill which would ''designate the United States Courthouse located at 40 Centre Street in New York, New York as the 'Thurgood Marshall United States Courthouse.' ''

It is most fitting to honor this great American with this distinction as he was not only the first African American Justice of the U.S. Supreme Court, but was also one of the greatest trial and appellate lawyers in this nation. It was through his knowledge, advocacy, and devotion to the cause of civil rights, that propelled Thurgood Marshall into leading the charge for equality for African Americans.

Born in Baltimore, Maryland on July 2, 1908, Thurgood Marshall graduated cum laude from Lincoln University in Pennsylvania and went on to receive his law degree from Howard University here in Washington, DC where he graduated first in his class.

In 1936, Thurgood Marshall was appointed as Special Counsel to the National Association for the Advancement of Colored People (NAACP). A short time later, he founded the NAACP Legal Defense and Education Fund.

While at the NAACP, Thurgood Marshall was successful in winning 29 of 32 cases he argued before the U.S. Supreme Court. However, the victory for which he will best be remembered, was Brown vs. The Board of Education, in which Marshall convinced the Supreme Court to declare segregation in public schools unconstitutional.