

110th Congress
2nd Session

H. RES. _____

Providing for consideration of the bill (H.R. 1338) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 30, 2008

Ms. Slaughter, from the Committee on Rules, reported the following resolution which was referred to the House Calendar and ordered to be printed.

RESOLUTION

Providing for consideration of the bill (H.R. 1338) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1338) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the

committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Sec. 2. During consideration in the House of H.R. 1338 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

110th Congress }
2nd Session }

HOUSE OF REPRESENTATIVES
Rules Committee

{Report
{
{No. _____

Providing for consideration of the bill (H.R. 1338) to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

July 30, 2008. --Referred to the House Calendar and ordered to be printed

Ms. Slaughter, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. _____]

The Committee on Rules, having had under consideration House Resolution _____, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1338, the "Paycheck Fairness Act," under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except for clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recommit with or without instructions. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) the Committee is not aware of any points of order. The waiver of all points of order is prophylactic. The waiver of all points of order (except clause 10 of rule XXI) against the amendment in the nature of a substitute includes a waiver of clause 7 of rule XVI regarding germaneness.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 581

Date: July 30, 2008

Measure: H.R. 1338

Motion By: Mr. McGovern

Summary of Motion: To make in order an amendment by Rep. Myrick (NC), #5, which would add a new title, comprising of the text of H.R. 6108, regarding energy resources development.

Results: Defeated 2-8

Vote by Member:

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	NAY
CARDOZA	
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	
SLAUGHTER	NAY

SUMMARY OF AMENDMENTS MADE IN ORDER
(summaries derived from information provided by sponsors)

- | | | |
|----------------------------|---|----------------|
| 1. Bean (IL): | Would strike Section 3(b), "Application of Provisions," from the bill. | (10
minute. |
| 2. Price, Tom (GA): | Would direct the Secretary of Labor to study and report back to Congress within 90 days the effect of the Equal Pay Act amendments contained in the bill (section 3) on employers' ability to recruit and hire employees regardless of gender; the effective date of these amendments is delayed pending the Secretary's report. If the Secretary finds that these amendments are likely to significantly hinder employers' ability to hire and recruit employees regardless of gender, they do not go into effect. | (10
minute. |
| 3. Altmire (PA): | Would delay the effective date of the bill by six months from the time of enactment. The amendment requires the Department of Labor to education small businesses about what is required under law and assist them with compliance. | (10
minute. |
| 4. Giffords (AZ): | Would clarify that a plaintiff must show intent (malice or reckless indifference) to recover punitive damages. | (10
minute. |
| 5. Cazayoux (LA): | Would clarify that nothing in the Paycheck Fairness Act would affect the obligation of employers and employees to fully comply with all the applicable immigration laws. | (10
minute. |
| 6. Flake (AZ): | Would prohibit the grant program created by the Paycheck Fairness Act from being used for Congressional earmarks. | (10
minute. |

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
BEAN OF ILLINOIS, OR HER
DESIGNEE, DEBATABLE FOR 10 MINUTES:

AMENDMENT TO H.R. 1338, AS REPORTED
OFFERED BY MS. BEAN

Page 8, line 23, strike “(b) APPLICATION OF PROVISIONS” and all that follows through page 9, line 4.

Page 9, line 5, strike “(c)” and insert “(b)”.

Page 10, line 12, strike “(d)” and insert “(c)”.

Page 11, line 18, strike “(e)” and insert “(d)”.



2 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
PRICE OF GEORGIA
OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES.

**AMENDMENT TO H.R. 1338, AS REPORTED
OFFERED BY MR. PRICE OF GEORGIA**

Page 12, after line 20, insert the following:

1 (f) **CONDITIONAL IMPLEMENTATION.**—

2 (1) **CONDITIONAL EFFECTIVE DATE.**—Subject
3 to subparagraph (3), this section and the amend-
4 ments made by this section shall become effective on
5 the date that is 90 days after the Secretary trans-
6 mits to Congress the report required under subpara-
7 graph (2).

8 (2) **STUDY ON RECRUITMENT AND HIRING OF**
9 **EMPLOYEES.**—The Secretary shall conduct a study
10 to determine the effect of the requirements of this
11 section and the amendments made under this section
12 on the ability of employers to recruit and hire em-
13 ployees irrespective of gender, and not later than 90
14 days after the date of enactment of this Act, shall
15 transmit to Congress a report containing the find-
16 ings of such study.

17 (3) **DETERMINATION BY SECRETARY.**—This
18 section and the amendments made by this section
19 shall not take effect if the Secretary finds that the
20 requirements of this section may significantly hinder

1 employers' recruitment and hiring of employees irre-
2 spective of gender.”



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
ALTMIRE OF PENNSYLVANIA, OR HIS
DESIGNEE, DEBATABLE FOR 10 MINUTES:

AMENDMENT TO H.R. 1338, AS REPORTED
OFFERED BY MR. *Alfmini*

Page 21, after line 3, insert the following:

1 **SEC. 11. SMALL BUSINESS ASSISTANCE.**

2 (a) **EFFECTIVE DATE.**—This Act and the amend-
3 ments made by this Act shall take effect on the date that
4 is 6 months after the date of enactment of this Act

5 (b) **TECHNICAL ASSISTANCE MATERIALS.**—The Sec-
6 retary of Labor and the Commissioner of the Equal Em-
7 ployment Opportunity Commission shall jointly develop
8 technical assistance material to assist small businesses in
9 complying with the requirements of this Act and the
10 amendments made by this Act.

11 (c) **SMALL BUSINESSES.**—A small business shall be
12 exempt from the provisions of this Act to the same extent
13 that such business is exempt from the requirements of the
14 Fair Labor Standards Act pursuant to section
15 3(s)(1)(A)(i) and (ii) of such Act.



4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
GIFFORDS OF ARIZONA,
OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES.

Revised #2

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**AMENDMENT TO H.R. 1338, AS REPORTED
OFFERED BY MS. GIFFORDS OF ARIZONA**

Page 10, beginning on line 17, strike "damages or"
and insert "damages, or, where the employee dem-
onstrates that the employer acted with malice or reckless
indifference,".



5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
CAZAYOUX OF LOUISIANA,
OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES.

is revised

AMENDMENT TO H.R. 1338, AS REPORTED
OFFERED BY Mr. Cazayoux

Page 21, after line 3, insert the following:

1 SEC. 11. RULE OF CONSTRUCTION.

2 Nothing in this Act, or in any amendments made by
3 this Act, shall affect the obligation of employers and em-
4 ployees to fully comply with all applicable immigration
5 laws, including any penalties, fines, or other sanctions.



6 . AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
FLAKE OF ARIZONA ,
OR H IS DESIGNEE, DEBATABLE FOR 10 MINUTES.

**AMENDMENT TO H.R. 1338, AS REPORTED
OFFERED BY MR. FLAKE OF ARIZONA**

Page 21, line 2, strike "There are" and insert "(a)
AUTHORIZATION OF APPROPRIATIONS.—There are".

Page 21, after line 3 insert the following:

1 (b) PROHIBITION ON EARMARKS.—None of the funds
2 appropriated pursuant to subsection (a) for purposes of
3 the grant program in section 5 of this Act may be used
4 for a Congressional earmark as defined in clause 9(d) of
5 rule XXI of the Rules of the House of Representatives.

