

May 6, 2013

Dear Member of Congress:

We, the undersigned organizations, urge you to oppose the so-called Working Families Flexibility Act of 2013 (H.R. 1406), a smoke-and-mirrors bill that offers a pay cut for workers without any guaranteed flexibility or time off to care for their families or themselves. As members of Congress on both sides of the aisle have acknowledged, people today are struggling to meet the demands of job and family, as well as to make ends meet. Americans urgently need lawmakers to take the next step on the road to a family friendly nation. But H.R. 1406 is not what the nation needs. It is, at best, an empty promise and it would cause considerably more harm than good.

The Working Families Flexibility Act offers a false choice between time and pay. The bill's supporters claim H.R. 1406 would give hourly workers more flexibility and time with their loved ones by allowing them to choose paid time off, rather than time-and-a-half wages, as compensation for working more than 40 hours in one week ("comp time"). But the irony is that workers will only get more time with their families after they've spent long hours away at work. And there is nothing in H.R. 1406 that guarantees that workers will be able to use the comp time they have earned when they need it.

The worker flexibility offered by H.R. 1406 is nothing more than a mirage. That's because this proposal gives the employer, not the employee, the "flexibility" to decide when and even if comp time can be used. The bill permits the employer to deny the request entirely if the employee's use of comp time would "unduly disrupt" operations or to grant leave on a day other than the day requested by the employee. This means that H.R. 1406 provides no guarantee that workers can use their earned time when a child falls ill, to attend a parent-teacher conference, or to help an aging parent settle in to a nursing home. Employers can veto an employee's request to use comp time even in cases of urgent need.

H.R. 1406 would put workers at very real risk and provides an interest-free loan to employers. An employee who does not accept comp time could be penalized with fewer hours, bad shifts and loss of overtime hours. And because it is cheaper to provide comp time than to pay overtime wages, there is a significant incentive for employers to hire fewer people and rely on overtime hours – paid for in future comp time – to get work done. It would permit employers to defer compensation for unused comp time for as long as 13 months, creating an interest-free loan for employers and hardships for workers.

H.R. 1406 provides few protections for workers and no additional resources to the U.S. Department of Labor for education, investigations and enforcement. While this bill adds significant new provisions to the Fair Labor Standards Act (FLSA), it provides no additional funds for the education and enforcement efforts the new provisions will require. Workers would have few remedies in cases of employer misconduct or bankruptcy. The problem of wage theft (the non-payment or underpayment of wages for hours worked) would be exacerbated by making it easier for employers to avoid overtime compensation obligations.

The Fair Labor Standards Act (FLSA) currently allows employers to provide workers with flexibility and time off without compromising their right to be paid fairly for the hours they work. The types of flexibility allowable under the FLSA include alternative start and end times, compressed or variable work hours within a week, split shifts, work at multiple locations and paid or unpaid time off. The proponents of H.R. 1406 set up a false dichotomy that would force workers to choose between flexibility and overtime pay when, in reality, the FLSA does nothing to prevent employers from offering both.

Instead of wasting time on smoke and mirrors, Congress should focus on policy solutions that have been proven to work. We urge Congress to adopt policies that will provide families with the economic security and the time that they need:

- The Healthy Families Act (H.R. 1286/S. 631), which makes earned paid sick days available to millions of workers;
- Paid family and medical leave insurance modeled on successful state programs in California and New Jersey;
- Expanded access to the FMLA for more workers for more reasons, and so parents could, in fact, have the time they need to attend parent-teacher conferences without risking their jobs;
- The Fair Minimum Wage Act (H.R. 1010/S. 460) which brings the minimum wage back to a reasonable level and, in so doing, provides businesses with customers, improves our economy, and help locals communities thrive;
- The Paycheck Fairness Act (H.R. 377/S. 84), which helps close the gender-based wage gap; and
- Measures to encourage fairer and more predictable work hours and prohibit mandatory overtime.

Workers simply should not have to put in extra time beyond a 40-hour week *and* forgo pay to earn time to care for themselves or their loved ones. We urge Congress to reject H.R. 1406 and instead adopt family friendly policies that provide true flexibility for working families, not an empty promise that would make life appreciably harder for families that are already struggling.

Sincerely,

National Organizations

National Partnership for Women & Families

9to5

A Better Balance: The Work and Family Legal Center

African American Ministers In Action (AAMIA)

African American Ministers Leadership Council (AAMLC)

American Association of University Women (AAUW)

American Federation of Government Employees (AFGE)

AFL-CIO

American Federation of State, County and Municipal Employees (AFSCME)

American Federation of Teachers, AFL-CIO

The Arc
Business and Professional Women's Foundation
Campaign for Community Change
Center for Law and Social Policy (CLASP)
Coalition of Labor Union Women
Coalition on Human Needs
Demos
Direct Care Alliance
Equal Rights Advocates
The Every Child Matters Education Fund
Family Equality Council
Family Values @ Work Consortium
Feminist Majority
Food Chain Workers Alliance
Friends Committee on National Legislation
Half in Ten
HIV Prevention Justice Alliance
Human Rights Campaign
Interfaith Worker Justice
Jewish Women International
Jobs with Justice/American Rights at Work
Labor Council for Latin American Advancement
Labor Project for Working Families
Leadership Center for the Common Good
The Leadership Conference on Civil and Human Rights
Legal Momentum
LULAC
Main Street Alliance
Maternity Care Coalition
MomsRising
NAACP
National Action Network
National Association of Social Workers
National Consumers League
National Council of Jewish Women
National Council of La Raza (NCLR)
National Council of Women's Organizations
National Domestic Workers Alliance
National Employment Law Project
National Employment Lawyers Association (NELA)
National Hispanic Council on Aging
National Latina Institute for Reproductive Health (NLIRH)
National Organization for Women (NOW)
National Primitive Baptist Convention, USA, Inc.
National Research Center for Women & Families
National Women's Law Center
NETWORK, A National Catholic Social Justice Lobby
Partnership for Working Families

People For the American Way
PICO National Network
Progressive National Baptist Convention, Inc. (PNBC)
Progressive States Network
Restaurant Opportunities Centers United

RESULTS

Service Employees International Union (SEIU)
United Steelworkers (USW)

USAction

VESSELS

Wider Opportunities for Women
Women Employed
Working America

State and Local Organizations

Arkansas

Little Rock National Organization for Women
Northwest Arkansas Workers' Justice Center

Arizona

Sun City/West Valley National Organization for Women

California

9to5 California
Center on Policy Initiatives
Legal Aid Society-Employment Law Center

Colorado

9to5 Colorado
Colorado Fiscal Institute
Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
Colorado Progressive Coalition
FRESC: Good Jobs, Strong Communities
Interfaith Worker Justice Committee of Colorado
NAACP Colorado/Montana/Wyoming State Conference

Connecticut

Connecticut Working Families Party

District of Columbia

D.C. Employment Justice Center

Florida

Broward County Chapter of the National Organization for Women
Farmworker Association of Florida

Florida National Organization for Women
Organize Now
Palm Beach County National Organization for Women
Pasco National Organization for Women
Tampa Chapter of the National Organization for Women

Georgia

9to5 Atlanta
Victory for the World Church

Illinois

AIDS Foundation of Chicago
Chicago Chapter Coalition of Labor Union Women
Human Action Community Organization (HACO)
Illinois State CLUW
SEIU HealthCare Illinois & Indiana

Indiana

Central Indiana CLUW Chapter
Central Indiana Labor Council
Community, Faith & Labor Coalition

Maine

Maine Women's Lobby

Maryland

Baltimore National Organization for Women
Job Opportunities Task Force
Public Justice Center

Massachusetts

Jewish Alliance for Law & Social Action
Massachusetts Paid Leave Coalition
St. Paul A.M.E. Church

Michigan

Wayne County Chapter of National Organization for Women

Minnesota

Uptown National Organization for Women

Mississippi

The Mississippi Workers' Center for Human Rights

New Hampshire

NH Sisters of Solidarity
NH National Alliance for Direct Support Professionals

New Jersey

Grace Cathedral Family Worship Center, Inc.
Greater New Jersey CLUW Chapter
Hope House Family Life Ministry
New Jersey Citizen Action
New Jersey Tenants Organization
Northern NJ Chapter of National Organization for Women

New York

Catalyst
Gay Men's Health Crisis (GMHC)
New York Paid Leave Coalition
New York State Nurses Association
Progressive States Network
Rockland County Chapter of National Organization for Women

North Carolina

Fayetteville National Organization for Women
North Carolina Justice Center

Ohio

Akron Area National Organization for Women
National Organization for Women, Greater Cleveland Chapter
Ohio National Organization for Women
Southeast Seventh-day Adventist Church
Toledo Chapter, National Organization for Women
Woodland Christian Church (Disciples of Christ)
Zion Hill Missionary Baptist Church

Oregon

Central Oregon Coast National Organization for Women
Family Forward Oregon

Pennsylvania

Micah Leadership Council
New Hope Baptist Church
Ni-ta-nee National Organization for Women
Northeast Williamsport National Organization for Women
PathWays PA
Pennsylvania Association of Staff Nurses & Allied Professionals (PASNAP)
Pennsylvania Council of Churches
Philadelphia Coalition of Labor Union Women
Pittsburgh UNITED
Women's Law Project

Texas

Equal Justice Center
North Dallas National Organization for Women
Workers Defense Project

Vermont

Voices for Vermont's Children

Virginia

Charlottesville Chapter of the National Organization for Women (CNOW)
NoVA National Organization for Women
Vienna Area National Organization for Women
Virginia National Organization for Women

Washington

Puget Sound Advocates for Retirement Action
Thurston County Chapter, National Organization for Women
WA State National Organization for Women

Wisconsin

9to5 Milwaukee
SEIU HealthCare Wisconsin
Wisconsin National Organization for Women
Workers' Rights Center