

Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MCINTOSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CLARIFYING OVERTIME EXEMPTION FOR FIREFIGHTERS

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1693) to amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities.

The Clerk read as follows:

H.R. 1693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF FIRE PROTECTION ACTIVITIES.

Section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203) is amended by adding at the end the following:

“(y) ‘Employee in fire protection activities’ means an employee, including a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker, who—

“(1) is trained in fire suppression, has the legal authority and responsibility to engage in fire suppression, and is employed by a fire department of a municipality, county, fire district, or State, and

“(2) is engaged in the prevention, control, and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.”.

SEC. 2. CONSTRUCTION.

The amendment made by section 1 shall not be construed to reduce or substitute for compensation standards (1) contained in any existing or future agreement or memorandum of understanding reached through collective bargaining by a bona fide representative of employees in accordance with the laws of a State or political subdivision of a State, and (2) which result in compensation greater than the compensation available to employees under the overtime exemption under section 7(k) of the Fair Labor Standards Act of 1938.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Missouri (Mr. CLAY) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1693 is a simple and noncontroversial bill, introduced by our friend from Maryland (Mr. EHRLICH), that would amend the Fair Labor Standards Act to clarify the existing

overtime exemption for firefighters. The Committee on Education and the Workforce reported the bill yesterday without amendment and by voice vote. The bill has major bipartisan support in the House and it is supported by both labor and management, who would be affected by the change under the bill.

In addition, the National Association of Counties, the National Association of Towns and Townships, the U.S. Conference of Mayors and the National League of Cities are supporters of this bill.

Generally, under the Fair Labor Standards Act, workers are entitled to overtime compensation for hours worked in excess of 40 within a week. The act contains unlimited exemption for overtime, under Section 7(k), for employees of public agencies who are engaged in fire protection activities.

The firefighter exemption allows employees engaged in fire protection activities additional scheduling flexibility in recognition of the extended periods that firefighters are often on duty. Employees who are covered by Section 7(k) may work up to 212 hours within a period of 28 consecutive days before triggering the overtime pay requirement.

The Department of Labor's regulations specify that rescue and ambulance service workers, sometimes referred to as emergency medical services personnel, may be eligible for the firefighter exemption if they perform duties that are an integral part of the agency's fire protection activities, but an employee may not perform activities unrelated to fire protection for more than 20 percent of the employee's total hours worked.

Many State and local governments employ EMS personnel who receive training and work schedules and maintain levels of preparedness which is very similar to that of firefighters. In the past, these types of employees fit within the 7(k) overtime exemption.

In recent years, however, some courts have narrowly interpreted the 7(k) exemption and held that emergency medical services personnel do not come within the exemption because the bulk of their time is spent engaged in nonfire protection activities. These lawsuits have resulted in State and local governments being liable for millions of dollars in back pay, attorneys fees and court costs.

So there is a real need to modernize this area of the Fair Labor Standards Act and to clearly specify who can be considered a fire protection employee for purposes of the exemption.

H.R. 1693 clarifies the law by specifying the duties of employees who would be eligible for the limited overtime exemption. The bill would ensure that firefighters who are cross-trained as emergency medical technicians, HAZMAT responders and search and

rescue specialists would be covered by the exemption even though they may not spend all of their time performing activities directly related to fire protection.

Finally, the bill would clear up the confusion that employers face in trying to interpret the law. A misinterpretation of the law could needlessly expose local governments to significant financial liability and dramatically increase the cost of providing adequate fire protection services.

H.R. 1693 is a narrow bill, but one that is important in helping State and local governments provide fire protection and emergency medical services in a most effective and efficient way possible. I would urge my colleagues to support this clarification.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill. Under the 1985 amendments to the Fair Labor Standards Act, the 7(k) exemption was intended to apply to all firefighters who perform normal firefighting duties. H.R. 1693 provides that where firefighters are cross-trained and are expected to perform both firefighting and emergency medical services, they will be treated as firefighters for the purpose of overtime. However, where emergency medical technicians are not cross-trained as firefighters, they will remain outside the purview of 7(k) and will be entitled to overtime after 40 hours a week, even if the emergency medical services are placed within the fire department.

This bill is supported by both management and labor. The policy it reflects ensures that unreasonable burdens are not placed upon fire departments in accounting for hours worked.

I commend the sponsor, the gentleman from Maryland (Mr. EHRLICH), for his efforts to produce consensus legislation, and the chairman of our committee, the gentleman from Pennsylvania (Mr. GOODLING), for bringing this bill to the floor. Mr. Speaker, I urge a yes vote on H.R. 1693.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. EHRLICH), the sponsor of this legislation.

Mr. EHRLICH. Mr. Speaker, I thank my friend, the gentleman from Ohio (Mr. BOEHNER) for yielding me this time.

Mr. Speaker, from its inception, the Fair Labor Standards Act has exempted fire protection employees from the traditional 40-hour workweek. Historically, any emergency responder paid by a fire department was considered to be a fire protection employee. However, recent court interpretations of Federal labor statutes have rendered this definition unclear.

Mr. Speaker, H.R. 1693 seeks to clarify the definition of a fire protection employee. The bill reflects the range of lifesaving activities engaged in by today's fire service, built upon its long tradition of responding to all in need of help. Specifically, today's firefighter, in addition to fire suppression, may also be expected to respond to medical emergencies, hazardous materials events, or even to possible incidents created by weapons of mass destruction.

The issue addressed by H.R. 1693, Mr. Speaker, concerns fire department paramedics trained to fight fires who have prevailed in several civil suits for overtime compensation under the FLSA. The paramedics successfully argued they were not fire protection employees covered by the FLSA exemption since more than 20 percent of their normal shift time was spent engaged in emergency responses rather than firefighting, such as emergency medical calls.

The U.S. Supreme Court has declined to consider these cases, thus exposing city and county governments to compensation liability for unpaid overtime into the millions of dollars. For example, one subdivision I am privileged to represent, Anne Arundel, Maryland, taxpayers are liable for \$3.5 million under a recent FLSA case.

The potential consequences of these cases are serious and far-reaching and could ultimately result in a dramatic increase in the local costs of fire protection to taxpayers nationwide.

This bipartisan bill is supported by the International Association of Firefighters, the International Association of Fire Chiefs, the National Association of Counties, Labor and Management support this bill as a remedy, as the remedy, for an increasingly serious situation.

Keep in mind, Mr. Speaker, H.R. 1693 only affects those who are trained, prepared and have the legal authority to engage in fire suppression, but also work to save lives in so many other ways. This bill clarifies the law by more precisely defining those duties that should qualify for the firefighter exemption, thereby preserving the intended flexibility afforded to cities and fire departments under the original Fair Labor Standards Act.

On a point of personal privilege, Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. BOEHNER) for managing the bill on the floor, the gentleman from Pennsylvania (Mr. GOODLING), the chairman of the full committee, the gentleman from Pennsylvania (Mr. WELDON), the gentleman from New Jersey (Mr. ANDREWS), the cochairs of the Congressional Fire Caucus.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass the bill, H.R. 1693.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1693.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SENSE OF CONGRESS THAT SCHOOLS SHOULD USE PHONICS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 214, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. MCINTOSH) that the House suspend the rules and agree to concurrent resolution, H. Con. Res. 214, as amended, on which the yeas and the nays are ordered.

The vote was taken by electronic device, and there were—yeas 224, nays 193, answered "present" 2, not voting 14, as follows:

[Roll No. 564]

YEAS—224

Aderholt	Campbell	Emerson
Archer	Canady	English
Armey	Cannon	Everett
Baker	Castle	Ewing
Ballenger	Chabot	Fletcher
Barr	Chambliss	Foley
Barrett (NE)	Chenoweth-Hage	Forbes
Bartlett	Coble	Fossella
Barton	Coburn	Fowler
Bass	Collins	Gallegly
Bateman	Combest	Ganske
Biggert	Cook	Gekas
Bilbray	Cooksey	Gibbons
Bilirakis	Costello	Gilchrest
Billey	Cox	Gillmor
Blunt	Crane	Goode
Boehner	Cubin	Goodlatte
Bonilla	Cunningham	Goodling
Bono	Davis (VA)	Goss
Borski	Deal	Graham
Boswell	DeLay	Granger
Brady (TX)	DeMint	Green (TX)
Bryant	Diaz-Balart	Green (WI)
Burr	Dickey	Greenwood
Burton	Doolittle	Hansen
Buyer	Dreier	Hastings (WA)
Callahan	Duncan	Hayes
Calvert	Dunn	Hayworth
Camp	Ehrlich	Hefley

Herger	Mica	Sherwood
Hill (MT)	Miller (FL)	Shimkus
Hilleary	Miller, Gary	Shows
Hinchey	Mollohan	Shuster
Hobson	Moran (KS)	Simpson
Holden	Morella	Skeen
Horn	Myrick	Smith (MI)
Hostettler	Nethercutt	Smith (NJ)
Hulshof	Ney	Smith (TX)
Hunter	Northup	Souder
Hutchinson	Norwood	Spence
Hyde	Nussle	Stearns
Isakson	Ose	Stenholm
Istook	Packard	Stump
Jenkins	Pease	Sununu
John	Peterson (MN)	Sweeney
Johnson (CT)	Peterson (PA)	Talent
Johnson, Sam	Petri	Tancredo
Jones (NC)	Phelps	Tauzin
Kaptur	Pickering	Taylor (MS)
Kasich	Pitts	Taylor (NC)
Kelly	Pombo	Terry
King (NY)	Porter	Thomas
Kingston	Portman	Thornberry
Knollenberg	Pryce (OH)	Thune
Kolbe	Quinn	Tiahrt
Kuykendall	Radanovich	Traficant
LaHood	Rahall	Upton
Largent	Regula	Vitter
Latham	Riley	Walden
LaTourette	Rogan	Walsh
Lazio	Rogers	Wamp
Lewis (CA)	Rohrabacher	Watkins
Lewis (KY)	Ros-Lehtinen	Watts (OK)
Lipinski	Roukema	Waxman
Lucas (OK)	Royce	Weldon (FL)
Maloney (CT)	Ryan (WI)	Weldon (PA)
Manzullo	Ryun (KS)	Weller
McCollum	Salmon	Whitfield
McCrery	Sanford	Wicker
McHugh	Saxton	Wilson
McInnis	Schaffer	Wise
McIntosh	Sensenbrenner	Wolf
McIntyre	Shadegg	Young (AK)
McKeon	Shaw	Young (FL)
Metcalf	Shays	

NAYS—193

Ackerman	Doggett	Kucinich
Allen	Dooley	LaFalce
Andrews	Doyle	Lampson
Baird	Edwards	Lantos
Baldacci	Engel	Lee
Baldwin	Eshoo	Levin
Barcia	Etheridge	Lewis (GA)
Barrett (WI)	Evans	LoBiondo
Becerra	Farr	Lofgren
Bentsen	Fattah	Lowey
Berkley	Filner	Lucas (KY)
Berman	Ford	Luther
Berry	Frank (MA)	Maloney (NY)
Blagojevich	Franks (NJ)	Markey
Blumenauer	Frelinghuysen	Martinez
Boehlert	Frost	Mascara
Bonior	Gejdenson	Matsui
Boucher	Gephardt	McCarthy (MO)
Boyd	Gilman	McCarthy (NY)
Brady (PA)	Gonzalez	McDermott
Brown (FL)	Gordon	McGovern
Brown (OH)	Gutierrez	McKinney
Capps	Gutknecht	McNulty
Capuano	Hall (OH)	Meehan
Cardin	Hall (TX)	Meeks (NY)
Carson	Hastings (FL)	Menendez
Clay	Hill (IN)	Millender-
Clayton	Hilliard	McDonald
Clement	Hinojosa	Miller, George
Clyburn	Hoefl	Minge
Condit	Hoekstra	Mink
Conyers	Holt	Moakley
Coyne	Hooley	Moore
Cramer	Hoyer	Moran (VA)
Crowley	Inslee	Murtha
Cummings	Jackson (IL)	Nadler
Danner	Jackson-Lee	Napolitano
Davis (FL)	(TX)	Neal
Davis (IL)	Jefferson	Oberstar
DeFazio	Johnson, E. B.	Olver
DeGette	Jones (OH)	Ortiz
Delahunt	Kennedy	Owens
DeLauro	Kildee	Pallone
Deutsch	Kilpatrick	Pascarell
Dicks	Kind (WI)	Pastor
Dingell	Kleczka	Paul
Dixon	Klink	Pelosi