



Legislation Text

File #: Res 1131-2003, **Version:** *

Res. No. 1131

Resolution calling upon the United States Congress to oppose Section 631 of the Medicare Drug and Modernization Act of 2003, which would allow employers to eliminate or provide reduced health benefits to Medicare-eligible retirees, and further calling upon the Equal Employment Opportunity Commission to reconsider its proposed amendment to the Age Discrimination in Employment Act, which would permit employers to alter, reduce or eliminate health benefits for Medicare-eligible retirees.

By Council Members Baez, Addabbo, Barron, Brewer, Comrie, Fidler, Gentile, Gerson, Koppell, Lopez, Martinez, Nelson, Perkins, Recchia, Rivera, Yassky and Liu

Whereas, The Medicare Drug and Modernization Act of 2003, also known as H.R.1, is currently being conferenced by the United States House of Representatives and the United States Senate; and

Whereas, While H.R.1 would make a long-sought and necessary enhancement to Medicare by providing prescription drug coverage to seniors, it contains a section that would negatively impact 13 million of the nation's retirees who are eligible for Medicare or a state-sponsored health plan ("Medicare-eligible retirees"); and

Whereas, The provision in issue, Section 631, would permit employers to provide medical benefits solely to retirees ineligible for Medicare or a state-sponsored health plan ("pre-Medicare retirees"), or to differentiate in the benefits offered to pre-Medicare and Medicare-eligible retirees; and

Whereas, In 2000, a Third Circuit United States Court of Appeals case, *Erie County Retirees Association v. County of Erie*, held that a retiree health plan is presumptively violative of the Age Discrimination in Employment Act of 1967 (ADEA) if it makes distinctions based on a retiree's eligibility for Medicare; and

Whereas, In 2001, upon appeal of *Erie*, the United States Supreme Court denied certiorari to review the case; and

Whereas, Section 631, which was added to the Medicare bill without discussion or debate, was designed to contravene the *Erie* case; and

Whereas, Further, in July, 2003, the Equal Employment Opportunity Commission (EEOC) proposed new regulations which would permit an employer to "alter, reduce or eliminate" health benefits for Medicare-eligible retirees without such actions violating the ADEA; and

Whereas, The time period for public comment on the EEOC's proposed regulations has passed, and the agency is now reviewing comments received; and

Whereas, Millions of Medicare-eligible retirees who rely upon health coverage from their former employers would be at risk of having their benefits reduced or eliminated under Section 631 or the proposed EEOC rule; and

Whereas, As the nation's health care costs continue to spiral upward, the critical issue of medical coverage for seniors only intensifies in importance; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to oppose Section 631 of the Medicare Drug and Modernization Act of 2003, which would allow employers to eliminate or provide reduced health benefits to Medicare-eligible retirees, and further calls upon the Equal Employment Opportunity Commission to reconsider its proposed amendment to the Age Discrimination in Employment Act, which would permit employers to alter, reduce or eliminate health benefits for Medicare-eligible retirees.

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CAB

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