



AMERICAN
SUSTAINABLE
BUSINESS
COUNCIL

April 24, 2017

The Honorable Virginia Foxx
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Robert “Bobby” Scott
Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

The Honorable Bradley Byrne
Chairman
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

The Honorable Mark Takano
Ranking Member
Subcommittee on Workforce Protections
U.S. House of Representatives
Washington, DC 20515

Dear Chairpersons Foxx and Byrne, and Ranking Members Scott and Takano:

On behalf of our members and supporter organizations, the American Sustainable Business Council (ASBC) is writing to express our opposition to the Working Families Flexibility Act (H.R. 1180/S. 801) of 2017.

The misleadingly named bill, as introduced by Representative Martha Roby, is the wrong way to encourage employers to offer work-life benefits to their employees.

This bill would create a major liability on the balance sheet of small businesses whose employees have “banked” away their overtime comp hours. This liability then becomes a scheduling and accounting challenge when employees decide to trade in banked hours, requiring business owners to make unexpected shifts in personnel assignments and paychecks. Obviously, small businesses with fewer resources and employees would be even harder hit by these onerous logistical challenges than larger corporations.

It is important that more supporting measures are taken to ensure the success of small business. In the spirit of pursuing pro-business legislation, the Working Families Flexibility Act proves itself to be anything but flexible for employees and even more burdensome for employers. The sheer volume of tracking requirements has the potential to result in improper penalties being assessed by various government agencies. The bill will stymie, not foster, economic activity in the private sector.

In addition, this bill would create headaches for any employer who must track banked hours across multiple employees and make the required organizational rearrangements. These factors could put business owners in the position of making uncomfortable decisions regarding their employees which could, in turn, lower the morale of their workforce.

Current law does not deny employers and employees the ability to develop mutually beneficial flexible scheduling if they so choose, which makes this an unnecessary new law. If Representatives Roby is truly concerned about creating flexibility for working families, there are other, less onerous options.

The Healthy Families Act, for instance, would provide workers the right to earn up to seven earned paid sick days each year to recover from illness, to care for a family member, to seek routine medical care, or to manage other unpredictable necessities of day-to-day life. Employers who provide this type of leave already would not have to provide additional sick time. This method is a more predictable and easier approach to implement for employers.

ASBC is a growing national coalition of businesses and business organizations committed to advancing policies that support a vibrant and sustainable economy. ASBC represents over 250,000 businesses and more than 300,000 business professionals, including industry trade associations, local and state chambers of commerce, microenterprise, social enterprise, green and sustainable business, local and community-rooted business, women and minority business leaders, and investors.

The Working Families Flexibility Act is a poorly designed bill for both employers and employees. In the interest of working families who need true flexibility, and the businesses who rely on those family members, we urge you to vote against it.

Sincerely,

Richard Eidlin
Co-Founder & Vice President of Public Policy
American Sustainable Business Council
1001 G ST, NW, Suite 4East
Washington, DC 20001
www.asbcouncil.org



Communications Workers of America
Chris Shelton | *President*

Legislative Department
Shane Larson | *Director*

May 1, 2017

The Honorable Robert C. Scott
Ranking Member
Committee on Education and the Workforce
2101 Rayburn House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Scott:

On behalf of the 700,000 members and officers of the Communications Workers of America (CWA), I am writing to urge you to oppose H.R. 1180 when it comes before the House for consideration this week.

As you know, the Fair Labor Standards Act (FLSA) of 1938 greatly improved conditions for American workers, in part by instituting a 40-hour workweek that allows workers to spend more time with their families. By requiring time-and-a-half pay for overtime work, the FLSA encourages employers to uphold that 40-hour workweek.

H.R. 1180 would gut the FLSA's protections for the 40-hour workweek. If H.R. 1180 were to be implemented, employers would be allowed to pay workers nothing at all for overtime work, as they could instead schedule compensatory time off at the convenience of the employer. In fact, H.R. 1180 would allow employers to deny request for compensatory time-off if they claim that such requests would "unduly disrupt" operations or were not made "within a reasonable period."

H.R. 1180 would have two practical impacts for working families: lower pay and longer hours worked. Many employers would likely take the "comp-time" option provided by the bill, forcing workers to work lengthy, burdensome shifts at busy times without pay, and then allowing comp-time off only during slow periods. At a time of ongoing wage stagnation and immense income disparities, it makes no sense to pass a bill that would result directly in lower pay for millions of workers.

Again, CWA strongly urges you to protect working families and oppose H.R. 1180 when it comes before the House. Thank you in advance for your consideration.

Sincerely,

Shane Larson
Legislative Director
Communications Workers of America (CWA)



Family Values @ Work: A Multi-State Consortium
207 E. Buffalo St., Ste. 211
Milwaukee, WI 53202
bravo@familyvaluesatwork.org

April 25, 2017

Representative Virginia Foxx
Chairperson
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC

Representative Robert C. Scott
Ranking Member
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC

Dear Representative Foxx and Representative Scott,

On behalf of Family Values @ Work, a network of coalitions in 24 states working for public policies that help people provide for and care for their families, we are writing to oppose the Working Families Flexibility Act of 2017 (HR 1180), sponsored by Rep. Martha Roby (R-Alabama).

HR 1180 claims to offer a genuine solution to the time crunch many families experience. Unfortunately, the substance of the bill would result in American workers being asked to work more in exchange for less.

In its current form, the supposed “Comp Time” bill would allow workers to be offered comp time – a paid hour and a half off in the future in exchange for each extra hour on the job that week – instead of being paid time-and-a-half for overtime. Supporters say workers may then request the time for any purpose they like, including care for a sick child or even leisure activities like a baseball game. However, the bill is written in such a way to allow the supervisor to decide if a particular day would “unduly disrupt” business operations and specify an alternative date, perhaps when the child happens to be well and in school and the baseball season has come and gone.

At best, workers get to spend more time with their family only after being forced to work overtime and spend more time away from their families. Because a disproportionate number of low-wage earners in the United States are female and people of color, many of them single mothers, this bill will have a disastrous effect on already vulnerable communities.

HR 1180 may declare that employees can choose comp time or pay, but it ignores the reality that most workers have no control over their hours or working conditions, and that wage and



Values @ Work: A Multi-State Consortium

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hour violations are rampant in low-wage workplaces. While the bill supposedly makes it unlawful for an employer to coerce or intimidate an employee into accepting compensatory time, it fails to provide any administrative remedies for employees who have been coerced into accepting this option or who are passed over for needed overtime as a result of choosing the pay option. The only course of action is to sue in court, which is far too costly for a typical employee to pursue. Moreover, the bill does not provide for any additional funding to the Department of Labor for investigation, enforcement, or education.

HR 1180 also does nothing to address mandatory overtime. By making it possible for employers not to pay for overtime, this bill instead provides an incentive to require long hours.

Fortunately, Congress has concrete alternatives to the Roby bill that would help working families be good providers and good caregivers. These include measures like the Healthy Families Act - HR1516, to guarantee workers can earn paid sick days; the FAMILY Act - HR 947, to ensure they can draw wages while welcoming a new child or caring for a personal or family illness; and the Schedules That Work Act, to establish the right to request more flexible or predictable work schedules.

Congress should also support increasing the minimum wage and eliminating the tipped sub-minimum wage, currently set at \$2.13, and indexing the adjusted minimum to inflation. Additionally, Congress should insist that the administration support, not overturn, the change President Barack Obama initiated to bring overtime pay in line with inflation by raising the threshold from \$23,700 to \$50,400.

Workers desperately want more time with their families, more control over their hours, and fair compensation. HR 1180 would make it harder for them to have any of the above. We urge you to oppose the Working Families Flexibility Act of 2017, and instead to support these positive measures for working families.

Sincerely,

Ellen Bravo and Wendy Chun-Hoon
Co-Directors, Family Values @ Work



April 25, 2017

The Honorable Virginia Foxx
The Honorable Robert C. Scott
Education and the Workforce Committee
U.S. House of Representatives
Washington, DC

Re: Compensatory Time Bill (H.R. 1406) is Bad Policy

Dear Chairwoman Foxx and Ranking Member Scott:

I write on behalf of the National Employment Law Project (NELP) to urge you to vote against the misnamed “Working Families Flexibility Act of 2017” (H.R. 1180), a proposal that would undermine the core principles of the Fair Labor Standards Act (FLSA)’s overtime protections. The FLSA gave our country the 40-hour workweek, requiring employers to pay a premium to employees working more than 40 hours in a week. H.R. 1180 would create an incentive for employers to demand more overtime work by not requiring premium pay for that extra work. This is the opposite of the family flexibility sorely needed by our nation’s workers. Moreover, diluting the overtime pay requirement undermines another important goal of premium pay, i.e., encouraging more hiring. The last think that Congress should be doing is undermining job creation.

[Wage theft](#) is a major problem for low-wage workers. This bill would add to the problem by making it easier for employers to avoid overtime compensation obligations. Far from guaranteeing that workers can use the comp time they’ve earned when they need it most, this bill makes work less flexible for employees. Nothing in current law prohibits employers from offering family-friendly schedules now, as many employers practice now, and nothing in current law prohibits employers from providing unpaid leave to employees who work a lot of overtime and want more time off. But current law also requires that those same employees be paid fairly for their overtime hours.

If Congress were serious about enacting policies that would help workers balance their family and work obligations, it would pass the Healthy Families Act, The Schedules that Work Act, and the Family and Medical Insurance Leave (FAMILY) Act. Furthermore, it would substantially raise the minimum wage so that workers could support themselves and their families on one job rather than the multiple jobs so many low-wage workers are forced to hold, and it would

strengthen overtime protections by codifying the Obama Administration's overtime regulations. These would be truly family-friendly policy reforms, and would improve the lives of millions of workers throughout the nation.

We urge the Committee to reject the Working Families Flexibility Act of 2017 and instead, concentrate on the kinds of policies that working families really need to get by in today's economy.

Very truly yours,

A handwritten signature in cursive script that reads "Christine L. Owens". The signature is written in black ink and is positioned to the right of the typed name.

Christine L. Owens
Executive Director



April 24, 2017

Dear Member of Congress:

On behalf of the two million members of the Service Employees International Union (SEIU), I am writing to express our opposition to the Working Families Flexibility Act (H.R. 1180/S. 801). The proposed legislation feigns offering working people more flexibility in their work schedule while actually depriving them of overtime pay and could even undermine their ability to take time off. Working families need more flexibility in the workplace, but this bill falls tremendously short of that goal.

The core tenet of the proposed legislation is a false choice for workers between overtime pay and time off. Backers of the bill say it 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 workers would only get more time with their families after spending extra hours away from them at work and the bill does not guarantee that workers could use the time they earn when they need it. Workers should not be forced or manipulated into working longer hours for uncertain and limited benefits.

Indeed, the "flexibility" offered by the legislation requires that workers commit to working longer hours with no compensation for their overtime but puts no obligation on employers to grant them time off when a worker needs it. The economy is already rigged against working families who are working longer hours for lower pay, and this legislation would exacerbate those problems by further tipping the scale in favor of employers. Workers deserve to be paid for the time they commit to their employer, especially when they're working longer hours than their original schedule intends. Removing a worker's ability to get overtime pay for working extended hours demeans the value of their work, their contribution to the workplace, and doesn't afford the flexibility this legislation claims.

For the reasons listed above, we respectfully urge you to reject the Working Families Flexibility Act (H.R. 1180/S. 801) and instead support legislation that will actually help working families, such as the Family And Medical Insurance Leave (FAMILY) Act (H.R. 947/S. 337), which would create a national paid leave insurance program. If you need any additional information please contact John Foti at john.foti@seiu.org or (202)-730-7157.

Sincerely,

Mary Kay Henry
International President

MKH:JG:jf

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April 24, 2017

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the 1.4 million active members of the International Brotherhood of Teamsters, I want to express our strong opposition to H.R. 1180, the Working Families Flexibility Act of 2017, (also known as the "comp time" bill). The Teamsters Union does not support any legislation that would erode the forty-hour workweek protections afforded working men and women under the Fair Labor Standards Act (FLSA). We urge you to vote no on H.R. 1180 should the bill be considered by the House of Representatives.

The FLSA currently requires employers to pay workers a premium rate, time-and-a-half cash, for hours worked in excess of 40 hours per week. H.R. 1180 would amend the FLSA to allow employers to pay workers nothing for overtime work – in exchange for a promise of compensatory time off in the future.

Current FLSA overtime provisions, by guaranteeing workers premium pay if they work beyond a forty-hour week, protect workers from having to work extremely long hours and assure them fair compensation. The overtime premium requirement also provides an incentive for businesses to create additional jobs to the extent more work exists than can be accomplished within the normal workweek.

Proponents of the "comp time" bill assert that the legislation is designed to help working people balance their work and family responsibilities. This is a ruse. Its real purpose is to give employers a tool to drive down wages. H.R. 1180, which amends the FLSA to permit compensatory time for overtime hours worked, would undermine the forty-hour workweek, result in longer hours for workers, and threaten the existences of overtime pay and paid leave.

H.R. 1180 may save employers money, but it is costly for working families in more ways than one. Millions of employees would work longer hours for less, meaning less time for their families and less income to support them. The issue here is not giving employees more control over their work lives; it is more control for employers and less money for working people.

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H.R. 1180 provides flexibility for employers, not for workers. Under the bill, workers would have no right to take compensatory time off at all. Under H.R. 1180, workers have no absolute right to take time off when they want or need to.

Employers do not avail themselves of the flexibility that the law now provides for scheduling work. The FLSA currently allows employers to give workers time off whenever they please, and to arrange flexible work schedules.

H.R. 1180 (“comp time”) would be a pay cut for millions of working families. It's a sad fact that millions of workers depend on overtime pay to maintain a modest standard of living. And, for too many working families, overtime pay is often the difference between making ends meet and falling behind. The bill provides no meaningful protection against employers requiring workers to take time off rather than receiving cash for work in excess of 40 hours in a week. It offers no protection whatsoever against employers giving overtime only to workers who agree to take time off instead of cash. An employer who wants to “pay” for overtime work in compensatory time and not cash will find a way to influence workers to accept that arrangement.

The forty-hour workweek is the benchmark schedule working men and women use to maintain time for their families and normalcy in their lives. Current overtime requirements encourage employers to hire more workers instead of pushing current employees to work excessive overtime hours. Indeed, the FLSA is the tried-and-true, bedrock family friendly statute. And, the requirement that employers pay a cash premium for overtime is the FLSA’s only incentive for employers to adhere to a 40-hour workweek.

Yes, workers deserve more time with their families. But, H.R. 1180 does not address the real problem facing working families – the need for improved wages and less time at the workplace so there can be more time at home.

The Teamsters Union urges you to oppose the so-called “Working Families Flexibility Act of 2017.” Vote no on H.R. 1180.

Sincerely,


James P. Hoffa
General President



Leo W. Gerard
International President

April 25, 2017

Education and Workforce Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the United Steelworkers union (USW), **I write in opposition to HR 1180, “The Working Families Flexibility Act of 2017.”** This misleadingly titled legislation will do little to provide workers with the flexibility and family time it purports to provide. Instead, it will result in less pay for workers and allow employers to demand longer hours from workers for less pay with only a promise of future time off – at the employer’s convenience.

The Fair Labor Standards Act (FLSA) protects employees from the demands of excessive overtime by requiring employers to provide extra compensation for hours worked over 40 in a week. H.R. 1180 removes the premium employers must pay to hourly workers and replaces extra pay with accrued hours or “comp time”, failing to include any protection of employee rights. Instead, it tips the balance in favor of employers by giving them complete control over when “comp time” could be used and does not establish any penalties for an employer or company that denies “comp time” usage.

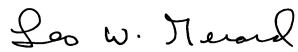
The bill encourages discrimination against workers who voluntarily choose overtime pay as opposed to “comp time” as employers will give extra work to “comp time” employees because it will be cheaper for them. There are also no repercussions if an employer chooses to discriminate by hiring employees who agree to accept “comp time” in place of overtime pay.

There is a real financial cost to workers and their families. First of all, comp time is calculated at “straight time” rates rather than the current “time and one-half” that employers must currently pay for extra hours worked. Rather than workers receiving payment for overtime hours worked in their paycheck to spend or save how they see fit, workers could potentially have to wait until the end of the year to receive their due compensation. This financial delay essentially creates an interest free loan to the employer. Finally, there are no provisions to protect workers’ earned “comp time” if an employer declares bankruptcy.

If you really take a hard look at the Working Families Flexibility Act, you will see that the only entity that gets flexibility and financial gain is the employer, not the employee. Under the FLSA as it stands today, every employer has the right to provide any kind of flexible work schedules they want. Time off that workers could receive under H.R. 1180 could already be given—as paid or unpaid leave—under current law. The difference between H.R. 1180 and current law is only whether employers are required to pay their employees a cash premium for overtime work.

Workers deserve fair compensation for the hours they work. Undermining overtime laws to benefit employers and encourage longer work schedules fails America's workers and their families. **Again, we urge you to oppose HR 1180.**

Sincerely,



Leo W. Gerard
International President

LWG/cdk

AFL-CIO

LEGISLATIVE ALERT

April 25, 2017

Dear Representative:

I am writing to urge you to oppose the Working Families Flexibility Act (H.R. 1180), which would weaken overtime protections under the Fair Labor Standards Act (FLSA), reduce take-home pay for millions of workers, and result in longer hours, more unpredictable schedules, and higher day care costs for working parents.

The FLSA of 1938 established the 40-hour workweek to allow employees to spend more time away from work. The FLSA's only incentive to uphold the 40-hour workweek is the requirement that employers pay a time-and-a-half cash premium for overtime work. The FLSA discourages employers from demanding excessive hours by making overtime work more expensive for them.

H.R. 1180, by contrast, would *encourage* employers to demand excessive hours by making overtime work cheaper for them. It would allow employers to pay workers *nothing at all* for overtime work at the time workers perform the work. It would then allow employers to schedule compensatory time off at their own convenience, such as during less busy periods, when they would not incur any additional cost. Making overtime cheaper for employers would undermine the FLSA's incentive to maintain a 40-hour workweek, resulting in longer hours and more unpredictable schedules for working people and higher day care costs for working parents.

H.R. 1180 would also reduce take-home pay for millions of workers who are compensated with time off rather than cash. These workers would no longer receive any supplementary income as a result of their overtime work. First, they would receive no compensation at all at the time they perform the work. Second, although they would be paid for the time they end up taking off as "comp time," they would have been paid for this time anyway, so this would not be supplementary income. Workers compensated with "comp time" would be denied the extra "bump" to their paycheck on which millions of working families currently rely. In addition, workers who cash out their comp time banks at the end of the year would be cheated out of interest on their earnings.

By making overtime cheaper for employers, the Working Families Flexibility Act would create economic pressures that make it highly unlikely comp time would be truly voluntary. H.R. 1180 would create a cost advantage for businesses that no longer pay cash overtime, and would do nothing to prevent employers from discriminating – in hiring or in the award of overtime hours – against workers who insist on being paid cash overtime.

Under H.R. 1180, the discretion to schedule compensatory time off would rest with employers, not workers. Employers could deny requests for time off that “unduly disrupt” their business operations or that are not made “within a reasonable period,” and workers would have little practical recourse against such denials. Workers would have no assurance that they could use comp time to meet family needs or address family emergencies on short notice.

The reality is that the Working Families Flexibility Act would increase flexibility for employers, not employees. The FLSA already allows employers to arrange any kind of flexible work schedules they want. Any time off that workers could receive under H.R. 1180 could already be given—as paid or unpaid leave—under current law. The difference between H.R. 1180 and current law is not whether employers can allow time off, but whether they are required to pay their employees a cash premium for overtime work.

The AFL-CIO believes workers deserve fair wages, safe working conditions, and flexible schedules to help balance the demands of work and family. However, the best way to achieve these objectives is not to weaken the FLSA’s protections against excessive hours or to reduce overtime pay for workers, but rather to support the Healthy Families Act, the Paycheck Fairness Act, the Fair Minimum Wage Act, the Schedules that Work Act, and paid family and medical leave legislation.

We urge you to oppose the Working Families Flexibility Act (H.R. 1180).

Sincerely,



William Samuel, Director
Government Affairs Department

WS/lkr

American Federation of Labor and Congress of Industrial Organizations

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RICHARD L. TRUMKA
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