

# 2008 Presidential Election: Candidates' Employment Proposals

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## About This Material

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After a long primary election season, presidential candidates Barack Obama (D) and John McCain (R) are setting the stage for an historic general election in November 2008. Months of primary election debates and discussions among political analysts have brought several human resources (HR)-related policy issues to the forefront—such as health care, immigration, leaves of absence, and retirement plan reforms. Along with the struggling economy, these HR issues remain key concerns for the candidates and voters, and will likely be addressed in presidential debates.

Hewitt Associates' 2008 election reports sift through each candidate's political platform to discern the top issues in health care, employment, and retirement that could have an impact on employers when the new president takes office in 2009.

This report on employment highlights the candidates' positions on such issues as expanding the Family and Medical Leave Act (FMLA), paid sick leave, workplace flexibility, fair pay, discrimination, immigration reform, and the right to organize.

Hewitt will continue to follow the presidential race closely. For the latest 2008 election news and analysis, and to access all three 2008 election reports, please visit: <http://www.hewitt.com/2008election>

To visit the candidates' campaign Web sites and party platforms directly, please see:

- Barack Obama: <http://www.barackobama.com>
- Democratic Party Platform: <http://www.democrats.org/a/party/platform.html>
- John McCain: <http://www.johnmccain.com>
- GOP Platform: [http://www.gop.com/pdf/PlatformFINAL\\_WithCover.pdf](http://www.gop.com/pdf/PlatformFINAL_WithCover.pdf)

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Employment-related issues continue to take center stage during the 2008 election campaign. Due to the challenging political and economic climate surrounding this year's election, both candidates have taken positions on a number of HR-related topics, such as leaves of absence, discrimination, and immigration reform.

Legislative activity at both the state and federal level also has prompted the candidates to address a number of HR issues in their campaign platforms. For example, during the last several years, many states enacted employer-related laws, such as family leave expansion and immigration reform.

At the federal level, amendments to the Family and Medical Leave Act (FMLA) that affect military family members were enacted on January 28, 2008. On February 11, 2008, the Department of Labor (DOL) issued long-awaited proposed regulations that would revise the FMLA. The proposed changes attempt to alleviate some of the administrative challenges faced by employers when trying to comply with the law. The DOL requested public commentary and is currently cataloguing the numerous responses. The final regulations are expected to be issued before President Bush leaves office in January 2009. (Details about the FMLA expansion for military family members, the DOL's proposed regulation, and other FMLA issues are available on the ["Hewitt FMLA Resources for Employers"](#) Web page on Hewitt.com.)

It is important to recognize that both candidates have differing views on employment reform. For instance, Democratic candidate Barack Obama regards issues such as FMLA expansion and paid sick leave as a high priority, while Republican candidate John McCain does not seem to support or provide explicit plans regarding such initiatives. Furthermore, while a candidate may publicly support a certain issue, specific details (e.g., implementation, cost) may not yet be available or disclosed.

## 2008 Presidential Candidates on Employment Issues

Employment Issue	Barack Obama	John McCain
<b>Work/Life Balance</b>		
<b>Expanding the Family and Medical Leave Act (FMLA)<sup>1</sup></b>	<p>Sen. Obama proposes to expand the current FMLA and include businesses with 25 employees. Additionally, Sen. Obama promises to make other important changes to the FMLA that would:</p> <ul style="list-style-type: none"> <li>■ Allow employees to take time off for elder care needs;</li> <li>■ Permit parents up to 24 hours of unpaid leave each year to participate in their children's academic activities at school;</li> <li>■ Grant leave for purposes of caring for individuals who reside in the home for six months or more; and</li> <li>■ Broaden the FMLA provisions to cover leave for purposes of addressing domestic violence and sexual assault against employees, their children, or their parents.</li> </ul> <p>Sen. Obama also supports expanding assistance to caregivers who provide for the long-term care needs of their aging relatives.</p>	<p>No stated position.</p> <p><b>As U.S. Senator:</b> Sen. McCain supported the FMLA in 1993. He states that the law was a "needed minimum standard to ensure that parents were not penalized for making the important decision to raise a family."</p>
<b>Paid Family Leave at the State Level</b>	<p>Plans to initiate a strategy to encourage every state to adopt a paid leave program.</p> <p>Sen. Obama's plan would:</p> <ul style="list-style-type: none"> <li>■ Provide a \$1.5 billion funding mechanism to assist states with start-up costs and help offset liabilities for employers and employees; and</li> <li>■ Designate the DOL as a support resource to provide the states with the technical information necessary to craft paid leave programs consistent with specific state needs.</li> </ul>	No stated position.
<b>Paid Sick Leave</b>	Proposes that employers be required to provide seven paid sick days per year.	While Sen. McCain doesn't address paid sick leave directly, he has made commentary that he does not support such initiatives.

<sup>1</sup> Under the FMLA, employers with more than 50 employees must provide 12 weeks of unpaid, job-protected leave to workers who take leave for the birth of a child; the placement of a child with an employee for adoption or foster care; the serious health condition of a spouse, child, or parent; or an employee's own serious health condition.

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<b>Workplace Flexibility and Telecommuting</b>	<p>The federal government would become a model employer by adopting flexible work schedules and allowing employees to petition to request flexible work arrangements.</p> <p>Sen. Obama would create a program that would:</p> <ul style="list-style-type: none"> <li>■ Educate businesses about the productivity benefits associated with flexible work schedules;</li> <li>■ Assist employers in developing flexible work opportunities; and</li> <li>■ Provide federal incentives to employers for telecommuting.</li> </ul>	<p>Sen. McCain proposes that employers offer flexible work arrangements to help employees meet the demands of work and family. As the workforce ages, he believes flexible work arrangements also will retain older, knowledgeable workers who wish to remain in their careers while keeping the economy competitive.</p> <p>Sen. McCain proposes a National Commission on Workplace Flexibility and Choice. The Commission would be comprised of leaders representing workers, employers, labor, and academics. The Commission would make recommendations to the president and examine the following issues:</p> <ul style="list-style-type: none"> <li>■ Modernizing the nation's labor laws for more flexible scheduling arrangements.</li> <li>■ Ensuring labor laws do not interfere with working from home.</li> <li>■ Promoting telework so workers can reduce their commuting time.</li> <li>■ Providing more choice in job training assistance.</li> </ul> <p><b>As U.S. Senator:</b></p> <p>Sen. McCain cosponsored the Family Friendly Workplace Act. The legislation sought to allow employers to provide flexible work schedules to help employees balance work and family demands.</p>

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<b>Discrimination</b>		
<b>Fair Pay</b>	<p>Sen. Obama indicates he will overturn the Supreme Court's decision in the <i>Ledbetter v. Goodyear Tire &amp; Rubber Co.</i><sup>2</sup></p> <p><b>As U.S. Senator:</b></p> <ul style="list-style-type: none"> <li>■ Supports and is cosponsor of the Paycheck Fairness Act (H.R. 1338/S. 766)<sup>3</sup> introduced in March 2007.</li> <li>■ Supports and is cosponsor of the pending Fair Pay Restoration Act (S. 1843)<sup>4</sup> introduced in July 2007.</li> <li>■ Supported and voted for the Lilly Ledbetter Fair Pay Act of 2007 (H.R. 2831).<sup>2</sup></li> </ul>	<p>Sen. McCain did not support the Lilly Ledbetter Fair Pay Act (H.R. 2831).<sup>2</sup> He was quoted as saying the law "opens us up for lawsuits, for all kinds of problems and difficulties." Instead, Sen. McCain supports women receiving more education and training. ("McCain's Compassion Tour," <i>New York Times</i>, April 26, 2008)</p>
<b>Prohibit Parent/Caregiver Discrimination</b>	<p>Sen. Obama contends that workers with family obligations often are discriminated against in the workplace. He will enforce recently-enacted EEOC guidelines on caregiver discrimination.</p>	<p>No stated position.</p>
<b>Age Discrimination</b>	<p>Sen. Obama promises to fight job discrimination for aging employees by strengthening the Age Discrimination in Employment Act (ADEA) and supporting the EEOC in preventing all forms of discrimination.</p>	<p>No stated position.</p>
<b>Disability</b>		
<b>Disability Discrimination</b>	<p>Sen. Obama supports reducing workplace and labor market discrimination against people with disabilities. He proposes to expand employers' provisions of workplace access and accommodations, and wishes to increase the employment rate of workers with disabilities.</p> <p>Sen. Obama intends to provide private-sector employees with resources to accommodate employees with disabilities. He plans to direct</p>	<p>Sen. McCain states that "the presence of a disability should not mean the absence of choice...we must remove all doubt that the law is intended to protect Americans from any kind of discrimination on the basis of a physical or mental disability."</p>

<sup>2</sup> In *Ledbetter v. Goodyear Tire & Rubber Co.*, the Supreme Court held that the limitations period for filing a claim begins when a discriminatory act occurs and is communicated to the individual and does not restart with each paycheck. The Lilly Ledbetter Fair Pay Act of 2007 would overturn the Supreme Court's decision and would reestablish a fair rule for filing claims of pay discrimination based on race, national origin, gender, religion, age, or disability. An April 2008 Senate vote did not garner enough support to proceed with action on the legislation.

<sup>3</sup> The Paycheck Fairness Act would expand damages and create strong incentives for employers to obey the Equal Pay Act; create critical steps to empower women to negotiate for equal pay; call for a study of data collected by the Equal Employment Opportunity Commission (EEOC); and propose voluntary guidelines to show employers how to evaluate jobs with the goal of eliminating unfair disparities.

<sup>4</sup> This bill is nearly identical to the Lilly Ledbetter Fair Pay Act of 2007. The bill would overturn the Supreme Court decision limiting the time frame in which employees can bring pay discrimination claims under federal law, as well as allow victims of pay discrimination to seek back pay and damages.

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	<p>the Secretary of Labor, the Labor Department's Office of Disability Employment Policy, and its Job Accommodation Network to join employers, employer associations, human resources professionals, disability advocates, service providers, and the labor movement to promote and implement best practices in accommodating workers with disabilities.</p> <p>Sen. Obama encourages private-sector employers to use existing tax benefits to hire workers with disabilities. He indicates he will launch an "aggressive effort" to educate employers about these tax benefits.</p> <p>Sen. Obama proposes to provide workers with disabilities and caregivers with flexibility at work. He cites his plans to expand the FMLA, encourage paid leave, mandate paid sick leave, and protect against caregiver discrimination.</p> <p>Sen. Obama indicates he will "appoint judges and justices who respect laws designed to protect people with disabilities."</p> <p>Sen. Obama promises to increase funding to enforce disability discrimination. He proposes to increase funding and staffing for the EEOC and the Office of Federal Contract Compliance Programs (OFCCP). He also will appoint a Chair of the EEOC and nominate commissioners who are "committed to enforcing anti-discrimination laws."</p>	

Other HR Issues		
<b>Reforming the Immigration System</b>	<p>Sen. Obama proposed amendments to a comprehensive immigration reform bill that would make it easier for legal immigrants to reunite with their families.</p> <p>His plan for border security includes:</p> <ul style="list-style-type: none"> <li>■ Guest worker program so workers can change jobs and be less dependent on their employers to stay in the country;</li> <li>■ Additional personnel, infrastructure, and technology on the border and at ports of entry;</li> <li>■ More Customs and Border Protection agents equipped with better technology and</li> </ul>	<p>Sen. McCain supports the path to legal immigration status that includes requirements to learn English and pay fines.</p> <p>His plan for border security includes:</p> <ul style="list-style-type: none"> <li>■ Physical and virtual barriers, which include monitoring the exit and entry of people, as well as the screening of cargo at U.S. ports and other points of entry;</li> <li>■ Increased funding for ground resources, training facilities, support staff, and technology deployment;</li> <li>■ Funding to U.S. Attorney's offices in border states,</li> </ul>

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	<p>real-time intelligence;</p> <ul style="list-style-type: none"> <li>■ Path to legal immigration status that allows undocumented aliens “in good standing” to pay a fine, learn English, and go to the “back of the line” for the opportunity to become citizens; and</li> <li>■ Expedited procedures toward citizenship for legal immigrants who serve in the U.S. Armed Forces.</li> </ul> <p>His plan for employer compliance includes:</p> <ul style="list-style-type: none"> <li>■ Creating an accurate, fair, private and nondiscriminatory employment eligibility verification system to deter employers from hiring undocumented immigrants;</li> <li>■ Prosecuting employers that knowingly hire illegal workers; and</li> <li>■ Providing drivers’ licenses for illegal immigrants.</li> </ul> <p><b>As U.S. Senator:</b> Voted for a fence along the border, but has stated it is not the correct approach to preserve the integrity of our borders.</p>	<ul style="list-style-type: none"> <li>■ Unmanned surveillance aerial vehicles and other aircraft where needed in the border region;</li> <li>■ Promoting stronger economies in Mexico and Central America; and</li> <li>■ Creating stronger ideological ties to turn back the appeal of authoritarian regimes such as that of Venezuela’s Hugo Chavez.</li> </ul> <p>His plan for employer compliance includes:</p> <ul style="list-style-type: none"> <li>■ Implementing an electronic employment verification system to ensure that individuals are screened for work eligibility in a timely fashion. (In the Republican Party Platform, Sen. McCain stated that the E-Verify system must be reauthorized and a phased-in requirement that employers use the E-Verify system must be enacted);</li> <li>■ Verifying the accuracy of current government databases that play a role in employment verification;</li> <li>■ Prosecuting “Bad-Actor” employers that knowingly hire illegal workers to the fullest extent of the law. Sen. McCain supports targeted auditing by the DOL to identify such employers;</li> <li>■ Establishing a system that would provide workers with tamper-proof biometric identification cards; and</li> <li>■ Not allowing drivers’ licenses for illegal immigrants.</li> </ul> <p><b>As U.S. Senator:</b></p> <ul style="list-style-type: none"> <li>■ Cosponsored legislation that would have provided a path to legal immigration status for undocumented aliens and revised the system of allocating green cards.</li> <li>■ Voted for a fence along the Mexican border and indicated in August 2008 that the fence needs to be “completed quickly.”</li> </ul>
<b>Right to Organize</b>	Sen. Obama believes that workers should be able to choose whether to join a union without harassment or intimidation from their employer.	In the Republican Party Platform, Sen. McCain stated that current labor laws need to be modernized.

<sup>5</sup> The bill would amend the National Labor Relations Act to certify a bargaining representative without directing an election if a majority of the employees have authorized designation of the representative and the employees are not represented at the time. It also includes special procedures for reaching agreement on an initial collective bargaining agreement in these circumstances.

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	<p>Sen. Obama supports the right of workers to bargain collectively and strike if necessary. He also would ban the practice of permanently replacing striking workers.</p> <p>In the Democratic Party Platform, Sen. Obama indicated he would restore a “pro-worker voice” to the National Labor Relations Board and the National Mediation Board, as well as vigorously oppose “Right-to-Work” Laws and “paycheck protection” efforts.</p> <p><b>As U.S. Senator:</b> Supports and is a cosponsor of the Employee Free Choice Act (H.R. 800).<sup>5</sup></p>	<p>He indicates that he will enforce federal law requiring financial reporting and transparency by labor unions. Sen. McCain also advocates paycheck protection laws to guard the integrity of the political process and security of workers’ earnings.</p> <p>Sen. McCain opposes “card check” legislation, which he believes compromises employee union voting rights and creates employee privacy concerns.</p> <p><b>As U.S. Senator:</b> Voted to block a Senate vote on the Employee Free Choice Act (H.R. 800)<sup>6</sup> in 2007.</p>
<p><b>Unemployment Insurance Reform</b></p>	<p>Sen. Obama proposes to modernize the unemployment insurance program to “close gaps and extend benefits to the workers who now fall outside of it.”</p>	<p>Sen. McCain proposes to overhaul the current unemployment insurance system and replace it with personal employee accounts.</p> <p>He proposes that a portion of employer payroll taxes that currently go into a government trust fund for unemployment insurance instead be deposited into a tax-free “Lost Earnings Buffer Account” for employees. The account could be used for retraining or relocation and would travel with employees throughout their careers and become their property upon retirement.</p> <p>Sen. McCain’s plan also includes:</p> <ul style="list-style-type: none"> <li>■ Consolidating training programs and providing laid-off workers with more training options; and</li> <li>■ Supplementing the wages of older employees who take lower-paying jobs after a layoff.</li> </ul> <p>(“McCain Wants to Revamp Jobless Insurance System,” <i>Newhouse News Service</i>, May 19, 2008)</p>
<p><b>Same-Sex Relationships</b></p>	<p>Sen. Obama supports full civil unions that provide same-sex couples with equal legal rights and privileges as married couples.</p> <p>In an open letter to the Alice B. Toklas Lesbian Gay Bisexual Transgender (LGBT) Democratic Club, Sen. Obama announced his opposition to an upcoming November 2008 ballot measure that would ban same-sex marriage in California. Sen. Obama declared his support</p>	<p>Sen. McCain asserts that the institution of marriage is a union between one man and one woman.</p> <p>Sen. McCain officially announced his support for an upcoming November 2008 ballot measure that would ban same-sex marriage in California: “I support the efforts of the people of California to recognize marriage as a unique institution between a man and a woman, just</p>

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	<p>for extending "fully equal rights and benefits to same-sex couples under both state and federal law. And that is why I oppose the divisive and discriminatory efforts to amend the California Constitution, and similar efforts to amend the U.S. Constitution or those of other states." ("Letter From Barack Obama to Alice," <a href="http://www.alicebtoklas.org/abt/index.asp">http://www.alicebtoklas.org/abt/index.asp</a>, July 1, 2008)</p> <p>Sen. Obama opposed the Federal Marriage Amendment, which would have banned same-sex marriages and defined marriage as a union between one man and one woman.</p>	<p>as we did in my home state of Arizona. I do not believe judges should be making these decisions." ("McCain Announces Support for the California Protection of Marriage Initiative," <a href="http://www.protectmarriage.com">http://www.protectmarriage.com</a>, June 26, 2008.)</p> <p>Sen. McCain opposed the Federal Marriage Amendment, which would have banned same-sex marriages and defined marriage as a union between one man and one woman. Sen. McCain indicated he opposed the amendment because states should "set their own marriage policies."</p>

Source: Candidate's official campaign Web site, party platform, or legislative record unless otherwise noted.