

2008 Election Results: President-Elect Obama's HR-Related Proposals

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About This Material

After the longest presidential election campaign in history, voters have chosen Senator Barack Obama as President-elect and Senator Joseph Biden as Vice President-elect. The domestic and global financial crises remain top concerns, and President-elect Obama's term also could bring significant change for HR issues affecting employers and employees.

During his campaign, President-elect Obama discussed a number of ideas that could affect employer-provided health care, retirement benefits, tax policy, and employment practices. The following Hewitt report outlines President-elect Obama's stances on various HR-related issues addressed during the 2008 election season.

To access Hewitt's analysis, please visit: <http://www.hewitt.com/2008election>

To visit President-elect Obama's campaign Web site and party platform directly, please see:

- President-elect Obama: <http://www.barackobama.com>
- Democratic Party Platform: <http://www.democrats.org/a/party/platform.html>

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President-Elect Obama's HR-Related Proposals

The following report outlines President-elect Obama's stances on various HR-related issues addressed during the 2008 election season, including:

Health Care Issues

- **Covering the Uninsured and Health Care Reform**—expanded access to health care through “pay or play” at the employer level, as well as expanded federal health programs.
- **Other Health Care Issues**—health care quality and transparency, health IT, long-term care, and prescription drug reimportation.

Retirement and Tax Policy Issues

- **Retirement**—automatic workplace retirement accounts, expansion of Saver's Credit, annual retirement plan disclosures, reduced tax penalties for retirement plan withdrawals, suspension of minimum distribution rules, and corporate bankruptcy reform.
- **Compensation**—increased transparency to shareholders on executive compensation and pay packages and increases to the federal minimum wage.
- **Tax**—tax breaks for the middle class, higher tax rates for those families with incomes over \$250,000, and changes to dependent care tax credit.

Employment Issues

- **Work/Life Balance**—Family and Medical Leave Act (FMLA), state-level paid family leave, required paid sick leave, and workplace flexibility and telecommuting.
- **Discrimination**—fair pay, parent/caregiver discrimination, age discrimination, and disability discrimination.
- **Other HR Issues**—immigration system reform, labor laws and the right to organize, unemployment insurance reform, and same-sex relationships.

Health Care Issues

Health Issue

President-Elect Obama's Proposal

Covering the Uninsured and Health Reform (Overview)

Supports universal health coverage. President-elect Obama has said that his plan begins by covering every American and that those without health insurance will have it after this plan becomes law. "No one will be turned away because of a preexisting condition or illness."

When President-elect Obama formally declared his run for the presidency, he said his goal is to implement universal health care by 2012.

President-elect Obama's "Plan for a Healthy America" would:

- Create a National Health Insurance Exchange program for individuals and small businesses to buy FEHBP-type coverage through a new public plan or private participating insurance plans, with subsidies for low-income people.
- Require guaranteed issue and eliminate "preexisting condition" exclusions from all insurance plans.
- Require "Pay or Play": Large employers would have to provide "meaningful" health coverage) or pay an unspecified percentage of payroll toward the national public health plan.
- Expand Medicaid and State Children's Health Insurance Program (SCHIP).
- Federally fund catastrophic reinsurance for high-cost cases.
- Require parents to provide coverage for children, but no general individual mandate.
- Retain "flexibility" for state health reform experiments.

President-elect Obama promises that: "If you already have health insurance, the only thing that will change for you under this plan is the amount of money you will spend on premiums. That will be less." Savings would come from a variety of sources, including more use of preventive care, better management of chronic illness, expanded use of health information technology, and other factors described below in this chart.

Financing

- Assumes there is enough money "in the system" already that should be leveraged differently. "Not getting better outcomes for all we spend" (\$2 trillion).
- Relies on expiration of Bush tax cuts for those incomes over \$250,000.
- Over time, relies on savings resulting from (among other things) initiatives to establish interoperable health IT, comparative effectiveness research, disease management and integrated chronic care, price and quality transparency, medical malpractice reforms, universal coverage (reduced uncompensated care), increased competition and reduced administrative overhead, increased use of generic drugs and drug reimportation, and reducing Medicare Advantage reimbursement and Part D drug costs.
- Maintains savings would cut a "typical family's" annual health premium by \$2,500.

Catastrophic Reinsurance

Health reform plan includes a federal catastrophic reinsurance program for high-cost cases.

| Health Issue | President-Elect Obama's Proposal |
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| Health Care Quality and Transparency | <p>President-elect Obama's health reform plan would:</p> <ul style="list-style-type: none"> ■ Promote health IT and eliminate bureaucracy and paperwork. ■ Cover preventive care. ■ Require "full transparency about quality and costs," including requiring hospitals and providers to collect and report publicly cost and quality measures (including preventable errors, staffing ratios, infections, and disparities) and requiring health plans to disclose the percentage of premium that goes toward patient care versus administrative costs. |
| Health Savings Accounts (HSAs) | <p>Generally, President-elect Obama does not support HSAs, at least not in the long term. Has stated that HSAs "may be a helpful way of saving taxpayers money in the current health care environment. But the current health care environment is unsustainable and health savings accounts don't do nearly enough. In the long run, it's going to take more than health savings accounts to provide the kind of comprehensive health coverage Americans need and deserve." (Response to American Academy of Family Physician's questionnaire for presidential candidates, November 2007)</p> |
| Association Health Plans (AHPs) (federally-regulated group plans) or multistate health insurance options | <p>Would create regional health exchanges through which coverage could be purchased.</p> |
| Retiree Health Coverage | <p>No stated position specifically on this issue, but generally maintains that his overall health reform plan will make health insurance more affordable and accessible to every American. Individuals who are pre-65 retirees or are employed by small businesses or self-employed could purchase coverage through the National Health Insurance Exchange. Has proposed legislation, the Health Care for Hybrids Act (S. 1115), that would provide auto manufacturers with federal assistance for retiree health care costs in exchange for building more fuel-efficient vehicles.</p> |
| Medicare | <ul style="list-style-type: none"> ■ Supports federal government negotiation of Medicare Part D prescription drug prices. ■ Supports paying Medicare Advantage the same level as Medicare-Fee-for-Service (Traditional Medicare)—i.e., a reduction in payment rates to Medicare Advantage plans. |
| Federal Programs (Medicaid & SCHIP) | <p>Health plan would include expanding Medicaid and SCHIP (no specifics).</p> |
| Long-Term Care | <ul style="list-style-type: none"> ■ Will work to "give seniors choices about their care, consistent with their needs, and not biased towards institutional care." ■ Will work to reform the financing of long-term care to protect seniors and families. |

Health Issue**President-Elect Obama's Proposal**

**Medical Malpractice/
Tort Reform**

Health reform plan would include medical malpractice reform initiatives, including strengthening antitrust laws (to prevent insurers overcharging physicians), and new modes for addressing physician errors to improve patient safety, strengthen the doctor-patient relationship, and reduce the need for malpractice lawsuits. Does not support caps on non-economic damages in medical liability lawsuits, "because they do not reduce insurance rates and limit the rights of patients." (Response to American Academy of Family Physician's questionnaire for presidential candidates, November 2007)

Prescription Drugs

- Permit drug reimportation from other "developed countries" if prices are lower than in U.S.
- Increase use of generics in public plans and "prohibit large drug companies from keeping generics out of markets."
- Create a pathway for approving generic versions of biological drugs.
- Permit Medicare to negotiate drug prices with pharmaceutical manufacturers.

Source: President-elect Obama's official campaign Web site, party platform, or legislative record unless otherwise noted.

Retirement and Tax Policy Issues

| Retirement/Tax Policy Issue | President-Elect Obama's Proposal |
|---|--|
| Retirement | |
| Retirement Accounts | <p>Proposes creation of an automatic workplace retirement account plan to increase workers' retirement savings participation rate.</p> <ul style="list-style-type: none"> ■ Employers not already offering a retirement plan would be required to automatically enroll their employees in direct-deposit individual retirement accounts (IRAs), with an employee opt-out option. ■ The government would match half of the initial \$1,000 of savings for families that need help; employers also would be able to match workers' contributions. ■ Direct-deposit systems for the IRAs would work with existing payroll systems currently used by employers. Temporary tax credits would be available to defer employers' setup costs. ■ Employees could change the savings amounts, modify investments, or discontinue contributions to the IRA, even after enrollment. ■ Plan calls for automatic rollovers of savings when employees change jobs. ■ Employers would be required to offer a low-cost employer stock-free default investment option. |
| Expansion of Saver's Credit | <p>Proposes to expand Saver's Credit.</p> <ul style="list-style-type: none"> ■ For families earning under \$75,000, the credit would match 50% of the first \$1,000 of savings and would be refundable. ■ Savings match would be directly deposited into personal accounts using Internal Revenue Service (IRS) tax filing information. |
| Annual Retirement Plan Disclosures | <p>Proposes to require employers to provide employees with full disclosures annually regarding their retirement plan's investments.</p> |
| Retirement Account Withdrawals | <p>Proposes allowing withdrawals up to 15% or a maximum of \$10,000 from an IRA or 401(k) plan without a tax penalty in 2008 (retroactive) and 2009.</p> |
| Minimum Distribution Rules | <p>Proposes temporarily suspending minimum distribution rules requiring those age 70½ and older to begin withdrawing amounts from IRAs or 401(k) plans.</p> |
| Corporate Bankruptcy Reform | <p>Proposes reform of corporate bankruptcy laws to prevent payments of executive bonuses when workers' pension benefits are cut, increase the amount of unpaid wages and benefits workers can claim in court, and limit circumstances under which retiree benefits can be reduced.</p> |
| Compensation | |
| Executive Compensation | <p>Supports shareholder advisory votes on executive compensation to ensure increased transparency and public debate over executive pay packages.</p> <p>As U.S. Senator: Introduced the Shareholder Vote on Executive Compensation Act (S. 1181), which would permit a separate, nonbinding shareholder vote to approve executive compensation ("say on pay").</p> |

| Retirement/Tax Policy Issue | President-Elect Obama's Proposal |
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| Minimum Wage¹ | <p>The legislation also would require proxy solicitation materials for shareholder meetings on or after January 1, 2009 to disclose any compensation arrangements (e.g., golden parachutes) made with executives in the event of a sale or change-in-control that have not been subject to a shareholder vote.</p> <p>Proposes increasing the current federal minimum wage, but does not indicate by how much. Also supports indexing the federal minimum wage rate with inflation or increases in Congressional pay.</p> <p>States he would end the practice of employers wrongly misclassifying workers as independent contractors.</p> |
| Tax | |
| Social Security Payroll Tax | <p>Does not support uncapping the full payroll tax for Social Security at the 12.4% rate. Instead, those making over \$250,000 could pay 2% to 4% more in total Social Security payroll taxes (combined employer and employee), beginning a decade or more from now.</p> |
| Capital Gains & Dividends | <p>Proposes that families with incomes less than \$250,000 per year will continue to pay the current capital gains tax rate of 15%. The top two tax brackets (those earning over \$250,000) would pay a 20% capital gains and dividends tax rate.</p> |
| Income Taxes | <p>Supports income tax cuts for working middle class families. Proposes raising the top two income tax rates to 36% and 39.6% (1990s levels). Would keep the 10%, 15%, and 25% income tax rates. Would eliminate certain provisions of the 2001 and 2003 tax cuts that primarily benefit taxpayers with income over \$250,000.</p> <ul style="list-style-type: none"> ■ Would create a "Making Work Pay" tax credit of up to \$500 per person or \$1,000 per working family. ■ Supports the expansion of the Earned Income Tax Credit (EITC), including increasing the number of working parents eligible for the EITC, as well as an increase in benefits for some families. ■ Would eliminate income taxes for seniors making less than \$50,000 per year, which would provide an average tax cut of \$1,400 and eliminate the need for low-income seniors to file tax returns. ■ Would simplify tax filings so that those taking a standard deduction would be able to complete their tax returns in less than five minutes and without the need for an accountant. Would ensure the IRS uses existing information it receives from banks and employers to provide employees with pre-filled tax forms to verify, sign, and return. ■ Alternative minimum tax (AMT): Would permanently extend and index the "patch" that prevents families with incomes under \$200,000 from being affected by the tax. ("A Preliminary Analysis of the 2008 Presidential Candidates' Tax Plans," <i>Tax Policy Center</i>, June 11, 2008) |

¹ The July 2007 minimum wage law amended the Fair Labor Standards Act and raises the rate over the next several years (\$6.55 effective July 24, 2008, and \$7.25 effective July 24, 2009).

Retirement/Tax Policy Issue**President-Elect Obama's Proposal**

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| Child and Dependent Care Tax Credit / Tax Exemption for Dependents | Would make the Child and Dependent Care Tax Credit refundable and allow low-income families to receive up to a 50% credit on the first \$6,000 of child care expenses. |
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Source: President-elect Obama's official campaign Web site, party platform, or legislative record unless otherwise noted.

Employment Issues

| Employment Issue | President-Elect Obama's Proposal |
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| Work/Life Balance | |
| Expanding the Family and Medical Leave Act (FMLA)² | <p>Proposes to expand the current FMLA and include businesses with 25 employees. Additionally, promises to make other important changes to the FMLA that would:</p> <ul style="list-style-type: none">■ Allow employees to take time off for elder care needs;■ Permit parents up to 24 hours of unpaid leave each year to participate in their children's academic activities at school;■ Grant leave for purposes of caring for individuals who reside in the home for six months or more; and■ Broaden the FMLA provisions to cover leave for purposes of addressing domestic violence and sexual assault against employees, their children, or their parents. <p>Supports expanding assistance to caregivers who provide for the long-term care needs of their aging relatives.</p> |
| Paid Family Leave at the State Level | <p>Plans to initiate a strategy to encourage every state to adopt a paid leave program.</p> <p>President-elect Obama's plan would:</p> <ul style="list-style-type: none">■ Provide a \$1.5 billion funding mechanism to assist states with start-up costs and help offset liabilities for employers and employees; and■ Designate the Department of Labor (DOL) as a support resource to provide the states with the technical information necessary to craft paid leave programs consistent with specific state needs. |
| Paid Sick Leave | <p>Proposes that employers be required to provide seven paid sick days per year.</p> |
| Workplace Flexibility and Telecommuting | <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>President-elect Obama would create a program that would:</p> <ul style="list-style-type: none">■ Educate businesses about the productivity benefits associated with flexible work schedules;■ Assist employers in developing flexible work opportunities; and■ Provide federal incentives to employers for telecommuting. |

² 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.

| Employment Issue | President-Elect Obama's Proposal |
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| Discrimination | |
| Fair Pay | Indicates he will support efforts to overturn the Supreme Court's decision in the <i>Ledbetter v. Goodyear Tire & Rubber Co.</i> ³ |
| | <p>As U.S. Senator:</p> <ul style="list-style-type: none"> ■ Supported and cosponsored the Paycheck Fairness Act (H.R. 1338/S. 766),⁴ introduced in March 2007. ■ Supported and cosponsored the Fair Pay Restoration Act (S. 1843),⁵ introduced in July 2007. ■ Supported and voted for the Lilly Ledbetter Fair Pay Act of 2007 (H.R. 2831).³ |
| Prohibit Parent/Caregiver Discrimination | President-elect Obama contends that workers with family obligations often are discriminated against in the workplace. He will enforce recent Equal Employment Opportunity Commission (EEOC) guidelines on caregiver discrimination. |
| Age Discrimination | 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. |
| Disability | |
| Disability Discrimination | Supports reducing workplace and labor market discrimination against people with disabilities. Proposes to expand employers' provisions of workplace access and accommodations, and wishes to increase the employment rate of workers with disabilities. |
| | Intends to provide private-sector employees with resources to accommodate employees with disabilities. Plans to direct 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. |
| | Encourages private-sector employers to use existing tax benefits to hire workers with disabilities. Indicates he will launch an "aggressive effort" to educate employers about these tax benefits. |

³ 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.

⁴ 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 EEOC; and propose voluntary guidelines to show employers how to evaluate jobs with the goal of eliminating unfair disparities.

⁵ 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.

Employment Issue**President-Elect Obama's Proposal**

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.

Indicates he will “appoint judges and justices who respect laws designed to protect people with disabilities.”

Promises to increase funding to enforce disability discrimination. 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.”

Other HR Issues

Reforming the Immigration System

President-elect Obama proposed amendments to a comprehensive immigration reform bill that would make it easier for legal immigrants to reunite with their families.

His plan for border security includes:

- Guest worker program so workers can change jobs and be less dependent on their employers to stay in the country;
- Additional personnel, infrastructure, and technology on the border and at ports of entry;
- More Customs and Border Protection agents equipped with better technology and real-time intelligence;
- 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
- Expedited procedures toward citizenship for legal immigrants who serve in the U.S. Armed Forces.

His plan for employer compliance includes:

- Creating an accurate, fair, private, and nondiscriminatory employment eligibility verification system to deter employers from hiring undocumented immigrants;
- Prosecuting employers that knowingly hire illegal workers; and
- Providing drivers' licenses for illegal immigrants.

Right to Organize

Believes that workers should be able to choose whether to join a union without harassment or intimidation from their employer.

Supports the right of workers to bargain collectively and strike if necessary. Also would ban the practice of permanently replacing striking workers.

The Democratic Party Platform indicates that President-elect Obama 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.

Employment Issue**President-Elect Obama's Proposal**

As U.S. Senator:

Supported and cosponsored the Employee Free Choice Act (H.R. 800).⁶

Unemployment Insurance Reform

Proposes to modernize the unemployment insurance program to “close gaps and extend benefits to the workers who now fall outside of it.”

Same-Sex Relationships

Supports full civil unions that provide same-sex couples with equal legal rights and privileges as married couples.

In an open letter to the Alice B. Toklas Lesbian Gay Bisexual Transgender (LGBT) Democratic Club, President-elect Obama announced his opposition to an upcoming November 2008 ballot measure that would ban same-sex marriage in California. He declared his support 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,” <http://www.alicebtoklas.org/abt/index.asp>, July 1, 2008)

Opposed the Federal Marriage Amendment, which would have banned same-sex marriages and defined marriage as a union between one man and one woman.

Source: President-elect Obama's official campaign Web site, party platform, or legislative record unless otherwise noted.

⁶ 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.