Barack's Bailout for Trial Lawyers

by Phyllis Schlafly January 16, 2009

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The jobless rate just hit its highest level in 16 years: 7.2 percent, which means more than 11 million Americans are unemployed. So the Democratic House responded by passing two bills making it more costly to hire workers.

Barack Obama has been preaching that our economy is in crisis and Congress absolutely must pass another mammoth stimulus package right now. "Today's jobs report," he said, "only underscores the need to move with a sense of urgency and common purpose."

But, alas, his first legislative priority is a stimulus package for trial lawyers and liberal/feminist special-interest groups. The only things these two bills will stimulate is more litigation and a further exodus of jobs out of the United States.

President-elect Obama has promised to sign these bills if the Senate passes them. They are loaded with real money, so they are a big payback to the lawyers and feminists who supported him and the Democrats in 2008.

The Lilly Ledbetter Fair Pay Act (H.R. 11 / S. 181) would eliminate the current statute of limitations (either 180 or 300 days, depending on the state of

employment) on discrimination claims so that a worker can sue in federal court for alleged pay discrimination 20 years earlier. This bill would reverse the 2007 Supreme Court decision in Ledbetter v. Goodyear Tire & Rubber Co.

The Paycheck Fairness Act (H.R. 12 / S. 182) would remove existing statutory caps and allow for unlimited money damages to be awarded, even without proof of discriminatory intent. It would mandate new federal "guidelines" about the relative worth of different types of jobs, a long-sought feminist goal called "comparable worth," which means imposing wage control by freezing wages of jobs traditionally held by men and inflating wages of jobs traditionally held by women.

Obviously, these bills would expose large and small companies to vast new liabilities extending back decades. What our economy needs now is for business to hire more workers, but they are not going to do that if it means exposing themselves to expensive and frivolous litigation.

Lilly Ledbetter was employed for 19 years at Goodyear Tire & Rubber, eventually retiring with benefits. She enjoyed the advantages of this job despite receiving poor evaluations from several supervisors, which resulted in slightly lower pay than other employees.

Out of the blue, Ledbetter suddenly claimed that her supervisor, now long dead, had committed gender discrimination against her more than a decade earlier. Many trial lawyers are eager to sue deep pockets and plead for a "victim" in front of a spread-the-wealth jury in this type of case.

It's impossible to refute lies about discrimination dating back decades when supervisors and witnesses are no longer around to defend themselves. So the jury awarded Ledbetter a shocking $3,285,979 in punitive damages, plus $223,776 in back pay and $4,662 for mental anguish, thereby demonstrating how ignoring statutes of limitation is like winning the lottery.

New Haven plaintiff attorney Karen Lee Torre, who has won many sex discrimination cases, said, "I know a victim when I see one; Lilly Ledbetter is no victim. ... She hawked her case to a jury without the man she accused of sexism there to tell his side."

Imagine what this kind of verdict does to a company struggling to compete with foreign manufacturers that are not subject to this nonsense. Goodyear has manufacturing operations in 25 countries, and it would be no surprise if it downsizes its U.S. workforce even further to avoid this type of expensive litigation.

Statutes of limitation prevent frivolous cases like this, and the law under which Ledbetter sued contained such a provision. Goodyear appealed and won before the Eleventh Circuit Court of Appeals.

The Supreme Court also agreed with Goodyear, remarkably ruling that "We apply the statute as written, and this means that any unlawful employment practice, including those involving compensation, must be presented to the EEOC within the period prescribed by statute." Three cheers for the Supreme Court, which refrained from the liberal temptation to rewrite a law passed by Congress.

When Barack Obama was toadying to the trial lawyers and the feminists during last year's presidential campaign, he tried to make Lilly Ledbetter his answer to John McCain's Joe the Plumber. Ledbetter told the press that "Obama said he would see me in the White House when he signs the bill."

Liberal special-interest groups can barely control their excitement as they anticipate all this booty coming their way as they fleece businesses for alleged sins of twenty years ago. Marcia Greenberger of the National Women's Law Center, which has already made millions out of claiming discrimination but demands that the system be tilted even further against business, was photographed with House Speaker Nancy Pelosi as she rushed this bill to passage on January 9.

If these two bills become law, companies will have to spend their time and money defending against frivolous claims of discrimination instead of hiring new employees and manufacturing new products for sale.