

# DOES H.R. 1000 PROVIDE A JOB GUARANTEE?

Philip Harvey

Professor of Law and Economics, Rutgers Law School

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## Introduction:

H.R. 1000 has been criticized for not including a job guarantee, and it's true the bill includes no language expressly guaranteeing anyone a job. Instead, the bill describes its goals as the achievement of genuine full employment and the realization of the right to work recognized in both international and U.S. law.<sup>1</sup> However, since both of those goals implicitly require that all jobseekers have ready access to decent, freely chosen work, the appropriate question to ask is not whether H.R. 1000 includes an express "job guarantee," but whether the bill's strategy for achieving genuine full employment and securing the right to work would provide a de facto equivalent of an express job guarantee.

## Why H.R. 1000 Is Capable of Providing Jobseekers a De Facto Job Guarantee

I believe the inclusion of the following provisions in the current version of H.R. 1000 would provide the requisite guarantee.

1. An express grant of authority to the Secretary of Labor to create enough jobs to provide freely chosen work for "substantially all job seekers" in every community in the nation.
2. The inclusion of a funding mechanism for the support of this job creation effort that effectively guarantees the availability of enough money to achieve this goal following a capacity-building start-up period.
3. A provision prioritizing the funding of job-creation projects that serve communities with the lowest median income and the highest rates of unemployment, poverty, concentrated poverty, abandoned and vacant properties, home foreclosures, and poor resident health.
4. A provision requiring the sponsors of job-creation projects to "institute an outreach program with community organizations and service providers in low-income communities" to provide information to community members concerning the employment opportunities available on the project.

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<sup>1</sup> Indeed, the promotion of both of these goals are mandatory obligations of the Federal Government under both international and U.S. law. See U.N. Charter arts. 55 and 56 (obligating member states to "promote . . . full employment . . . and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion"); Universal Declaration of Human Rights, art. 23(1) (declaring that "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment"); and the Full Employment and Balanced Growth Act of 1978 (the "Humphrey-Hawkins Act"), H.R. 50, 95th Cong. § 102 (1978) (declaring that it is the policy and responsibility of the Federal Government to "promote full employment" and the "fulfillment of the right to full opportunities for useful paid employment at fair rates of compensation for all individuals able, willing, and seeking to work").

5. A requirement that at least 35% of the individuals hired to work on a program-funded project consist of members of disadvantaged population groups.
6. The inclusion of ample authority to fund as much paid job training as is necessary to ensure that everyone hired to work on a particular job-creation project has the opportunity to learn the skills necessary to perform their job in a professional manner.
7. The inclusion of a grievance procedure and whistle-blower hot line giving individuals ready access to a mandated investigation by the Secretary of Labor of alleged violations of the act and a right to adjudicate individual disputes before a neutral arbitrator.

While I believe these provisions are sufficient to furnish all job seekers a de facto job guarantee, they could be strengthened, and I began working on that task as soon as support for a “job guarantee” began to mushroom in progressive circles a year or so ago. My initial thoughts on the subject are embodied in the text of a draft New York City jobs-for-all bill based on H.R. 1000 that the NJFAC prepared for Public Advocate Letitia James’s consideration last fall. The additional provisions added to the text of that draft bill in order to better secure the achievement of genuine full employment and the right to work include the following.

8. The establishment of an Office of Assisted Placement managed by the program’s central administration.
9. A provision requiring this office to provide affirmative assistance in finding suitable program employment for anyone who has been unable to secure such employment within 30 days of being certified as eligible for employment in a program-funded job.
10. The imposition of a requirement on all job creation projects that they cooperate with the Program’s Office of Assisted Placement in providing Program Employment for individuals eligible for assisted placement.

In addition to these three provisions I plan to propose that another three provisions be added to the text of H.R. 1000 to better secure the bill’s goals.

11. A provision making it clear that the job placements arranged by the Office of Assisted Placement must be consistent with a jobseeker’s qualifications and as consistent as is reasonably possible with the jobseeker’s preferences regarding the kind of work they would like to find.
12. A provision giving a jobseeker the right to refuse a job placement arranged by the Office of Assisted Placement without adverse effect on their eligibility for program employment if they can cite reasonable grounds for their refusal.
13. A provision authorizing the Office of Assisted Placement to provide additional funding to a job-creation project if such funding is reasonably necessary for the project to provide special accommodations to a person referred to the project for employment by the Office of Assisted Placement.

### **H.R. 1000 Provisions That Have Been Criticized as Preventing It from Providing a Job Guarantee**

Notwithstanding the bill’s provisions tending to support a de facto job guarantee, there are two provisions that have been criticized as calling into question its ability to guarantee “jobs for all.” The first is the bill’s reliance on a financial transactions tax whose revenue-generating potential is insufficient to close the job gap that exists in the economy under existing conditions.

How can the bill provide a job guarantee if it wouldn't be able to create enough jobs to close this gap? It's a reasonable question, but there are two reasons why the concern it raises is misplaced. First, it fails to consider the labor market effects that the bill's implementation would cause. Most job guarantee advocates concede that it a start-up period of uncertain length will be required to build the job-creation capacity needed to provide a job guarantee for all job-seekers. Well before that roll-out is complete the growing availability of program jobs will begin to draw job wanters into the labor force who are not currently looking for work, and force adjustments in the way employers recruit and retain part-time workers (who will increasingly have the option of taking full-time jobs in the program).

These changes would have the practical effect of increasing the size of the labor reserve available for employment in the private sector—but instead of being unemployed, this labor reserve would be employed in the program where they arguably will furnish a more credible source of new private-sector hires (and hence provide a more effective prophylactic against an upsurge in inflation) than the existing population of unemployed workers.

The result of this process would mimic the goals of the EU's "employment strategy" (which is to increase both the labor force participation and employment rate of working-age individuals via labor "activation" policies. To the extent it is successful, the "payoff" from this policy is that it creates more "room" for economic growth before the NAIRU is reached while simultaneously reducing the number of working age adults requiring social support. I discuss the implications of these trends for a job creation program designed to close the economy's job gap in a [2015 memo](#). My conclusion is that the program would not have to create nearly as many jobs to achieve its goals as most people assume based on existing labor market conditions. My analysis may be mistaken, of course, but I urge people to consider and respond to it before concluding that I have underestimated the cost of providing a job guarantee via H.R. 1000.

And if it turns out I'm wrong, it doesn't mean H.R. 1000 would be disabled from providing a de facto job guarantee. It just means it would need more funding to achieve that goal. This additional funding could come from almost any source, but it's worth noting that there is plenty of room to increase the tax rates on financial transactions on which the bill currently relies. The H.R. 1000 FTT rates are less than half the size of the corresponding rates in Keith Ellison's free-standing FTT bill, and the Ellison bill's rates are generally considered reasonable by FTT advocates as a means of discouraging potentially destabilizing financial speculation.

Criticism of H.R. 1000's funding base also fails to take into consideration the bill's back-up funding mechanism. If the program's trust fund is ever depleted, the bill requires the Federal Reserve System to lend the trust fund whatever additional money it needs to prevent the unemployment rate from increasing more than one percentage point above its previously attained level. This back-up funding source effectively guarantees that the program will always have sufficient resources to achieve its goals.

Remember, too, that during the program's start-up period, the program's trust fund will be accumulating a sizable surplus of FTT revenues over and above what will be needed to fund the program's growing, but still incomplete job-creation effort. As an initial matter, therefore, there is little reason to fear that the program's FTT funding base would be insufficient to drive the economy's unemployment rate down to the full employment level of between 1% and 2%; and

the achievement of that goal would establish the baseline that loans from the Fed would always be available to maintain.

Finally, taking guidance from the teaching of Modern Money theorists, I intend to propose that H.R. 1000 be revised to impose a continuing obligation on the Fed's Board of Governors to cancel any debts owed to it by the H.R. 1000 trust fund whenever doing so can be done without significantly adverse effect on the economy. Though clearly controversial (because it can be characterized as "printing money") this provision should be easy to justify in light of the much larger amounts the Fed "printed" to purchase potentially worthless securities during the last recession. In other words, this debt cancellation provision would provide a concrete way for progressives to argue that the Fed should do for workers in future recessions what it did for the financial sector during the last recession—while further strengthening H.R. 1000's funding base.

In any event, H.R. 1000's dedicated FTT and unlimited back-up funding from the Fed gives H.R. 1000 a far more robust funding base than any of the alternative job guarantee proposals currently being discussed—all of which appear to rely on either annual or multi-year appropriations. In short, the risk that a funding shortfall would prevent H.R. 1000 from achieving its full-employment/right-to-work goals should cause less concern than the risk that other job guarantee proposals would find themselves short of the funds they would need to achieve their goals.

The other observation concerning H.R. 1000 that has been cited as calling into question its status as a "job guarantee bill" is the inflation "circuit breaker" set forth in Section 9 of the bill. If triggered by a surge in inflation rates *attributable to the program*, this provision would freeze program wages and prohibit new program hires of individuals who are receiving unemployment insurance benefits and involuntary part-time workers, unless they can show that their lack of work would cause them and their family to suffer undue hardship.

This provision was added to the bill in 2015 for the sole purpose of securing the nominal support of certain well-known progressive economists who expressed concern about the bill's inflationary potential. I agree it would interfere with the achievement of the bill's goals, and the only reason I agreed to draft the provision was to craft it in a way that would minimize the likelihood that it would be triggered, and to minimize the harm it would cause if it were triggered. A careful examination of the provision will show that it would be procedurally difficult to invoke and similarly difficult to maintain if it were invoked, and that the groups of unemployed workers most in need of program employment would be full protected.

So yes, if this inflation "circuit breaker" were tripped, H.R. 1000 wouldn't be able to fulfill its "jobs for all" promise. However, given the bill's anti-inflationary features<sup>2</sup> and the showing

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<sup>2</sup> There are four such features that I discuss in more detail in [another 2015 memo](#): (1) the fact that the bill could reduce the unemployment rate below the NAIRU level while simultaneously reducing aggregate demand; (2) the fact that the program's job-creation effect would be limited to jobs for which no labor shortage exists in the area where the jobs are created; (3) the program's tendency to reduce both frictional and structural employment; and (4) the "buffer stock" effect of such a program noted by post-Keynesian, modern money theorists.

required to invoke the bill's inflation "circuit breaker," it's a provision that would probably forever lay dormant, and if it were invoked, jobseekers who were most in need of program employment would be fully protected.

Finally, let me be clear that I would be delighted if job guarantee advocates joined me in proposing that this provision be deleted from the bill as unnecessary. As noted above, it wasn't a provision I proposed or wanted to include in the bill—a useful reminder that H.R. 1000 is not a job creation proposal whose author or authors are easily identified. It's a job creation bill that has been and will continue to be subject to the "sausage-making" characteristics of the legislative process. Job-guarantee advocates who have so far limited their advocacy to proposals they have authored or co-authored should not expect bills that reflect their influence to simply reproduce their ideas. They should be prepared to fight for their ideas, on their merits, in bills like H.R. 1000—bills that are consistent with their goals even though they also include features they don't like.

### **Why Not Simply Include a Justiciable Right to a Job in the Bill?**

But why is this complicated tangle of de-facto job-guarantee provisions necessary? Why not simply include language in H.R. 1000 guaranteeing a program job to all jobseekers? The simple answer to these questions is that drafting a workable job guarantee provision for inclusion in a job-creation bill is harder than one might reasonably think.

First, unlike a formula-driven monetary benefit, determining what kind of job offer is required to satisfy a job guarantee involves a wide range of both objective and subjective considerations. Judges generally prefer to decide disputes over such matters based on procedural rather than substantive considerations, and when required to consider the latter, they want a clearly-defined set of criteria to guide their decision making. If the statute or regulation they are called on to enforce provides nothing more than a general mandate (e.g., guarantee everyone a job that pays at least "X" dollars and hour with benefits), a judge will be forced to construct procedural and substantive criteria of their own in explaining their decision. Gradually a body of caselaw will fill in the blanks left unfilled by the legislation, but the original intent of the legislation may get lost in the process. The torturous history of litigation interpreting Title VII's poorly specified prohibition against discrimination (based on the also poorly specified categories of race, color, religion, sex and national origin) illustrate what happens when the courts are left to do this work. Ideology takes over, and on average, over time, courts tend to be more conservative than legislatures.

Second, it is inherently difficult to implement a job guarantee when the entity charged with fulfilling the guarantee must do so, as a practical matter, with jobs furnished by other entities. This is true even when those other entities are participating in the job-creation program. Would it be workable, for example, for a job-guarantee program to tell a local school board that it must hire a particular jobseeker as a program-funded teacher's aide? In fact, state law would almost certainly prohibit a public school system from participating in a job creation program that included such a provision. This "placement problem" can be reduced, of course, if the program administers its own job-creation projects, as the New Deal did. However, limiting a job-creation program to such projects today would greatly restrict the program's ability to improve the delivery of the broad range of public services that are provided by all levels of government today. The WPA operated many projects that supplemented locally-furnished public services, but few if any in which WPA employees worked alongside regular public-sector employees. Finally, mandatory placement policies could also violate the already badly-compromised right of

jobseekers to free choice of employment—an important aspect of the right to work recognized in international human rights law. See Universal Declaration of Human Rights, art. 23(1).

***The Original Humphrey-Hawkins Bill as an Object Lesson:*** The job guarantee included in the original (1974) Humphrey-Hawkins bill illustrates these difficulties. The bill aspired to provide all jobseekers an individually justiciable right to a job and it is commonly described as having done so. But the only individually justiciable right the legislation actually guaranteed jobseekers was placement on the payroll of a “standby Job Corps” whose members would be paid a monthly stipend while remaining “available for public service work upon projects and activities that are approved as a part of community public service work reservoirs.”

It clearly was the intent of the legislation that these “public service work reservoirs” would provide adequate amounts of suitable work to keep members of the standby Job Corps continuously and usefully employed, but the bill contains no justiciable guarantee that this goal will be achieved—which is why the members of this standby Jobs Corps were to be paid a monthly stipend rather than a wage linked to the work they actually performed. This stipend is described in the bill as a “monthly rated sum based upon their employment in a suitable and comparable job.” What did that mean? The bill does on to explain that it meant they would be paid “compensation . . . that bears a positive relationship to their qualifications, experience, and training” subject to two limitations. First, they could not be paid less than “the minimum wage in effect in the area” (though for how many imputed hours of work is not explained). Second, the “monthly rated sum” had to be low enough to “effectively encourage them (from an economic standpoint) to advance from the Corps to other employment.”

In other words, what the bill actually guaranteed jobseekers was a monthly stipend that was less than but proportional to what they reasonably could expect to be paid performing the kind of work for which they qualified—with a floor on the size of the stipend equal to the locally applicable federal or state minimum wage. In exchange for this stipend they had to remain available for work assignments on public service work projects in their community, but they were not guaranteed such work and their monthly stipend would not depend on the type or amount of work they actually performed on those projects during the month.

Did this provide jobseekers with an individually justiciable job guarantee? That depends, of course, on how you define the term. It should be acknowledged, though, that the justiciable guarantee provided by the bill could just as easily be characterized as an improved form of unemployment insurance—providing a monthly, formula-driven benefit payment to any and all unemployed individuals in exchange for remaining available to work on local public service projects without the amount or nature of the work they actually were called upon to perform having any effect on the size of their monthly benefit.

The point I want to emphasize, though, is how the nature of the bill’s putative job guarantee were driven by the two difficulties I noted above. First, whatever process and standards the program adopted for setting an individual jobseeker’s monthly stipend would have made it relatively easy for a judge to enforce the guarantee based on whether the proper procedures were followed and the appropriate standards applied. Second, the creation of a standby Jobs Corps meant the program’s “Job Guarantee Office” (the official name of the program’s job placement office) could guarantee jobseekers employment of a sort without having to secure jobs for them in the “reservoir of public service and private employment projects” the bill contemplated creating to achieve full employment.

***How Do Current Job-Guarantee Proposals Solve these Problems?*** How do the current crop of job guarantee proposals address these difficulties? I’ve already explained how H.R. 1000 does it (or could do it if you think the current version of the bill is inadequate in this regard). Other job guarantee proposals punt on the issue by simply declaring that suitable jobs will be guaranteed.

The job-guarantee pilot project bill introduced by Senators Booker, Merkley, Gillibrand and Harris specifies the minimum wage and benefits these guaranteed jobs must pay; but other than that, it leaves the task of determining what kind of jobs individual jobs seekers will be guaranteed and how placement in such jobs will be guaranteed up to the Secretary of Labor and the entities that apply for pilot project grants. See Federal Jobs Guarantee Development Act of 2018, [S. 2746](#), 115<sup>th</sup> Cong. § 2(b)(1), at 3, lines 4-10 (“The Secretary shall establish a pilot program to provide competitive grants to eligible entities to establish programs to ensure that any individual within the area served by the entity who applies for a job through the program will be provided with employment as provided for in this section.”).

A similar lack of detail is provided in the job guarantee proposals published by Mark Paul, William Darity and Darrick Hamilton in their [CBPP report](#) and by Randy Wray and his associates in their [Levy Institute Policy Note](#). Like the Booker bill, they describe the minimum wage and benefits the job creation programs they advocate would provide, but nothing about the standards and administrative procedures that would determine the kind of job an individual job seeker would be legally entitled to receive, or how the job creation programs they advocate would be structured to insure the placement of individual jobseekers in jobs that satisfy the job guarantee promise extended to them.

### **Conclusion:**

I appreciate the concern expressed by job-guarantee advocates as to whether H.R. 1000 is up to the task; and I welcome this opportunity to explain why I think it is. That said, I also want to be clear in expressing my hope that job-guarantee advocates who are critical of the bill will step forward to suggest how they think it could or should be revised to allay their concerns. It’s currently the only bill pending in Congress that aspires to achieve our common goals. It would be a shame to reject it rather than perfect it.