December 2, 2019

STRIKING DIFFERENCES BETWEEN MULTIEMPLOYER PENSION LEGISLATION PROPOSALS

Side-by-side comparisons of the Butch Lewis Act and the Reform Plan highlight key components that will be of most interest to plan sponsors.

The Rehabilitation for Multiemployer Pensions Act (known as the Butch Lewis Act) was passed by the House on July 24, 2019 and introduced to the Senate. On November 20, Senators Charles E. Grassley (R-IA) and Lamar Alexander (R-TN) released a proposal called the Multiemployer Pension Recapitalization and Reform Plan (Reform Plan).

The two bills are quite different and the following offers comparisons of certain key components that will most interest plan sponsors, at least immediately.

PROVISION	BUTCH LEWIS ACT	REFORM PLAN
PBGC Premiums	No change from current law. Flat rate indexed with annual inflation increases. Premiums are $29/person for 2019 and will be $30/person for 2020.	**Paid by the Plan** • Flat Rate – $80/person for 2019, with annual index for inflation • Variable Rate – 1% of unfunded current liability (liability calculated using low interest rate) • Total Plan-paid Premium – capped at $250/person, with annual index for inflation **Paid by Stakeholders** • Monthly premiums of $2.50 per active employee paid by union and employers **Paid by Retirees** • Plan must withhold from retiree benefit a certain percentage as "co-payment" – 3% if in Endangered Status – 5% if in Critical Status – 7% if in Declining Status – 10% if under a Partition – 7% if Insolvent or Plan is Frozen • No co-payment if retiree is at least 80 or is disabled • Co-payment phased out between 75 and 80
PBGC Guaranteed Benefit	No change from current law	PBGC maximum guaranteed benefit would increase by about $600/month.

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PROVISION	BUTCH LEWIS ACT	REFORM PLAN
Benefit Suspensions Under MPRA	All MPRA applications previously approved would be reversed with repayment of previously suspended amounts. No further suspensions would be granted.	Benefit suspensions under MPRA would continue and applications for future suspensions could still be made. While not a benefit suspension under MPRA, retiree co-payments under the PBGC premiums would reduce the amounts that retirees receive. Voting rules under a MPRA application would require a majority of returned ballots to approve.
How PBGC and Failing Plans Will Be Supported	Treasury-backed loans will be made to Plans so that they remain solvent. Loans are repaid at low-interest rates with a 30-year balloon payment.	PBGC would receive "limited federal taxpayer resources" in addition to significantly increased premium and new "co-payment" revenue. Plan funding would be strengthened by an easier PBGC partition process.
Plan Funding Rules	No change from current law	Actuaries will be limited to investment return assumptions that do not exceed a rate based on corporate bonds and never above 6%.
Determination of Zone Status	No change from current law	Redesigned to include projections of future status, stress testing to identify potential financial hardships, and more restrictions on when plans can reduce contributions or make benefit improvements. Most notable is that endangered plans are allowed to eliminate adjustable benefits and early retirement subsidies.
Alternative Plan Design	No provisions	Establishes "composite plans" that are exempt from PBGC guarantees and premiums, withdrawal liability, and minimum funding rules. These plans fund to a surplus level and transfer some risks to participants.

Other provisions of the Reform Plan exist and may have a relevant impact on your plan.

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