Bolton Alert

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Multiemployer Pension System Reform

The U.S. Senate recently released a proposal to provide relief to certain multiemployer pension plans and to provide reforms to prevent future funding shortfalls. The dramatic increase in liabilities has the Pension Benefit Guaranty Corporation (PBGC) projected to exhaust assets in the multiemployer insurance fund by 2025. Many multiemployer plans are facing severe financial difficulties, with no realistic avenue to emerge from critical and declining status. This leaves a real possibility that millions of workers and retirees will see a substantial reduction in their retirement income. The proposal calls for federal contribution to multiemployer pension plans and establishes new authority for the PBGC.

The Proposed Reform

The reform addresses the immediate financial challenges for a number of plans in critical condition as well as makes significant changes to the management and operation of all multiemployer pension plans to improve future funding.

The finance of the reforms is to be supported with a new premium structure of co-payments gathered from the active workers and healthy retirees to ensure long-term solvency of the PBGC. Additionally, the flat-rate premiums will increase from $29/participant which has long been reported to be insufficient to cover multiemployer guarantees, to $80/participant which is at a level that is more consistent with the required premium for private-sector single-employer plans. Additionally, the proposal establishes a variable-rate premium (VRP) payable to the PBGC in the amount of 1 percent of a plan's unfunded current liability. The VRP is capped at $250 per participant. This cap will be indexed for inflation in the same manner as PBGC's flat-rate premiums.

The proposed reform includes an increase in the guaranteed benefit level, to make up for inflation and cost-of-living increases, providing participants with more insurance in the event of plan underfunding.

For plans in need of immediate assistance, the proposed reform revises the partition qualification requirements. One case for partitioning relates to "orphaned" participants resulting from withdrawn employers. Expanding the PBGC's ability to manage the orphaned portion of a plan allows the rest of the plan to become self-sustaining and remain financially viable. Other ways of partitioning a plan may also be considered. The partitioned plan will be subject to certain limitations on future benefit accruals and limited benefit reductions.

The proposal strengthens zone rules and includes new incentives for multiemployer plans to improve their funding status by establishing new upper-tier zones for plans deemed to be very healthy who will be subject to fewer restrictions so long as they maintain their upper-tier zone status.

The proposal replaces the current withdrawal liability rules with simpler methods for determining an employer's withdrawal liability. The measurement under the proposal will mandate using the same methods and measures for determining withdrawal liability that the plan uses for funding and reporting purposes. Note that as a plan's funding level improves, withdrawal liability becomes less of an overall factor.

Moving Forward

Moving forward, the proposal will provide an option for the sponsors of a multiemployer plan to establish a new hybrid plan, a "composite" plan, on a prospective basis. This would allow a plan to pool employer contributions for investing, but only provides benefits to participants based on the contributions and any investment earnings. Employers establishing this plan will be relieved of withdrawal liability for benefits in the new plan and would not pay premiums to the PBGC.

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Further details regarding the proposal are contained in a Senate Whitepaper and a Technical Explanation, both titled "Multiemployer Pension Recapitalization and Reform Plan" published November 20, 2019. For questions regarding the Multiemployer Pension Reform Plan and how it may impact your plan, please reach out to Jim Ritchie at 443-573-3924.