United Actuarial Services, Inc.
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CLIENT BULLETIN

House Committee Releases Discussion Draft on a New Multiemployer Plan Structure - "Composite Plans"

This past Friday, Rep. John Kline (R-MN), chairman of the House Committee on Education and the Workforce, released a discussion draft of proposed legislation to authorize a new type of multiemployer plan structure known as a "composite plan." According to the press release, the new composite plans will:

- Strengthen the retirement security of American workers;
- Protect workers and retirees in traditional multiemployer pensions;
- Improve the competitiveness of American businesses; and
- Protect taxpayers.

The discussion draft reflects input from employers, worker representatives and retiree advocates and is based on work by the NCCMP. Composite plans are meant to be a realization of the promise of a multiemployer pension plan <u>without withdrawal liability</u>. This is an idea that the NCCMP has been working on for the past three and a half years.

The following documents are available from the Committee's website to assist the reader in understanding these new plans:

- Section-by-section outline of the discussion draft
- Summary of the discussion draft
- Basic Q&As (for a special copy with a table of contents, *"click here")*

Prepared by Mike Ewing, J.D.
Director of Research
United Actuarial Services, Inc.
(317) 580-8659 • Fax (317) 580-8651
email: *mewing@unitedactuarial.com*

http://www.unitedactuarial.com

An Overview of the Discussion Draft

The following overview is drawn from the "section by section outline" of the proposed Act (link available above). The Act would be called the *Multiemployer Pension Modernization Act*.

Section 2 of the Act defines *Multiemployer Composite Pension Plans* under *ERISA* and the Code to be a *new type of multiemployer retirement plan* that is neither a traditional *defined benefit* plan nor a *defined contribution* plan.

The Act would:

- Require that benefits under a composite plan be calculated pursuant to a formula set by the plan's trustees in order to provide annuities upon retirement.
- Require the trustees of a composite plan to take corrective actions in the current plan year if the plan is projected to be less than 120% funded in 15 years.
- Allow a composite plan to be established either as a stand-alone plan or a component of an existing multiemployer defined benefit retirement plan, unless the existing defined benefit plan is or will be in critical status for the plan year in which the new composite plan is established or for any of the succeeding five years.

The Act also adds *Funding Requirements* that would:

- Require annual actuarial certifications of both the current value of the plan's assets and liabilities ("current funded ratio") and a projection of the plan's assets and liabilities in 15 years ("projected funded ratio").
- Require the plan's actuary to explain any changes in assumptions in an annual disclosure.

To help ensure the stability of composite plans, the Act also adds *Realignment Programs* which:

- Ensure composite plans are well-funded and provide a stable retirement benefit by requiring the trustees of any plan projected to be less than 120% funded to adopt a corrective action strategy (a "realignment program") that will bring the projected funded ratio up to at least 120%.

- Establish a three-tier hierarchy of measures trustees may take to improve the plan's funding status.

In addition, the Act requires a Notice to be sent to the bargaining parties, plan participants, and the Secretary Of Labor if a plan's projected funded ratio is less than 120%. The Notice must include the current and projected funded ratios and explanations that the plan may require contribution increases or benefit reductions.

A Notice must also be sent to the bargaining parties and plan participants if the trustees decide to adjust benefits in order to maintain a well-funded plan.

In addition, the Act addresses *Benefit Increases*, *Preserving Legacy Plan Funding*, and *Mergers of Composite Plans*.

PBGC Premiums, Withdrawal Liability and Fully Funding The “Legacy” Plan

Other sections of the Act contain a bit of good news in that the Act provides that composite plans are not subject to Pension Benefit Guaranty Corporation (PBGC) premium requirements or the PBGC guarantee.

Further, in a move sure to hearten contributing employers, the Act also provides that contributions to a composite plan are not taken into consideration when determining an employer’s withdrawal liability with respect to the legacy plan. The Act provides a light at the end of the tunnel by deeming a legacy plan to have no unfunded vested benefits if a plan is fully funded under PBGC’s “mass withdrawal” requirements and had no unfunded vested benefits for three of the last five years, and is projected to be fully funded for the next five years. A “legacy plan” is the original defined benefit plan that existed before the adoption of a ‘composite plan”.

To help ensure against volatile markets, tax-deductible contributions to the composite plan are allowed up to 160% of the plan’s current funding.

Opposition

Several pension rights organizations, including the AARP and the Pension Rights Center, wasted no time in releasing an open letter to members of Congress that was sharply critical of the proposal, claiming it would weaken, rather than strengthen, the multiemployer pension system. Five labor unions also signed the letter.

Conclusion

Interested parties are encouraged to submit comments. The Committee’s website listed the following contact information:

U.S. House Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, D.C. 20515

Tel: 202-225-4527
Fax: 202-225-9571

Emails may be sent in via the form on the contact page at:
https://edworkforce.house.gov/contact/.

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