

Section-by-Section Summary

Pomeroy-Tiberi -- "Preserve Benefits and Jobs Act of 2009"

TITLE I—SINGLE EMPLOYER PLANS

SECTION 101. Extended amortization periods for single-employer pension plans.

Allows a sponsor of a defined benefit plan to elect one of two alternative amortization schedules for the investment losses that occurred at the end of 2008. One alternative would extend the period for nine years delaying the seven amortization payments for two years with employers making interest payments in the first two years. Employers using this alternative would be required to contribute more than was required for the 2008 plan year, in order to ensure that funding relief does not permit contribution levels to decrease. The second alternative would fund the "2008 losses" over a 15 year amortization period; this would give employers a predictable and practical required funding stream that would not divert funding from other key business needs. To assure that the above funding relief is not undermined by other actions that would reduce the retirement security of employees, employers electing the funding relief would have to meet one of three maintenance of effort options. These include: continuing to provide benefit accruals under the plan; making a 3 percent nonelective contribution to a defined contribution plan for employees frozen out of the defined benefit plan; or, freezing all nonqualified deferred compensation plans for key employees and subjecting them to the restrictions that apply to the defined benefit plans that cover rank and file employees. These requirements would apply for either 2 or 8 years depending on the extended amortization schedule chosen by the employer.

SECTION 102. Expansion of corridor within which single-employer defined benefit plans are allowed to average asset values.

Generally, expands the asset smoothing corridor from the current 10 percent corridor by increasing the corridor to 20 percent of fair market value for 2009 and 2010.

SECTION 103. Lookback for benefit accrual restriction.

Uses the plan's 2008 funded status to determine if the benefit restriction that freezes benefit accruals for plans that are less than 60% funded will apply in 2009 and 2010.

SECTION 104. Lookback for credit balance rule.

Uses the plan's 2008 funded status for the purpose of prohibiting the use of credit balances by pension plans that are under 80% funded in the prior year. This applies for 2009 and 2010.

SECTION 105. Clarification of the treatment of expenses.

Clarifies that plan investment expenses are not included in the plan's target normal cost.

SECTION 106. Information reporting.

Modifies the section 4010 reporting rules by repealing the Pension Protection Act (PPA) rule requiring reporting with respect to plans that are less than 80% funded and replacing the trigger for reporting to apply to plans that are less than 90% funded. Additionally, rules regarding the confidentiality of the reported information would be tightened.

SECTION 107. Benefit restriction effective date for collectively bargained plans.

Generally, with respect to collectively bargained plans, the bill delays until plan years beginning after December 31, 2011 the application of certain benefit restrictions enacted under the PPA. Those benefit restrictions include: new accruals, payments of lump sum distributions, shutdown benefits and amendments that increase benefits under collective bargaining agreements. Benefit increases would only be allowed to the extent that the collectively bargained agreements were ratified prior to the date that the bill is introduced.

SECTION 108. Social Security level-income options.

Social Security level-income options are excluded from the benefit restriction limiting lump sums and other prohibited payments.

SECTION 109. Pension Benefit Guaranty Corporation (PBGC) guarantee.

Changes the determination of the amount of the PBGC guarantee by using the date of plan termination, rather than the date that a contributing sponsor enters bankruptcy.

SECTION 110. Extended amortization for plans subject to prior law funding rules.

Provides comparable funding relief and maintenance of effort rules to plans not yet subject to the PPA rules. This relief is limited to the deficit reduction contribution (“DRC”) rules under the pre-PPA funding regime. The bill would also extend the relief which delayed the effective date of the new PPA funding rules for multiple employer pension plans of rural to multiple employer plans of tax exempt organizations.

SECTION 111. Additions to funding-based limits on benefits and benefits accruals under single-employer plans.

Prohibits the adoption of early retirement window arrangements under which benefits are payable in a lump sum unless the plan after taking into account the additional benefits is at least 120% funded. Alternatively, the company could fund the full cost of the additional benefits. All benefits under the plan would be required to be 100% vested, if such an amendment is effective.

SECTION 112. Reportable events.

Revises the treatment of PBGC reportable events based on a specified reduction in the number of active participants in a plan so that such an event is treated as not occurring if: (1) there has not been the statutorily specified reduction in the number of active employees of the employer, (2) the plan was at least 80% funded for the 2008 plan year, and (3) the plan sponsor notifies the PBGC that it is using this special rule

TITLE II—MULTIEMPLOYER PLANS

SECTION 201. Adjustments to funding standard account rules

Allows multiemployer plans that meet solvency tests to elect one of two approaches, available for 2009 and 2010, to fund recent losses over a 30-year period; multiemployer plans using these amortization schedules will be restricted from increasing benefits for a two year period. Also strengthens and streamlines existing amortization extension provisions and allows 10-year smoothing and a 130% corridor for 2008 and 2009 asset losses.

SECTION 202. Multiemployer plans in endangered or critical status.

Extends the Rehabilitation Period and the Funding Improvement Period by 5 years, net of any extension in that period elected by the plan under section 205 of WRERA; exempts social security level income options from the benefit payment restrictions for plans in critical status; streamlines and clarifies certain technical rules for plans in endangered status.

SECTION 203. Multiemployer plan mergers and alliances.

Facilitates the merger of multiemployer pension funds through the creation of multiemployer pension “alliances.” Authorizes the PBGC to facilitate alliances and other mergers by providing direct or indirect financial and technical assistance, when the PBGC determines the transaction is reasonably expected to reduce the PBGC’s likely long-term loss. Provides fiduciary clarification and funding insulation for the stronger plan in the alliance, to avoid technical impediments to productive mergers and alliances.

SECTION 204. Strengthening participants’ benefit protections.

Updates the level of PBGC guarantees for multiemployer plans that become insolvent, so that someone who had 30 years of service could be assured of receiving a maximum of roughly \$20,000/year, up from roughly \$13,000/year. Modifies existing provisions for multiemployer plan partitions so that eligible plans that have suffered substantial reductions in contributions due to employer bankruptcies and terminations to transfer liabilities attributable to those employers to the PBGC, if that would significantly reduce the likelihood that the eligible plan would become insolvent.