

Pension Reform Bill on the Road to Becoming Law

On July 28, just before its summer recess began, the House of Representatives passed H.R. 4, The Pension Protection Act of 2006 (PPA). The bill is a stand-alone pension bill based on provisions agreed to by the House and Senate conferees. Other contentious provisions (i.e., tax extenders, estate tax, minimum wage) were passed as a separate bill.

It is anticipated that H.R. 4 will be considered by the Senate later this week before its summer recess begins. It is uncertain whether the Senate will pass this stand-alone bill as is. If any amendments are made in the Senate, then H.R. 4 will have to be reconciled in a conference committee after Congress returns from its recess in September.

The PPA includes the most sweeping changes to pension funding since the passage of ERISA in 1974, as well as other important provisions. The PPA provisions would generally be effective for plan years beginning on or after January 1, 2008.

Significant provisions of the bill include –

- The current minimum funding rules for single-employer defined benefit plans, including the ability to use corporate bond rates, will continue to apply in 2006 and 2007.
- Minimum funding rules for single-employer defined benefit plans will change radically. The rules will include a variation of the “current liability” portion of the minimum funding rules now in place and will drop the “long-term” funding portion.
- Commercial airlines that satisfy certain conditions may elect to fund their pension plans over a longer period.
- Tax deduction limits on contributions to single-employer defined benefit plans will increase significantly. For 2006 and 2007, plan sponsors will be allowed to fund up to 150% of current liability; beginning in 2008 the limit will be even higher in most cases.
- Poorly funded single-employer defined benefit plans will be limited in their ability to pay shutdown benefits, make plan improvements, pay lump sums and continue benefit accruals.
- Changes will be made to the minimum and maximum funding rules for multi-employer defined benefit plans to encourage faster amortization of unfunded costs.
- The legality of cash balance and other hybrid arrangements is affirmed with respect to future years, and future conversions from traditional to hybrid designs will have to be made without “wearaway” of benefits.

- Employers will have to disclose the funded status of their defined benefit plans to participants each year.
- The full funding limitation exemption from paying variable rate PBGC premiums under current law will be eliminated.
- Employers will be permitted to provide voluntary professional investment advice to employees.
- A safe harbor, which preempts state law, has been created to encourage employers to automatically enroll employees in defined contribution plans.
- Some provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) that were scheduled to “sunset” in 2010 (e.g., Roth 401(k)s, the higher Section 415 maximum benefit limitations) have been made permanent.

Buck is preparing a more extensive summary of the key provisions of the PPA to be issued when (and if) the Senate passes H.R. 4. We also plan on holding webcasts in mid-August to review the new law.

This NewsFlash is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.