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Multiemployer Plans

Bill Would Repeal Benefit Cutback Provisions In 2014 Multiemployer Pension Plan Law

Sen. Bernard Sanders (I-Vt.) unveiled legislation that would repeal the multiemployer pension benefit suspension provisions enacted late last year for plans that are at risk of insolvency.

''More than 40 years ago, the federal government made a solemn promise to the workers of this country: If a retiree is promised a certain pension benefit, after a lifetime of hard work, a company could not renege on that promise,'' Sanders, a presidential candidate, said in a news conference June 18. ''That commitment 40 years ago was exactly the right thing to do.''

The bill, the Keep Our Pension Promises Act, would also establish an emergency fund for the Pension Benefit Guaranty Corporation to prop up the federal pension insurance agency's multiemployer fund when financially troubled plans are partitioned.

The fund would be ''fully paid for by closing two tax loopholes that allow the wealthiest Americans in this country to avoid paying their fair share of estate taxes and gift taxes,'' Sanders said.

The Multiemployer Pension Reform Act of 2014, part of an appropriations bill signed by President Obama into law in December (41 BPR 2559, 12/30/14), generally permits a sponsor of a multiemployer defined benefit plan that is in ''critical and declining status'' to suspend benefits.

Plans seeking to go this route must meet certain conditions, and the Treasury Department must give approval.

Supporters said in the wake of the law's passage that those provisions were necessary to save troubled plans, while critics called for repeal (42 BPR 94, 1/20/15).

The announcement of the Sanders legislation came a day after the PBGC and Treasury released proposed and interim final regulations on multiemployer pension plan benefit suspensions and plan partitions (see related article in this issue) and a special master was chosen to review benefit suspension applications (see related article in this issue).

Deficit Neutral. Rep. Marcy Kaptur (D-Ohio), who developed companion House legislation, said at the news conference that she and other co-sponsors ''expect this bill to be part of the debate'' during the approaching congressional and presidential elections.

By closing the two tax loopholes, the bill would be deficit neutral, she said.

The bill would raise $11 billion over 10 years by closing a loophole that allows individuals to defer taxes through exchanges that often involve artwork and another $18 billion by restricting a loophole that reduces estate and gift taxes through valuation discounts, according to a summary of the legislation from the Senate Budget Committee, of which Sanders is ranking member.

Legacy Fund. The PBGC said in its fiscal year 2014 annual report that its multiemployer program fund deficit had climbed to an all-time high of $42.4 billion, and that absent legislative changes, the program faces a greater than 50 percent chance of insolvency by 2022 and a 90 percent chance of running out of money by 2025 (41 BPR 2390, 11/25/14).

The legislation seeks to address some of the agency's financial woes by creating a legacy fund that would draw money from the general fund of the Treasury as well as other PBGC funds to pay for administrative and benefit costs tied to the partitioning of multiemployer plans.

In a partition, the PBGC transfers some liabilities from a plan in danger of becoming insolvent to a new plan—and provides financial assistance to that plan—allowing financially healthy employers to maintain the original plan.

The agency has rarely used its partition authority.

The bill would also make other changes to that partitioning authority, as well make pension obligations a higher priority during the liquidation of bankruptcy companies, the summary said.

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Text of the bill is at http://op.bna.com/pen.nsf/r?Open=pkun-9xlpvs. A copy of the summary of the legislation is at http://op.bna.com/pen.nsf/r?Open=pkun-9xlqyw.

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