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Defined Benefit Plans

Benefit Groups Tailor Policy Agendas To Congressional Lame-Duck Session

Retirement benefits are front and center on the policy agendas of employee benefit groups as Congress and President Obama negotiate a deal to solve the nation's fiscal crisis during the final weeks of 2012.

The American Benefits Council said it was asking Congress during the legislature's present lame-duck session to consider a six-point policy agenda that ABC said would help employers maintain their defined benefit plans and promote job creation and retirement security.

''Importantly, this six-point plan is perfectly suited for the lame duck session,'' ABC said in a document it released Nov. 28.

ABC said enactment of the provisions in its agenda would generate billions of dollars in tax revenue by making permanent changes in statutory interest rates used to calculate the minimum amounts that defined benefit plan sponsors must contribute to their employees' tax-deferred pension trust funds.

The six-point agenda called for the interest rate corridor that applies in 2012 under temporary pension funding stabilization rules in the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. No. 112–141) to become permanent (126 PBD, 7/2/12; 39 BPR 1265, 7/3/12).

''This alone would raise tens of billions of dollars and create tremendous job growth,'' according to the ABC document.

The ABC agenda also called for:

- pension accounting standards to be stabilized,
- employer premiums paid to the Pension Benefit Guaranty Corporation to be based on long-term valuations of PBGC deficits,
- limits on PBGC's authority to impose additional financial requirements on defined benefit plan sponsors when they sell parts of their business operations,
- nondiscrimination testing rules to be adjusted for defined benefit plans that sponsors have closed to new participants, and
- release of ''workable'' final rules on cash balance and other hybrid pension plans.

''It's an ambitious legislative agenda'' that could affect future decisions that employers make about participating in the defined benefit retirement system, Lynn D. Dudley, the council's senior vice president of policy, told BNA Dec. 3. If those changes were made, ''you would have more people stay in the system,'' she said. ''You might even have a few people return to the system.''

Use of Credit Balances. Another employee benefit group, the ERISA Industry Committee (ERIC), said it has a less-detailed policy agenda for the lame-duck session.

''This lame duck is scarier than most because of everything that is at stake,'' Kathryn Ricard, ERIC's senior vice president for retirement policy, said Dec. 5 in an interview with BNA.

''We feel at this point in time it's not appropriate to have specific asks,'' Ricard said. ''It's more important to remind people of the policies behind the tax incentives'' that support the private retirement system and the benefits they provide to society as a whole, she said.

Eleven members of Congress endorsed a similar position by signing a ''Sense of the Congress'' resolution that Sens. Richard Blumenthal (D-Conn.) and Johnny Isakson (R-Ga.) introduced Dec. 6. The resolution recognized that tax incentives for retirement savings play a major role in employers' decisions to sponsor and maintain retirement plans and in participants' decisions to contribute to those plans.

The American Society of Pension Professionals and Actuaries, one of the employee benefit groups that announced support for the resolution, has a broadly framed ''let's not lose too much in tax reform'' agenda for the lame-duck session and the next Congress, which is expected to tackle tax reform, Judy A. Miller, ASPPA's chief of actuarial issues, told BNA Dec. 4.

Other groups listed on a Dec. 6 statement from the Coalition to Protect Retirement supporting the resolution included ABC, ERIC, the American Council of Life Insurers, the ESOP Association, the Insured Retirement Institute, the Plan Sponsor Council of America, the Securities Industry and Financial Markets Association, and the Society for Human Resource Management.

ASPPA is fine-tuning several specific policy agenda items that it thinks would simplify and improve the employer-based retirement system, Miller said.

One of ASPPA's recommendations for simplification is a two-part proposal that, on the one hand, would maintain current law requiring that defined benefit plan sponsors subtract any credit balances from trust fund assets before determining a plan's minimum required contributions, Miller said.

On the other hand, the proposal would change current law by dropping a requirement that plan sponsors subtract any credit balances before determining whether the plan is subject to benefit restrictions, she said.

''It would be a huge simplification'' and ''more rational, frankly,'' Miller said.

Reactions to ABC's Agenda. The Pension Rights Center, commenting on ABC's proposal, said the lame-duck session is not a proper venue for changing complex pension funding rules.

''We have to be very careful about the kinds of solutions we put in place, and we don't think it's appropriate to do that during the lame-duck session,'' Karen Friedman, the center's executive vice president and policy director, said in a Dec. 3 interview with BNA.

The Pension Protection Act already provides hardship exceptions for pension sponsors, Friedman said, referring to ABC's proposal to reduce employers' costs by stabilizing interest rates.

''We all recognize that interest rates have been abnormally low for a long time, and that's put real pressure on funding for corporations, and we're sympathetic to that,'' Friedman said. ''But we don't think there can be any sort of permanent fixes put in now without really exploring how it's going to affect participants,'' she said.

In a separate assessment of ABC's six-point agenda, a pension actuary said that several items on ABC's list, although worthwhile, would be unlikely to reverse employers' exodus from defined benefit plans.

''The 25-year average rates [under MAP-21] are permitting employers to make lower contributions today, but the plans must eventually be funded,'' Donald Fuerst, senior pension fellow at the American Academy of Actuaries, told BNA Dec. 4.

''Under current law, the contributions will be much higher in 2014 and beyond. Will sponsors be better positioned then to make these contributions? Or will they say they need more relief? We'll see,'' Fuerst said.

Nondiscrimination Rules. A separate ABC proposal would have the Treasury Department and Internal Revenue Service use their existing authority to provide more leniency in nondiscrimination testing for closed defined benefit plans in which participants continue to accrue benefits.

''If Treasury would liberalize the regulations, it would lower the cost'' of complying with the nondiscrimination rules, Fuerst said. Those rules require that tax-deferred benefits for highly and nonhighly compensated employees be comparable. But any liberalization would not alter the prevailing trend of companies' seeking to avoid pension obligations for which they must guarantee the benefits, he said.

''What we need to change is making the employer the ultimate guarantor of the benefit, because that's what puts all the volatility [from interest rates] onto the employer's financial statements, and that's the real thing driving them away from these plans,'' Fuerst said.

If policymakers instead could ensure that employers' retirement plan obligations are limited to the amount of money they contribute to the plans each year and ''that they don't have additional liabilities on top of that— and still find a way to provide lifetime income for the individual, regardless of how long they live—that's the new kind of [pension] model that we need,'' he said.

By Florence Olsen

A copy of ABC's six-point agenda is at http://op.bna.com/pen.nsf/r?Open=foln-92unyv. Text of the congressional resolution is at http://op.bna.com/pen.nsf/r?Open=foln-92upkd. The statement from the Coalition to Protect Retirement is at http://www.asppanews.org/2012/12/06/coalition-to-preserve-retirement-strongly-supports-sense-of-the-congress-resolution-on-retirement-savings/.