

Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

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Proposed multiemployer legislative changes released: The Multiemployer Pension Recapitalization and Reform Plan

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On November 20, 2019, Sen. Charles E. Grassley (R-Iowa, Chairman, Senate Finance Committee) and Sen. Lamar Alexander (R-Tenn., Chairman, Senate Committee on Health, Education, Labor and Pensions) released a white paper and accompanying technical explanations describing their proposed Multiemployer Pension Recapitalization and Reform Plan, which is their strategy to address the projected insolvency of approximately 125 multiemployer pension plans and the projected failure of the Pension Benefit Guaranty Corporation (PBGC) Multiemployer Insurance Program that is intended to backstop insolvent pension plans.

- The White Paper can be found [here](#)
- The Technical Explanation can be found [here](#)

This alert summarizes key aspects of the proposed legislation.

The PBGC Multiemployer Insurance Program. The Multiemployer Insurance Program covers more than 10 million participants in 1,400 plans. Approximately 125 plans are projected to become insolvent over the next two decades, which will put significant financial strain on the system's insurer, the PBGC. In addition, although benefits are insured by the PBGC, guaranteed levels have not kept up with benefit levels or inflation. As a result, the guarantees will likely fall short of the amounts promised by their plans.

Proposed reforms. Senators Grassley and Alexander have proposed the following reforms.

- **Increased PBGC premiums**
 - Increase the annual flat-rate premium from \$30 to \$80 per participant
 - Establish a new annual variable-rate premium equal to 1% of the plan's unfunded current liability (capped based on average benefit levels, no higher than \$250 per participant)
 - Establish new stakeholder and retiree co-payments
 - Each participating employer and local union: \$2.50 per month per active employee covered by the plan
 - Retirees within non-Green Zone plans: Charged between 3% to 10% of their benefit (percentage varies with zone status), with exemptions for older or disabled retirees

- **Expanded partition authority**

The proposed reforms would expand the PBGC's ability to approve partitions where they would take over a portion of a plan's liability in order to prevent the insolvency of the original plan. This partition authority would be extended beyond plans in Critical and Declining status and would not require a maximum benefit suspension under the Multiemployer Pension Reform Act of 2014 (MPRA) as a precondition for the partition.

- **Increase the PBGC Multiemployer Insurance Program guarantee**

The current guarantee covers up to \$35.75 of a participant's monthly benefit rate multiplied by the participant's service. Under the proposal, the monthly benefit rate eligible for coverage would increase to \$56. In no event can the guarantee be less than \$250 per month. For a participant with 30 years of service, the maximum guarantee would increase from approximately \$13,000 annually to approximately \$20,000 annually.

- **Mandated discount rates**

Under the proposed legislation, the discount rate used to determine the plan's liabilities would generally be capped at 6.0%. Lower discount rates translate to higher pension liabilities and lower funded statuses. For some plans the use of a lower discount rate may result in leaving the Green Zone and could require benefit reductions and/or contribution increases under funding improvement or rehabilitation plans. The proposed change to the discount rate would be phased in over a five-year period.

- **Revised zone status rules**

The proposed reforms would revise the zone rules, requiring plans that need to extend their projections of financial status further into the future to provide earlier indications of projected funding shortfalls. Plans in Endangered status would be able to reduce adjustable benefits, similar to Critical status plans under current law, and the Seriously Endangered zone status would be eliminated. A new tier would be created for very healthy plans, resulting in fewer restrictions.

- **Changes in withdrawal liability rules**

Plans would be required to determine an employer's withdrawal liability using the same assumptions and methods used to determine the plan's liabilities for funding and reporting purposes. Additional changes are proposed to the determination of the payment schedule for withdrawing employers.

- **Additional disclosure requirements**

Plans would be subject to additional disclosure requirements with the goal of better enabling participant and stakeholder understanding of the program's risks. Plans would also be subject to penalties for late filings and for filing inaccurate information.

- **Composite plan funding structure**

The proposal would permit plans to adopt the alternative funding rules referred to as "composite plans" for future benefit accruals. This concept was previously introduced as the Giving Retirement Options to Workers (GROW) Act in March 2018 but did not move past the committee stage in the House of Representatives during the 115th Congress.

- **Changes to MPRA suspension process and merger rules**

The proposal would modify certain aspects of the suspension application process under the Multiemployer Pension Reform Act of 2014 (MPRA), including changing the voting procedures so that only returned ballots are counted in the participant voting process. It would eliminate the requirement that previously suspended benefits be restored upon merger into a healthy plan, and would expand the PBGC's ability to provide financial assistance in a facilitated merger.

In addition, there are several other technical changes included in the proposal. This Alert is a brief outline of the proposed changes, and is not intended to be a comprehensive summary of the entire proposal. For more information or to understand how the proposed changes might impact your plan, contact your Milliman consultant.



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