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Multiemployer Alert

Update on Issues Affecting Taft-Hartley Plans

JANUARY 2021

Chris Allen Multiemployer Pension Recapitalization and Reform Act

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On December 17, 2020, Senators Chuck Grassley (R-Iowa) and Lamar Alexander (R-Tenn.) introduced the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020 in the Senate.

The bill, named after the late Senate GOP aide who was closely involved in crafting multiemployer pension legislation, contains many of the concepts introduced in the Grassley-Alexander white paper from November 2019. While the 116th Congress adjourned without additional progress on this bill, it may provide a starting point for negotiations on multiemployer pension reform during the 117th Congress. This alert provides a brief outline of the primary provisions of the Act.

- **Special partition assistance.** Plans that qualify as of the enactment of the bill would be required to apply for special partition assistance from the Pension Benefit Guaranty Corporation (PBGC). The details of the program are similar to those found in the Heroes Act that was passed by the House of Representatives in May 2020. The primary differences are related to eligibility provisions and solvency goals post-partition. Please see the Milliman Multiemployer Alert on the Heroes Act for more details.
- **Other PBGC reforms.** The bill includes an increase to the maximum benefit guaranteed by the PBGC from $35.75 per year of service to $56.00 per year of service, redefining insolvent plans to include those that are projected to run out of money within five years, and imposes plan termination upon insolvency or if an eligible plan does not apply on time for the special partition assistance.
- **Maximum discount rates for pension liabilities.** Discount rates for determining plan liability for benefits already accrued would be limited to 6.50%, phased in over a 15-year period. For the normal cost (the annual cost of benefit accruals) the discount rate would be limited to the lesser of 5.50%, or 2.00% plus the 24-month average of the third segment rate under Internal Revenue Code (IRC) Section 430(h)(2)(C)(iii)—the third segment rate used by single employer plans without the extended smoothing period.
- **New zone statuses.** Stable and Unrestricted zone statuses are introduced. Stable status is generally the current Green zone. Unrestricted status is the highest zone status and requires that a plan be at least 70% funded on a current liability basis and projected to be 115% funded based on the discount rate above within 15 years, or at least 80% funded on a current liability basis.

- **Revisions to Endangered, Critical, and Critical and Declining statuses.** The testing criteria is expanded so that more plans will fall into these zones. A test would be added requiring a plan be 100% funded within 15 years to avoid Endangered status. Critical status tests would be simplified, and Critical and Declining status would be replaced with Declining status. Declining status applies to plans with a projected insolvency within 30 years, plans that are Critical and not expected to emerge from Critical within 30 years, and plans that have a projected funded percentage that declines over a 15-year period (unless the funded percentage is currently above 100%).
- **Restrictions on benefit increases and contribution rate decreases.** Plans in all statuses have some restrictions placed on their ability to increase benefits or lower contribution rates.
- **Withdrawal liability changes.** Under the proposed bill the 20-year cap would be increased to 25 years for Declining and terminated plans.
- **Composite plans.** The alternative set of funding rules for plans described as “composite plans” is included in the proposed bill. This concept was previously introduced as the Give Retirement Options to Workers (GROW) Act and was included in the Heroes Act as well. Notable changes from prior versions of this language include preventing Endangered plans (or those projected to become Endangered within five years) from adopting the composite structure as well as charging a $15 per participant transition fee, paid to the PBGC, for participants who are only covered under the composite plan component.
- **PBGC premium increases.** Plans would see an increase in premiums starting in 2022. New stakeholders would also be required to pay premiums.
  - **Flat rate premium**. The flat rate PBGC premium will increase from the current rate of $31 per participant in 2021 to the single employer rate of $86 per participant, indexed for inflation. This premium would not apply to insolvent plans.
  - **New variable rate premium**. A new variable rate premium would be introduced that is the minimum of 1% of unfunded vested current liability divided by the number of participants, 10% of a three-year average of contributions to the plan divided by the number of participants, or $250 per participant. The last two of these are indexed for inflation. This premium would not apply to insolvent or Unrestricted plans. Stable plans would not have to pay this premium until 2025.
  - **Retiree premiums based on zone status**. Retirees and beneficiaries would be charged a premium by the PBGC, ranging from 3% to 10% of their benefit being paid from the plan depending on the plan’s zone status. Stable and Unrestricted plans would pay no retiree premium. Disability benefits are exempt as are benefits for older retirees, similar to the exemptions under the Multiemployer Pension Reform Act of 2014 (MPRA). Benefit suspensions under MPRA would also be applied as an offset to the retiree premiums.
  - **New premiums paid by unions and employers**. A monthly premium for active employees would be paid by both unions and employers in all plans. The premiums range from $1.00 per active employee per month to $2.50 per active employee per month, depending on the plan’s zone status. Premiums are paid on all active workers who have contributions made during the month, even if they have not yet satisfied the participation requirements for the pension plan.
- **Loans from Treasury to the PBGC.** The bill includes a provision where the PBGC can borrow money from Treasury in order to pay guaranteed benefits. The loan is interest-free and repaid over 20 years after a 20-year deferral period. Notably, if in any calendar year the outstanding balance of the loans exceeds $2 billion, then the flat rate premium described above automatically increases by 20% the following year.

For more information on how the provisions of the Chris Allen Multiemployer Pension Recapitalization and Reform Act could impact your plan, please contact your Milliman consultant.

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