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Special Financial Assistance to Multiemployer Plans

Section 9704 of the Butch Lewis Emergency Pension Plan Relief Act of 2021, included as Subtitle H of the House Ways and Means Committee budget reconciliation recommendations, would provide financial assistance to certain financially troubled multiemployer defined benefit (DB) pension plans.

Multiemployer pension plans are sponsored by more than one employer and are maintained as part of a collective bargaining agreement. In DB plans, participants receive regular monthly benefit payments in retirement. Multiemployer DB plans annually certify the plan's financial status—known as the plan's *zone status*. A plan can be in *endangered*, *seriously endangered*, *critical*, or *critical and declining* status (or no category if none of these apply). Plans in critical status are in poor financial condition, and plans in critical and declining status are expected to become insolvent within 20 years. About 10% to 15% of multiemployer DB plan participants are in critical and declining status plans.

When a multiemployer DB plan becomes insolvent, the Pension Benefit Guaranty Corporation (PBGC) provides financial assistance to the plan (in the form of loans that are not expected to be repaid) to pay participants' benefits up to a statutory maximum. PBGC says that its multiemployer insurance program will likely become insolvent in 2026. The federal government has no obligation to provide assistance to PBGC. In the absence of legislative action to address the insolvency of multiemployer plans or the PBGC, participants in insolvent plans may face large benefit reductions, likely receiving less than $2,000 per year.

Special Financial Assistance

Section 9704 would establish a fund within the PBGC and appropriate amounts as necessary to provide *special financial assistance* to certain multiemployer DB plans. The special financial assistance would not have to be repaid.

Eligibility for Special Financial Assistance

A plan could apply for special financial assistance through December 31, 2025. A plan would be eligible if it meets at least one of the following conditions: the plan (1) was in critical and declining status in any plan year from 2020 through 2022; (2) had an application to suspend benefits under the Multiemployer Pension Reform Act of 2014 (MPRA, enacted as part of P.L. 113-235) approved prior to the enactment of the Butch Lewis Emergency Pension Plan Relief Act of 2021; (3) was in critical status in any year from 2020 through 2022 and had a modified funded percentage of less than 40% (calculated as the current value of plan assets divided by the present value of plan liabilities, using a specified interest rate), and the percentage of active to inactive participants in the plan was less than 40%; or (4) became insolvent after December 14, 2014, and was not terminated by the date of enactment.

Under the bill, PBGC would be authorized to issue regulations specifying that for two years following enactment only plans meeting certain conditions would be able to apply for special financial assistance. The plans would be those likely to become insolvent within five years of enactment, those for which PBGC would be obligated to provide more than $1 billion in financial assistance in the absence of any special financial assistance, those that have reduced benefits under MPRA, or those meeting other conditions as determined by PBGC.

Amount of Special Finance Assistance

The amount of special financial assistance would be the amount needed to pay participants' full plan benefits through the 2051 plan year. To determine the present value of benefits, the plan would use the interest rate used in its most recent zone certification before January 1, 2021, subject to a maximum limit. The limit would be the interest rate used by single-employer DB pension plans to discount their benefits to be paid 20 years or more in the future (referred to as the *third segment rate* in Title 26, Section 430(h)(2)(C)(iii), of the *U.S. Code*) prior to adjustment for the smoothing corridor in the month (or preceding three months) of the application, increased by two percentage points. In January 2021, the third segment rate was 3.65%, so the limit would have been 3.65% + 2.0% = 5.65%. In 2017 (the most recent year for which the data is available), the median interest rate multiemployer plans used to value benefit obligations was 7.0%. Using different interest rates would result in differing amounts of financial assistance.

The special financial assistance would be paid to the plan as a lump sum, would be kept separate from other plan assets, and could be invested only in investment grade bonds or other securities as determined by PBGC.

Participants' benefits are not subject to the PBGC maximum guarantee.

Conditions on Receiving Special Financial Assistance

Section 9704 would impose a number of conditions on plans that receive special financial assistance regarding, among other things, participants' benefits, withdrawal liability, and PBGC premiums.

A plan that had previously received approval for benefit suspensions under MPRA would be required to (1) reinstate the benefits and (2) provide payments for benefits that participants and beneficiaries had not received because of the benefit suspensions.

Plans would remain in critical status through 2051.

For 15 years following the receipt of special financial assistance, an employer's withdrawal liability would not take into account the special financial assistance. Withdrawal liability is an employer's share of unfunded benefits that is paid to the plan when the employer leaves a multiemployer DB plan.

PBGC could impose reasonable conditions on plans receiving special financial assistance relating to increases in future accrual rates, retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, diversion of contributions to, and allocation of, expenses to other benefit plans, and withdrawal liability. PBGC could not impose conditions relating to prospective reductions in plan benefits, changes to plan governance, or funding rules relating to receiving special financial assistance.

Plans that receive special financial assistance would continue to pay PBGC premiums, be deemed to be in critical status through the plan year ending in 2051, be ineligible to apply for MPRA benefit suspensions, and provide a disclosure that includes an estimate of each employer's share of the plan's unfunded vested benefits (determined after taking into account the special financial assistance). The disclosure would also include a statement that the plan would have sufficient resources to pay benefits through the 2051 plan year.

Increase in PBGC Premiums

PBGC premiums for all multiemployer plans would increase to $52 per participant beginning in 2031 and would be adjusted for inflation thereafter. In 2021, multiemployer premiums are $31 and are adjusted for inflation annually.

Policy Considerations

Some proponents view federal financial assistance to multiemployer plans as fulfilling part of a promise made to workers. Opponents argue that it is inappropriate to provide federal financial assistance to private sector pension plans. Simulations by the Congressional Budget Office (CBO) indicated that, under this provision, an average of 185 plans would receive $86 billion in special financial assistance and PBGC's multiemployer program would remain solvent through the mid-2040s. CBO estimated administrative costs at $0.1 billion. Because the special financial assistance would allow plans to delay or prevent insolvency, CBO estimated that PBGC would spend $2 billion less in financial assistance to these plans. Retirees would pay $1.7 billion in federal income taxes on benefits that would not be received in the absence of the special financial assistance.

Participants' Benefits

Participants in multiemployer plans that receive special financial assistance would not see a reduction in benefits to the PBGC maximum benefit level. Plans that became insolvent *prior to* December 14, 2014, reduced participants' benefits to PBGC maximum guarantee levels. These plans would be ineligible for special financial assistance.

Amount and Timing of Financial Assistance

The interest rate is an important component for determining the amount of financial assistance. Because the bill's specified interest rate limit is lower than the median interest rate in 2017 used by plans when calculating the value of benefits for plan funding purposes, the value of benefits for financial assistance purposes would be larger than the actuarial value of these benefits.

The special financial assistance would be a lump sum payment for the amount of the plan's benefit obligations through 2051. However, there could be other ways to provide the funds, such as annually for the amount of each year's benefit payments.

Effect on Plan Financial Position and Employer Contributions

It is unclear how the special financial assistance would affect plans' reported financial positions and employer contributions. The bill would allow PBGC to impose reasonable conditions on employer contributions and participants' benefit levels for plans receiving special financial assistance. Because plans would remain in critical status through 2051, they would remain subject to the conditions in their rehabilitation plans.

Greater Benefit to Certain Employers

Certain employers (e.g., United Parcel Service and Kroger) have promised to top up the benefits of some retired former employees in certain plans if they were reduced as a result of PBGC assistance or MPRA. Because this bill would not reduce participants' benefits, these employers could benefit financially by not having to make the top-up payments.

No Structural Changes to Plans

The bill would not impose any changes to the structure of multiemployer DB plans or plan funding rules to ensure that currently financially healthy plans do not need financial assistance in the future.

For Further Information

CBO Score of Ways and Means Reconciliation Recommendations, https://www.cbo.gov/system/files/2021-02/hwaysandmeansreconciliation.pdf

CRS Report R43305, *Multiemployer Defined Benefit (DB) Pension Plans: A Primer*

CRS Report R45311, *Policy Options for Multiemployer Defined Benefit Pension Plans*

CRS Report R46366, *Single-Employer Defined Benefit Pension Plans: Funding Relief and Modifications to Funding Rules*

JCX-4-21, Description of the Budget Reconciliation Legislative Recommendations Relating to Pensions, https://www.jct.gov/publications/2021/jcx-4-21/

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