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Special Financial Assistance to Multiemployer Plans

Section 9704 in Title IX, Subtitle H, of the American Rescue Plan Act of 2021 (P.L. 117-2) provides 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 currently 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. The federal government has no obligation to provide assistance to PBGC. Prior to the enactment of P.L. 117-2, PBGC said that its multiemployer insurance program would have likely become insolvent in 2026 and that participants in insolvent plans would have faced large benefit reductions, likely receiving less than $2,000 per year.

Special Financial Assistance

Section 9704 establishes a fund within the PBGC and appropriates from the general fund "such amounts as are necessary" to provide *special financial assistance* to certain multiemployer DB plans and necessary administrative and operating expenses. The special financial assistance does not have to be repaid.

Eligibility for Special Financial Assistance

A plan can apply for special financial assistance through December 31, 2025. A plan is eligible if it meets at least one of the following conditions: the plan (1) is 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 this provision; (3) is in critical status in any year from 2020 through 2022 and has 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 is less than 40%; or (4) became insolvent after December 14, 2014, and was not terminated by the date of enactment.

PBGC is authorized to issue regulations specifying that for two years following enactment only plans meeting certain conditions are able to apply for special financial assistance. The plans are 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 is the amount needed to pay participants' full plan benefits through the 2051 plan year. To determine the present value of benefits, the plan is to use the interest rate from its most recent zone certification before January 1, 2021, subject to a maximum limit. The limit is 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 February 2021, the third segment rate was 3.59%, so the limit would have been 3.59% + 2.0% = 5.59%. 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 lower interest rates results in larger amounts of financial assistance.

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

Participants' benefits in plans receiving special financial assistance are not to be reduced to the PBGC maximum guarantee.

Conditions on Receiving Special Financial Assistance

Section 9704 of the law imposes 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 is required to (1) reinstate the benefits and (2) provide payments for benefits that participants and beneficiaries had not received because of the benefit suspensions.

PBGC can 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 cannot 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 are to continue to pay PBGC premiums, are deemed to be in critical status through the plan year ending in 2051, and are ineligible to apply for MPRA benefit suspensions.

Increase in PBGC Premiums

PBGC premiums for all multiemployer plans are to increase to $52 per participant beginning in 2031 and are to be adjusted for increases in the national average wage index thereafter. In 2021, multiemployer premiums are $31 and are adjusted for increases in the national average wage index 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 an average of 185 plans will receive $86 billion in special financial assistance and that PBGC's multiemployer program will remain solvent through the mid-2040s. CBO estimated administrative costs at $0.1 billion. Because the special financial assistance allows plans to delay or prevent insolvency, CBO estimated that PBGC will spend $2 billion less in financial assistance to these plans. Retirees will pay $1.7 billion in federal income taxes on benefits that would not have been received in the absence of the special financial assistance.

Participants' Benefits

Participants in multiemployer plans that receive special financial assistance will 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 are ineligible for special financial assistance.

Amount 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, for most plans, the value of benefits for financial assistance purposes is larger than the actuarial value of these benefits.

Effect on Plan Financial Position and Employer Contributions

It is unclear how the special financial assistance may affect plans' reported financial positions, employer contributions, and withdrawal liability. (Withdrawal liability is an employer's share of unfunded benefits that is paid to the plan when the employer leaves a multiemployer DB plan.) The law allows PBGC to impose reasonable conditions on employer contributions and participants' benefit levels for plans receiving special financial assistance. Because plans are to remain in critical status through 2051, they 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 are reduced as a result of PBGC assistance or MPRA. Because this bill does not reduce participants' benefits, these employers benefit financially by not having to make the top-up payments.

No Structural Changes to Plans

The bill does 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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