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Budget Reconciliation and the PBGC

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Summary

The Pension Benefit Guaranty Corporation (PBGC) posted a deficit of $23.1 billion as of the latest reporting date of September 30, 2005, and its exposure to new probable terminations remains high in 2006. Higher PBGC premiums would help reduce the PBGC deficit. PBGC premiums are also an important source of revenue for meeting the budget reconciliation targets. The House and the Senate passed budget reconciliation bills H.R. 4241 and S. 1932 in the first session of the 109th Congress. These included differing provisions for increasing PBGC premiums. Conference agreement was reached on the two bills, and the Deficit Reduction Act of 2005 (P.L. 109-171) was signed by President Bush on February 8, 2006. The pension provisions of P.L. 109-171 are estimated to save $417 million in 2006 and $3.56 billion over 2006 - 2010. Two broad pension bills were introduced in 2005 to reform funding rules for the defined benefit pension system and to raise PBGC premiums. The House and the Senate passed H.R. 2830 and S. 1783, respectively, but conference agreement has not yet been reached on these bills.

Role of the PBGC in the Budget Reconciliation Process

The Pension Benefit Guaranty Corporation (PBGC), the federal corporation that insures the pension benefits of participants in most private sector-defined benefit pension plans, posted deficits of $22.8 billion and $335 million for its single-employer and multiemployer programs, respectively, as of the latest reporting date of September 30, 2005. The large PBGC deficit has raised the specter of a possible taxpayer bailout and heightened awareness of the need for higher PBGC premiums.[1]

In April 2005, the House and Senate adopted a joint budget resolution that provided the House Education and Workforce Committee and the Senate Committee on Health,

[1] For additional information, see CRS Report RL32702, *Can the Pension Benefit Guaranty Corporation Be Restored to Financial Health?*, by Neela K. Ranade; and CRS Report RL32991, *Defined Benefit Pension Reform for Single-Employer Plans*, by Neela K. Ranade and Paul J. Graney.

Education, Labor, and Pensions (HELP Committee) with target savings numbers for programs under their jurisdiction. A major program under the purview of both committees is private sector pensions. Premiums that private sector employers pay the PBGC are an important source of revenues for meeting budget reconciliation targets. Because the PBGC's premiums are recorded as offsetting collections to a mandatory spending account, an increase in premium collections is reflected in the budget as a decrease in direct spending.

House Budget Reconciliation Measure. The House passed on November 18, 2005, H.R. 4241, the Deficit Reduction Act of 2005. This budget reconciliation bill was estimated to save about $50 billion over five years.[2] The bill's provisions with respect to PBGC premiums were expected to raise revenues of $6.2 billion[3] over five years and included the following:

- Flat-rate premiums for PBGC's single-employer program would be increased from the current $19 per participant to $30 per participant in 2006. The rate would thereafter increase at the rate of wage inflation. PBGC would be given the power to increase premiums by an additional 20% per year, although Congress would be able to reject any of the increases sought by the PBGC. This provision was estimated to raise about $5.2 billion in additional resources for the PBGC over five years. Note that in developing the cost impact of $5.2 billion, the Congressional Budget Office (CBO) assumed that the full 20% premium increase would be made each year.

- A new termination premium would be introduced to be paid when a bankrupt company engages in a distress or involuntary termination of its pension plan, resulting in the PBGC taking over the plan. The premium would be $1,250 per participant, payable for three years following the company's emergence from bankruptcy. Under current law, an employer ceases paying premiums to the PBGC when its plan is terminated. The new termination premium was estimated to generate savings of approximately $1 billion over five years.

- If comprehensive pension reform legislation were to be enacted in 2005, it would take precedence over PBGC premium provisions in H.R. 4241.

Senate Budget Reconciliation Measure. The Senate passed on November 3, 2005, S. 1932, the Deficit Reduction Omnibus Reconciliation Act of 2005, which achieved five-year savings of about $35 billion. S. 1932 incorporated the Senate HELP Committee's proposals on pensions. Under the FY2006 Budget Resolution, the HELP

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[2] See the cost impact developed by the Congressional Budget Office (CBO) at [http://www.cbo.gov/showdoc.cfm?index=6885&sequence=0&from=6].

[3] For details regarding CBO's cost estimates, see "Reconciliation Recommendations of the House Committee on Education and the Workforce" at [http://www.cbo.gov/ftpdocs/68xx/doc6827/EdWrecon.pdf].

Committee was required to find savings in pension policy of $6.7 billion over five years.[4] To satisfy that requirement, the legislation made the following changes to current law:

- The bill would increase the single-employer flat-rate premium to $46.75 per participant and index it for wage inflation beginning in 2007. This provision was expected to produce savings of $5.4 billion over five years.

- The PBGC premium for multiemployer plans would be increased to $8 per participant, indexed for wage inflation, beginning in 2007. The premium is currently $2.60 per plan participant. This provision was projected to raise $300 million over five years.

- As in H.R. 4241, a new termination premium would be required to be paid when a bankrupt company engages in a distress or involuntary termination of its pension plan, resulting in the PBGC taking over the plan. The premium was established at $1,250 per participant and would be payable for three years following the company's emergence from bankruptcy. This provision was estimated to generate savings of approximately $1 billion over five years.

- If comprehensive pension reform legislation were to be enacted in 2005, it would take precedence over PBGC premium provisions in the bill.

Conference Agreement. The House-Senate conference drafted a conference report that merged the disparate bills H.R. 4241 and S. 1932 into a final measure. The Deficit Reduction Act of 2005 (P.L. 109-171) was signed by President Bush on February 8, 2006, and would cut $38.8 billion of spending over five years. The pension provisions of the law would save $417 million in 2006 and $3.56 billion over the five years 2006 - 2010.[5]

The conference report includes the following provisions:

- Effective 2006, flat-rate premiums for single-employer plans would be increased to $30 per participant. The flat-rate premiums would be indexed to wage inflation beginning in 2007. The single-employer plan PBGC premiums required by the Conference report are lower than the premiums imposed by either the House or Senate budget bills and accordingly the savings generated by this provision would be lower than the corresponding provision savings for the House and Senate bills.

- Also effective 2006, flat-rate premiums for multiemployer plans would be increased to $8 per participant. The flat-rate premiums would be indexed to wage inflation beginning in 2007. The conference report follows the Senate bill with respect to this provision.

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[4] See "Reconciliation Recommendations of the Senate Committee on Health, Education, Labor, and Pensions" at [http://www.cbo.gov/ftpdocs/68xx/doc6809/HELPrecon.pdf].

[5] See [http://www.cbo.gov/ftpdocs/70xx/doc7028/s1932conf.pdf].

- A new termination premium would be required to be paid when a bankrupt company engages in a distress or involuntary termination of its pension plan, resulting in the PBGC taking over the plan. The premium is established as $1,250 multiplied by the number of participants in the plan immediately before the termination date. This premium would be payable for three years following the company's emergence from bankruptcy. It applies to plans that terminate after December 31, 2005. However, under an exception clause, the premium does not apply to a plan terminating after December 31, 2005, if the bankruptcy filing occurred before October 18, 2005. The conference report includes a clause not found in the House or Senate bill that states that the provision for the termination premium would sunset after five years. The intention of the sunset provision is to give Congress the opportunity to reevaluate the impact of the termination premium provision on the incidence of bankruptcy reorganizations among employers.

- Unlike the House and Senate bills, the conference report does not include language that the PBGC premium provisions would be superseded by future enactment of comprehensive pension legislation.

Pension Reform in the 109th Congress

Major pension bills, seeking to reform the defined benefit pension system, were passed by the House and Senate in the first session of the 109th Congress. These bills aim at strengthening the funding of defined benefit pension plans and improving the solvency of the PBGC. The bills include provisions to raise PBGC premiums and would tighten funding rules, resulting in higher pension funding requirements for many employers.

H.R. 2830, the Pension Protection Act of 2005, was passed by the House on December 15, 2005.[6] H.R. 2830 would raise the base annual PBGC premium from $19 to $30 per participant. The $30 premium would be phased in beginning in 2006, on a schedule based on the plan's funded status. For plans that are at least 80% funded, the higher premium would be phased in over five years. For plans that are less than 80% funded, the higher premium would be phased in over three years. The premium then would be indexed to the average national wage growth. Under current law, there is a "full-funding" exemption under which a plan does not pay the variable-rate premium of $9 per $1,000 of underfunding if the contribution for the prior year equaled the full-funding limitation for the prior year. Under H.R. 2830, the variable-rate premium would be assessed on all underfunded plans, regardless of whether the plan was fully funded in the prior year.

H.R. 2830 also includes a provision that would impose a fee of $1,250 per participant per year for employers that terminate their pension plans in bankruptcy. The fee would apply for three years after the employer emerges from bankruptcy. There is no 5 year sunset provision as under the Deficit Reduction Act of 2005. H.R. 2830 would not change current law provisions for PBGC premiums for multiemployer pension plans.

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[6] For additional information, see CRS Report RS22179, *H.R. 2830: The Pension Protection Act of 2005*, by Patrick Purcell.

S. 1783, the Pension Security and Transparency Act of 2005, was passed by the Senate on November 16, 2005. Under S. 1783, the annual per-capita PBGC premium for single-employer plans would increase to $30 in 2006. Every five years, the PBGC would submit to Congress a report recommending any necessary change in the base premium. The variable rate premium would not be changed, but the bill would eliminate the full funding limit, and base the interest rate for calculating liabilities on a three-segment spot yield curve of corporate bond interest rates. S. 1783 does not include provisions for raising the PBGC premiums for multiemployer pension plans nor for charging a fee for employers that terminate their pension plans and emerge from bankruptcy.[7]

The House and Senate have yet to reach conference agreement on the bills.

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[7] For additional information, see CRS Report RS22221, *S. 1783: The Pension Security and Transparency Act of 2005*, by Patrick Purcell.