

MEMORANDUM FOR TAX, PENSION, AND LABOR LAs

FROM: Judy Miller and Portia Wu

DATE: January 22, 2004

RE: Summary of the Pension Stability Act

The Pension Stability Act will be offered as a substitute for HR 3108 under the unanimous consent agreement reached in December. The major provisions are as follows:

Sec. 2 – Temporary Replacement of Interest Rate on 30-year Treasury Securities with Interest Rate on Conservatively Invested Long-Term Corporate Bonds

The bill replaces the interest rate on 30-year Treasury securities with the interest rate on long-term corporate bonds for purposes of minimum funding requirements and PBGC premium calculations for plan years beginning in 2004 and 2005. For purposes of calculating minimum contribution requirements, the maximum interest rate will be 100% of a 4-year weighted average of the long-term corporate bond rate. Calculation of minimum lump sum distributions is not affected, and employers may elect to disregard the interest rate replacement for purposes of calculating the maximum deductible contribution.

The Secretary of Treasury is to prescribe the method for determining the long-term corporate bond rate. The determination is to be based on 2 or more indices that are in the top 2 quality levels available that reflect average maturities of 20 years or more.

The interest rate used to determine maximum benefit limitations for plan years beginning in 2004 and 2005 will be 5.5%. A transition rule provides that for 2004, the maximum will not be less than the maximum amount determined using the interest rate in effect on the last day of the preceding plan year.

Sec. 3 – Election of Alternative Deficit Reduction Contribution

Certain employers may elect relief from Deficit Reduction Contribution requirements for plan years beginning after December 27, 2003 and before December 28, 2005. In order to qualify for the relief, the plan must not have had been subject to the DRC in 2000. Airlines, steel companies and the Transportation and Communication Workers' Union staff plan who were not subject to the DRC in 2000 would automatically qualify for the relief. Other employers would have to apply to Treasury for approval.

Under the relief provision, the minimum required contribution would be the contribution the employer would have to make without regard to the DRC provision (the "regular contribution") plus the greater of:

- 20% of the DRC contribution amount in 2004 (40% for 2005), or

- The plan's expected increase in current liability for benefits accruing during the year less the regular contribution.

If an employer elects relief with respect to a plan, benefits couldn't be increased under the plan during the lifetime of the relief, unless:

- the plan's funded percentage would be at least 75% after the increase;
- the increase is required by an existing collective bargaining agreements; or
- the increase is for a flat dollar benefit, and does not exceed the amount required to keep up with inflation.

Employers electing relief would have to notify participants, beneficiaries and the PBGC of the relief election. The participant notice would include the amount of relief, and information on PBGC benefit guarantees. The notice to PBGC would include the amount of the relief, the expected number of years before the plan will be fully funded, and a comparison of the amount of underfunding to the company's capitalization.

Sec. 4 – Multiemployer Plan Funding Notices

The administrator of a multiemployer defined benefit plan would have to provide an annual notice to participants, beneficiaries, labor organizations representing participants, and employers contributing to the plan that includes:

- a statement that the plan's current liability funded percentage is at least 100% or, if less than 100%, the actual funded percentage;
- the value of assets and benefit payments, and the ratio of assets to benefit payments;
- a summary of the rules that govern insolvent multiemployer plans; and
- a description of PBGC guaranteed benefits.

Sec. 5 – Amortization Hiatus for Net Experience Losses in Multiemployer Plans

Multiemployer plans may elect to defer payments required to amortize experience losses for 3 year. The election can apply to losses for any two plan years beginning after June 30, 2002 and before July 1, 2006. If a plan elects relief, the plan cannot be amended to increase benefits during the hiatus period unless:

- the plan's funded percentage would be at least 75% after the increase; or
- the plan's actuary certifies that an increase in contribution rates will be sufficient to fund the normal cost of benefits, and to fund any increase in accrued liabilities by the end of the third year following the last year of the hiatus period.

Plans electing relief would have to notify participants, beneficiaries, labor organizations

representing participants, and employers contributing to the plan of the relief election. The notice would include the amount of payment being deferred, and the maximum PBGC guaranteed monthly benefit if the plan were to terminate while underfunded.

Sec. 6 – 2-Year Extension of Transition Rule to Pension Funding Requirements

There would be a 2-year extension of the ability of a Greyhound/Amalgamated Transit Union pension plan to use a specialized mortality table in calculating the funding liability to their defined benefit plan, and an exemption for Greyhound from the deficit reduction contribution and variable PBGC premiums for 2004 and 2005.

Sec. 7 – Procedures Applicable to Disputes Involving Pension Plan Withdrawal Liability

The burden of proof that a spin-off transaction was done to evade or avoid termination liability would shift from the employer to a multiemployer plan if the transaction occurred before January 1, 1999, and the employer had not receive notice of a claim before October 31, 2003. The employer would also not be required to start making payments of withdrawal liability before a final court or arbitration decision had been issued.