CEO & Worker Pension Fairness Act

Senator Bernard Sanders

It is no secret that the country's wealthiest CEOs live by different rules than the other 99 percent. The Government Accountability Office (GAO) examined special retirement plans for CEOs (called "nonqualified deferred compensation" or "NQDC" plans). While most workers can only contribute and get preferential tax treatment on up to $19,500 a year in a 401(k) account, the most highly-paid executives in CEO plans are able to contribute an **unlimited amount** in tax-advantaged plans. Even more, while average workers have strict reporting requirements on their retirement savings plans, CEO plans have **almost no oversight** and **little IRS enforcement**.

GAO reviewed data on the five highest-paid employees at S&P 500 companies and found that 2,300 top executives collectively have more than $13 billion stashed away in these barely-regulated, tax-preferred NQDC plans. The average CEO has about $14 million in his or her account; some CEOs have more than $200 million. Many of these CEOs have already maxed out their 401(k) and IRA limited tax-advantaged plans, and these special plans allow wealthy executives to circumvent traditional IRS limitations and oversight.

In contrast, nearly 1.7 million Americans are in troubled multiemployer pension plans. They worked hard their entire lives for the promise of a secure retirement when they are too old to continue working. Now, they are having the rug pulled out from underneath them as recent policy changes have allowed for drastic cuts to their pensions. These workers and retirees face drastic cuts to their promised pensions that would push many out of a comfortable retirement and into poverty. The CEO and Worker Pension Fairness Act would limit the tax benefits of special CEO pensions to help secure the retirements of workers in troubled multiemployer plans.

Summary of CEO and Worker Pension Fairness Act Provisions

- In order to limit the significant tax benefits that top executives receive through special retirement plans, the bill would include deferred compensation in taxable income when it vests rather than at distribution. IRC 409A is revised to require nonqualified deferred compensation and equity-based compensation be taxable when there is "no substantial risk of forfeiture." Under the bill, workers that are not considered highly-compensated employees under the IRC would be taxed on equity-based compensation when benefits are received.

- All revenue raised from the changes to the tax treatment of nonqualified deferred compensation will be transferred from the Treasury to the Pension Benefit Guaranty Corporation to shore up multiemployer pensions. An estimate of a similar provision found that it would raise around $15 billion over 10 years.

- The bill would require the Department of Labor and Department of Treasury to implement the four recommendations from the GAO report. For example, the bill would require the Department of Labor to better define employee eligibility requirements for a common type of nonqualified deferred compensation plans called "top hat" retirement plans and require basic annual disclosure of the size and nature of these plans.

- In addition, the bill would increase disclosure around and oversight of nonqualified deferred compensation by requiring that such compensation disclosed on Form W-2 be mandatory, rather than voluntary, as it is under current regulations.