



July 20, 2006

COUNCIL URGES CONFEREES: REJECT MILLER "MOTION TO INSTRUCT"

The American Benefits Council is urging representatives to reject a Motion to Instruct the pension bill conferees that will soon be offered by Representative George Miller (D-CA). The conference committee, working to resolve the differences between S. 1783 and H.R. 2830, are crafting a delicately balanced compromise on hybrid plans, and Miller's motion would undo much of this hard-fought progress. Consider:

- Hybrid plans provide contribution credits or other benefits that are a uniform percentage of pay (such as 5% of pay) or that are actually larger for older, longer service employees. Employees participating in hybrid plans and employers need Congress to clarify that it is not age discriminatory to contribute the same percentage of compensation (or an increasing percentage based on age) on behalf of all plan workers. There are at least 8.5 million Americans participating in more than 1,500 existing hybrid plans.
- If Congress clarifies the validity of hybrid plans, all employees will receive exactly what they were promised. Nothing earned is taken away.
- The Treasury Department has repeatedly recognized the validity of hybrid plans by issuing guidance as to how they work and by approving large numbers of individual plans.
- The vast majority of employers have provided very significant transition benefits in connection with conversions. In fact, many recent hybrid conversions have actually increased the employer's retirement plan costs.
- The House approach more thoughtfully focuses on the legitimacy of the hybrid plan design without precluding plaintiffs from pursuing their legal rights.
- The Senate approach would set a precedent that will make future limitations on other benefit changes – including retirement and health benefits – easier to apply, establish a vesting of employee expectations and eliminate valuable work-management tools.
- **It is a voluntary system.** Companies have been leaving the defined benefit plan system at an accelerating rate. If costly new mandates are added to plans, either retroactively or prospectively, it will increase these departures and thus severely hurt workers.

If the Council can provide any additional information, please contact Jan Jacobson, Council director, retirement policy, at jjacobson@abcstaff.org, or Lynn Dudley, Council vice president, retirement policy, at ldudley@abcstaff.org. Both can be reached by phone at (202) 289-6700.