

Section by Section Summary

Pomeroy Discussion Draft for Pension Funding Relief

TITLE I—SINGLE EMPLOYER PLANS

SECTION 101. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.

Allows a sponsor of a defined benefit plan to elect one of two alternative amortization schedules for the investment losses that occurred at the end of 2008. One alternative would extend the period for nine years delaying the seven amortization payments for two years with employers making interest payments in the first two years. The second alternative would fund the “2008 losses” over a 15 year amortization period; this would give employers a predictable and practical required funding stream that would not divert funding from other key business needs. To assure that the above funding relief is not undermined by other actions that would reduce the retirement security of employees, employers electing the funding relief would have to meet one of three maintenance of effort options. These include: continuing to provide benefit accruals under the plan; making a 3 percent nonelective contribution to a defined contribution plan for employees frozen out of the defined benefit plan; or, freezing all nonqualified deferred compensation plans and subjecting them to the restrictions that apply to the defined benefit plans that cover rank and file employees. These requirements would apply for different periods depending on the extended amortization schedule chosen by the employer.

SECTION 102. Expansion of corridor within which single-employer defined benefit plans are allowed to average asset values.

Generally, expands the asset smoothing corridor from the current 10 percent corridor by increasing the corridor to 20 percent of fair market value for 2009 and 2010.

SECTION 103. Election to use yield curve.

Allows employers that use the spot yield curve for 2009 to use the segment rates for 2010.

SECTION 104. Lookback for benefit accrual restriction.

Uses the plan’s 2008 funded status to determine if the benefit restriction that freezes benefit accruals for plans that are less than 60% funded will apply in 2009 and 2010.

SECTION 105. Lookback for credit balance rule

Uses the plan’s 2008 funded status for the purpose of the rule prohibiting the use of credit balances with respect to a plan that was under 80% funded in the prior year. This will apply for both 2009 and 2010.

SECTION 106. Clarification of the treatment of expenses.

Clarifies that plan investment expenses are not included in the plan's target normal cost.

SECTION 107. Information reporting.

Modifies the section 4010 reporting rules by repealing the PPA rule requiring reporting with respect to plans that are less than 80% funded and replacing the trigger for reporting. The new trigger would be when a plan had aggregate unfunded vested benefits of more than \$100 million and would disregard plans that are at least 90% funded. Additionally, rules regarding the confidentiality of the reported information would be tightened.

SECTION 108. Benefit restriction effective date for collectively bargained plans.

Generally, with respect to collectively bargained plans, the draft delays the application of the benefit restrictions until plan years beginning after December 31, 2011.

SECTION 109. Social Security level-income options.

Social Security level-income options are excluded from the benefit restriction limiting lump sums and other prohibited payments.

SECTION 110. PBGC guarantee.

Changes the determination of the amount of the PBGC guarantee by using the date of plan termination, rather than the date that a contributing sponsor enters bankruptcy.

SECTION 111. Application of extended amortization period to plans subject to prior law funding rules.

Provides comparable funding relief and maintenance of effort rules to plans not yet subject to the PPA rules. This relief is limited to the deficit reduction contribution ("DRC") rules under the pre-PPA funding regime.

SECTION 112. Additions to funding-based limits on benefits and benefits accruals under single-employer plans.

Prohibits the adoption of early retirement window arrangements under which benefits are payable in a lump sum unless the plan after taking into account the additional benefits is at least 120% funded. Alternatively, the company could fund the full cost of the additional benefits. If such an amendment does take effect, all benefits under the plan would be required to be 100% vested.

SECTION 113. Reportable events.

Revises the treatment of PBGC reportable events based on a specified reduction in the number of active participants in a plan so that such an event is treated as not occurring if: (1) there has not been the statutorily specified reduction in the number of active employees of the employer, (2) the plan was at least 80% funded for the 2008 plan year, and (3) the plan sponsor notifies the PBGC that it is using this special rule

TITLE II—MULTIEMPLOYER PLANS

SECTION 201. Adjustments to funding standard account rules

Allows multiemployer plans that meet solvency tests to elect one of two approaches, available for 2009 and 2010, to fund recent losses over a 30-year period; strengthens and streamlines existing amortization extension provisions.

SECTION 202. Multiemployer plans in endangered or critical status.

Extends the Rehabilitation Period and the Funding Improvement Period by 5 years, net of any extension in that period elected by the plan under section 205 of WRERA; authorizes trustees of a multiemployer plan in endangered or critical status to elect to treat any schedule of benefits and contributions adopted under their Rehabilitation or Funding Improvement Plan as the Default Schedule, once it has been approved in collective bargaining agreements covering at least 75% of the plan's active participants as of the start of the plan year in which the schedule is so designated; streamlines and clarifies certain technical rules for plans in endangered status.

SECTION 203. Multiemployer plan mergers and alliances.

Facilitates the merger of multiemployer pension funds through the creation of multiemployer pension "alliances." Authorizes the PBGC to facilitate alliances by providing direct or indirect financial assistance, when the PBGC determines such assistance is reasonably expected to reduce the PBGC's likely long-term loss. Provides fiduciary clarification to allow trustees to be deemed to meet exclusive benefit standard of ERISA.

SECTION 204. Strengthening participants' benefit protections.

Updates the level of PBGC guarantees for multiemployer plans that become insolvent, so that someone who had 30 years of service could be assured of receiving a maximum of roughly \$20,000/year, up from roughly \$13,000/year. Modifies existing provisions for multiemployer plan partitions so that eligible plans that have suffered substantial reductions in contributions due to employer bankruptcies and terminations to transfer liabilities attributable to those employers to the PBGC, if that would significantly reduce the likelihood that the eligible plan would become insolvent.