

## GRIST Report: House passes broad pension bill; Senate outlook uncertain

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### Summary

The House approved a sweeping pension bill (HR 4) late July 28, along with a minimum wage package (HR 5970) shortly thereafter. The pension bill largely mirrors the benefit-related provisions in a long-stalled House-Senate conference report on HR 2830. These include comprehensive pension funding reforms and other significant changes affecting hybrid, defined contribution, nonqualified deferred compensation, and health plans. Most funding reforms would take effect for the 2008 plan year, with the 2004-2005 temporary funding rules generally extended through 2007, although with new generally higher deduction limits. Other changes have a mixture of effective dates ranging from 2006 to 2008 or beyond. It's unclear whether the Senate will act on the bill before its scheduled adjournment on August 4.

### Senate action uncertain

In a 279-131 vote late July 28, the House passed legislation ([HR 4](#)) that would overhaul single-employer and multiemployer pension funding rules. The bill also includes other important changes affecting cash balance and other hybrid plans; defined contribution (e.g., 401(k), 403(b), profit sharing, and ESOP) plans; executive deferred compensation; corporate-owned life insurance (COLI); health plans; and long-term care benefits. HR 4 is a brand-new bill offered as an alternative to the yet-to-be-finalized House-Senate conference agreement on HR 2830. Even though HR 4 is on a separate track, its provisions essentially mirror the compromise that pension conferees had hoped to announce last week. The House approved the bill just moments before adjourning for its August recess.

It's still uncertain whether HR 4 will reach the Senate floor before that chamber adjourns on Friday, August 4. If the Senate approves the bill, it probably will make some modifications, which would necessitate a conference with the House when lawmakers return in September.

While the Senate could pass the bill unchanged and send it to the president *this week*, this scenario seems doubtful, given lingering Senate anger over the House vote. Pension conferees' hopes for bringing the long-stalled HR 2830 conference report to final votes before the summer break collapsed when House and Senate Republican leaders, in a pre-election gamble, removed popular tax cut extensions from HR 2830 and married them to an estate tax reduction and a minimum wage hike in a separate bill ([HR 5970](#)). While HR 5970 cleared the House just after the pension bill, the strategy alienated key senators and complicates already tangled efforts to reach agreement on a final pension bill.

Highlights of the new House pension bill's key benefit-related provisions are discussed below. The discussion also covers two health-related items contained in the minimum wage package.

### Single-employer defined benefit plan funding

The House-passed pension bill would extend the 2004 Pension Funding Equity Act's funding relief – including the use of a four-year weighted-average corporate-bond-based discount rate – through the 2006 and 2007 plan years, but set new generally higher deduction limits. The bill includes the following major funding reforms, which would take effect beginning in the 2008 plan year, unless otherwise noted.

**Funding targets** (HR 4 sections 102 and 112). Funding targets would be determined as the present value of accrued benefits, using prescribed interest and mortality assumptions:

- **Interest assumption.** Employers could use either the segmented yield curve derived from an unweighted 24-month average yield curve for high-quality corporate bonds (AAA, AA, and A ratings) or the full yield curve without 24-month averaging. The segmented yield curve (but not the full yield curve) would be phased in over three years for plans in existence in 2007, unless the employer elects to forego the phase-in. The employer could elect to use the prescribed interest assumption for the month in which in the plan year begins, or any of the four preceding months.
- **Mortality assumption.** The IRS would have discretion to prescribe mortality rates for healthy and disabled participants. Large companies could seek IRS permission to use a plan-specific mortality table. Changes in mortality tables would not be phased in. We expect that the IRS would use its discretion to prescribe the mortality tables proposed in December 2005 for use in determining current liability starting in 2007, including separate mortality tables for annuitants and nonannuitants derived from the RP-2000 table and projected to 7 and 15 years after the valuation date, respectively.

All other assumptions used to determine the funding target would have to be individually reasonable and, in combination, offer the actuary's best estimate of anticipated plan experience.

**Asset smoothing** (HR 4 sections 102 and 112). Asset values could be averaged over any period up to 24 months, but would be restricted to 90-110% of market value as of the plan's valuation date.

**Minimum required contribution** (HR 4 sections 102 and 112). The minimum required contribution for an underfunded plan would equal the target normal cost, plus amortization charges. Target normal cost is the present value of benefits expected to be accrued during the plan year, including, in the case of a final-pay plan, the effect of salary increases. It is determined using the same assumptions as the funding target. Funding shortfalls and experience gains would be amortized in seven annual level-dollar payments, determined using the segmented yield curve. The minimum required contribution for overfunded plans would equal the target normal cost reduced (but not below zero) by the amount of overfunding.

**Phase-in for well-funded plans** (HR 4 sections 102 and 112). The funding target would be phased in over four years for well-funded plans (92% in 2008, 94% in 2009, 96% in 2010, and 100% in 2011). The phase-in requires reaching these stepped-up funded percentages each year; plans that don't fund up to the required funded percentage for a transition year would revert to a 100% target. To be eligible for the phase-in, a plan must have been in effect in 2007 with no deficit reduction contribution required for 2007.

**At-risk plans** (HR 4 sections 102 and 112). A higher funding target and target normal cost would apply to at-risk plans. Calculations to determine the at-risk funding target would assume that participants eligible to retire within 10 years do so at the earliest possible time (but not before the end of the plan year) and all participants elect the most valuable form of payment. (These assumptions would not apply to employees of auto companies and certain auto parts suppliers who turned down early retirement incentives offered in 2006.) If a plan has been at risk for 2 of the past 4 years, an extra expense load of \$700 per participant and 4% of the funding target and target normal cost would apply. The increase in liability attributable to at-risk status would be phased in over five consecutive years of at-risk status starting in 2008.

Plans with 500 or fewer participants would be exempt from the at-risk rules. For larger plans, a new "70/80" test would determine whether a plan is at risk. Under the test, the actuarial value of plan assets – minus any credit balance – would be compared to both the ongoing and at-risk funding targets. The at-risk funding target would be triggered if, at the prior valuation date, plan assets were both (i) less than 80% of the not-at-risk funding target and (ii) less than 70% of the at-risk funding target (apparently determined without the expense load). The 80% test would be

phased in by 5% increments from 65% in 2008 to 80% in 2011. The IRS would prescribe estimation rules for determining whether a plan was at risk in 2008.

***Credit balances*** (HR 4 sections 102, 103, 112, and 113). Credit balances would be retained in two pieces: a carryover balance from the 2007 plan year and a prefunding balance from contributions exceeding the minimum required amount in 2008 and later plan years. Employers could elect to apply the credit balance (carryover first) toward the minimum required contribution only if assets – reduced by the prefunding balance but *not* by the carryover balance – were at least 80% of the funding target at the prior valuation date. The entire credit balance would be subtracted from plan assets for most other purposes, including testing for at-risk status, determining whether benefit restrictions apply (unless assets exceeded the phased-in funding target before subtracting the credit balance), and determining the minimum required contribution. (Special rules would apply to credit balances that were restricted under a binding agreement with PBGC.) However, employers could waive some or all of the credit balances (carryover first) and include the waived amount in assets for all purposes. Credit balances would reflect the investment performance of plan assets.

***Maximum deductible contributions*** (HR 4 section 801). In general, starting in 2008, the maximum deductible contribution would equal (i) the target normal cost, plus (ii) 150% of the applicable funding target, plus (iii) an allowance for future pay or benefit increases, minus (iv) assets. If the plan is not at risk, the maximum deductible amount could not be less than the unfunded maximum at-risk liability. And the maximum deductible amount could never be less than the minimum required contribution. Plans covered by the PBGC would not count toward the combined DB/DC plan deduction limit.

For 2006 and 2007, the deduction limit would be raised to 150% of current liability minus plan assets. The bill would repeal the alternative maximum deductible contribution determined using an interest rate of 90-105% of the 4-year weighted-average 30-year Treasury rate.

***Special relief for airlines*** (HR 4 section 402). The bill offers two relief options to commercial passenger airlines and airline catering companies. Under one option, the employer could make an election by December 31, 2007 to apply the new funding rules beginning in 2008, but amortize the 2008 shortfall over 10 (instead of 7) years. Benefit increases and experience gains and losses occurring thereafter apparently would be amortized over 7 years. This option would not require freezing the plan and would not trigger any special termination premium or limits on PBGC guaranteed benefits.

The second option would give an airline 17 years to fund a frozen plan, using a fixed rate of 8.85%. This relief would have to be elected in 2006 or 2007 and, if elected, would exempt the

plan from deficit reduction contributions. If the plan terminates within 10 years of electing relief, the PBGC would treat the election date as the termination date for most purposes. If the plan terminates within 5 years, the employer would also be subject to stiff PBGC termination premiums. A plan would not be eligible for this option if benefits were increased between July 26, 2005 and the start of the plan year when relief applies.

The bill does not include a Senate proposal that would have boosted PBGC-guaranteed benefits for airline pilots.

***Delayed effective date for defense contractors, PBGC settlement plans, some multiple employer plans*** (HR 4 sections 104-106). The bill would delay the effective date of the funding (and benefit restriction) rules for defense contractors until 2011 or, if earlier, when the federal Cost Accounting Standards Board allows recovery of the higher contributions under the bill. The effective date would be delayed until 2014 for certain plans rescued from distress termination through a PBGC settlement and until 2017 for rural agricultural, electric, or telephone cooperatives' multiple employer plans. In all three cases, current liability for plan years beginning after 2007 would be determined using the segmented yield curve's third segment rate.

***Lump-sum interest and mortality*** (HR 4 section 302). Minimum lump-sum payments would be determined based on the segmented yield curve (without 24-month averaging), which would be phased in 20% per year from 2008 to 2012. IRS would prescribe lump-sum mortality rates based on the mandated rates for minimum funding.

***Benefit restrictions*** (HR 4 sections 103 and 113). Benefit restrictions would depend on the plan's adjusted funded status. The adjusted funded status would be determined using assets reduced by the credit balance (unless assets exceeded the phased-in funding target before such reduction) and increased by any security provided by the employer outside the plan. Four levels of restrictions would apply:

- Bankrupt employers' plans less than 100% funded could not pay lump sums or other accelerated payment forms.
- Plans less than 80% funded generally could not be amended to increase benefits unless the increase was funded immediately. However, they could increase benefits that are not pay-related if the rate of increase does not exceed the rate of increase in average pay of participants covered by the amendment.

- Plans at least 60% but less than 80% funded could make accelerated payments (only one per participant) up to the lesser of: (i) 50% of the amount that would be paid without the restriction, or (ii) the present value of the participant's PBGC guaranteed benefit.
- Plans less than 60% funded would have to freeze benefit accruals. They could not provide shutdown benefits (unless immediately funded) or pay lump sums or other accelerated forms of payment.

In addition, if any plan was at risk, the employer could not fund nonqualified benefits for top executives in a rabbi trust or similar arrangement without triggering substantial tax penalties (see [Nonqualified deferred compensation and COLI](#)).

Benefit restrictions would generally take effect in 2008, with a delayed effective date for collectively bargained plans. Apparently, the restrictions on lump sums and other accelerated payments would not apply to plans frozen before September 1, 2005.

***PBGC premiums*** (HR 4 section 401). The full-funding exception to the PBGC variable-rate premium would be repealed. The value of vested benefits would be determined similar to the funding target, but taking into account only vested benefits and using the segmented yield curve for the month before the plan year begins, not a 24-month average. Assets would be valued at market.

Budget legislation enacted earlier this year increased flat-rate premiums and added a temporary special distress termination premium expiring in 2010. HR 4 would make the special termination premium permanent.

***Section 4010 filings*** (HR 4 section 505). Currently, ERISA section 4010 requires employers to file annual controlled-group financial information and plan actuarial information with the PBGC if the total unfunded vested benefits (UVBs) in all controlled-group defined benefit plans (ignoring plans with no UVBs) exceeds \$50 million. The bill would eliminate the \$50 million gateway test for 4010 filings. Instead, a filing would be required if any of the employer's plans was less than 80% funded and would have to include additional information about the plan's funded status (including at-risk liability). The PBGC would have to submit an annual summary report on 4010 information to Congress.

## Multiemployer pension plan funding

The multiemployer plan funding reforms are very similar to those in the House and Senate bills approved last fall. In addition to the key provisions highlighted below, the bill includes new

disclosure requirements, modest changes in the withdrawal liability rules, and an extension of the 420 transfer rules to multiemployer plans.

***Minimum funding standards*** (HR 4 sections 201 and 211). All “regular” funding standard account bases (i.e., initial unfunded, plan amendments, assumption changes, and gains and losses) established after 2007 would be amortized over 15 years. Bases established earlier would maintain their original amortization time frame. An exception to the 15-year amortization schedule relates to plan amendments providing payment of increased benefits for a period of no more than 14 years. In this case, the amortization period would be the period over which the increased benefits are paid. For example, a plan amendment providing a one-time 13<sup>th</sup> check to retirees would be amortized over one year in the minimum funding calculation.

***Valuation assumptions*** (HR 4 sections 201 and 211). Instead of “reasonable in the aggregate” valuation assumptions, multiemployer plans would have to use “individually reasonable” assumptions that, in combination, offer the actuary’s best estimate of anticipated experience for the plan – the same standard that applies to single-employer plans.

***Maximum deductible contributions*** (HR 4 section 802). The maximum deductible contribution could be no less than 140% of current liability minus the actuarial value of plan assets. Current liability would be determined using an interest rate within 90-105% of the 4-year weighted-average 30-year Treasury rate.

***Endangered or critical status*** (HR 4 sections 202 and 212). The most significant changes imposed by HR 4 would affect plans considered “endangered” or “critical.” A plan would be endangered if it: (i) is less than 80% funded; or (ii) has an accumulated funding deficiency for the current year, or is projected to have a deficiency in any of the next six plan years. If the plan meets both of these criteria, it would be considered “seriously endangered.” A plan would be critical if it fits any of the following categories:

- The plan is less than 65% funded and the market value of assets plus the present value of expected employer contributions for the current and next six plan years is less than the present value of expected vested benefit payments plus administrative expenses for the current and next six plan years.
- The plan has an accumulated funding deficiency for the current year or is projected to have one in any of the next three plan years (four plan years if the plan is less than 65% funded), disregarding any extension of amortization periods.
- The plan meets all three of the following criteria:

- The normal cost plus interest on unfunded liabilities exceeds the present value of anticipated employer and employee contributions for the current plan year,
  - the present value of vested benefits of inactive participants exceeds the present value of vested benefits of active participants, and
  - the plan has an accumulated funding deficiency for the current plan year or is projected to have one for any of the next four plan years, disregarding any extension of amortization periods.
- The market value of plan assets plus the present value of expected employer contributions for the current and next four plan years is less than the present value of benefits plus administrative expenses expected to be paid in the current and next four plan years.

The multiemployer plan's actuary would have to file annual certifications with the IRS during the first 90 days of the plan year, indicating whether the plan is endangered or critical.

An endangered or critical plan would have to establish a funding improvement plan (reductions in future benefits, additional contributions, or both) that is anticipated to meet certain funded ratio improvement benchmarks. In a relaxation of the section 411(d)(6) anticutback protections, plan sponsors could also reduce "adjustable benefits," including postretirement death benefits, 60-month guarantees, disability benefits not in pay status, and early retirement subsidies.

### Cash balance and other hybrid plans

**Age discrimination** (HR 4 section 701). The bill would clarify, on a prospective basis, that cash balance plans and pension equity plans (PEPs) are not inherently age-discriminatory, as long as benefits are fully vested after three years of service and interest credits do not exceed a market rate of return. It's unclear whether the relief would apply only to plans that explicitly define the accrued benefit as either the account balance (for cash balance plans) or the current value of the accumulated percentage of final-average pay (for PEPs). This provision would be effective for "periods beginning on or after June 29, 2005." However, for plans in existence on that date, it appears that the vesting and interest credit requirements would not take effect until plan years beginning after 2007 (with a further delay for collectively bargained plans).

**Conversion requirements** (HR 4 section 701). The bill would prohibit any wearaway upon the conversion of a defined benefit plan to a hybrid plan, generally effective for conversions occurring on or after June 29, 2005. Thus, an employee's benefit under the hybrid plan could not be less than the sum of (i) the employee's benefit under the prior-plan formula as of the date of



conversion, plus (ii) the employee's hybrid plan benefit determined on the basis of service after the conversion. The plan would not have to adjust the prior-plan benefit to reflect future pay growth. The wearaway prohibition would apply to both normal and early retirement benefits.

***Whipsaw relief*** (HR 4 section 701). A cash balance plan would not violate Code section 417(e) merely because it pays a lump sum equal to the account balance, as long as the plan's interest credit does not exceed a market rate of return. This provision would apply to distributions made after the date of enactment.

***No inference as to prior years*** (HR 4 section 701). The bill's provisions are prospective only and thus would provide no clarification of the legal status of hybrid plans for past years. The bill text does state, however, that "nothing in the amendments made by this section shall be construed to create any inference with respect to" the application of prior law to hybrid plans. In effect, this would leave final resolution of the age discrimination and whipsaw issues to the courts.

## Defined contribution plans

The bill includes a broad array of reforms for defined contribution (DC) plans, including 401(k) and 403(b) plans. Most would be effective in 2007 or 2008, although a few would take effect earlier. Here are some highlights:

***Investment advice*** (HR 4 section 601). To improve participants' access to professional investment advice, lawmakers have crafted a prohibited transaction exemption that would permit fiduciary advisers to recommend their own funds starting in 2007. To qualify for relief, the investment advice arrangement would have to either (i) provide that the adviser's fees (including commissions) will not vary depending on the investment option selected, or (ii) use an unbiased computer model (certified by an independent expert) to generate a recommended portfolio for the participant's consideration. This compromise measure includes a host of additional safeguards against potential self-dealing, making the bill considerably more restrictive than the proposal passed by the House last year. If these conditions are met, the plan sponsor would have no duty to monitor the specific advice given to any particular participant or beneficiary but would retain responsibility for prudently selecting and monitoring advisers. The bill would direct DOL to determine the feasibility of applying computer models to individual retirement accounts (IRAs) and health savings accounts.

***Automatic enrollment*** (HR 4 section 902). The bill offers several different incentives for plan sponsors to adopt auto-enrollment features: elimination of potential conflicts with state laws barring wage withholding without the employee's consent (effective upon enactment), fiduciary relief for default investments (see below), more flexibility in refunding erroneous automatic

employee contributions (effective in 2008), and nondiscrimination testing relief for certain safe-harbor designs (effective in 2008). To qualify for the nondiscrimination safe harbor:

- Eligible employees' default contributions would start at (a minimum of) 3% of pay initially and automatically increase by 1% annually to reach at least 6% (but no more than 10%) of pay. The employer would have to furnish advance notice of employees' right to opt out, although it's not clear how this would work for new hires. The employer would not have to apply the auto-enrollment feature to current employees who have already made elections whether (or not) to participate.
- The employer would have to make matching contributions for all eligible NHCEs equal to 100% of the first 1% of pay contributed by the participant, plus 50% of the next 5% of pay. This yields a maximum match of 3-1/2% of pay, which would have to be fully vested after two years of service. (Alternatively, the employer could make nonelective contributions for all eligible NHCEs equal to at least 3% of pay, again subject to a two-year vesting schedule.)

***Default investments*** (HR 4 section 624). Effective in 2007, fiduciary protections would be expanded to cover default investments, as long as participants receive advance notice and assets are invested in accordance with soon-to-be-released Department of Labor regulations. While the relief applies to auto-enrollment designs, it is not limited to such designs.

***Plans holding company stock*** (HR 4 sections 507 and 901). Diversification rights would be expanded for participants in DC plans that hold publicly traded company stock, including ESOPs that have 401(k) features or matching contributions. All participants would be allowed to diversify their *employee* contribution accounts. Participants with at least three years of vesting service would be allowed to diversify their *employer* contribution accounts. Generally, these changes would take effect in 2007, with a delayed effective date for collectively bargained plans. For stock acquired before 2007 with matching or nonelective employer contributions, the diversification requirements would phase in over three years (33%, 66%, and 100%), but the phase-in would not apply to participants age 55 or older with at least 3 years of service.

***Faster vesting*** (HR 4 section 904). Faster vesting would be mandated for profit sharing and other nonelective employer contributions, generally effective for contributions made in 2007 or later (with a delayed effective date for collectively bargained plans). Participants would have to vest under either a 3-year cliff or 2-to-6 year graded schedule – the same as matching contributions under current law.

## EGTRRA permanence and other retirement plan provisions

The bill (HR 4 section 811) would make the retirement savings provisions of EGTRRA permanent. These include higher contribution and benefit limits, age 50 catch-up contributions, Roth 401(k) contributions, and a saver's credit for lower-income contributors to retirement plans. The saver's credit would be indexed for inflation (HR 4 section 833).

Among the other noteworthy changes for retirement plans are:

- new participant disclosure requirements, including expanded participant benefit statements for DB and DC plans (HR 4 section 508, effective in 2007, with a delayed effective date for collectively bargained plans);
- in-service distributions for pension plan participants seeking to phase into retirement after age 62 (HR 4 section 905, effective in 2007); and
- expanded portability rules, including eligible rollover distributions for nonspouse beneficiaries (HR 4 section 829, effective in 2007).

## Nonqualified deferred compensation and COLI

***NQDC funding restrictions*** (HR 4 section 116). Top executives would face tax penalties on any NQDC funded while the company's qualified pension plan is not adequately funded or the sponsor is bankrupt. This provision would apply immediately to any asset transfers occurring after the date of enactment and would apply on a controlled-group basis.

Specifically, if a company funds any NQDC benefits in a rabbi trust or similar arrangement while the company's qualified pension plan is "at risk" or the sponsor is in bankruptcy proceedings, or within six months before or after a qualified plan's distress termination, then top executives participating in the NQDC plan would incur substantial tax penalties under Code section 409A: immediate income tax on the amount funded, a 20% additional tax, plus interest imputed back to the date of deferral or vesting. These tax consequences would apply even if the assets set aside by the company remain available to satisfy creditors' claims. Moreover, if the company provides a tax gross-up to the affected executives, the gross-up would be nondeductible to the company and treated as additional deferred compensation, triggering additional tax penalties for the executive.

The funding restrictions would apply to the top five “covered employees” under Code section 162(m) (\$1 million deduction cap), plus any other executive officers. Some former executives also would be affected.

***Corporate-owned life insurance*** (HR 4 section 863). Death benefits exceeding premiums and other amounts paid for the corporate-owned life insurance (COLI) contract would be taxable income to the employer, unless the insured was notified of and consented to the coverage and (i) the insured was a director or “highly compensated employee” when the contract was purchased, (ii) the insured was an employee within 12 months before death, or (iii) the benefits are paid to the insured’s heirs or used to purchase an equity interest in the employer from the heirs. In general, the provision would apply to COLI contracts issued or materially changed after the date of enactment.

#### Health and long-term care provisions

***Long-term care incentives*** (HR 4 section 844). The bill would allow use of tax-free distributions from an annuity to pay for long-term care (LTC) and update the rules that apply to combinations of life insurance and LTC products. In combined products, life insurance cash values could be applied to LTC premiums, but those premiums could not be deducted as medical expenses. Tax-free conversions of existing life, annuity, and LTC products into annuities with LTC riders would be permitted. These provisions generally would apply for taxable years after 2009.

***Liberalized section 420 rules*** (HR 4 sections 841 and 842). The bill would expand Code section 420 transfers of certain excess pension assets (now limited to paying for current-year retiree health costs) to fund future retiree health costs, effective for transfers after the date of enactment. The threshold for determining the amount of excess assets required for a transfer to fund future costs would be lower than the one required to fund current costs with a transfer. Such transfers would generally be subject to the same terms and conditions as current section 420 transfers and would be treated the same for pension funding purposes. Special rules would apply to certain transfers involving collectively bargained retiree health liabilities.

The bill would also allow multiemployer plans to transfer excess pension assets, in taxable years beginning after 2006, to fund retiree health benefits.

***Bona fide association medical benefit reserves*** (HR 4 section 843). For taxable years beginning after 2006, bona fide association plans could establish limited reserves for amounts exceeding qualified direct costs and changes in incurred but unreported claims.

***Mental health parity and MSAs*** (HR 5970 sections 215 and 217). The estate tax/minimum wage bill would extend through 2007 the current-law rules for mental health parity in group health plans. In addition, that bill would extend through 2007 the tax rules for Archer medical savings accounts (MSAs).

***Dropped provisions***. Neither bill includes earlier proposals that would have allowed employees who participate in health flexible spending accounts to carry forward up to \$500 of unused balances each year and strengthened health plans' subrogation rights.

### Next steps

HR 4 now moves to the Senate, which may take up the bill after action on the House-passed tax package (HR 5970). If the Senate approves the bill this week without any changes – which is not likely – the bill could go directly to the president for his signature. Should the Senate pass the bill with modifications – which is more likely because the bill would be a magnet for pension and unrelated amendments – a conference with the House would be needed when lawmakers return in September. Senate leaders might instead opt for a cooling-off period and decide not to bring the bill to the floor, where key senators' anger over the leadership's strategy could cause them to oppose the bill in favor of a return to the conference process and the original pension bill with tax cut extensions attached.

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