



AMERICAN BENEFITS COUNCIL

November 29, 2007

MULTIEMPLOYER PENSION PLAN PROVISIONS OF THE PENSION PROTECTION ACT OF 2006

On August 17, 2006 the Pension Protection Act (PPA), Public Law 109-280, was signed into law. The bill included many provisions, the most significant of which affected single-employer and multiemployer pension plan funding rules.

The PPA made numerous changes to the funding rules for multiemployer plans, which go into effect January 1, 2008. Some changes make the funding standards stricter than the “old” rules. Other changes make the rules more flexible. In general, the PPA shortened the amount of time a multiemployer plan has to fund plan liabilities. This new rule shortened the amortization period from 30 to 15 years.

The new rules will identify plans that are underfunded, or at risk of being underfunded. Underfunded plans will be forced to improve their financial health within a set period of time. Trustees and actuaries of these plans are required to annually monitor and report plans to improve their funding.

Plans projected to be less than 80 percent funded in any of the upcoming years are deemed to be in “endangered” status. These are the “yellow zone” plans. Plans may be in the yellow zone for as many as 12 to 18 years. Yellow zone plans must develop and implement a “funding improvement plan” to meet specific funding benchmarks. Yellow zone plans may not increase benefits until the plan’s funded status exceeds the “endangered” plan threshold. Parties are required to bargain over proposals to decrease accruals and/or increase contributions to the plan in order to get the plan on the path to financial health.

The most seriously underfunded plans must abide by more restrictive requirements. In general, any plan that is projected to be less than 65% funded in the upcoming years is considered to be in “critical” status. This is a so-called “red zone” plan. A plan may be in the red zone for 12 or more years. Red zone plans are subject to certain requirements and restrictions that are negotiated as part of the collective bargaining process including:

- Reductions in accruals and elimination of certain benefits;
- Surcharges on employers;
- “Rehabilitation” plans that must be drafted, negotiated and implemented;
- Reduction or elimination of early retirement subsidies for active workers;
- If the parties do not agree to the rehabilitation plan, a default schedule will be imposed that could, among other things, reduce or eliminate early retirement subsidies or other ancillary benefits and impose other surcharges on employers.

As the PPA goes into effect, government regulators will exercise greater oversight over these plans and report to Congress on their progress in improving funding, or their failure to improve.