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S. 2147, the Butch Lewis Act of 2017, and H.R. 4444, the Rehabilitation for Multiemployer Pensions Act

S. 2147, the Butch Lewis Act of 2017, and H.R. 4444, the Rehabilitation for Multiemployer Pensions Act, contain identical provisions (except for the bills' titles) that would provide financial assistance to financially-troubled multiemployer defined benefit (DB) pension plans that meet specified criteria. The financial assistance would consist of loans with a 30-year repayment term and, if the loan were insufficient to restore a plan to solvency, additional financial assistance. These bills have featured in the discussions of the Joint Select Committee on Solvency of Multiemployer Pension Plans, which was established by the Bipartisan Budget Act of 2018 (P.L. 115-123) to formulate recommendations and legislative language related to the likely insolvency of a large number of multiemployer plans and the Pension Benefit Guaranty Corporation's (PBGC) multiemployer insurance program. The Congressional Budget Office's preliminary analysis indicated that budgetary effects are highly uncertain but that the bills could increase deficits by $100 billion.

Multiemployer pension plans are sponsored by more than one employer (often, though not required to be, in the same industry) and maintained as part of a collective bargaining agreement. In DB plans, participants receive regular monthly benefit payments in retirement (which some refer to as a "traditional" pension). Employers are required to make annual contributions to the plans in which they participate so that the plan has sufficient funds from which to pay promised benefits. About 10% to 15% of multiemployer DB plan participants are in plans that are projected to become insolvent within 20 years. For more information, see CRS Report R45187, *Data on Multiemployer Defined Benefit (DB) Pension Plans*.

When a multiemployer DB pension plan becomes insolvent, PBGC provides financial assistance to the plan to pay participants' benefits. However, PBGC will likely become insolvent by 2025 and will not have the resources needed to provide sufficient financial assistance to insolvent plans. The federal government has no obligation to provide assistance to PBGC. In the absence of enactment of legislation to address the insolvency of multiemployer plans or the PBGC, participants in insolvent multiemployer DB plans likely face large reductions in their benefits, likely receiving less than $2,000 per year.

Selected Details of Loan Program

S. 2147 and H.R. 4444 would establish the Pension Rehabilitation Administration (PRA), an agency within the U.S. Department of the Treasury. Treasury must issue bonds to fund the loan program and transfer amounts equal to the proceeds to the trust fund established by these bills. The PRA would make loans to multiemployer plans that

- were in critical and declining status, including plans with approved applications for the suspension of benefits under the Multiemployer Pension Reform Act of 2014 (MPRA; P.L. 113-235), or
- became insolvent after December 16, 2014.

Plans that have been approved for benefit suspensions under MPRA would be required to apply for loans.

The loan program was to have been established no later than March 31, 2018, although the PRA could have made loans prior to this date if the loan would be necessary to avoid the suspension of participants' benefits.

Loan Terms

The terms of the loan would include

- a 30-year loan term, with the payment of interest for the first 29 years and the loan principal in the 30th year;
- a prohibition on increasing participants' benefits or reducing employer contributions throughout the loan term; and
- the restoration of any benefits reduced (1) as required by plans in financial distress (called a rehabilitation plan) or (2) when an insolvent plan received PBGC financial assistance.

Loan Application

In its loan application, a plan would be required to demonstrate that

- the loan would enable the plan to avoid insolvency for at least 30 years or, in the case of an already insolvent plan, the loan would allow the plan to emerge from insolvency; and
- the plan would be reasonably expected to pay benefits to participants, pay interest on the loan, and accumulate sufficient funds to repay the principal when due.

The plan would have to provide information necessary to determine the loan amount and to stipulate whether the plan is also applying for (or is already receiving) financial assistance from PBGC.

Loan Amount

The amount of the loan would be the amount needed by the plan to pay the full lifetime benefits of plan participants who are receiving benefits from the plan at the time of the loan (also called participants in "pay status").

Loan Default

If a plan were unable to make any payment on the loan, then the PRA would negotiate revised loan terms for repayment. These revised terms could include installment payments over a period of time and forgiveness of a portion of loan principal.

Withdrawal Liability and Funding Rules

If an employer withdraws from a multiemployer plan before the end of the 30-year loan repayment period, the plan's withdrawal liability would be calculated as if it were a mass withdrawal (which occurs when all or substantially all of the employers in a multiemployer DB plan leave the plan). Withdrawal liability is the amount of money an employer owes when it leaves a plan.

The annuity contracts and investment portfolios created by the loan proceeds would not be taken into account to determine either withdrawal liability or how much employers are required to contribute to a plan (minimum required contributions).

The payments of interest and principal would be taken into account to calculate required minimum contributions and required contributions would increase if the loan portfolio were to experience investment losses and were unable to fully satisfy the benefits it was meant to cover.

Concurrent Applications for PBGC Financial Assistance

Plans would be able to file joint applications for PBGC financial assistance and for a PRA loan if the plan were to demonstrate that without PBGC financial assistance the receipt of a PRA loan would not prevent the plan's insolvency within the 30-year loan term. The amount of PBGC assistance would be the amount needed by the plan to remain solvent if the plan also received a 30-year loan. Although participants' benefits would not be reduced, the amount of PBGC financial assistance would be based on two groups of plan participants: (1) participants in pay status and (2) individuals who are due to receive a benefit from the plan but who no longer work for an employer that participates in the plan (separated, vested participants).

Policy Considerations

Some proponents view federal financial assistance to multiemployer plans as fulfilling part of a promise made to workers. Opponents argue that no precedent exists for the federal government to bail out private-sector pension plans.

Participants Would Receive Full Benefits

Participants in multiemployer plans that receive PRA loans would not see any reductions in their benefits. By contrast, under current law, there are a number of scenarios in which participants could see benefit reductions if their plan experienced financial distress. Benefit reductions that were approved under MPRA would be restored in plans that received PRA loans, including a retroactive payment of benefits that were reduced.

Repayment of PBGC Financial Assistance

Plans that remain solvent might have to repay any PBGC financial assistance they receive. Because PBGC currently provides financial assistance to multiemployer pension plans only when a plan is insolvent, the financial assistance is almost never repaid; only one multiemployer DB plan has repaid PBGC financial assistance. S. 2147 and H.R. 4444 would provide PBGC financial assistance to multiemployer plans while they are still solvent but do not indicate whether the financial assistance would be repaid.

Loan Up Front Versus Over Time

The PRA would provide a loan as a lump sum for the amount of the plan's current liabilities (e.g., to participants in pay status). However, there could be other ways to provide the loan. For example, the loan could be provided on an annual basis for the amount of each year's benefit payments to those in pay status when the loan was approved.

Plan Obligations Would Not Change

The loan provisions would not decrease the financial obligations of a plan that receives a PRA loan. A PRA loan would replace a certain amount of plan funding obligations with an obligation to repay the loan. The loan would simply shift the timing of when those obligations are due from the near future to (1) each year that interest payments would be due and (2) the 30th year of the loan term when the loan principal would be due. Plan obligations could decrease if PBGC financial assistance to solvent plans was not required to be repaid.

Because a plan's overall financial obligations would remain unchanged (except for the annual interest payments), it is likely that PRA loans would be insufficient to restore some plans to solvency and would require additional financial assistance to become solvent. The bills would not require any changes that might return plans to solvency, such as a reduction in plan liabilities, increases in employer contributions, or incentives for new employers to join existing plans.

Investment of Loan Proceeds Allowed

Although the plan would receive all of the loan proceeds upon approval, participants would receive loan-supported benefit payments for several years into the future. The plan would be able to invest the loan proceeds and use the income from this investment as part of the annual interest payments. However, if the income from investments were to be less than expected, employers in the plan would have to make up for that shortfall.

Greater Benefit to Certain Employers

Certain employers (for example, United Parcel Service (UPS) and Kroger) have promised to top up the benefits of some retired former employees in certain plans if the benefits were reduced as a result of PBGC financial assistance or MPRA. Because the proposals would *not* reduce participants' benefits, these employers could benefit financially if the bills were enacted by not having to make the top-up payments.

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