

108TH CONGRESS
1ST SESSION

H. R. 3108

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2003

Mr. BOEHNER (for himself, Mr. THOMAS, Mr. GEORGE MILLER of California, Mr. RANGEL, Mr. SAM JOHNSON of Texas, and Mr. PORTMAN) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pension Funding Eq-
3 uity Act of 2003”.

4 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) The defined benefit pension system has re-
7 cently experienced severe difficulties due to an un-
8 precedented economic climate of low interest rates,
9 market losses, and an increased number of retirees.

10 (2) The discontinuation of the issuance of 30-
11 year Treasury securities has made the interest rate
12 on such securities an inappropriate and inaccurate
13 benchmark for measuring pension liabilities.

14 (3) Using the current 30-year Treasury bond
15 interest rate has artificially inflated pension liabil-
16 ities and therefore adversely affected both employers
17 offering defined benefit pension plans and working
18 families who rely on the safe and secure benefits
19 that these plans provide.

20 (4) There is consensus among pension experts
21 that an interest rate based on long-term, conserv-
22 ative corporate bonds would provide a more accurate
23 benchmark for measuring pension plan liabilities.

24 (5) A temporary replacement for the 30-year
25 Treasury bond interest rate should be enacted while

1 the Congress evaluates permanent and comprehen-
 2 sive funding reforms.

3 (b) SENSE OF CONGRESS.—It is the sense of the
 4 Congress that the Congress must ensure the financial
 5 health of the defined benefit pension system by working
 6 to promptly implement—

7 (1) a permanent replacement for the pension
 8 discount rate used for defined benefit pension plan
 9 calculations, and

10 (2) comprehensive funding reforms aimed at
 11 achieving accurate and sound pension funding to en-
 12 hance retirement security for workers who rely on
 13 defined pension plan benefits, to reduce the volatility
 14 of contributions, to provide plan sponsors with pre-
 15 dictability for plan contributions, and to ensure ade-
 16 quate disclosures for plan participants in the case of
 17 underfunded pension plans.

18 **SEC. 3. TEMPORARY REPLACEMENT OF 30-YEAR TREASURY**
 19 **RATE.**

20 (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT
 21 OF 1974.—

22 (1) DETERMINATION OF PERMISSIBLE
 23 RANGE.—

24 (A) IN GENERAL.—Clause (ii) of section
 25 302(b)(5)(B) of the Employee Retirement In-

1 come Security Act of 1974 is amended by re-
2 designating subclause (II) as subclause (III)
3 and by inserting after subclause (I) the fol-
4 lowing new subclause:

5 “(II) SPECIAL RULE FOR YEARS 2004
6 AND 2005.—In the case of plan years be-
7 ginning after December 31, 2003, and be-
8 fore January 1, 2006, the term ‘permis-
9 sible range’ means a rate of interest which
10 is not above, and not more than 10 percent
11 below, the weighted average of the rates of
12 interest on amounts conservatively invested
13 in long-term corporate bonds during the 4-
14 year period ending on the last day before
15 the beginning of the plan year. Such rates
16 shall be determined by the Secretary on
17 the basis of one or more indices selected
18 periodically by the Secretary, and the Sec-
19 retary shall make the permissible range
20 publicly available.”.

21 (B) SECRETARIAL AUTHORITY.—Subclause
22 (III) of section 302(b)(5)(B)(ii) of such Act, as
23 redesignated by subparagraph (A), is amend-
24 ed—

1 (i) by inserting “or (II)” after “sub-
 2 clause (I)” the first place it appears, and

3 (ii) by striking “subclause (I)” the
 4 second place it appears and inserting
 5 “such subclause”.

6 (C) CONFORMING AMENDMENT.—Sub-
 7 clause (I) of section 302(b)(5)(B)(ii) of such
 8 Act is amended by inserting “or (III)” after
 9 “subclause (II)”.

10 (2) DETERMINATION OF CURRENT LIABILITY.—
 11 Clause (i) of section 302(d)(7)(C) of such Act is
 12 amended by adding at the end the following new
 13 subclause:

14 “(IV) SPECIAL RULE FOR 2004
 15 AND 2005.—For plan years beginning
 16 in 2004 or 2005, notwithstanding
 17 subclause (I), the rate of interest used
 18 to determine current liability under
 19 this subsection shall be the rate of in-
 20 terest under subsection (b)(5).”.

21 (3) PBGC.—Clause (iii) of section
 22 4006(a)(3)(E) of such Act is amended by adding at
 23 the end the following new subclause:

24 “(V) In the case of plan years beginning after
 25 December 31, 2003, and before January 1, 2006,

1 the annual yield taken into account under subclause
 2 (II) shall be the annual yield determined by the Sec-
 3 retary of the Treasury on amounts conservatively in-
 4 vested in long-term corporate bonds for the month
 5 preceding the month in which the plan year begins.
 6 For purposes of the preceding sentence, the Sec-
 7 retary of the Treasury shall determine such yield on
 8 the basis of one or more indices selected periodically
 9 by the Secretary, and the Secretary shall make such
 10 yield publicly available.”.

11 (b) INTERNAL REVENUE CODE OF 1986.—

12 (1) DETERMINATION OF PERMISSIBLE
 13 RANGE.—

14 (A) IN GENERAL.—Clause (ii) of section
 15 412(b)(5)(B) of the Internal Revenue Code of
 16 1986 is amended by redesignating subclause
 17 (II) as subclause (III) and by inserting after
 18 subclause (I) the following new subclause:

19 “(II) SPECIAL RULE FOR YEARS
 20 2004 AND 2005.—In the case of plan
 21 years beginning after December 31,
 22 2003, and before January 1, 2006,
 23 the term ‘permissible range’ means a
 24 rate of interest which is not above,
 25 and not more than 10 percent below,

1 the weighted average of the rates of
 2 interest on amounts conservatively in-
 3 vested in long-term corporate bonds
 4 during the 4-year period ending on
 5 the last day before the beginning of
 6 the plan year. Such rates shall be de-
 7 termined by the Secretary on the
 8 basis of one or more indices selected
 9 periodically by the Secretary, and the
 10 Secretary shall make the permissible
 11 range publicly available.”.

12 (B) SECRETARIAL AUTHORITY.—Subclause
 13 (III) of section 412(b)(5)(B)(ii) of such Code,
 14 as redesignated by subparagraph (A), is amend-
 15 ed—

16 (i) by inserting “or (II)” after “sub-
 17 clause (I)” the first place it appears, and
 18 (ii) by striking “subclause (I)” the
 19 second place it appears and inserting
 20 “such subclause”.

21 (C) CONFORMING AMENDMENT.—Sub-
 22 clause (I) of section 412(b)(5)(B)(ii) of such
 23 Code is amended by inserting “or (III)” after
 24 “subclause (II)”.

1 (2) DETERMINATION OF CURRENT LIABILITY.—

2 Clause (i) of section 412(l)(7)(C) of such Code is
3 amended by adding at the end the following new
4 subclause:

5 “(IV) SPECIAL RULE FOR 2004
6 AND 2005.—For plan years beginning
7 in 2004 or 2005, notwithstanding
8 subclause (I), the rate of interest used
9 to determine current liability under
10 this subsection shall be the rate of in-
11 terest under subsection (b)(5).”.

12 (3) CONFORMING AMENDMENT.—Section
13 415(b)(2)(E)(ii) of such Code is amended by insert-
14 ing before the period at the end “, except that in the
15 case of years beginning in 2004 or 2005, ‘5.5 per-
16 cent’ shall be substituted for ‘5 percent’ in clause
17 (i)”.

18 (c) PROVISIONS RELATING TO PLAN AMEND-
19 MENTS.—

20 (1) IN GENERAL.—If this subsection applies to
21 any plan or annuity contract amendment—

22 (A) such plan or contract shall be treated
23 as being operated in accordance with the terms
24 of the plan or contract during the period de-
25 scribed in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2006.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting “2008” for “2006”.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

1 (i) during the period beginning on the
2 date the amendment described in subpara-
3 graph (A)(i) takes effect and ending on the
4 date described in subparagraph (A)(ii) (or,
5 if earlier, the date the plan or contract
6 amendment is adopted), the plan or con-
7 tract is operated as if such plan or con-
8 tract amendment were in effect; and

9 (ii) such plan or contract amendment
10 applies retroactively for such period.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graphs (2) and (3), the amendments made by this
14 section shall apply to years beginning after Decem-
15 ber 31, 2003.

16 (2) LOOKBACK RULES.—For purposes of apply-
17 ing subsections (l)(9)(B)(ii) and (m)(1) of section
18 412 of the Internal Revenue Code of 1986 and sub-
19 sections (d)(9)(B)(ii) and (e)(1) of section 302 of
20 the Employee Retirement Income Security Act of
21 1974 to plan years beginning after December 31,
22 2003, the amendments made by this section may be
23 applied as if such amendments had been in effect for
24 all years beginning before such date.

1 (3) NO REDUCTION REQUIRED.—In the case of
2 any participant or beneficiary, the amount payable
3 under any form of benefit subject to section
4 417(e)(3) of the Internal Revenue Code of 1986
5 shall not be required to be reduced below the
6 amount determined as of the last day of the last
7 plan year beginning before January 1, 2004, merely
8 because of the amendments made by subsection
9 (b)(3).

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