Issue Summary: Pension Interest Rate Replacement Legislation
January 29, 2004
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The Senate just passed (by a vote of 86-9) legislation (H.R. 3108) temporarily replacing the 30-Year Treasury interest rate with a long-term corporate bond rate for funding and premium purposes in plan years beginning in 2004 and 2005.

Consensus Senate Compromise: The Senate version of the bill follows the "consensus amendment" that was offered last week by the key Senate Committee leaders (Grassley, Gregg, Baucus, and Kennedy). The consensus amendment would provide:

- **Interest Rate Fix:** As under the House-passed version of the bill, the amendment would replace the 30-Year Treasury rate with a corporate bond rate for funding and premium purposes for 2004 and 2005. Three technical glitches with the House bill language are fixed under the Senate language (and/or legislative history) -- (1) the calculation of interest rates within the permitted corridor; (2) the method for calculation of the lookback for prior years, and (3) preventing the legislation from reducing the limit on deductible contributions, so that employers that want to make larger contributions are able to do so. (The drafting of the deduction provision may need to be modified to achieve its intended purpose, but there appears to be a clear intent to prevent the deduction limit from being reduced.)

- **DRC Relief:** Airlines and steel companies would get relief from the most stringent funding rules (the so-called Deficit Reduction Contribution or DRC rules) if certain conditions are met (including limits on benefit increases). Eligible companies would have to make contributions equal to 20% of those that would otherwise have been due for 2004 (40% for 2005). Other companies would be eligible for the same relief if: (1) they applied to the Treasury Department and (2) the Treasury did not (within 90 days) make a determination that the plan sponsor is not reasonably expected to meet its future funding obligations.

- **Multiemployer Funding Relief:** Funding relief for multiemployer retirement plans that are jointly administered by unions and employers.

Senate Amendments That Were Adopted: The Senate adopted (by unanimous consent) a single amendment offered by Senator Grassley that would:

  - Extend from 2005 to 2013 the ability of employers to transfer excess pension assets to fund retiree health expenses.
  - Clarify certain tax rules for insurance companies.
  - Appear to expand the automatic DRC Relief to certain iron ore mining companies.
  - Amend rules regarding "Rebuilding of Fish Stocks"

The Senate also adopted (again by unanimous consent) a "Sense of the Senate" provision offered by Senator Nickles expressing concern over the PBGC's financial situation and the "current funding status of the private pension system, both single and multi-employer". The Sense of the Senate calls on the Finance and HELP Committees to conduct hearings on multiemployer plans and encourages those committees to work with the DOL and Treasury "on permanent measures to strengthen the integrity of the private pension system."

Senate Amendments Defeated: The Senate defeated two amendments offered by Senator Kyl. The first would have limited PBGC guarantee of benefits for those plans electing DRC relief (tabled by a vote of 67-25) and the second would have prohibited those plans electing the DRC relief from requesting additional funding waivers (defeated by a voice vote). Efforts by Senator Specter to insert relief for U.S. Airways also failed.

House Bill: As you will recall, the House-passed version of H. R. 3108 (passed in a vote of 397-2) included a 2-year replacement of the 30-year Treasury interest rate with a corporate bond rate. Although H.R. 3108 did not contain special relief for any industries, another bill that the House passed last year (H.R. 3521) would have provided DRC relief for commercial airlines for two years in a form that was actually somewhat more generous than the DRC relief provided in the Senate-passed bill.

Next Steps: It is expected that the differences between the House and Senate versions of the bill will be resolved in a conference committee. Senate Majority Leader Frist has indicated that he believes that differences can be resolved quickly, although at least one Senate Democrat is objecting to the appointment of conferees and Senator Frist has said he will work with Senate Democratic leaders on that issue.

At the same time, the members of the PBGC Board (the Secretaries of Treasury, Labor, and Commerce) have said that they would recommend a veto if DRC relief is provided. Whether an actual veto would materialize, however, remains unclear. There has not been an official veto position in the form of a Statement of Administration Policy from the White House and the modified Senate language provides less DRC relief for fewer companies than the previous Finance Committee approved version. In the end, while actual veto is still possible if Congress sends the President a bill with DRC relief, a number of important factors seem to point away from a veto. Significantly, both the House and Senate have passed (at one time or another) DRC relief provisions and Congressional leadership have shown their support. The strength of the vote against the Kyl amendment would also seem to indicate the political strength of those advocating DRC relief (at least in the Senate). Regardless, resolution of the DRC relief and the multiemployer funding relief will probably be difficult issues for the conference committee to resolve.

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