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American Rescue Plan Brings $86 Billion in Relief to Failing Multiemployer Pension Plans

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The American Rescue Plan that was sent to President Biden's desk on March 11, 2021 includes an $86 Billion aid package that provides financial assistance to underfunded multiemployer pension plans facing critical or declining financial status. Upon signature, the bill will provide eligible underfunded plans with "special financial assistance." The special financial assistance is designed to cover the payments of accrued pension benefits through the 2051 plan year and is not subject to any repayment obligations.

Multiemployer pension plans eligible for special financial assistance include plans meeting any one of the below criteria:

- Plans in critical and declining status in any plan year from 2020 through 2022.
- Plans that have had a suspension of benefits approved under the provisions of the Multiemployer Pension Reform Act of 2014 as of the date the new American Rescue Plan becomes law.
- Plans certified by an actuary to be in critical status in any plan year from 2020 through 2022, have a modified funded percentage of less than 40 percent, and a ratio of less than 2 active participants to 3 inactive participants.
- Plans that became insolvent after December 16, 2014 that have not been terminated by the date the American Rescue Plan is signed into law.

The Pension Benefit Guaranty Corporation ("PBGC") has 120 days to issue regulations or guidance setting forth application requirements for special financial assistance. Because eligible plans have through December 31, 2025 to apply for special financial assistance, plans may not receive any special financial assistance for several years.

Prior to sending the bill back to the House of Representatives, the Senate removed a significant provision concerning employer withdrawal liability. The original language drafted by the House of Representatives provided that an employer’s withdrawal liability would be calculated without taking into account the special financial assistance received by a pension plan for 15 calendar years following the receipt of such assistance. While the removal of this language may allow for quicker relief for employers, they are left without clarity as to how and when the special financial assistance will impact their withdrawal liability, if at all. Instead, employers must wait for the PBGC to issue regulations or guidance on the issue.

The legislation provides extensive assistance to pension plans that were suffering long before the COVID-19 pandemic and ensures that many retirees will receive their full benefits. However, it does not freeze accruals, curtail the practices that led to the pension plans’ current underfunding problems, or otherwise provide guidance as to how the plans will function financially in 30 years when the special financial assistance ends.

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