FROM THE HILL

Legislative and Political Report

Pension Reform Bills Go to Conference Committee

Both the U.S. Senate and the House of Representatives have been trying for months to rewrite current pension law to make sure that companies set aside enough money to pay the benefits they owe to employees and provide adequate resources to cover terminated plans.

In November 2005, the Senate overwhelmingly approved, by a vote of 97 to 2, its version of pension reform legislation. Its bill, S.1783, the Pension Security and Transparency Act of 2005, included provisions that would give financially distressed airlines more time to fully fund their pension plans and would provide airline pilots whose plans are terminated the same insured benefit at age 60 as other workers get at age 65. These provisions came in the form of amendments offered by Sens. Johnny Isakson (R-Ga.) and Daniel Akaka (D-Hawaii).

In December 2005, the House passed H.R.2830, the Pension Protection Act of 2005, by a vote of 294 to 132.

Lawmakers will continue to debate the issue when a House-Senate conference committee begins work early in 2006 to resolve differences between the House and Senate versions of the legislation. Once the two bills are reconciled, a final version will go back to the House and Senate for a straight up or down vote. If passed, the bill will then go to the President for his signature.

Both the House and Senate bills would require companies with defined-benefit retirement plans backed by the Pension Benefit Guaranty Corporation, the federal agency that guarantees pensions, to substantially increase contributions to their plans and pay larger premiums. The legislation would raise premiums paid from $19 per participant annually to $30. Additionally, it would require increased disclosure to workers of the financial status of their plans and require companies whose credit ratings are low (under the Senate bill) or whose plans are severely underfunded (under the House bill) to make extra funding contributions.

Both bills, according to their sponsors, were intended to safeguard traditional pension plans and prevent a taxpayer bailout of the PBGC. Defined-benefit plans in the United States are now underfunded by approximately $450 billion, and some analysts have warned that without meaningful pension reform, the whole system could collapse. The PBGC currently has a shortfall of more than $22 billion against future liabilities.

However, only the Senate version of the legislation provides for special relief for passenger airlines. While both bills give most companies 7 years to catch up on required contributions to employee pension plans, the Senate bill would allow passenger airlines 20 years to fully fund their pensions.

But the White House has voiced numerous objections to the proposed legislation, calling the measures inadequate and warning that President Bush would likely veto any bill that contains any airline industry-specific provisions. It says that any language that singles out a specific industry for special treatment is unacceptable.

In January 2005, the Bush administration outlined its own version of pension reform, but critics say the plan is unrealistic. The administration is pushing for legislation that would require companies to make substantially larger contributions to their defined-benefit plans. According to the PBGC, it would have required companies to put $91 billion more into their pension funds over the next 10 years than under current law.

Many of the companies that will be affected by the legislation are hoping that lawmakers will reach a compromise sooner rather than later. The formula that companies use to calculate payments to their employee pension plans expired on Dec. 31, 2005, and if Congress fails to act, companies may have to pay out significantly more money when their next quarterly payment comes due on April 15.

"ALPA is working aggressively to ensure that the airline-specific provisions will be included in the final version of this legislation," says ALPA's president, Capt. Duane Woerth. "Thousands of airline pilots and other hard-working airline employees have invested billions in the futures of their companies. Congress must act swiftly to secure the pensions of these faithful employees."—*Gavin Francis, Staff Writer*

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DOT Moves to Allow Greater Foreign Control of U.S. Airlines

In November 2005, the U.S. Department of Transportation issued a notice of proposed rulemaking that proposed to let non-U.S. citizens exercise more control over American-owned airlines. The move was designed to help the Bush administration conclude a new air services agreement with the European Union.

Proponents of the rule change say that it would help the struggling U.S. airline industry attract more foreign investment. But others say that allowing more foreign control of U.S. airlines could put the jobs of U.S. citizens at risk and would create problems related to airline safety and security. Additionally, members of Congress are unhappy that the White House is trying to accomplish by rule change what it could not accomplish through legislation.

To try to ensure some measure of congressional oversight, Rep. John Mica (R-Fla.), chairman of the House Committee on Transportation and Infrastructure, has scheduled a hearing for February 8 to consider the matter.

The DOT announced its planned policy change after U.S. and EU negotiators reached a deal that would relax restrictions on transatlantic air services. The "Open Skies" agreement, which would allow European airlines greater access to U.S. markets and would open up London's Heathrow Airport to more U.S. carriers, is contingent upon EU acceptance of the result of the DOT's rulemaking process.

"The Bush administration has negotiated what is essentially a business deal with the EU," says Capt. Woerth, "and the deal hinges on this rule change. Administration officials are trying to sidestep the legislative process and push through their agenda for 'Open Skies.'"

For decades, U.S. federal law has placed restrictions on control of U.S. airlines. Under current law, non-U.S. citizens may not own more than 25 percent of a U.S. airline's voting stock, and an airline's operations must remain under the "actual control" of U.S. citizens. However, in recent years, attempts have been made to change those rules. In 2003, the Bush administration proposed raising the foreign ownership limit from 25 percent to 49 percent, but Capitol Hill lawmakers rejected the idea.

The current proposal does not attempt to change statutory foreign ownership limits, but would allow non-U.S. citizens to exercise more control over a U.S. airline. For example, under the revised rules, a foreign citizen could act as a U.S. airline's chief operating officer.

Some observers have called the NPRM a "back-door effort," suggesting that Bush administration officials are trying to circumvent the legislative process.

ALPA submitted comments to the DOT opposing the policy change, saying that it was in conflict with existing statutes and various bilateral agreements and that it had dire implications for safety. ALPA also questioned the justification that proponents of the policy change put forth: an alleged need for greater foreign investment in U.S. airlines. ALPA was supported in its opposition by Continental Airlines. Most airlines, including a number of EU carriers, filed comments in support of the rule change.

Lawmakers who oppose the DOT action introduced legislation in both the House and the Senate to block the move. In the House, a bipartisan coalition led by Reps. James Oberstar (D-Minn.), Frank LoBiondo (R-N.J.), and Don Young (R-Alaska), chairman of the Transportation and Infrastructure Committee, introduced H.R.4542, which would prohibit the DOT from issuing a final decision on the proposed rule change for a period of 1 year and would ensure congressional oversight of any attempt to allow more foreign control of U.S. airlines. Similar legislation was taken up in the Senate when Sens. Daniel Inouye (D-Hawaii) introduced S.2135.

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"This type of rule change could be disastrous," says Capt. Woerth. "It completely fails to examine the potential effect on wages, working conditions, airline safety and security, and the ability of U.S. carriers to grow in international markets. A policy shift of this scale, if undertaken at all, demands a thorough and complete review by Congress."—*Gavin Francis, Staff Writer*