Insight

Progress on Multiemployer Pensions?

GORDON GRAY | MAY 15, 2020

Executive Summary

- The Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act includes a substantial new taxpayer commitment to ailing, private-sector, multiemployer pensions but does NOT contain the Butch-Lewis Act, which had largely been the public policy position of congressional Democrats for about 18 months.
- Instead, House Democrats have included an alternative approach, the Emergency Pension Plan Relief Act (EPPRA), which takes a step closer to a policy approach released by Senate Republicans last year.
- While EPPRA has considerable flaws, Democrats' inclusion of an alternative to Butch-Lewis in HEROES is conspicuous and should be acknowledged as a productive step forward on a difficult issue that Congress will need to address.

Introduction

Multiemployer pensions are collectively bargained defined-benefit retirement plans. There are about 1,400 such plans covering 10 million active and retired workers. Many of these plans are critically underfunded, risking the retirement benefits of covered workers. Meanwhile, the federal backstop for such plans – the Pension Benefit Guaranty Corporation or PBGC – doesn't have the resources to protect retirees if the multiemployer-pension system's finances continue to deteriorate.

Addressing Multiemployer Pensions

Serial underfunding in certain plans has pushed the multiemployer system and the federal backstop for beneficiaries, the PBGC, to the brink of collapse. There are about 1,400 multiemployer pension plans that cover about 10 million active and retired workers. Collectively, these plans hold about $466 billion in assets but face $1.1 trillion in liabilities for a net liability of $639 billion. In the Congressional Budget Office's (CBO) most recent baseline update, the agency projected that the PBGC fund that guarantees a portion of pensioners' benefits will be exhausted by 2027. It is important to understand that this projection was based on an economic and budgetary outlook that did not incorporate that effects of the pandemic. There is every reason to believe that the present pandemic-induced recession will put further pressure on the agency's wherewithal.

Congress attempted to address this challenge through a special committee process, but that effort failed to deliver a consensus solution. Since then, on a largely party-line vote, the House passed H.R. 397, the Butch-Lewis Act, which provides taxpayer-funded grants to highly underfunded plans and taxpayer loans that can be forgiven to struggling multiemployer-pension plans. The taxpayer commitment was estimated at near $70 billion over 10 years, but without structural reforms to the system to prevent needing a bailout in the future. Indeed, CBO noted that "most multiemployer pension plans that received loans under H.R. 397 would become insolvent within a few years after the end of their loan repayment periods." While good-faith negotiations continued, this act remained the public position on this issue among progressive legislators and stakeholders.

Emergency Pension Protection Act

In response to the COVID-19 pandemic, Congress has passed three major pieces of legislation (plus one substantial supplement). As policymakers are confronted with growing economic risks, additional fiscal assistance is likely. Title I of Division D of the Health and Economic Recovery Omnibus Emergency (HEROES) Act includes the Emergency Pension Plan Relief Act (EPPRA), which provides a new taxpayer commitment to provide relief for underfunded union pensions. Of note, it's not Butch-Lewis. Instead, EPPRA takes a much different approach to providing taxpayer assistance to these plans. EPPRA would partition – separate underfunded elements known as orphan liabilities – certain plans.

In this, EPPRA is a major step forward, as the partition is the same approach taken by Senators Grassley and Alexander, chairmen of the Senate Committees on Finance and Health, Education, Labor, and Pensions, in an alternative reform approach that makes more structural reforms to the system while minimizing taxpayer risk. Indeed, the Senate proposal itself marked an important step for Republicans, who had previously balked at any taxpayer commitment to support underfunded private pensions, and for good reason. Fundamentally, the multiemployer pension system is a relationship between private-sector employers and their employees. There should be no taxpayer risk in this relationship. The practical reality of hundreds of thousands of constituents in places like Michigan, Ohio, and Pennsylvania losing their pensions suggests, however, that Congress would intervene at some stage. Given this counterfactual, a deliberate policy now is preferred to a panicked bailout in the future.

There are some key distinctions between the approach taken in HEROES and the Senate proposal. In HEROES, plans would have several years to determine eligibility for partitioning, which could incentivize marginal plans to further allow their finances to deteriorate before receiving assistance. More important, where the Senate approach committed some taxpayer funds to address this challenge, it also called on substantial financial contributions from stakeholders. EPPRA jettisons this approach and instead relies entirely on an open-ended "such sums" appropriation from taxpayers. The possibility of committing any taxpayer funds to bailout these private plans is anathema to many policymakers and their constituents, which means any solution to this challenge that involves taxpayer funds must recognize the need for shared responsibility among the multiemployer-system stakeholders.

Conclusion

The opening bid by House Democrats in the next round of COVID-19 relief legislation substantially reflects progressive priorities that have no hope of enactment. The approach taken by EPPRA to the multiemployer pension system is similarly not a consensus policy. Despite serious policy flaws, however, EPPRA takes an important and conspicuous step forward in advancing productive solutions to a difficult challenge.