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REPORTER

Funding

Administration Funding Plan Gains Support; Employers Take Exception to Conditions

Employer groups praised the Obama administration April 15 for supporting pension funding relief but took exception to some of the ''principles'' that companies would have to meet in order to receive the relief.

Secretary of Labor Hilda L. Solis sent a letter to Congress April 13 endorsing pension funding relief. Phyllis C. Borzi, assistant secretary of labor for the Employee Benefits Security Administration, said April 14 that the administration's proposal comes with ''four principles in mind.'' (71 PBD, 4/15/10).

Solis said the principles are that companies provide job protection and increased investment; that cash should be used for pension funding, not shareholder distributions or executive pay; that companies disclose funding relief to participants; and that financially troubled companies should receive no relief.

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>
> PRC Communications Director Nancy Hwa

The letter also said the department is in the process of developing multiple regulations to address disclosure for fees charged by retirement plan service providers.

No Executive/Shareholder Payments. ''We applaud the Obama administration for taking a strong position in favor of protecting workers and retirees in the pension funding debate,'' Nancy Hwa, communications director for the Pension Rights Center, told BNA April 15.

''The administration clearly recognizes that the purpose behind funding relief is to free up corporate funds to preserve jobs, not to free up cash to make excessive payments to executives and shareholders,'' Hwa said. ''We hope that Congress will follow through on these recommendations,'' she said.

'Twelfth Hour Condition.' As to the disclosure provisions in the letter, ''this is a new condition at the 12th hour,'' Kathryn Ricard, vice president for retirement security at the ERISA Industry Committee, told BNA April 15. ''ERIC is concerned about the timing and is unclear of the ramifications on companies,'' she said. Ricard questioned whether making pension relief public would unnecessarily confuse or worry plan participants.

Citing Solis's statement that cash should be used for pension funding, not shareholder distributions or executive pay, ''this is the same provision that was in the Senate passed bill. Therefore, we are reading it as direct [administration] support of the Senate passed bill,'' Ricard said.

Pension funding relief was included in the American Workers, State, and Business Relief Act of 2010 (H.R. 4213), which the Senate passed March 10, but the House-passed version of H.R. 4213 does not have the funding provisions in it (46 PBD, 3/11/10; 37 BPR 554, 3/16/10).

''We are pleased that, like the Senate bill, the letter does not refer to a 'maintenance of effort' provision whereby employers would have to promise to keep their defined benefit pension plan for a certain amount of time as a condition of pension funding relief,'' Ricard said.

Jason Hammersla, a spokesman for the American Benefits Council, told BNA April 15, that ABC would argue that Solis's ''principle'' on shareholder distributions and executive pay was ''unnecessary and would be counterproductive.''

However, he said he did not think companies would have a problem with the disclosure principle because companies always have been responsive to disclosing information to plan participants.

Plan Fee Disclosure. As to the reference to retirement plan fee disclosure, Ricard said that the letter was acknowledging valid concerns of House Ways and Means Committee Chairman George Miller (D-Calif.) about fee disclosure, including that plan participants' account balances are hurt by high fees.

However, the letter also refers back to the department's regulatory efforts on the matter, Ricard said. ''We think this is significant and it appears that the administration is sending a signal to Congress that defined benefit pension funding relief should not be held up by fee legislation,'' she added.

By Michael W. Wyand

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