

Multiemployer Pension Relief: How the COVID-19 Relief Bill Impacts Employers

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Presented by



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Agenda

- Current status of multiemployer plans
- Key provisions of the Butch Lewis Emergency Pension Plan Relief Act of 2021
 - Special assistance program
- The role of the Pension Benefit Guaranty Corporation
- Next steps for employers



Current Status of Multiemployer Funds

- Background on multiemployer funds
- Prior laws designed to “fix” the system
 - Multiemployer Pension Protection Amendments Act (1980)
 - Pension Protection Act (2006)
 - Created three funding zones:
 - Green
 - Yellow (“endangered”)
 - Red (“critical”)
 - Required rehabilitation plans for critical plans and funding improvement plans for endangered plans
 - Multiemployer Pension Reform Act (2014)
 - Added a fourth funding zone:
 - “Critical and declining”
 - “Rescue plan” concept



Key Provisions of the Butch Lewis Emergency Pension Plan Relief Act of 2021

- Multiemployer plans
 - Use of prior year's certification
 - Extension of funding improvement and rehabilitation periods
 - Adjustment to funding standard account
 - PBGC premium increases
 - Special assistance program
- Single employer
- Community newspapers
- Additional employees included in I.R.C. Section 162(m)



Special Assistance Program

- Which plans are eligible?
 - Critical and declining status in any plan year from 2020 through 2022
 - Approved suspension of benefits as of March 11, 2021
 - Meet each of these criteria:
 - Critical status
 - Modified funded percentage of less than 40 percent (based on current assets and liabilities) and
 - A ratio of active to inactive participants which is less than 2 to 3 in any plan year beginning in 2020 through 2022
 - Went insolvent after December 16, 2014 and has stayed insolvent but has not been terminated as of March 11, 2021



Special Assistance Program

- What do funds get?
 - Money to pay all benefits starting on the date of payment to the last day of the 2051 plan year
 - No reduction in accrued benefits
 - Includes the amount needed to reinstate any reduced benefits
 - Include back pay of previously reduced benefits
 - The interest rate used in determining the amount of financial assistance is the rate used in the most recent plans status certification (with a statutory cap)



Special Assistance Program

- What must funds do?
 - Reinstate suspended benefits as of the first month the special financial assistance is effective
 - Backpay of suspended benefits must be paid as:
 - A lump sum within three months of receiving the subsidy or
 - In monthly installments over a five year period beginning within three months of the effective date, with no interest rate adjustment
 - The subsidy may only be used to pay benefits and plan expenses; it must be segregated from all other assets. It must be invested in investment grade bonds or other investments as provided by the PBGC.
 - A plan receiving assistance will be considered to be in critical status until the last plan year ending 2051
 - Plans receiving assistance must continue to pay premiums on all participants and beneficiaries

The Role of the Pension Benefit Guaranty Corporation (“PBGC”) in the Special Assistance Program

- Within 120 days of enactment, the PBGC must issue regulations or guidance setting forth the requirements for special financial assistance that:
 - Limits the materials required to the minimum necessary
 - Specifies the effective dates for the transfer of the assistance, based on the effective date of the supporting actuarial analysis and the date on which the application is submitted
 - Provides an alternate application to be used for plans previously approved for partition



The Role of the Pension Benefit Guaranty Corporation

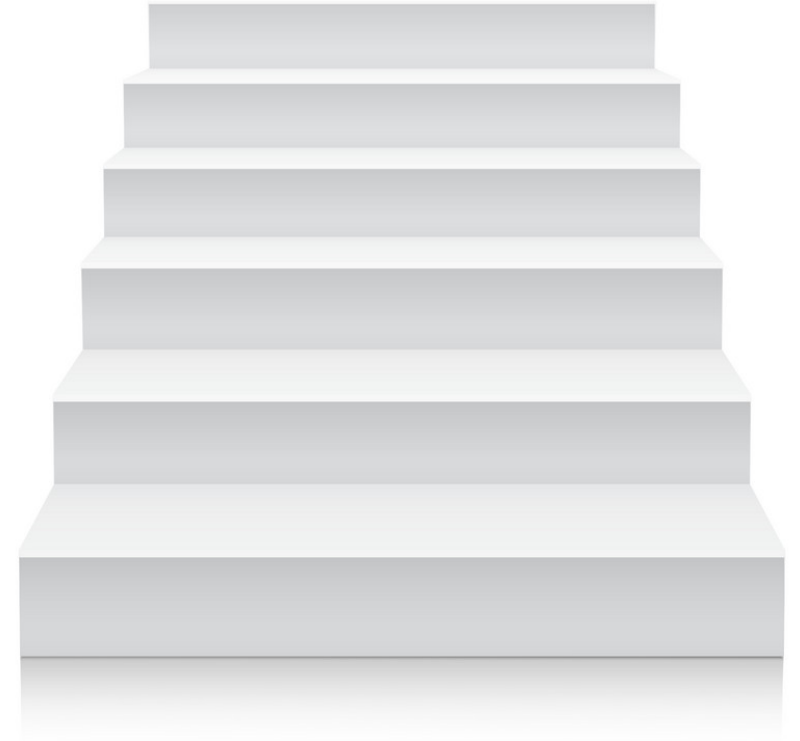
- The PBGC, in consultation with the Secretary of the Treasury, may impose reasonable conditions on plans that receive financial assistance relating to:
 - Increases in future accrual rates and any retroactive benefit improvements
 - Allocation of plan assets
 - Reductions in employer contribution rates
 - Diversion of contributions to, and allocation of expenses to, other benefit plans and
 - Withdrawal liability
- The PBGC may not impose conditions on plans that receive financial assistance relating to any prospective reduction in plan benefits (including adjustable benefits), plan governance, including selection of, removal of, and terms of contracts with trustees, actuaries, investment managers, and other service providers, or any funding rules

Approving Applications

- An application is deemed approved unless the PBGC notifies the plan within 120 days that the application is incomplete, any change or assumption is unreasonable or the plan is not eligible. A plan may submit a revised application after denial, and the revised application will be deemed approved unless the PBGC notifies the plan within 120 days of the revised application. The special financial assistance will be effective on the date the PBGC determines, but no later than 1 year after a plan's application is approved or deemed approved.
- The PBGC must consult with the Secretary of the Treasury with respect to applications where:
 - Benefits have been suspended with respect to the method for reinstatement and the amount of financial assistance needed, including repayment of suspended benefits
 - Assumptions are proposed to be changed or
 - Special priority for insolvent plans or plans that have a suspension of benefits

Next Steps For Employers

- Determine if any of the funds in which you participate may qualify for assistance under the Special Assistance Program
- Consider how a fund's receipt of funds may impact the company's labor relations strategy
- Consider how a fund's receipt of funds may impact the company's withdrawal liability exposure
- Become involved in Littler's Workplace Policy Institute and stay abreast of the PBGC's upcoming regulations



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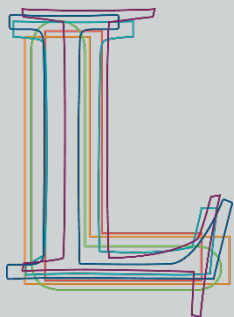
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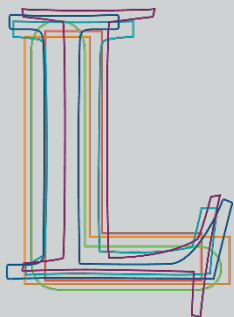
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Questions?

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