MULTI-ELERT®

A SERVICE OF THE NCCMP

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TOPIC: MULTIEMPLOYER FUNDING RELIEF BILL PASSES IN SENATE– YOUR HELP IS NEEDED AS FIGHT MOVES TO THE HOUSE

EXECUTIVE SUMMARY: ON WEDNESDAY, JANUARY 28, THE U. S. SENATE PASSED LEGISLATION TO GRANT MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS TEMPORARY FUNDING RELIEF AS PART OF A BROADER BILL DESIGNED TO PROVIDE A TWO YEAR TEMPORARY REPLACEMENT FOR THE 30 YEAR TREASURY BILLS USED BY SINGLE EMPLOYER PLANS IN DETERMINING THEIR FUNDING LIABILITIES. PASSED BY A VOTE OF 86 TO 9, THE BILL ALSO PROVIDED LIMITED RELIEF FOR SINGLE EMPLOYER PLANS IN MAKING DEFICIT REDUCTION CONTRIBUTIONS TO UNDERFUNDED PLANS. BECAUSE OF THE URGENCY IN FINALIZING THE 30 YEAR TREASURY REPLACEMENT FOR CORPORATE PLANS, IT IS LIKELY THAT THIS LEGISLATION WILL MOVE TO A HOUSE – SENATE CONFERENCE IN THE NEXT WEEK OR TWO. BRACED BY WHITE HOUSE AND PBGC OPPOSITION, HOUSE LEADERSHIP HAS INDICATED ITS DESIRE TO PASS THE 30 YEAR REPLACEMENT WITHOUT THE OTHER RELIEF PROVIDED IN THE SENATE BILL. YOUR HELP IS NEEDED TO PERSUADE HOUSE LEADERSHIP TO RECONSIDER ITS POSITION AND PASS MULTIEMPLOYER RELIEF. SEE THE ATTACHED FOR A DETAILED EXPLANATION.

PURPOSE: URGENT GRASS ROOTS ACTION ALERT

CATEGORY: LEGISLATIVE

ISSUER: U.S. SENATE

TARGET AUDIENCE: ALL PENSION, HEALTH AND WELFARE AND OTHER BENEFIT PLAN SETTLORS, FIDUCIARIES AND ADVISORS

ACTION REQUESTED: CONTACT HOUSE LEADERSHIP AND LEADERSHIP OF HOUSE WAYS AND MEANS AND EDUCATION AND THE WORKFORCE COMMITTEES

NCCMP DEADLINE: IMMEDIATE

FORWARD COMMENTS TO: *Multi-Elert@nccmp.org*

REFERENCE: VOLUME 4, ISSUE 1

FOR ADDITIONAL BACKGROUND SEE: ATTACHED

VICTORY IN THE SENATE SETS THE STAGE FOR A SHOWDOWN WITH HOUSE CONFEREES

YOUR HELP CAN MAKE THE DIFFERENCE IN PASSING THIS ESSENTIAL LEGISLATION

Multiemployer Plan Relief Passes the Senate

The exhaustive effort over the past eight months by the coalition of Affiliates, employer associations, individual employers and a variety of other international and local union sponsors of multiemployer plans, spearheaded by the NCCMP, cleared its first major hurdle on Wednesday, January 28, 2004, when the U. S. Senate passed a bill providing for temporary funding relief for multiemployer plans. This legislation was part of a broader pension bill designed to provide a two year replacement for the 30 year Treasury bills used in calculating liabilities for single employer plans. It also provides for temporary, partial relief for single employer plan sponsors in targeted industries from making Deficit Reduction Contributions (DRC). Inasmuch as the Senate action expanded on a bill previously passed by the House of Representatives (H.R. 3108) the measure now moves to a joint House – Senate conference for resolution of the differences between the two bills. This victory would not have been possible without the considerable assistance of the Chairmen and Ranking Members of the Senate Committee on Health, Education, Labor and Pensions and the Finance Committee, and their able staff, who are to be commended for their efforts.

What the Bill Provides

The language of the legislation passed by the Senate (attached) would permit plans to elect to defer for three years the beginning of the 15 year amortization period for recognition of losses that would otherwise have to be recognized in up to two of the four years beginning after June 30, 2002 and before July 1, 2006. The expected net effect of this relief for most plans that anticipate experiencing a technical funding deficiency is to delay the timing of such deficiency for a period of twelve to eighteen months. This will provide additional time for the bargaining parties and plan fiduciaries to take all necessary actions to negotiate additional contributions, modify future accrual rates or a combination of these actions to bring future liabilities and income within required limits.

The legislation has several other provisions which affect all plans and some that only affect plans that elect to take advantage of the relief measures. Specifically, additional disclosure items would be required of all plans that would state the plan's funding status, up to 100%, on a current liability basis, and the plan's solvency, expressed as a multiple of the prior year's benefit payments. Plans that accept relief would be temporarily prevented from making benefit improvements during the deferral period unless the plan were at least 75% funded for current liability, or the improvement is funded from additional contributions. Benefit improvements that flow from negotiated contribution increases would be permitted. Also, plans that elect relief must also notify plan participants and advise them of the PBGC guarantees available to multiemployer plan participants. Finally, an amendment that was originally intended to broadly modify the presumption features governing a plan's ability to collect withdrawal liability was significantly narrowed to limit its applicability to a specific situation.

The Senate agreed to consider multiemployer relief as an amendment to the 30 year Treasury bill replacement legislation as part of a unanimous consent agreement adopted by the Senate as one of the last items of business prior to leaving for the holiday recess. This agreement was reached after the NCCMP and our lobbying coalition steadfastly resisted passage of a single employer only bill without multiemployer relief.

What Lies Ahead?

The House of Representatives had previously passed 30 year Treasury bill replacement legislation without the funding relief provisions and, partly in response to intense lobbying by UPS (see attached), House leadership has indicated that it wants the final bill to be similarly limited. This position has been reinforced by the Administration, which issued a *Statement of Administration Position* (SAP) which said that the White House supports the temporary replacement of the 30 year Treasury bill provisions, but opposes both DRC and Multiemployer funding relief, arguing that any action on the funding provisions should be deferred, pending the development of more comprehensive pension reform legislation. Furthermore, the Pension Benefit Guaranty Corporation Board, comprised of the Secretaries of Labor, Treasury and Commerce, issued a statement that indicated they would recommend to the President that any legislation which substantially threatens the future funding position of single or multiemployer plans be vetoed.

These factors contribute to making the already difficult task of persuading House leadership to approve the modest relief provided to multiemployer plans in the Senate bill, even more difficult. Nevertheless, coalition members continue to press for inclusion of the relief measure when the final legislation is reported out of conference. It is important to keep in mind, however, that the battle over temporary relief is only the precursor to the broader debate over comprehensive reform coming later this year. We can expect that debate to include discussions over permanent benefit restrictions for plans that fail to meet minimum funding levels and another assault on the implementation of withdrawal liability and the rules which govern its imposition.

What Can You Do?

If this legislation is to pass, it will be necessary for the House to carry forward the spirit of bipartisanship shown by the Senate. Make your Congressman aware that this issue is important to you. Tell him or her that failure to pass multiemployer relief can result in serious financial hardship or even bankruptcy for many of the tens of thousands of small businesses who contribute to the more than 1700 multiemployer defined benefit pension plans. Explain that, contrary to the way this provision has been characterized, it is not a “Union Bailout” but is actually a small business relief initiative. It is important to press the importance of this measure upon Republican members and to ask them to register their support with the House leadership. It is especially important to contact House Speaker Dennis Hastert (R 14th Dist., IL), and the following Congressmen who are likely to have a role in the conference, either through their direct participation or through their ability to appoint conferees: Majority Leader Thomas DeLay (R 22nd Dist., TX); Education and the Workforce Committee Chairman John Boehner (R 8th Dist., OH); Employer – Employee Relations Subcommittee Chairman Sam Johnson (R 3rd Dist., TX); Ways and Means Committee Chairman William Thomas (R 22nd Dist., CA); and Majority Whip Roy Blunt (R 7th Dist., MO).

Given the immediacy with which this issue is likely to come to a decision, phone contacts, either at the District Office level or Washington, DC are preferable to letters in getting the message across.