DESCRIPTION OF H.R. 6377, THE “SAVE COMMUNITY NEWSPAPER ACT OF 2018’

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on July 18, 2018

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup on July 18, 2018 of H.R. 6377, the "Save Community Newspaper Act of 2018," which permits a plan sponsor to elect to apply alternative minimum funding standards to a single-employer community newspaper plan meeting certain requirements. This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R.6377, the "Save Community Newspaper Act of 2018"* (JCX-63-18), July 17, 2018. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise stated.

A. Election to Apply Alternative Minimum Funding Standards to Certain Single-Employer Community Newspaper Plans

Present Law

The Internal Revenue Code of 1986 ("Code") and the Employee Retirement Income Security Act of 1974 ("ERISA") apply minimum funding requirements[2] to defined benefit retirement plans maintained by private-sector employers for their employees (referred to as "single-employer" plans), for purposes of which employers that are members of a controlled group are considered a single employer.

Under these rules, a minimum contribution is required for a plan year if the value of the plan's assets is less than the plan's "funding target," that is, the present value, determined actuarially, of all benefits earned as of the beginning of the year. If the value of plan assets is less than the plan's funding target, such that the plan has a funding shortfall, the shortfall is generally required to be funded by contributions, with interest, over seven years, taking into account the remaining installments attributable to shortfalls from preceding years. In addition, if participants earn additional benefits for the year,[3] the required contribution must include the amount of the plan's "target normal cost," that is, the present value, determined actuarially, of benefits expected to be earned for the year. In the case of a plan funded below a certain level, referred to as an "at-risk" plan, specified assumptions must be used in determining the plan's funding target and target normal cost.[4]

[2] Special funding rules may apply to certain categories of single-employer plans. For example, special rules apply to certain plans maintained by commercial airlines, under section 402 of the Pension Protection Act of 2006, as amended.

[3] In some cases, a plan may be "frozen" either as to service and/or compensation. When a plan is frozen with respect to both service and compensation, participants are entitled to previously earned benefits but do not accrue or earn additional benefits.

[4] For an at-risk plan, the specified assumptions generally are as follows: All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the next 10 plan years must be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the "at-risk funding target" and "at-risk normal cost" are being determined. Also, all employees must be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined as above) that would result in the highest present value of benefits. The at-risk funding target is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year using the actuarial assumptions set forth in the Code and regulations for single-employer plans, with the addition of a loading factor which arises when the plan has been in at-risk status for at least two of the four preceding plan years. This loading factor is equal to the sum of (1) $700 multiplied by the number of participants in the plan and (2) four percent of the funding target (determined without regard to the definition of at-risk funding target). The at-risk normal cost for a plan year generally represents the excess of the sum of (1) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year using the at-risk assumptions described above plus (2) the amount of plan related expenses expected to be paid from plan assets during the plan year, over (3) the amount of mandatory employee contributions expected to be made during the plan year. In addition, where the plan has been in at-risk status for at least two of the four preceding plan years, a loading factor is added, which is equal to four percent of the target normal cost (the excess of the sum of (1) the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year plus (2) the amount of plan-related expenses expected to

The minimum funding rules enacted in the Pension Protection Act of 2006 ("PPA") specify the interest rates used to determine a plan's funding target and target normal cost for a year, consisting of three "segment" rates, each of which applies to benefit payments expected to be made from the plan during a certain period.[5] The first segment rate applies to benefits reasonably determined to be payable during the five-year period beginning on the first day of the year; the second segment rate applies to benefits reasonably determined to be payable during the 15-year period following the initial five-year period; and the third segment rate applies to benefits reasonably determined to be payable at the end of the 15-year period. The first, second, and third segment rates are based on the corresponding portion of a corporate bond yield curve with certain adjustments. For June 2018, the first, second, and third segment rates after adjustment are 3.12 percent, 4.20 percent, and 4.60 percent, respectively.

Under the Moving Ahead for Progress in the 21st Century Act and the Highway and Transportation Funding Act of 2014, for plan years beginning after December 31, 2011, a segment rate determined under the PPA rules is adjusted if it falls outside a specified percentage range of the average segment rates for a preceding period. In particular, if a segment rate determined under the PPA rules is less than the applicable minimum percentage in the specified range, the segment rate is adjusted upward to match the minimum percentage. If a segment rate determined under the PPA rules is more than the applicable maximum percentage in the specified range, the segment rate is adjusted downward to match the maximum percentage.

The specified percentage range (that is, the range from the applicable minimum percentage to the applicable maximum percentage of average segment rates), as most recently modified in the Bipartisan Budget Act of 2015,[6] for determining whether a segment rate must be adjusted upward or downward for a plan year is determined by reference to the calendar year in which the plan year begins as follows:

- 90 percent to 110 percent for 2012 through 2020,
- 85 percent to 115 percent for 2021,
- 80 percent to 120 percent for 2022,
- 75 percent to 125 percent for 2023, and

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be aid from plan assets during the plan year, over (3) the amount of mandatory employee contributions expected to be made during the plan year) with respect to the plan for the plan year.

[5] Each segment rate is a single interest rate determined monthly by the Secretary of the Treasury, on the basis of a corporate bond yield curve, taking into account only the portion of the yield curve based on corporate bonds maturing during the particular segment rate period. The corporate bond yield curve used for this purpose reflects the average, for the 24-month period ending with the preceding month, of yields on investment grade corporate bonds with varying maturities and that are in the top three quality levels available. Solely for purposes of determining minimum required contributions, in lieu of the segment rates, an employer may elect to use interest rates on a yield curve based on the yields on investment grade corporate bonds for the month preceding the month in which the plan year begins (that is, without regard to the 24-month averaging described above) ("monthly yield curve"). If an election to use a monthly yield curve is made, it cannot be revoked without IRS approval.

[6] Pub. L. No. 114-74.

- 70 percent to 130 percent for 2024 or later.

The period over which a funding shortfall must be funded affects the amount of the required contribution for a year in that a shorter period results in a higher required contribution for the year and a longer period results in a lower required contribution. Similarly, the interest rates used to determine a plan's funding target and target normal cost affect the amount of required contributions in that lower interest rates result in a higher funding target and target normal cost and, therefore, higher required contributions. Alternatively, higher interest rates result in a lower funding target and target normal cost and, therefore, lower required contributions.

Description of Proposal

Under the proposal, an employer maintaining a "community newspaper plan" (as defined below) under which no participant has had the participant's accrued benefit increased (whether because of service or compensation) after December 31, 2017, may elect to apply certain alternative funding rules to the plan and any other plan sponsored by any member of the employer's controlled group. Therefore, the election is only available to a plan under which all participant benefits are "frozen" after December 31, 2017. An election under the proposal to apply the alternative funding rules is to be made at such time and in such manner as prescribed by the Secretary of the Treasury, and once made with respect to a plan year, applies to all subsequent years unless revoked with the consent of the Secretary of the Treasury.

Under the alternative funding rules, an interest rate of eight percent is used to determine a plan's funding target and target normal cost, rather than the first, second, and third segment rates. However, if new benefits are accrued or earned under a plan for a plan year in which the election is in effect, the present value of such benefits must be determined on the basis of the U.S. Treasury obligation yield curve for the day that is the valuation date of such plan for such plan year. In addition, if the value of plan assets is less than the plan's funding target, such that the plan has a funding shortfall, the shortfall is required to be funded by contributions, with interest, over 30 years, rather than over seven years. The shortfall amortization bases determined[7] for all plan years preceding the first plan year to which the election applies (and all related shortfall amortization installments) are reduced to zero. Further, the assumptions applicable to an "at-risk" plan do not apply.

Under the proposal, a "community newspaper plan" is a plan to which the new provision applies, which is maintained by an employer that, as of December 31, 2017,

- publishes and distributes daily, either electronically or in printed form, one or more community newspapers (as defined below) in a single State,
- is not a company the stock of which is publicly traded on a stock exchange or in an over-the-counter market, and is not controlled, directly or indirectly, by such a company,

[7] Under section 430(c)(3).

- is controlled, directly or indirectly (a) by one or more persons residing primarily in the State in which the community newspaper is published; (b) for at least 30 years by individuals who are members of the same family; (c) by a trust created or organized in the State in which the community newspaper is published, the sole trustees of which are persons described in (a) or (b); (d) by an entity described in section 501(c)(3) and exempt from tax under code section 501(a) that is organized and operated in the State in which the community newspaper is published, and the primary purpose of which is to benefit communities in the State; or (e) by a combination of persons described in (a), (c), or (d), and
- does not control, directly or indirectly, any newspaper in any other State.

A "community newspaper" means a newspaper that primarily serves a metropolitan statistical area, as determined by the Office of Management and Budget, with a population of not less than 100,000. For purposes of the proposal, a person (the "first" person) is treated as controlled by another person if the other person possesses, directly or indirectly, the power to direct or cause the direction and management of the first person (including the power to elect a majority of the members of the board of directors of the first person) through the ownership of voting securities.

The proposal makes the above-described amendments to both the Code and ERISA.[8]

Effective Date

The proposal applies the amendments to plan years in effect on or beginning after the date of enactment.

[8] By adding a new subsection (m) to section 430, and a new subsection (m) to section 303 of ERISA. The basis for calculating underfunding in a plan for purposes of Pension Benefit Guaranty Corporation variable rate premiums is not changed by the proposal.

B. Estimated Revenue Effect of the Proposal

The following presents the estimated Federal fiscal year budget receipts of the proposal:

Fiscal Years [Millions of Dollars]												
Item	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2019-23**	**2019-28**
Permit election to apply alternative minimum funding standards to certain single-employer community newspaper plans [1][2]……………...	1	1	1	1	1	1	2	2	2	1	5	13

[1] Estimate does not include effects on PBGC premiums, which are estimated by the Congressional Budget Office.
[2] Estimate contains negligible off-budget revenue effects.