

November 10, 2005

Federal Update 2005-36

TO: NCTR Members  
FROM: Cindie Moore, Washington Counsel  
RE: House Ways and Means Passes Pension Bill

## Introduction

The House Ways and Means Committee on November 9, approved H.R. 2830, the Pension Protection Act of 2005, as amended, by a vote of 23-17. The bill contains provisions on the funding of private pension plans as well as many items of interest to NCTR members. The bill, which the House Education and the Workforce Committee approved on June 30, now moves to the full House of Representatives for a vote. The bill does not include Social Security reform, in which Committee Chairman Bill Thomas (R-CA) had previously indicated an interest.

## Provisions in Bill

- Makes permanent the pension provisions of the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001 (Permanency Issue): Under current law, the pension (and other provisions) of EGTRRA will sunset after 2010. The bill, if enacted, will make the *pension* provisions of EGTRRA permanent. Such provisions include the portability enhancements supported by NCTR. The enhancements include 1) allowing 403(b) and 457 funds on a pre-tax basis for the purchase of service credit; and 2) allowing the rollover of funds among 403(b)s, 457s, and 401(k)s. This permanency issue is a top NCTR legislative priority. (Section 901)
- Waives the 10% penalty for distributions made to public safety employees in connection with a DROP benefit: DROP stands for deferred retirement option plan. Such plans allow individuals to receive a portion of their retirement benefit as a lump sum. The bill would provide a federal definition of a DROP benefit. This definition is problematic because DROPs have a variety of features and the definition may not cover all of them. S. 1783, the Senate pension bill (see below), would simply waive the penalty for public safety employees participating in DROPs and similar programs who retire between ages 50 and 55. It does not define DROPs. (Section 905)
- Allows tax-free distributions for certain public safety officers for purchases of health or long term care insurance: The provision would

permit public safety officers who retire or become disabled to make tax-free distributions of up to \$5,000 annually from governmental pension plans if the distribution is used to purchase health or long term care insurance. (Section 1003)

Other items of interest in the bill include:

- Making it easier for employers to offer to their employees automatic enrollment in defined contribution plans (while not entirely clear, the provision appears to apply to 401(k)s, but not 457s and 403(b)s) (Section 903);
- Waiving 10% penalty on distributions of IRAs or pension plans for military reservists and national guardsmen who are called to active duty for at least 179 days (affected individuals could repay the IRA or pension plan within two years of the distribution) (Section 904);
- Making permanent the Saver's Credit that provides incentives for lower income workers to participate in retirement plans (Section 902);
- Treating combat pay as earned income for purposes of IRA eligibility (Section 906);
- Allowing taxpayers to deposit a portion of a federal tax refund to an IRA (Section 907); and
- Allowing employees who have flexible spending accounts (FSAs) to carry over \$500 of unused balances each year or transfer the balances into a health savings accounts (HSAs) (Section 1002).

### **Status of Senate Bill**

Senate action on pension legislation this year is an open question. Even though a bill (S. 1783, the Pension Security and Transparency Act) is ready to go before the Senate, Senators Mike DeWine (R-OH) and Barbara Mikulski (D-MD) are raising concerns about the bill's effect on private sector pension plans.

### **Further Resources**

If you'd like to read of summary, click onto:

<http://waysandmeans.house.gov/media/pdf/taxdocs/2830summary.pdf>

If you'd like to review the bill text, go to:

<http://waysandmeans.house.gov/media/pdf/taxdocs/2830chrnsmrk.pdf>