

Negotiators Reach Tentative Agreement on Some Pension Issues

July 24 (Bloomberg) -- Congressional negotiators reached a tentative agreement on portions of a measure overhauling the private U.S. pensions system, and a final deal may come as early as today, House and Senate Republican aides said.

Agreement has been reached on how to define companies that are "at risk" to dump their pensions on the government, a designation that immediately forces them to pump more money into the funds. Negotiators also agreed on rules allowing financial companies to advise employers and employees on investing their 401(k)s and Individual Retirement Accounts and on clarifying how companies can convert defined-benefit pension plans into more mobile 401(k)-type plans, the aides said.

General Motors Corp., based in Detroit, won a victory when a Senate provision that had classified companies with below-investment-grade credit ratings as "at risk," was removed from the measure. GM's bonds were cut to junk in May 2005.

"We are finalizing work on the most sweeping pension reforms in more than a generation," House Majority Leader John Boehner said in a statement today. "There is no doubt that these reforms will be far stronger than current law" by revising outdated rules and strengthening funding requirements "to ensure employers meet their commitment to their workers," Boehner said.

The measure seeks to toughen the funding rules for the 29,651 companies that offer 34.6 million U.S. workers defined benefit pension plans, which pay lifetime retirement annuities to employees. Companies underfunded their plans last year by \$450 billion, according to the U.S. Labor Department.

Airline Pensions

Several issues, including how to deal with airline pension underfunding, are still unresolved, and items in the agreement may be changed before the measure is submitted to the House and Senate for a vote, aides said.

Lawmakers have been working for more than four months to iron out differences between the House and Senate versions of the legislation, passed last year. They are scheduled to meet again this evening to resolve at least two outstanding issues, and a vote is expected in the House by the end of the week.

The proposed agreement provides a double test for determining which companies are most likely to fall short of their pension obligations and therefore must pay more into their funds. A company would have to fail both tests to be designated "at risk."

The first test is if a company plan is funded at less than 70 percent of its liabilities in a worst-case scenario in which every employee retires early at maximum benefits. The second is if a plan is funded at less than 80 percent of liabilities using standard retirement calculations.

A company that failed both tests would have to reach the 70 percent and 80 percent levels in one year, using the worst-case scenario to calculate the payments. The 80 percent test would be phased in over three years, starting at 65 percent in 2008.

Investment Advice

The legislation is needed to make sure pensions are fully funded and not "dumped on the taxpayer," Senator Charles Grassley, an Iowa Republican the chairman of the Senate Finance Committee, said last week.

President George W. Bush has threatened to veto any legislation that weakens current funding standards. Grassley predicted last week that Bush would sign the measure.

Also in the tentative agreement is a House provision that would allow companies such as New York-based Goldman Sachs Group Inc. and Boston-based Fidelity Investments to directly advise employers and employees about 401(k) and IRA retirement accounts that they manage, Senate and House aides said. Lawmakers argued over whether this advice would be unbiased. They have tentatively agreed it will be, as long as the advisors use a computer model that automatically calculates the best plans for employees based on their age and income.

Another provision would provide legal incentives for companies to automatically enroll employees in 401(k) plans. That change alone may bring as much as \$1.8 trillion in new retirement savings.

Legal Assurance

Still undecided is the fate of the airlines. Atlanta-based Delta Air Lines Inc. and Egan, Minnesota-based Northwest Airlines Corp., both in bankruptcy, have said they will be forced to dump their plans on the Pension Benefit Guaranty Corp., the quasi-governmental agency that insures defined benefit plans, unless they are given extra time to make up overdue payments. A Senate provision would give Delta and Northwest as well as Fort Worth, Texas-based American Airlines Inc. and Houston-based Continental Airlines Inc. 20 years to make up payments.

The tentative compromise will also provide some legal assurance for the more than 1,800 companies that have switched to hybrid defined-benefit plans, which combine the federally backed traditional plans with a more portable 401(k)-type plan. Several companies that made the switch, such as Armonk, New York-based International Business Machines Corp. and Charlotte, North Carolina-based Bank of America Corp., were sued by plan participants. In at least one case the courts ruled that the plans discriminate against older workers.

Hybrid Plans

While the proposed legislation doesn't go as far as some companies would have liked by providing a retroactive liability shield for companies that have already been sued, it does clarify the law so that companies can offer the hybrid plans in the future without fear of lawsuits.

As negotiators work to pass legislation before the House breaks for summer recess at the end of the week, a last-minute addition might kill the whole measure. Senate Majority Leader Bill Frist, a Tennessee Republican, has been looking to attach a provision that would partially or fully repeal the federal estate tax. Democrats oppose such a move and say it may bring down the pension legislation, which passed the Senate 97-2.

Grassley said he opposed adding the estate tax to the measure for fear of harming its chances of passage.