

105TH CONGRESS
1ST SESSION

S. 1501

To amend the Employee Retirement Income Security Act of 1974 to improve protection for workers in multiemployer pension plans.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 1997

Mr. JEFFORDS introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the Employee Retirement Income Security Act of 1974 to improve protection for workers in multiemployer pension plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Workers’ Pension Pro-
5 tection Act”.

TITLE I—MINIMUM GUARANTEED BENEFITS

SEC. 101. MULTIEMPLOYER PLAN BENEFITS GUARANTEE.

(a) IN GENERAL.—Section 4022A(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322A(c)) is amended—

(1) by striking “\$5” each place it appears in paragraph (1) and inserting “\$11”,

(2) by striking “\$15” in paragraph (1) and inserting “\$33”, and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—Section 4244(e)(4) of such Act (29 U.S.C. 1424(e)(4)) is amended by striking “and without regard to section 4022A(c)(2)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable after the date of the enactment of this Act, except that such amendments shall not apply to any multiemployer plan that has received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

1 **TITLE II—TREATMENT OF ASSET**
 2 **DEFICIENT MULTIEMPLOYER**
 3 **PENSION PLANS**

4 **SEC. 201. FUNDING REQUIREMENTS FOR ASSET DEFICIENT**
 5 **MULTIEMPLOYER PLANS.**

6 (a) IN GENERAL.—Part 3 of subtitle B of title I of
 7 the Employee Retirement Income Security Act of 1974
 8 (29 U.S.C. 301 et seq.) is amended by redesignating sec-
 9 tion 308 as section 309 and by adding after section 307
 10 the following:

11 **“SEC. 308. RESTRICTIONS ON ASSET DEFICIENT MULTIEM-**
 12 **PLOYER PLANS.**

13 “(a) LIMITATION ON BENEFIT INCREASES FOR
 14 ASSET DEFICIENT PLANS.—The trustees of a multiem-
 15 ployer plan shall not increase benefits for a plan year if
 16 the plan is an asset deficient plan (as defined in subsection
 17 (e)(5)) on the last day of the plan year immediately pre-
 18 ceding the plan year in which the increase in benefits
 19 would take effect.

20 “(b) LIMITATION ON AMOUNT OF BENEFIT IN-
 21 CREASE FOR OTHER MULTIEMPLOYER PLANS.—The
 22 trustees of a multiemployer plan to which subsection (a)
 23 does not apply shall not increase benefits for a plan year
 24 to the extent the increase in benefits would result in a
 25 funded current liability percentage of less than 90 percent

1 for the plan year in which the benefit increase takes effect
 2 (determined by taking into account the amount of the un-
 3 funded current liability under the plan attributable to the
 4 benefit increase).

5 “(c) TREATMENT OF INTEREST RATES.—

6 “(1) IN GENERAL.—The rate of interest used to
 7 determine current liabilities of a multiemployer plan
 8 for purposes of this section shall be the rate of inter-
 9 est used under section 302(b)(5)(B), except that the
 10 highest rate in the permissible range under clause
 11 (ii) thereof shall not exceed the specified percentage
 12 under paragraph (2) of the weighted average re-
 13 ferred to in such clause.

14 “(2) SPECIFIED PERCENTAGE.—For purposes
 15 of paragraph (1), the specified percentage shall be
 16 determined as follows:

“In the case of plan years beginning in calendar year:	The specified percentage is:
1999	109
2000	108
2001	107
2002	106
2003	105.

17 “(d) TREATMENT OF MORTALITY TABLES.—

18 “(1) STANDARD TABLE.—In the case of plan
 19 years beginning before the first plan year to which
 20 the first tables prescribed under paragraph (2)
 21 apply, the mortality table used in determining cur-
 22 rent liability of a multiemployer plan for purposes of

1 this subsection shall be the table prescribed by the
 2 Secretary of Labor which must be based on the pre-
 3 vailing standard table (described in section 807 of
 4 the Internal Revenue Code of 1986) used by the
 5 Commissioner of Internal Revenue to determine re-
 6 serves for group annuity contracts issued on Janu-
 7 ary 1, 1993.

8 “(2) SECRETARIAL AUTHORITY.—The Secretary
 9 of Labor shall by regulation prescribe mortality ta-
 10 bles to be used in determining current liability under
 11 this subsection for plan years beginning after De-
 12 cember 31, 2000. Such tables shall be identical to
 13 those prescribed by the Secretary of the Treasury
 14 under section 412(l)(7)(C)(ii)(II) of the Internal
 15 Revenue Code of 1986.

16 “(e) DEFINITIONS.—For purposes of this section—

17 “(1) BENEFITS.—The term ‘benefits’ means all
 18 benefits to participants and their beneficiaries under
 19 a multiemployer plan.

20 “(2) CURRENT LIABILITY.—The term ‘current
 21 liability’ means all liabilities to participants and
 22 their beneficiaries under a multiemployer plan.

23 “(3) UNFUNDED CURRENT LIABILITY.—The
 24 term ‘unfunded current liability’ means, with respect
 25 to any plan year, the excess (if any) of—

1 “(A) the current liability under a multiem-
 2 ployer plan, over

3 “(B) the value of the assets of the plan de-
 4 termined under section 302(c)(2), reduced by
 5 any credit balance in the funding standard ac-
 6 count.

7 The Secretary of Labor may provide for such reduc-
 8 tion for purposes of any other provision which ref-
 9 erences this paragraph.

10 “(4) FUNDED CURRENT LIABILITY PERCENT-
 11 AGE.—The term ‘funded current liability percentage’
 12 means, with respect to any plan year, the percentage
 13 which—

14 “(A) the amount determined under para-
 15 graph (3)(B), is of

16 “(B) the current liability under the multi-
 17 employer plan.

18 “(5) ASSET DEFICIENT PLAN.—The term ‘asset
 19 deficient plan’ means, with respect to any plan year,
 20 a multiemployer plan with a funded current liability
 21 percentage of 95 percent or less.”

22 (b) CONFORMING AMENDMENT.—The table of sec-
 23 tions for part 3 of subtitle B of title I of the Employee
 24 Retirement Income Security Act of 1974 is amended by
 25 striking the item relating to section 308 and inserting the

1 following:

“Sec. 308. Restrictions on asset deficient multiemployer plans.
“Sec. 309. Effective dates.”

2 **SEC. 202. EXCEPTION TO RULE PROHIBITING DECREASE OF**
3 **ACCRUED BENEFITS.**

4 Section 204(g)(1) of the Employee Retirement In-
5 come Security Act of 1974 (29 U.S.C. 1054(g)(1)) is
6 amended by inserting “or an amendment which reduces
7 an increase in accrued benefits resulting from an increase
8 in benefits prohibited by section 308 (a) or (b)” after
9 “4281”.

10 **SEC. 203. NOTICE TO PARTICIPANTS AND OTHERS OF MUL-**
11 **TIEMPLOYER PLAN FUNDING STATUS.**

12 Section 105 of the Employee Retirement Income Se-
13 curity Act of 1974 (29 U.S.C. 1025) is amended by adding
14 at the end the following:

15 “(e) Not later than 180 days after the close of each
16 plan year, the trustees of a multiemployer plan shall pro-
17 vide to plan participants, beneficiaries, and employers con-
18 tributing to the plan—

19 “(1) notice of the plan’s funded current liability
20 percentage on the last day of the preceding plan
21 year, and

22 “(2) notice of the limits on the Pension Benefit
23 Guaranty Corporation’s guarantee should the plan
24 become insolvent.

1 Such notice shall be written in a manner so as to be under-
 2 stood by the average plan participant.”

3 **SEC. 204. EFFECTIVE DATE.**

4 The amendments made by this title shall apply to
 5 plan years beginning after December 31, 1998.

6 **TITLE III—ACTUARIAL**
 7 **ASSUMPTIONS**

8 **SEC. 301. INTEREST RATE AND MORTALITY ASSUMPTIONS**
 9 **USED IN DETERMINING WITHDRAWAL LI-**
 10 **ABILITY.**

11 (a) IN GENERAL.—Section 4213(b) of the Employee
 12 Retirement Income Security Act of 1974 (29 U.S.C.
 13 1393(b)) is amended by redesignating paragraphs (1) and
 14 (2) as subparagraphs (A) and (B), respectively, by insert-
 15 ing “(1)” before “In determining”, and by adding at the
 16 end the following new paragraph:

17 “(2) Effective for plan years beginning after
 18 December 31, 1998—

19 “(A) INTEREST RATE.—The rate of inter-
 20 est used to determine an employer’s withdrawal
 21 liability under this part shall be the rate of in-
 22 terest determined under section 308(c).

23 “(B) MORTALITY TABLES.—The mortality
 24 table used in determining an employer’s with-
 25 drawal liability under this part shall be the

1 mortality table determined under section 308(d)
 2 for determining current liability.”

3 (b) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to plan years beginning after De-
 5 cember 31, 1998.

6 **TITLE IV—ADMINISTRATION** 7 **AND ENFORCEMENT**

8 **SEC. 401. ADMINISTRATION AND ENFORCEMENT** 9 **REQUIREMENTS.**

10 Section 502(a) of the Employee Retirement Income
 11 Security Act of 1974 (29 U.S.C. 1132(a)) is amended by
 12 striking “or” at the end of paragraph (8), by striking the
 13 period at the end of paragraph (9) and inserting “, or”,
 14 and by adding at the end the following:

15 “(10) by an employer which contributes to a
 16 multiemployer plan—

17 “(A) to enjoin any act or practice which
 18 violates any provision of section 308, 204(g)(1),
 19 or 105(e), or

20 “(B) to obtain other appropriate equitable
 21 relief—

22 “(i) to redress such violations of such
 23 sections, or

24 “(ii) to enforce any provision of such
 25 sections.”

1 **SEC. 402. ATTORNEY'S FEES AND COSTS.**

2 Section 502(g) of the Employee Retirement Income
3 Security Act of 1974 (29 U.S.C. 1132(g)) is amended by
4 adding at the end the following:

5 “(3) In any action under subsection (a)(10) by
6 an employer, the court in its discretion may allow a
7 reasonable attorney’s fee and costs of action to ei-
8 ther party.”

9 **SEC. 403. CIVIL ACTIONS BY CORPORATION.**

10 Section 4003(e)(1) of the Employee Retirement In-
11 come Security Act of 1974 (29 U.S.C. 1303(e)(1)) is
12 amended by striking “and” before subparagraph (B) and
13 by adding before the period at the end the following: “,
14 and (C) in the case of a multiemployer plan, sections 308,
15 204(g)(1), 105(e), and 4213(b)(2).”

16 **SEC. 404. EFFECTIVE DATE.**

17 The amendments made by this title shall apply to ac-
18 tions relating to acts or practices involving plan years be-
19 ginning after December 31, 1998.

1 **TITLE V—INCREASE IN MULTI-**
 2 **EMPLOYER PLAN INSURANCE**
 3 **PREMIUMS**

4 **SEC. 501. INCREASE IN MULTIEMPLOYER PLAN INSURANCE**
 5 **PREMIUMS.**

6 (a) IN GENERAL.—Section 4006(a)(3)(A) of the Em-
 7 ployee Retirement Income Security Act of 1974 (29
 8 U.S.C. 1306(a)(3)(A)) is amended—

9 (1) in clause (iii)—

10 (A) by inserting “and before January 1,
 11 1999,” before “an amount”, and

12 (B) by striking the period at the end of
 13 subclause (IV) and inserting “, and”, and

14 (2) by adding at the end the following:

15 “(iv) in the case of a multiemployer
 16 plan, for plan years beginning after De-
 17 cember 31, 1998, an amount equal to—

18 “(I) \$3.50 for each participant
 19 for plan years beginning in 1999,

20 “(II) \$4.35 for each participant
 21 for plan years beginning in 2000, and

22 “(III) \$5.20 for each participant
 23 for plan years beginning after Decem-
 24 ber 31, 2000.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 1998.

○