

106TH CONGRESS
1ST SESSION

H. R. 1176

To amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1999

Mr. WELLER (for himself, Mr. BENTSEN, and Mr. NEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

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 “Pension Right to Know
5 Act”.

1 **SEC. 2. NOTICE REQUIREMENTS FOR LARGE PENSION**
2 **PLANS SIGNIFICANTLY REDUCING FUTURE**
3 **PENSION BENEFIT ACCRUALS.**

4 (a) PLAN REQUIREMENT.—Section 401(a) of the In-
5 ternal Revenue Code of 1986 (relating to qualified pen-
6 sion, profit-sharing, and stock bonus plans) is amended
7 by inserting after paragraph (34) the following new para-
8 graph:

9 “(35) NOTICE REQUIREMENTS FOR LARGE DE-
10 FINED BENEFIT PLANS SIGNIFICANTLY REDUCING
11 FUTURE BENEFIT ACCRUALS.—

12 “(A) IN GENERAL.—If a large defined ben-
13 efit plan adopts an amendment which has the
14 effect of significantly reducing the rate of fu-
15 ture benefit accrual of 1 or more participants,
16 a trust which is part of such plan shall not con-
17 stitute a qualified trust under this section un-
18 less, after adoption of such amendment and not
19 less than 15 days before its effective date, the
20 plan administrator provides—

21 “(i) a written statement of benefit
22 change described in subparagraph (B) to
23 each applicable individual, and

24 “(ii) a written notice setting forth the
25 plan amendment and its effective date to

1 each employee organization representing
2 participants in the plan.

3 Any such notice may be provided to a person
4 designated, in writing, by the person to which
5 it would otherwise be provided. The plan ad-
6 ministrator shall not be treated as failing to
7 meet the requirements of this subparagraph
8 merely because the statement or notice is pro-
9 vided before the adoption of the plan amend-
10 ment if no material modification of the amend-
11 ment occurs before the amendment is adopted.

12 “(B) STATEMENT OF BENEFIT CHANGE.—
13 A statement of benefit change described in this
14 subparagraph shall—

15 “(i) be written in a manner calculated
16 to be understood by the average plan par-
17 ticipant, and

18 “(ii) include the information described
19 in subparagraph (C).

20 “(C) INFORMATION CONTAINED IN STATE-
21 MENT OF BENEFIT CHANGE.—The information
22 described in this subparagraph includes the fol-
23 lowing:

24 “(i) Notice setting forth the plan
25 amendment and its effective date.

1 “(ii) A comparison of the following
2 amounts under the plan with respect to an
3 applicable individual, determined both with
4 and without regard to the plan amend-
5 ment:

6 “(I) The accrued benefit and the
7 present value of the accrued benefit as
8 of the effective date.

9 “(II) The projected accrued ben-
10 efit and the projected present value of
11 the accrued benefit as of the date
12 which is 3 years, 5 years, and 10
13 years from the effective date and as of
14 the normal retirement age.

15 “(iii) A table of all annuity factors
16 used to calculate benefits under the plan,
17 presented in the form provided in section
18 72 and the regulations thereunder.

19 Benefits described in clause (ii) shall be stated
20 separately and shall be calculated by using the
21 applicable mortality table and the applicable in-
22 terest rate under section 417(e)(3)(A).

23 “(D) LARGE DEFINED BENEFIT PLAN; AP-
24 PPLICABLE INDIVIDUAL.—For purposes of this
25 paragraph—

1 “(i) LARGE DEFINED BENEFIT
2 PLAN.—The term ‘large defined benefit
3 plan’ means any defined benefit plan which
4 had 1,000 or more participants who had
5 accrued a benefit under the plan (whether
6 or not vested) as of the last day of the
7 plan year preceding the plan year in which
8 the plan amendment becomes effective.

9 “(ii) APPLICABLE INDIVIDUAL.—The
10 term ‘applicable individual’ means—

11 “(I) each participant in the plan,
12 and

13 “(II) each beneficiary who is an
14 alternate payee (within the meaning
15 of section 414(p)(8)) under an appli-
16 cable qualified domestic relations
17 order (within the meaning of section
18 414(p)(1)(A)).

19 “(E) ACCRUED BENEFIT; PROJECTED RE-
20 TIREMENT BENEFIT.—For purposes of this
21 paragraph—

22 “(i) PRESENT VALUE OF ACCRUED
23 BENEFIT.—The present value of an ac-
24 crued benefit of any applicable individual
25 shall be calculated as if the accrued benefit

1 were in the form of a single life annuity
2 commencing at the participant's normal re-
3 tirement age (and by taking into account
4 any early retirement subsidy).

5 “(ii) PROJECTED ACCRUED BEN-
6 EFIT.—

7 “(I) IN GENERAL.—The pro-
8 jected accrued benefit of any applica-
9 ble individual shall be calculated as if
10 the benefit were payable in the form
11 of a single life annuity commencing at
12 the participant's normal retirement
13 age (and by taking into account any
14 early retirement subsidy).

15 “(II) COMPENSATION AND
16 OTHER ASSUMPTIONS.—Such benefit
17 shall be calculated by assuming that
18 compensation and all other benefit
19 factors would increase for each plan
20 year beginning after the effective date
21 of the plan amendment at a rate equal
22 to the median average of the CPI in-
23 crease percentage (as defined in sec-
24 tion 215(i) of the Social Security Act)
25 for the 5 calendar years immediately

preceding the calendar year before the
calendar year in which such effective
date occurs.

“(III) BENEFIT FACTORS.—For
purposes of subclause (II), the term
‘benefit factors’ means social security
benefits and all other relevant factors
under section 411(b)(1)(A) used to
compute benefits under the plan
which had increased from the 2d plan
year preceding the plan year in which
the effective date of the plan amend-
ment occurs to the 1st such preceding
plan year.

“(iii) NORMAL RETIREMENT AGE.—
The term ‘normal retirement age’ means
the later of—

“(I) the date determined under
section 411(a)(8), or

“(II) the date a plan participant
attains age 62.”

(b) AMENDMENTS TO ERISA.—

(1) BENEFIT STATEMENT REQUIREMENT.—Sec-
tion 204(h) of the Employee Retirement Income Se-

1 security Act of 1974 (29 U.S.C. 1054(h)) is amended
2 by adding at the end the following new paragraphs:

3 “(3)(A) If paragraph (1) applies to the adop-
4 tion of a plan amendment by a large defined benefit
5 plan, the plan administrator shall, after adoption of
6 such amendment and not less than 15 days before
7 its effective date, provide with the notice under para-
8 graph (1) a written statement of benefit change de-
9 scribed in subparagraph (B) to each applicable indi-
10 vidual.

11 “(B) A statement of benefit change described in
12 this subparagraph shall—

13 “(i) be written in a manner calculated to
14 be understood by the average plan participant,
15 and

16 “(ii) include the information described in
17 subparagraph (C).

18 “(C) The information described in this subpara-
19 graph includes the following:

20 “(i) A comparison of the following amounts
21 under the plan with respect to an applicable in-
22 dividual, determined both with and without re-
23 gard to the plan amendment:

1 “(I) The accrued benefit and the
2 present value of the accrued benefit as of
3 the effective date.

4 “(II) The projected accrued benefit
5 and the projected present value of the ac-
6 crued benefit as of the date which is 3
7 years, 5 years, and 10 years from the ef-
8 fective date and as of the normal retire-
9 ment age.

10 “(ii) A table of all annuity factors used to
11 calculate benefits under the plan, presented in
12 the form provided in section 72 of the Internal
13 Revenue Code of 1986 and the regulations
14 thereunder.

15 Benefits described in clause (i) shall be stated sepa-
16 rately and shall be calculated by using the applicable
17 mortality table and the applicable interest rate
18 under section 417(e)(3)(A) of such Code.

19 “(D) For purposes of this paragraph—

20 “(i) The term ‘large defined benefit plan’
21 means any defined benefit plan which had
22 1,000 or more participants who had accrued a
23 benefit under the plan (whether or not vested)
24 as of the last day of the plan year preceding the

1 plan year in which the plan amendment be-
2 comes effective.

3 “(ii) The term ‘applicable individual’
4 means an individual described in subparagraph
5 (A) or (B) of paragraph (1).

6 “(E) For purposes of this paragraph—

7 “(i) The present value of an accrued ben-
8 efit of any applicable individual shall be cal-
9 culated as if the accrued benefit were in the
10 form of a single life annuity commencing at the
11 participant’s normal retirement age (and by
12 taking into account any early retirement sub-
13 sidy).

14 “(ii)(I) The projected accrued benefit of
15 any applicable individual shall be calculated as
16 if the benefit were payable in the form of a sin-
17 gle life annuity commencing at the participant’s
18 normal retirement age (and by taking into ac-
19 count any early retirement subsidy).

20 “(II) Such benefit shall be calculated by
21 assuming that compensation and all other ben-
22 efit factors would increase for each plan year
23 beginning after the effective date of the plan
24 amendment at a rate equal to the median aver-
25 age of the CPI increase percentage (as defined

1 in section 215(i) of the Social Security Act) for
2 the 5 calendar years immediately preceding the
3 calendar year before the calendar year in which
4 such effective date occurs.

5 “(III) For purposes of subclause (II), the
6 term ‘benefit factors’ means social security ben-
7 efits and all other relevant factors under section
8 204(b)(1)(A) used to compute benefits under
9 the plan which had increased from the 2d plan
10 year preceding the plan year in which the effec-
11 tive date of the plan amendment occurs to the
12 1st such preceding plan year.

13 “(iii) The term ‘normal retirement age’
14 means the later of—

15 “(I) the date determined under sec-
16 tion 3(24), or

17 “(II) the date a plan participant at-
18 tains age 62.

19 “(4) A plan administrator shall not be treated
20 as failing to meet the requirements of this sub-
21 section merely because the notice or statement is
22 provided before the adoption of the plan amendment
23 if no material modification of the amendment occurs
24 before the amendment is adopted.”

1 (2) CONFORMING AMENDMENT.—Section
2 204(h)(1) of such Act (29 U.S.C. 1054(h)(1)) is
3 amended by inserting “(including any written state-
4 ment of benefit change if required by paragraph
5 (3))” after “written notice”.

6 (c) EFFECTIVE DATES.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall apply to plan amendments taking
9 effect in plan years beginning on or after the earlier
10 of—

11 (A) the later of—

12 (i) January 1, 1999, or

13 (ii) the date on which the last of the
14 collective bargaining agreements pursuant
15 to which the plan is maintained terminates
16 (determined without regard to any exten-
17 sion thereof after the date of the enact-
18 ment of this Act), or

19 (B) January 1, 2001.

20 (2) EXCEPTION WHERE NOTICE GIVEN.—The
21 amendments made by this section shall not apply to
22 any plan amendment for which written notice was
23 given to participants or their representatives before
24 March 17, 1999, without regard to whether the
25 amendment was adopted before such date.

1 (3) SPECIAL RULE.—The period for providing
2 any notice required by, or any notice the contents of
3 which are changed by, the amendments made by this
4 Act shall not end before the date which is 6 months
5 after the date of the enactment of this Act.

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