



AMERICAN ACADEMY *of* ACTUARIES

July 27, 2005

The Honorable John A. Boehner
Chairman, Committee on Education and the
Workforce
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

The Honorable William M. Thomas
Chairman, Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Re: H.R. 2830, the Pension Protection Act of 2005

Dear Congressmen:

On behalf of the American Academy of Actuaries'¹ Pension Practice Council, I am writing this letter to alert you of our concern regarding a technical correction that is needed in H.R. 2830, the Pension Protection Act of 2005.

The provision that presents this concern is related to the quarterly contribution requirement for the first quarter of 2006. Under current law, a quarterly contribution must be at least one quarter of the lesser of 90 percent of the current year's minimum contribution or 100 percent of the prior year's contribution.

In practice, utilizing 90 percent of the current year's minimum in determining the first quarter contribution is difficult because the necessary information is typically not yet available. For that information to be available, the complete actuarial valuation must be concluded by the contribution due date. Given complex data gathering issues, it is impractical to do this, which was a reason for the 100 percent of the prior year "look-back" alternative.

Under H.R. 2830, as introduced, employers would not have the option of a look-back alternative for 2006 quarterlies. Even if the overall funding rules were not changing, the absence of this alternative would be detrimental. However, when considering the time and effort needed to understand the new rules and then accurately reflect them in computer systems, the net result is that plan sponsors will not be able to determine the first 2006 quarterly contribution in a timely manner.

We do not believe the loss of this look-back alternative was the intent of this legislation, and we urge you to modify the language to avoid this technical "glitch." One simple modification is to reinstate the rule in 2006 that allows a company to base the 2006 quarterlies on the 2005 annual contribution.

Such a modification could be made by appending an item III to sections 102 and 112 under ERISA Sec. 303(i)(3)(D)(ii) and new Internal Revenue Code Sec. 430(i)(3)(D)(ii), respectively, which states:

¹ The American Academy of Actuaries is the public policy organization for actuaries of all specialties within the United States. In addition to setting qualification standards and standards of actuarial practice, a major purpose of the Academy is to act as the public information organization for the profession. The Academy is nonpartisan and assists the public policy process through the presentation of clear actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal and state elected officials, regulators and congressional staff, comments on proposed federal and state regulations and legislation, and works closely with state officials on issues related to insurance. The Academy also develops and upholds actuarial standards of conduct, qualifications and practice, and the Code of Professional Conduct for all actuaries practicing in the United States.

“(III) in the case of a plan year beginning in 2006, 100% of the minimum required contribution (without regard to any waiver under section 412(c)) to the plan for the preceding plan year, as calculated under the rules in effect during that preceding plan year.”

The exception disallowing the use of the look-back for prior plan years less than 12 months should be extended to apply to both items II and III.

We appreciate your attention to this matter. Please contact Heather Jerbi, the Academy's senior pension analyst (202.785.7869; Jerbi@actuary.org), if you have any questions or would like to discuss this issue further.

Sincerely,

Kenneth A. Kent, MAAA, EA, FCA, FSA
Chairperson, Pension Practice Council
American Academy of Actuaries

Cc: The Honorable Charles B. Rangel, Ranking Member, House Committee on Ways and Means
The Honorable George Miller, Ranking Member, House Committee on Education and the Workforce