



AMERICAN ACADEMY *of* ACTUARIES

November 8, 1999
The Honorable Edward M. Kennedy
United States Senate
Washington, DC 20510

RE: S.1600, “Older Workers Pension Protection Act of 1999”

Dear Senator Kennedy:

The American Academy of Actuaries, the nonpartisan public policy organization for actuaries, would like to express our concern for a pension provision included in the minimum wage/tax relief amendment that you are expected to offer to the Bankruptcy Reform Act (S. 625). This provision is based on S.1600, the “Older Workers Pension Protection Act of 1999.”

As you know, there has been considerable controversy recently over some employers’ conversions from a traditional pension plan to a cash balance pension plan. One aspect of the controversy is a phenomenon called “wear-away” or “pension plateau,” whereby some employees may not accrue additional pension benefits for a period of time (sometimes years). S.1600 is designed to prevent the wear-away of an employee’s accrued pension benefit. However, the Academy believes that S.1600 would produce unintended consequences that would greatly discourage employers from maintaining or adopting traditional defined benefit pension plans, which have many advantages to employees.

The concept of wear-away has existed and has been applied for twenty years to a variety of situations that are not related to cash balance conversions. For example, wear-away is often used for administrative simplicity (not benefit reductions) in mergers and acquisitions situations. In these cases, employers find it extremely important to be able to consolidate their pension plans so as to avoid multiple layers of administrative complexity. S. 1600 would prevent this simplification.

Moreover, the concept of wear-away has been sanctioned by the Internal Revenue Service and is a core component for the proper functioning of many pension-related regulations. In making changes to pension law, wear-away has often been used by Congress in connection with the transition between different statutory requirements. The issue of wear-away was carefully considered by Congress in connection with major pension amendments in the mid-1980s made by the Retirement Equity Act and the Tax Reform Act of 1986. Before moving forward on such a fundamental change in pension law that would affect the design of many plans, the Academy believes that a more thorough study of this issue would be prudent. Otherwise, the Academy is concerned that these unintended consequences will hurt rather than help employees, even in the context of a cash balance conversion.

The Academy believes legislation can be drafted that would minimize the inappropriate application of wear-away, protect employees' benefit accruals and avoid unduly burdening employers to the point that they stop offering defined benefit plans. We would be pleased to work with you and your staff in the coming months to expeditiously resolve these issues. If you or your staff would like to discuss this issue further, I can be reached at (505-888-7000) or you may contact David Rivera, Assistant Director of Public Policy, at the Academy offices (202 785-7869).

Sincerely,

James E. Turpin, MAAA, FCA, MSPA
Vice President
Pension

Cc: United States Senate

