

Client Bulletin

House Education and Labor Committee approve the 401(k) Fair Disclosure and Pension Security Act of 2009

By a vote of 29-to-17, lawmakers on the House Education and Labor Committee approved the 401(k) Fair Disclosure and Pension Security Bill (HR 2989) on June 24, 2009. The legislation would require improved disclosure of fees and other financial information to 401(k) and other defined contribution plan participants, and also provide a level of funding relief for defined benefit pension plans.

The legislation requires retirement plan providers to give participants a quarterly statement that includes a dollar figure representing all fees taken from their 401(k) plan along with contributions, earnings, and account balances. Service providers and plan administrators would be required to clearly disclose all fees that are being charged against a participant's account in one of four fee categories: administrative fees, investment management fees, transaction fees and other fees. The measure also requires service providers to disclose any financial relationships so that employers who sponsor defined contribution retirement plans can make sure there are no conflicts of interest. The legislation also includes a provision that would effectively require defined contribution plans to include at least one market index fund as an investment option.

The bill would also delay the effective date of certain defined benefit plan regulations mandated under the Pension Protection Act of 2006 law that toughened funding requirements. Under current law, the rules could be effective as soon as July 1, 2009, but the amendments added to the bill would delay the effective date until Jan. 1, 2010, at the earliest. Employers would have more flexibility in choosing an interest rate methodology to value pension plan liabilities in 2009 and 2010, and could be required to report plan actuarial and financial information to the Pension Benefit Guaranty Corporation. Under current law, only plans that are less than 80% funded have to report this information to the PBGC. Under this new legislation reporting is required if the funding target attainment percentage is less than 80% or if the aggregate unfunded vested benefits exceed \$50 million.

The committee felt that "since large plans that are more than 80% funded can still be underfunded by hundreds of millions of dollars, the PBGC is not getting information on many underfunded plans."