

112TH CONGRESS
1ST SESSION

H. R. 2656

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to make technical modifications relating to the Worker, Retiree, and Employer Recovery Act of 2008 and the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2011

Mr. KIND (for himself, Mr. PETRI, and Mr. MCDERMOTT) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, 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 and the Employee Retirement Income Security Act of 1974 to make technical modifications relating to the Worker, Retiree, and Employer Recovery Act of 2008 and the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Pension Technical
3 Modifications Act”.

4 **SEC. 2. ELECTIVE EXCLUSION OF PLAN INVESTMENT EX-**
5 **PENSES IN DETERMINING TARGET NORMAL**
6 **COST.**

7 (a) AMENDMENT TO ERISA.—Section
8 303(b)(1)(A)(ii) of the Employee Retirement Income Se-
9 curity Act of 1974 (29 U.S.C. 1083(b)(1)(A)(ii)) is
10 amended by inserting “(excluding, to the extent elected
11 by the plan sponsor, plan investment expenses)” after
12 “plan year”.

13 (b) AMENDMENT TO 1986 CODE.—Clause (ii) of sec-
14 tion 430(b)(1)(A) of the Internal Revenue Code of 1986
15 is amended by inserting “(excluding, to the extent elected
16 by the plan sponsor, plan investment expenses)” after
17 “plan year”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 subsections (a) and (b) shall take effect as if in-
21 cluded in sections 102 and 112, respectively, of the
22 Pension Protection Act of 2006.

23 (2) SPECIAL RULE FOR CLOSED PLAN YEARS.—

24 In the case of a plan year ending before the date of
25 the enactment of this Act, any election pursuant to
26 the amendments made by this section with respect

1 to such plan year must be made not later than 180
2 days after such date.

3 **SEC. 3. DEFINITION OF ELIGIBLE PLAN YEAR.**

4 (a) AMENDMENT TO ERISA.—Clause (v) of section
5 303(c)(2)(D) of the Employee Retirement Income Secu-
6 rity Act of 1974 (29 U.S.C. 1083(c)(2)(D)), as added by
7 section 201(a)(1) of the Preservation of Access to Care
8 for Medicare Beneficiaries and Pension Relief Act of 2010,
9 is amended—

10 (1) by striking “on or after the date of the en-
11 actment of this subparagraph” and inserting “on or
12 after June 25, 2010 (March 10, 2010, in the case
13 of an eligible plan)”, and

14 (2) by adding at the end the following new sen-
15 tence: “For purposes of the preceding sentence, a
16 plan shall be treated as an eligible plan only if, as
17 of the date of the election with respect to the plan
18 under clause (i)—

19 “(A) the plan sponsor is not a debtor in a
20 case under title 11, United States Code, or
21 similar Federal or State law,

22 “(B) there are no unpaid minimum re-
23 quired contributions with respect to the plan for
24 purposes of section 4971 of the Internal Rev-
25 enue Code of 1986 (imposing an excise tax

1 when minimum required contributions are not
2 paid by the due date for the plan year),

3 “(C) there are no outstanding liens in
4 favor of the plan under subsection (k), and

5 “(D) the plan sponsor has not initiated a
6 distress termination of the plan under section
7 4041.”.

8 (b) AMENDMENT TO 1986 CODE.—Clause (v) of sec-
9 tion 430(c)(2)(D) of the Internal Revenue Code of 1986,
10 as added by section 201(b)(1) of the Preservation of Ac-
11 cess to Care for Medicare Beneficiaries and Pension Relief
12 Act of 2010, is amended—

13 (1) by striking “on or after the date of the en-
14 actment of this subparagraph” and inserting “on or
15 after June 25, 2010 (March 10, 2010, in the case
16 of an eligible plan)”, and

17 (2) by adding at the end the following new sen-
18 tence: “For purposes of the preceding sentence, a
19 plan shall be treated as an eligible plan only if, as
20 of the date of the election with respect to the plan
21 under clause (i)—

22 “(A) the plan sponsor is not a debtor in a
23 case under title 11, United States Code, or
24 similar Federal or State law,

1 “(B) there are no unpaid minimum re-
2 quired contributions with respect to the plan for
3 purposes of section 4971 (imposing an excise
4 tax when minimum required contributions are
5 not paid by the due date for the plan year),

6 “(C) there are no outstanding liens in
7 favor of the plan under subsection (k), and

8 “(D) the plan sponsor has not initiated a
9 distress termination of the plan under section
10 4041 of the Employee Retirement Income Secu-
11 rity Act of 1974.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if included in the amend-
14 ments made by the provisions of the Preservation of Ac-
15 cess to Care for Medicare Beneficiaries and Pension Relief
16 Act of 2010 to which the amendments relate.

17 **SEC. 4. ELIGIBLE CHARITY PLANS.**

18 (a) DEFINITION OF ELIGIBLE CHARITY PLANS.—
19 Section 104(d) of the Pension Protection Act of 2006, as
20 added by section 202(b) of the Preservation of Access to
21 Care for Medicare Beneficiaries and Pension Relief Act
22 of 2010, is amended—

23 (1) by inserting “, if the plan sponsor so
24 elects,” after “shall”, and

1 (2) by adding at the end the following: “Any
2 election made under the preceding sentence shall be
3 made at such time and in such form and manner as
4 shall be prescribed by the Secretary of the Treasury
5 and, for elections with respect to plan years begin-
6 ning more than 1 year after the date of the enact-
7 ment of the Pension Technical Modifications Act,
8 may be revoked only with the consent of the Sec-
9 retary.”.

10 (b) APPLICATION OF NEW RULES TO ELIGIBLE
11 CHARITY PLANS.—Paragraph (2) of section 202(c) of the
12 Preservation of Access to Care for Medicare Beneficiaries
13 and Pension Relief Act of 2010 is amended to read as
14 follows:

15 “(2) ELIGIBLE CHARITY PLANS.—The amend-
16 ments made by subsection (b) shall apply to plan
17 years beginning after December 31, 2010, except
18 that a plan sponsor may elect to apply such amend-
19 ments to plan years beginning after an earlier
20 date.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect as if included in the provisions
23 of the Preservation of Access to Care for Medicare Bene-
24 ficiaries and Pension Relief Act of 2010 to which they re-
25 late.

1 **SEC. 5. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITA-**
2 **TIONS.**

3 (a) LIMITATIONS ON BENEFIT ACCRUALS.—Section
4 203 of the Worker, Retiree, and Employer Recovery Act
5 of 2008 is amended—

6 (1) by striking “the first plan year beginning
7 during the period beginning on October 1, 2008, and
8 ending on September 30, 2009” and inserting “any
9 plan year beginning during the period beginning on
10 October 1, 2008, and ending on December 31,
11 2011”;

12 (2) by striking “substituting” and all that fol-
13 lows through “for such plan year” and inserting
14 “substituting for such percentage the plan’s ad-
15 justed funding target attainment percentage for the
16 last plan year ending before September 30, 2009,”;
17 and

18 (3) by striking “for the preceding plan year is
19 greater” and inserting “for such last plan year is
20 greater”.

21 (b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

22 (1) AMENDMENT TO ERISA.—Section
23 206(g)(3)(E) of the Employee Retirement Income
24 Security Act of 1974 is amended by adding at the
25 end the following new sentence: “For purposes of
26 applying clause (i) payments under a social security

1 leveling option shall be treated as not in excess of
2 the monthly amount paid under a single life annuity
3 (plus an amount not in excess of a social security
4 supplement described in the last sentence of section
5 204(b)(1)(G)).”.

6 (2) AMENDMENT TO 1986 CODE.—Section
7 436(d)(5) of the Internal Revenue Code of 1986 is
8 amended by adding at the end the following new
9 sentence: “For purposes of applying subparagraph
10 (A) payments under a social security leveling option
11 shall be treated as not in excess of the monthly
12 amount paid under a single life annuity (plus an
13 amount not in excess of a social security supplement
14 described in the last sentence of section
15 411(a)(9)).”.

16 (3) EFFECTIVE DATE.—

17 (A) IN GENERAL.—The amendments made
18 by this subsection shall apply to annuity pay-
19 ments the annuity starting date for which oc-
20 curs on or after January 1, 2012.

21 (B) PERMITTED APPLICATION.—A plan
22 shall not be treated as failing to meet the re-
23 quirements of sections 206(g) of the Employee
24 Retirement Income Security Act of 1974 (as
25 amended by this subsection) and section 436(d)

1 of the Internal Revenue Code of 1986 (as so
2 amended) if the plan sponsor elects to apply the
3 amendments made by this subsection to pay-
4 ments the annuity starting date for which oc-
5 curs during elected months prior to January 1,
6 2012.

7 (c) REPEAL OF RELATED PROVISIONS.—The provi-
8 sions of, and the amendments made by, section 203 of
9 the Preservation of Access to Care for Medicare Bene-
10 ficiaries and Pension Relief Act of 2010 are repealed and
11 the Employee Retirement Income Security Act of 1974,
12 the Internal Revenue Code of 1986, and the Worker, Re-
13 tiree, and Employer Recovery Act of 2008 (Public Law
14 110–458; 122 Stat. 5118) shall be applied as if such sec-
15 tion had never been enacted.

16 (d) PLANS MAINTAINED BY CHARITIES.—

17 (1) AMENDMENT TO ERISA.—Section
18 303(f)(3)(D)(i) of the Employee Retirement and In-
19 come Security Act of 1974 (29 U.S.C.
20 1083(f)(3)(D)(i)) is amended by striking “Sep-
21 tember 1, 2011” and inserting “January 1, 2012”.

22 (2) AMENDMENT TO 1986 CODE.—Clause (i) of
23 section 430(f)(3)(D) of the Internal Revenue Code

1 of 1986 is amended by striking “September 1,
2 2011” and inserting “January 1, 2012”.

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