

THE ASPPA Journal

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WASHINGTON UPDATE

by Judy A. Miller, MSPA

Election Day has come and gone. President Obama and Congressional leadership are at work preparing for the new year. ASPPA is also looking forward, preparing for the future with all the excitement and challenges of not only a new Congress, but a new Administration.

The financial crisis made 2008 different from others in recent history. The “lame duck” Congress struggled with how to address the current economic downturn. A December session did not produce legislation to bailout auto companies, but did provide time to work out an agreement on a pension bill. Now the focus turns to a stimulus package that is expected to be considered in 2009.

ASPPA Members Speak on the Hill

In normal presidential election years, Washington pretty much shuts down at the end of September so members can go home and campaign. 2008 was far from normal. Congress recessed after passing the Emergency Economic Stabilization Act in early October, but during the recess the Hill was alive with the sounds of Congressional hearings on matters related to the economic meltdown. ASPPA members were in the thick of the action.

401(k) Plans

In October, the House Education and Labor Committee, lead by Chairman George Miller (D-CA), held two hearings on “The Impact of the Financial Crisis on Workers’ Retirement Security.” Jerry Bramlett was invited to participate in the first hearing which was held on Capitol Hill



on October 7. The panel for the second hearing, held in San Francisco on October 22, included ASPPA member Mark A. Davis, QPFC. Press coverage of the hearings focused on Chairman Miller’s concerns about the 401(k) system, creating concern that his intention was to replace 401(k) plans with some other arrangement. Subsequent to the hearings, Miller made it clear his intention is not to dismantle 401(k) plans, but to “preserve and strengthen 401(k)s” through policies such as improved disclosure and independent investment advice.

In tough fiscal times, we expect some to question whether or not the private pension system is providing \$100 billion worth of value. We will be prepared to show that the answer is a resounding “Yes.”

Funding Relief

Later in October, the House Ways and Means Committee held a hearing on “Economic Recovery, Job Creation and Investment in America.” ASPPA Board member Martella A. Joseph, MSPA, a member of the ASPPA College of Pension Actuaries (ACOPA), was invited to speak about the need for immediate funding relief for defined benefit pension plans because of the economic crisis. In advance of the hearing, ACOPA joined more than a dozen other organizations in a letter to Chairman Rangel and Ranking Member McCrery, asking them to enact technical corrections and temporary funding relief to provide businesses with tools to work through the current economic storm. The specific recommendations included asset smoothing and a temporary relaxation of the 10% corridor around the market value of assets, automatic approval of changes in funding method for 2009 and 2010, a more straight-forward transition to the 100% funding target, end-of-year valuation rule-writing authority for Treasury and a fixed 5.5% interest rate for determining IRC Section 415 maximum lump sum benefits. A similar letter with more than 300 signatures was sent to all committees of jurisdiction on November 12. Copies of both letters are available at www.asppa.org/resources/wash-update.htm.

Pension Bill Passes

Congress returned after Thanksgiving and passed one significant piece of legislation—a pension bill! H.R. 7327, the Worker, Retiree and Employer Recovery Act of 2008, included pension technical corrections, relief from required minimum distributions for defined contribution-type arrangements for 2009, a look-back rule to limit restrictions on benefit accruals that might otherwise be triggered by 2008 investment losses and limited funding relief for defined benefit plans that had no deficit reduction contribution for 2007. Technical corrections included provisions ASPPA had argued were especially critical given the economic downturn, such as asset “smoothing,” end-of-year valuation rule-writing authority for Treasury and a fixed 5.5% interest rate for determining IRC Section 415 maximum lump sum benefits. Although the defined benefit provisions in the technical corrections bill have received the most attention, there are other important provisions. For example, permissible withdrawals under automatic contribution arrangements will no longer be conditioned on satisfying ERISA §404(c)(5), will be available to SIMPLE and SEP IRAs and will be disregarded

in applying the annual limit on elective deferrals under IRC §402(g)(1). In addition, the requirement that gap period income be distributed on excess deferrals [*i.e.*, deferrals in excess of the IRC §402(g) limit] is eliminated. For more information on H.R. 7327, see ASPPA *asap* 08-44 available at <https://router.asppa.org/eseries/scriptcontent/memonly/asap/asaps/08-44.pdf>.

ASPPA is urging Congress to include more broad-based funding relief—such as a temporary relaxation of the 10% corridor around market value of assets and automatic approval of changes in funding method for 2009 and 2010—in any economic recovery legislation considered early in 2009. Also, with the first round of PPA technical corrections enacted, the process will begin again in the new Congress. There will be an opportunity to present corrections that did not make it into the current bill, especially new issues that have arisen as we work to implement PPA.

Looking Forward

Administration

As a candidate, Obama’s retirement policy proposals included reforming bankruptcy laws to provide more protection for worker benefits, improving disclosure of pension fund investments, eliminating income taxes for seniors making less than \$50,000, providing automatic workplace savings and expanding the Saver’s Credit. The broad strokes of President Obama’s policy goals and ASPPA’s goals are in alignment. ASPPA has been an advocate for improved disclosure, as well as expansion of workplace savings opportunities and the Saver’s Credit. In fact, ASPPA’s Legislative Relations Committee (LRC) has been developing proposals to expand coverage, simplify the qualified plan system and help retirees address longevity risk. Executive Director/CEO Brian H. Graff, Esq., APM, and Chief of Actuarial Issues Judy A. Miller, MSPA, met with Obama transition team representatives in early December to discuss ASPPA’s priorities and concerns. ASPPA will continue to educate and advocate proposals to accomplish these goals that enhance the private employer-sponsored retirement system.

Congress


The Joint Committee on Taxation estimates that “tax expenditures” for employer-sponsored retirement plans in 2009 will exceed \$100 billion. (The Fall 2008 issue of *The ASPPA Journal* describes a study commissioned by ASPPA and other groups that disputes the value of this measurement, but Congress still relies on these estimates.) In tough fiscal times, we expect some



to question whether or not the private pension system is providing \$100 billion worth of value. We will be prepared to show that the answer is a resounding “Yes.” We also expect to face questions regarding whether or not the current qualification rules provide sufficient protection for rank and file employees. ASPPA staff and members will need to educate lawmakers and their staffs about how the rules work in practice, support reasonable changes to expand coverage and oppose unnecessary or destructive proposals.

Agencies

The change in party for the executive branch means a new legislative agenda coming from the White House, but it also means new leadership at the Treasury, the IRS and DOL/EBSA. President Obama’s advisors are reviewing the former Administration’s policies with an eye to what changes can be made quickly by executive order. Final regulations not effective before Obama took office could be put on hold with the stroke of a pen. ASPPA’s Government Affairs Committee and staff will not only be busy on the Hill, but working with the IRS and DOL on the regulatory agenda.

Yes—change is coming. ASPPA’s goal is to make change work *for* the private employer-sponsored retirement system. We are preparing to do just that. 



Judy A. Miller, EA, MSPA, FSA, Chief of Actuarial Issues, joined the ASPPA staff in December 2007. Prior to joining the ASPPA staff, Judy served as senior benefits advisor on the staff of the US Senate Committee on Finance from

2003 to November 2007. Before joining the congressional committee staff, Judy provided consulting and actuarial services to employer-sponsored retirement programs for nearly 30 years. A native of Greensburg, PA, she enjoyed living in Helena, MT from 1975 until she moved to Washington, DC in 2003. Immediately before leaving Montana, she was a shareholder in Anderson ZurMuehlen & Co., providing consulting services through its affiliate, Employee Benefit Resources, LLP (EBR). Prior to joining EBR, she was vice president of Hendrickson, Miller & Associates, Inc. for 15 years. Judy is a fellow of the Society of Actuaries, an MSPA with ASPPA and an Enrolled Actuary. She received her Bachelor’s degree in Mathematics from Carnegie Mellon University in Pittsburgh, PA.

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