114TH CONGRESS
2D SESSION

S. 2894

To amend the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 to provide for salary reductions for certain employees of a pension plan in critical or declining status that reduces participant benefits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2016

Ms. STABENOW (for herself, Mr. BROWN, Mr. PETERS, Mrs. MCCASKILL, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To amend the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 to provide for salary reductions for certain employees of a pension plan in critical or declining status that reduces participant benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pension Fund Integrity Act of 2016''.

SEC. 2. EXECUTIVE SALARIES.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 432(e)(9) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

"(iii) In the case of a systemically important plan (as defined in subparagraph (H)(v)(III)), effective on the date the benefit suspension goes into effect, the annual compensation of each employee of the plan is reduced to the lesser of—

"(I) the annual compensation of the employee for the plan year in which the benefit suspension is approved under subparagraph (G) (determined as of the date of such approval), reduced by the reduction percentage of so much of such annual compensation as exceeds $100,000, or

"(II) the average annual compensation of the employee for the 3 plan years immediately preceding the year in which the benefit suspension is approved under subparagraph (G), reduced by the reduction percentage of so much of such average annual compensation as exceeds $100,000,

and will not be increased (including by means of a bonus, performance-based compensation, or otherwise) as long as the benefit suspension remains in effect. For purposes of the preceding sentence, the term 'reduction percentage' means the percentage determined by the Secretary and provided to the plan which is equal to the average percentage reduction in benefits applicable to the 50 participants and beneficiaries who receive the greatest reduction in benefits under the plan as a result of the suspension.''.

(2) TAX ON PROHIBITED TRANSACTIONS.—

(A) IN GENERAL.—Paragraph (1) of section 4975(c) of such Code is amended—

(i) by striking ''or'' at the end of subparagraph (E),

(ii) by striking the period at the end of subparagraph (F) and inserting ''; or'', and

(iii) by adding at the end the following new subparagraph:

"(G) notwithstanding subsection (d)(2), payment by a systemically important plan (as defined in section 432(e)(9)(H)(v)(III)) of—

"(i) any compensation (including a bonus or performance-based compensation) in excess of the amount determined under section 432(e)(9)(C)(iii) to any employee of the plan with respect to which a benefit suspension is in effect under section 432(e)(9), or

"(ii) in the case of any nonemployee who was an employee of the plan during any of the 3 plan years immediately preceding the year in which the benefit suspension is approved under section 432(e)(9)(G), any compensation to such individual (as an independent contractor or otherwise and including any bonus or performance-based compensation) in excess of the amount that would be determined under section 432(e)(9)(C)(iii) if the individual were an employee at the time of payment of such compensation.".

(B) LIABILITY FOR TAX.—Subsection (a) of section 4975 of such Code is amended by inserting before the period the following: '', except that any tax imposed by this subsection by reason of subsection (c)(1)(G) shall be paid by the plan sponsor''.

(C) LIABILITY FOR ADDITIONAL TAXES.—Subsection (b) of section 4975 of such Code is amended by inserting before the period the following: '', except that any tax imposed by this subsection by reason of subsection (c)(1)(G) shall be paid by the plan sponsor''.

(D) CLERICAL AMENDMENTS.—The headings of subsections (a) and (b) of section 4975 of such Code are each amended by striking ''ON DISQUALIFIED PERSON''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 305(e)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(e)(9)(C)) is amended by adding at the end the following new clause:

''(iii) In the case of a systemically important plan (as defined in subparagraph

(H)(v)(III)), effective on the date the benefit suspension goes into effect, the annual compensation of each employee of the plan is reduced to the lesser of—

"(I) the annual compensation of the employee for the plan year in which the benefit suspension is approved under subparagraph (G) (determined as of the date of such approval), reduced by the reduction percentage of so much of such annual compensation as exceeds $100,000, or

"(II) the average annual compensation of the employee for the 3 plan years immediately preceding the year in which the benefit suspension is approved under subparagraph (G), reduced by the reduction percentage of so much of such average annual compensation as exceeds $100,000,

and will not be increased (including by means of a bonus, performance-based compensation, or otherwise) as long as the benefit suspension remains in effect. For purposes of the preceding sentence, the term ‘reduction percentage’ means the percentage determined by the Secretary of the Treasury and provided to the plan which is equal to the average percentage reduction in benefits applicable to the 50 participants and beneficiaries who receive the greatest reduction in benefits under the plan as a result of the suspension.’’.

(2) PROHIBITED TRANSACTIONS.—Paragraph (1) of section 406(a) of such Act (29 U.S.C. 1106(a)(1)) is amended—

(A) by striking ‘‘or’’ at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting ‘‘; or’’, and

(C) by adding at the end the following new subparagraph:

‘‘(F) notwithstanding section 408(b)(2), payment by a systemically important plan (as defined in section 305(e)(9)(H)(v)(III)) of—

‘‘(i) any compensation (including a bonus or performance-based compensation) in excess of the amount determined under section 305(e)(9)(C)(iii) to any employee of the plan with respect to which a benefit suspension is in effect under section 305(e)(9), or

"(ii) in the case of any nonemployee who was an employee of the plan during any of the 3 plan years immediately preceding the year in which the benefit suspension is approved under section 305(e)(9)(G), any compensation to such individual (as an independent contractor or otherwise and including any bonus or performance-based compensation) in excess of the amount that would be determined under section 305(e)(9)(C)(iii) if the individual were an employee at the time of payment of such compensation.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b)(1) shall apply to suspensions of benefits under section 432(e)(9)(G) of the Internal Revenue Code of 1986 and section 305(e)(9)(G) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(e)(9)(G)) which take effect after the date of the enactment of this Act.

(2) PROHIBITED TRANSACTIONS.—The amendments made by subsections (a)(2), (b)(2), and (b)(3) shall apply to any transaction made after the date of the enactment of this Act.

SEC. 3. PROHIBITION OF LOBBYING EXPENSES.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (1) of section 4975(c) of the Internal Revenue Code of 1986, as amended by section 1(a), is amended—

(A) by striking ''or'' at the end of subparagraph (F),

(B) by striking the period at the end of subparagraph (G) and inserting ''; or'', and

(C) by adding at the end the following new subparagraph:

''(H) payment by the plan of any amount for the engagement of any person other than an employee of the plan in connection with any activity described in section 162(e)(1) during any period in which the plan is in endangered status under section 432(b)(1), in critical status under section 432(b)(2), or in critical and declining status under section 432(b)(6).''.

(2) LIABILITY OF PLAN SPONSOR.—Subsections (a) and (b) of section 4975 of such Code, as amended by section 1(a), are each amended by striking ''subsection (c)(1)(G)'' and inserting ''subparagraph (G) or (H) of subsection (c)(1)''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Paragraph (1) of section 406(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106(a)(1)), as amended by section 1(b), is amended—

(A) by striking ''or'' at the end of subparagraph (E),

(B) by striking the period at the end of subparagraph (F) and inserting ''; or'', and

(C) by adding at the end the following new subparagraph:

''(G) payment by the plan of any amount for the engagement of any person other than an employee of the plan in connection with any activity described in section 162(e)(1) of the Internal Revenue Code of 1986 during any period in which the plan is in endangered status under section 305(b)(1), in critical status under section 305(b)(2), or in critical and declining status under section 305(b)(6).''.

(2) LIABILITY OF PLAN SPONSOR.—Subsection (c) of section 409 of such Act (29 U.S.C. 1109(c)), as added by section 1(b), is amended by striking ''4975(c)(1)(G)'' and inserting ''subparagraph (G) or (H) of section 4975(c)(1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions made after the date of the enactment of this Act.

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