

# Executive Memorandum

No. 924  
April 16, 2004



Published by The Heritage Foundation

## Final Pension Agreement Places Corporate Interests Above Taxpayer Interests

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President George W. Bush's signing of the recently passed Pension Funding Equity Act (H.R. 3108) was both a serious mistake and a step toward a multibillion-dollar taxpayer bailout of underfunded corporate pension plans. President Bush should have stood by his original objections to the bill's corporate welfare provisions and vetoed it. While the final version is better than the earlier Senate proposal, it still sends a dangerous message that inconvenient pension-funding requirements can be twisted—and even avoided—through special-interest provisions.

**Corporate Welfare in the New Law.** The White House deserves some credit for insisting that Congress remove some of the special-interest provisions that were contained in the Senate version of H.R. 3108. The Senate bill (S. 1550) would have granted virtually every underfunded pension plan—whether sponsored by a single-employer or by several employers and a union—a two-year holiday from having to contribute most of the additional money required to strengthen the plan.

Regrettably, the new law does allow underfunded airline and steel pension plans—and a plan run by the Transportation Communication Union—to avoid putting additional assets into the plan for two years. The final version is stricter than the Senate bill because it is

limited to plans that were not seriously underfunded in 2000. However, it is more generous for those that do qualify. While the Senate would have waived 80 percent of the required additional payments for the first year and 60 percent for the second year, the conference agreement waives 80 percent in both years.

The law also provides limited relief to about 4 percent of underfunded, multi-employer pension plans. To qualify for this relief, a plan would have to have investment losses of at least 10 percent in 2002 and actuarial certification that it will be underfunded in any year between 2004 and 2006. Finally, in a spectacular example of Congress picking winners and losers, the Senate agreement rewarded Greyhound Lines, Inc., a bus company, for its lobbying skill by declaring that its pension plan is better funded than it actually is.

**Special Treatment for Airline and Steel Industries.** While both the airline and steel industries

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- President Bush should have vetoed the Pension Funding Equity Act (H.R. 3108) because it constitutes corporate welfare and is a step toward a multi-billion dollar taxpayer-sponsored pension plan bailout.
  - The two industries that benefit the most from the new law are the airline and steel industries: Both receive significant exemptions from payments that would reduce their plans' underfunded status.
  - The only minor improvement afforded by the Pension Funding Equity Act is a change in the calculation method for a pension plan's ability to pay future benefits.
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This paper, in its entirety, can be found at:  
[www.heritage.org/research/socialsecurity/em924.cfm](http://www.heritage.org/research/socialsecurity/em924.cfm)

Produced by the Thomas A. Roe Institute  
for Economic Policy Studies

Published by The Heritage Foundation,  
214 Massachusetts Ave., NE, Washington, D.C. 20002-4999  
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claimed that without special treatment they would have to discontinue their pension plans, the only real reason to give these industries' pension plans special treatment is their lobbying muscle. Although both industries are facing severe financial problems, these problems were not caused by pension-funding requirements. Since taxpayers will be called upon to shoulder the cost if their pension plans fail, the net effect of pension relief is to shift some market failure risk from stockholders and lenders to taxpayers. If this is allowed for the airline and steel industries today, which "deserving" industry will be able to persuade a weak Congress to grant it equal relief tomorrow, citing this legislation as a precedent?

Already, the agency that insures this type of pension plan, the Pension Benefit Guarantee Corporation (PBGC), is itself seriously underfunded. According to numbers released earlier this year, the PBGC is running a record \$11.2 billion deficit in its single-employer program. That number could climb to \$85.5 billion if all of the pension plans that could be "reasonably" expected to fail did so. In addition, PBGC's multi-employer program reported a deficit for the first time.

By allowing companies to avoid funding their pension plans' deficits, the new law makes it likely that taxpayers will have to pick up that liability. The sad fact is that many companies that qualify for the funding holiday will be in equally poor financial shape in 2006. The delay is likely to cause these plans to accrue even higher funding deficits. Moreover, once the companies submit their even more underfunded plans to PBGC, that agency will be

further down the road toward an inevitable taxpayer-funded, multibillion-dollar bailout.

**The One Good Feature.** The new law's only saving grace is a minor—but important—change in the calculation method for a pension plan's ability to pay future benefits. A provision that expired at the end of 2003 had required that pension plans use up to 120 percent of the weighted average of the 30-year Treasury bond yield to determine whether the plan was properly funded. However, the Treasury Department stopped issuing 30-year bonds several years ago, and H.R. 3108 replaced that index with another one that is keyed to the yield on corporate bonds for a two-year period. During those two years, Congress should decide whether the new measure will become permanent or be replaced by another.

Congress had to enact the revised measure of pension fund assets before April 15 or pension sponsors would have been required to make significantly higher contributions than would have been required by either the new measure or the one that expired in 2003.

**Conclusion.** President Bush and the White House staff did limit the damage H.R. 3108 will cause by insisting that many corporate welfare provisions be removed from the bill. However, they did not protest strongly enough. The President should have stood by his principles and vetoed the Pension Funding Equity Act. His failure to do so makes it much more likely that taxpayers will end up paying for a bailout of the PBGC.

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