CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 9, 2014

S. 2511

A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the definition of substantial cessation of operations

As ordered reported by the Senate Committee on Health, Education, Labor, and Pensions on July 23, 2014

SUMMARY

Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) requires sponsors of single-employer defined benefit pension plans to make financial assurances (such as providing a letter of credit, a lien on land, or additional contributions to the plan) when they have a "substantial cessation." Current law defines that term as a cessation of operations at a facility resulting in a 20 percent reduction in the number of employees who participate in the employer's pension plan. S. 2511 would change the definition of substantial cessation and would establish a new alternative way for employers to satisfy the 4062(e) liability.

CBO estimates that S. 2511 would reduce the contributions that plan sponsors are required to make to their plans as a result of terminating operations, leading to increases in revenues and decreases in direct spending (including the effects on offsetting receipts, which are recorded as an offset to direct spending).

CBO estimates that enacting S. 2511 would, on net, decrease direct spending by $15 million over the 2015-2024 period. The staff of the Joint Committee on Taxation (JCT) estimates that enacting the bill would increase revenues by $14 million over the 2015-2024 period. In total, CBO and JCT estimate that enacting S. 2511 would reduce deficits by $29 million over the 2015-2024 period.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. The bill would not affect discretionary spending.

S. 2511 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2511 is shown in the following table. The costs of this legislation fall within budget function 600 (income security).

	By Fiscal Year, in Millions of Dollars											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015-2019	2015-2024
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	*	*	-1	-1	-2	-2	-3	-2	-2	-2	-4	-15
CHANGES IN REVENUES												
Estimated Revenues	1	3	3	3	3	1	*	*	*	*	13	14
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Impact on the Deficit	-1	-3	-4	-4	-5	-3	-3	-2	-2	-2	-17	-29

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Note: * = less than $500,000.

BASIS OF ESTIMATE

For the purposes of this estimate, CBO assumes that the bill will be enacted before the end of calendar year 2014.

ERISA requires plan sponsors of single-employer defined benefit plans to make financial assurances when they have a substantial cessation, including liens, letters of credit, or additional contributions to the pension plan. In fiscal year 2013, the Pension Benefit Guaranty Corporation (PBGC) negotiated settlements with 13 plan sponsors to provide $156 million in financial assurances, mostly in the form of extra contributions to pension plans. Under current practice, PBGC does not require such payments if it deems a plan sponsor financially sound or if a pension plan has fewer than 100 participants. In July 2014, PBGC announced a moratorium for the remainder of the calendar year on enforcing 4062(e) of ERISA. PBGC stated it would use the moratorium to consider further targeting of enforcement and to work with plan sponsors to minimize effects on business activities.

S. 2511 would change the definition of substantial cessation. Under the new definition, that term would apply only if: the halt in operations is permanent; the pension plan has funded less than 90 percent of vested benefits; and the stopped operations reduce by 15 percent the number of employees who are eligible to participate in any employee pension benefit plan established and maintained by the employer. Moreover, some reductions in employment would be excluded from that calculation—for example, if an employer hires a replacement employee.

S. 2511 also would allow plan sponsors a new alternative way to satisfy their requirements if they have a substantial cessation. Under the alternative, plan sponsors could make additional contributions to their plans based on a statutory formula. CBO estimates that liability amounts under that formula would be lower than those under current law. For example, the new formula would consider only vested benefits and would place a cap on the additional payments. In addition, it would allow plan sponsors a longer period of up to seven years to pay the liability.

CBO expects that plan sponsors would generally elect to satisfy their liability by using the new alternative in the bill, lowering contributions to the affected plans. Contributions are tax deductible, so a reduction in their amount would increase the firms' taxable income. JCT estimates that S. 2511 would increase revenues by $14 million over the 2015-2024 period.

Lower contributions would increase the amount of underfunding in affected plans. Employers are required to pay premiums to PBGC that are based on the amount of underfunding in their pension plans, so greater underfunding would increase premium collections by the government. At the same time, plans that are terminated have their assets assumed by PBGC, which uses those assets to partially reimburse the federal government for pension benefits paid to the affected retirees. Under the bill, plans that are terminated would have fewer assets for PBGC to assume, which would reduce reimbursements and thus raise PBGC's costs. Based on administrative data, CBO estimates that the increased premium income (which is recorded as an offset to direct spending) and lower reimbursements would, on net, reduce direct spending by $15 million over the 2015-2024 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for S. 2511 as ordered reported by the Senate Committee on Health, Education, Labor, and Pensions on July 23, 2014

	By Fiscal Year, in Millions of Dollars												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014-2019	2014-2024
	NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	-1	-3	-4	-4	-5	-3	-3	-2	-2	-2	-17	-29
Memorandum:													
Changes in Outlays	0	0	0	-1	-1	-2	-2	-3	-2	-2	-2	-4	-15
Changes in Revenues	0	1	3	3	3	3	1	0	0	0	0	13	14

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 2511 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY:

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