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ERISA's beginnings

Successes, failures, and the birth of a pension landmark

by Russell Mueller

This September marks the 25th anniversary of ERISA, the Employee Retirement Income Security Act, landmark legislation that changed the face of pensions in the United States. Some of ERISA's important successes include vesting requirements, new minimum funding requirements, plan termination insurance, and enhanced disclosure rules. The biggest failure might be seen in the complexity of the current system and the resulting tremendous decline in pension plans covering small employers' workers.

The actuarial profession was profoundly affected by ERISA, which requires that an actuary certify to the funded status of a pension plan annually. ERISA created a group of actuaries qualified to sign these statements, the "enrolled actuaries." Russ Mueller, former actuary for the U.S. House Pension Task Force, played a role in ERISA's development and the evolution of pension law since then. He has shared with us some insights on the history of ERISA. It is particularly interesting for us to see how actuaries were a part of that debate. — Anna M. Rappaport

According to chronicles I've kept over the past quarter century, the genesis of ERISA was the filing of recommendations made by the Committee on Public Policy and Private Pension Programs, initiated by President Kennedy in 1962. Some influential leaders supported this and similar efforts, but generally, business groups and organized labor opposed it. They saw a threat in these early efforts to legislatively rein in the flexibility of unions and companies to use pension plans as workplace incentives to retain or discharge workers.

However, in the early 1970s, a groundswell of public opinion for pension reform arose from extensive House and Senate hearings on pension losses stemming from the lack of vesting, adequate funding, and plan failures. Helping to intensify the debate were NBC's airing of "Pensions: A Broken Promise" and Ralph Nader's statement that the private pension system was the "most comprehensive fraud Americans would ever encounter."

Actuaries to the defense

Prominent actuaries raised their voices to defend the private pension system. This occurred as a rebuttal to the NBC charges and the Senate Labor Committee "P-1" survey, which focused only on system shortcomings that likened private pensions to a "10-to-1" horse race bet.

An A.S. Hansen study reached different conclusions by finding that two-thirds of covered employees would receive a vested benefit. An actuary in the General Accounting Office, Herb Feay, was highly critical of the P-1 study, as was Paul Jackson in an article for the Conference *Proceedings* (the Conference of Consulting Actuaries was once called the Conference of Actuaries in Public Practice.) An earlier study by actuaries Charles Trowbridge and Frank Griffin for the Pension Research Council found a soundly developing pension system that had vested benefits constituting more than 80% of all accrued benefits and funding levels nearing or exceeding vested accruals for the vast majority of plans. However, Sen. Jacob Javits (D-N.Y.) chaffed at the "actuarial gobbledygook." He thought it was time to stop thinking of pensions as an esoteric subject reserved for a "select priesthood of actuaries" and start thinking about them in human terms.

Based on a design that was vetted with a group of prominent consulting actuaries, the House Pension Task Force weighed in with a study conducted by Howard Winklevoss, now a member of the American Academy of Actuaries, showing that the cost of vesting would not be prohibitive and that the three vesting formulas then under consideration (graded, 10-year cliff, and the rule of 45) were relatively equivalent system-wide. This convinced Reps. John Erlenborn (R-Ill.) and John Dent (D-Pa.) to allow plans a choice of vesting rule, a House provision that was ultimately adopted in the House/Senate conference committee.

The early efforts of the Teamsters, United Mine Workers, and others to slow reforms turned around with the shutdown of the Studebaker Corp. and firms in the steel industry. The closings led the affected unions to endorse pension reform legislation that included plan termination insurance. The fact that states had begun to enact their own differing versions of pension, and even health insurance, reform also persuaded the business community to negotiate for affordable federal provisions that would preempt state laws in the employee benefit plan area.

Jurisdictional battles end

The time from introduction to passage was characterized by numerous political battles and a rocky road in a tumultous time. Finally, Congress enacted the ERISA legislation in 1974.

With the resignation of Richard

Nixon on Aug. 8, 1974, newly installed President Gerald Ford appealed to Congress to present him with legislation that would bring the Congress and the new president together in an act of national unity. Congress complied by voting 402 to 2 in the House and 85 to 0 in the Senate to approve the ERISA conference report.

These are but a few of the events leading to the Rose Garden signing ceremony on Sept. 2, 1974, that I recall as I glance at President Ford's letter and signing pen in my office. For the remainder, you can reach me at *erisa1@erols.com.*

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SOA study reviews cash balance, traditional plans

by Anna M. Rappaport

Many organizations have been moving to cash balance plans as part of a business transformation, which has produced many winners, but also some losers. A study sponsored by the Society of Actuaries demonstrates the different accrual patterns between cash balance and traditional pension plans.

The study, "A Benefit Value Comparison of a Cash Balance Plan With a Traditional Final Average Pay Plan," used the demographic data from a major study of pension plan turnover. Researchers Steve J. Kopp and Lawrence J. Sher constructed two plans with equivalent cost and typical formulas — one traditional and one cash balance — and then calculated the benefit on termination under both formulas for each of the 259,000 vested terminations in the database. Total benefits were $8.4 billion under either plan. The average value of the termination benefits are shown in the accompanying table.

The results showed:

- More employees (two-thirds of the total) got higher benefits under the cash balance plan. These employees terminated employment earlier than their counterparts. The average cash balance benefit was 260% of the traditional plan benefit.
- For females, the cash balance plan was better 75% of the time because of the tendency to terminate earlier.
- Employees terminating with longer service at later ages (one-third of the total vested terminations) did better under the traditional plan and received 150% of the benefit under cash balance. Only one-fourth of the women were included in the one-third of the terminations who did better under cash balance.
- Employees changing jobs several times benefit from the cash balance approach, but for those with long service in a single organization, traditional plans work better.

The study results are based on hypothetical calculations. In actual shifts from traditional to cash balance plans, most employers substantially reduce the number of losers at time of transition by adding special transition benefits, at least for employees near retirement.

Copies available

The study was reported in the October 1998 issue of The Pension Forum, published by the SOA's Pension Section. Copies are available for $10 from the SOA Books Department (phone: 847/706-3526; fax: 847/706-3599; e-mail: *bhaynes@soa.org*).

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Average Value of Termination Benefits

	Average lump sum value under cash balance plan	Average lump sum value under traditional plan
Employees with vested benefits	$22,100	$8,300
Retirees (age 56 and above)	$54,300	$83,200