

HR 3762

Pension Security Act of 2002

Congress: 107 (2001–2003, Ended)

Chamber: House

Policy Area: Labor and Employment

Introduced: Feb 14, 2002

Current Status: Referred to the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, for

Latest Action: Referred to the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, for a period to be subsequently determined by the Chairman. (May 9, 2002)

Official Text: <https://www.congress.gov/bill/107th-congress/house-bill/3762>

Sponsor

Name: Rep. Boehner, John A. [R-OH-8]

Party: Republican • **State:** OH • **Chamber:** House

Cosponsors (33 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Biggert, Judy [R-IL-13]	R · IL		Feb 14, 2002
Rep. Boozman, John [R-AR-3]	R · AR		Feb 14, 2002
Rep. Calvert, Ken [R-CA-43]	R · CA		Feb 14, 2002
Rep. Castle, Michael N. [R-DE-At Large]	R · DE		Feb 14, 2002
Rep. Culberson, John Abney [R-TX-7]	R · TX		Feb 14, 2002
Rep. Fletcher, Ernie [R-KY-6]	R · KY		Feb 14, 2002
Rep. Hill, Baron P. [D-IN-9]	D · IN		Feb 14, 2002
Rep. Johnson, Sam [R-TX-3]	R · TX		Feb 14, 2002
Rep. Keller, Ric [R-FL-8]	R · FL		Feb 14, 2002
Rep. King, Peter T. [R-NY-3]	R · NY		Feb 14, 2002
Rep. LaTourette, Steven C. [R-OH-19]	R · OH		Feb 14, 2002
Rep. McKeon, Howard P. "Buck" [R-CA-25]	R · CA		Feb 14, 2002
Rep. Oxley, Michael G. [R-OH-4]	R · OH		Feb 14, 2002
Rep. Petri, Thomas E. [R-WI-6]	R · WI		Feb 14, 2002
Rep. Rehberg, Dennis R. [R-MT-At Large]	R · MT		Feb 14, 2002
Rep. Roukema, Marge [R-NJ-5]	R · NJ		Feb 14, 2002
Rep. Tancredo, Thomas G. [R-CO-6]	R · CO		Feb 14, 2002
Rep. Upton, Fred [R-MI-6]	R · MI		Feb 14, 2002
Rep. Wilson, Joe [R-SC-2]	R · SC		Feb 14, 2002
Rep. Bartlett, Roscoe G. [R-MD-6]	R · MD		Mar 6, 2002
Rep. Capito, Shelley Moore [R-WV-2]	R · WV		Mar 6, 2002
Rep. Gibbons, Jim [R-NV-2]	R · NV		Mar 6, 2002
Rep. Green, Mark [R-WI-8]	R · WI		Mar 6, 2002
Rep. Greenwood, James C. [R-PA-8]	R · PA		Mar 6, 2002
Rep. Hart, Melissa A. [R-PA-4]	R · PA		Mar 6, 2002
Rep. Isakson, Johnny [R-GA-6]	R · GA		Mar 6, 2002
Rep. Kolbe, Jim [R-AZ-5]	R · AZ		Mar 6, 2002
Rep. Latham, Tom [R-IA-5]	R · IA		Mar 6, 2002
Rep. Reynolds, Thomas M. [R-NY-27]	R · NY		Mar 6, 2002
Rep. Sensenbrenner, F. James, Jr. [R-WI-9]	R · WI		Mar 6, 2002
Rep. Shays, Christopher [R-CT-4]	R · CT		Mar 6, 2002
Rep. Tiberi, Patrick J. [R-OH-12]	R · OH		Mar 6, 2002
Rep. Walsh, James T. [R-NY-25]	R · NY		Mar 6, 2002

Committee Activity

Committee	Chamber	Activity	Date
Education and Workforce Committee	House	Reported By	Apr 4, 2002
Financial Services Committee	House	Referred to	May 9, 2002
Health, Education, Labor, and Pensions Committee	Senate	Referred To	Apr 15, 2002
Ways and Means Committee	House	Discharged From	Apr 10, 2002

Subjects & Policy Tags

Policy Area:

Labor and Employment

Related Bills

Bill	Relationship	Last Action
107 S 1992	Related bill	Jul 26, 2002: Placed on Senate Legislative Calendar under General Orders. Calendar No. 525.
107 HRES 386	Procedurally related	Apr 11, 2002: Motion to reconsider laid on the table Agreed to without objection.
107 HR 3669	Related bill	Apr 9, 2002: Placed on the Union Calendar, Calendar No. 232.
107 S 1969	Companion bill	Feb 27, 2002: Sponsor introductory remarks on measure. (CR S1248)
107 HR 2269	Related bill	Nov 16, 2001: Received in the Senate and Read twice and referred to the Committee on Finance.

Pension Security Act of 2002 - **Title I: Improvements in Pension Security** - Amends the Employee Retirement Income Security Act of 1974 (ERISA) to require individual account plans (IAPs), including those with cash or deferred arrangements under Internal Revenue Code (IRC) section 401(k), to furnish quarterly pension benefit statements to plan participants and beneficiaries with rights to direct investments.

(Sec. 102) Requires IAP administrators to give 30 days notice (except in specified circumstances) to plan participants and beneficiaries before a period of suspension (or lockdown or blackout) in which their ability to divest or diversify assets control over their account assets will be limited. Provides that, during such lockdown periods, employers are not exempt from liability for failing in fiduciary duty with respect to IAP investments. Declares that this loss of exemption from liability, however, is not triggered: (1) if the person authorizing the suspension meets certain requirements, including considering the reasonableness of the expected period, providing notice, and acting solely in the interests of plan participants and beneficiaries in determining to enter it; or (2) by any limitations or restrictions on employee ability to divest or diversify assets, if such limitations or restrictions are disclosed to participants and beneficiaries through summary plan description or materials describing specific investment alternatives under the plan.

(Sec. 103) Directs the Secretary of Labor to establish a program to provide informational and educational support for pension plan fiduciaries.

(Sec. 104) Amends ERISA and IRC to set forth diversification requirements for IAPs that hold employer securities readily tradable on an established market. (Exempts from such requirements employee stock ownership plans unless they hold employer stock attributable to employee elective deferrals or employer matching contributions.) Allows participants and beneficiaries, if employer securities are held in an IAP through employee contributions and elective deferrals, to divest such employer securities and reinvest the amounts in other options. Requires employers, if employer securities are held in an IAP through employer contributions, to allow participants and beneficiaries to divest such securities and reinvest in other options; but permits employers to opt to do so in either of the following ways under the plan: (1) after the benefit is based on three years of service as an employee; or (2) with respect to an allocation during a plan year, not more than three years after the end of that plan year. Requires such plans to offer at least: (1) three investment options other than employer securities; and (2) quarterly opportunities to choose among such options. Makes such requirements applicable to assets acquired on or after the effective date of this Act. Requires plans to provide participants and beneficiaries an opportunity to divest assets acquired before such effective date in 20 percent increments over a five-year transition period beginning in 2003, with all of such assets eligible for divestiture beginning in 2007.

(Sec. 105) Allows ERISA and IRC prohibited transaction exemptions under specified conditions, including certain notifications and disclosures, to: (1) a fiduciary adviser's providing certain investment advice to an employee benefit plan or to a participant or beneficiary of such plan; (2) sale, acquisition, or holding of securities or other property (including any lending of money or other extension of credit associated with these) pursuant to such advice; and (3) direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate in connection with providing such advice.

(Sec. 106) Directs the Secretary of Labor to study, and report to specified congressional committees on, the costs and benefits to participants and beneficiaries of requiring independent fiduciary consultants to advise plan fiduciaries in connection with IAPs.

(Sec. 107) Amends the IRC to provide that no amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by a qualified investment advisor, and compensation which would otherwise be includible in the gross income of such employee.

Applies such provision to highly compensated employees only if such choice is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.

(Sec. 108) Amends the Securities Exchange Act of 1934 to prohibit certain insider trading during pension plan transaction suspension periods.

Title II: Additional Provisions - Amends the Retirement Protection Act of 1994 to make permanent an exemption from certain funding rules under the General Agreement on Tariffs and Trade (GATT) for retirement plans sponsored by companies in the interstate bus transportation industry (thereby having ERISA funding rules apply instead).

(Sec. 202) Directs the Secretaries of the Treasury and of Labor to allow: (1) one-participant retirement plans which meet certain requirements and have assets of \$250,000 or less as of the close of the plan year to not file an annual return for that year; and (2) the filing of a simplified annual return for any retirement plan which covers fewer than 25 employees on the first day of a plan year and meets certain other requirements.

(Sec. 203) Directs the Secretary of the Treasury to continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to specified factors. Authorizes the Secretary of the Treasury to effectuate these and any other employee plans correction policies, including waiving income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

(Sec. 204) Directs the Secretary of the Treasury to modify specified IRC rules relating to pension plan nondiscrimination, coverage, and line of business requirements to make them more flexible in certain respects, to the extent the Secretary deems appropriate.

(Sec. 205) Amends IRC and the Taxpayer Relief Act of 1997 to extend to all governmental plans a moratorium on the application of certain nondiscrimination rules applicable to State and local plans.

(Sec. 206) Amends ERISA to direct the Secretary of the Treasury to modify specified regulations to require: (1) that the applicable distribution notice period be not more than 180 (currently 90) and not less than 30 days before the date distribution commences; and (2) the description of a participant's right, if any, to defer receipt of a distribution include a description of the consequences of failing to defer such receipt.

(Sec. 207) Allows summary annual reports on employee benefit plans to be disseminated through electronic means or other new technologies.

(Sec. 208) Revises ERISA with respect to the National Summit on Retirement Savings.

(Sec. 209) Directs the Pension Benefit Guaranty Corporation (PBGC) to issue missing participant rules for multiemployer plans. Allows the transfer of missing participants' benefits to the PBGC upon plan termination in the case of certain plans not subject to the PBGC termination insurance program.

(Sec. 210) Reduces PBGC premiums for new plans of small employers. Sets the flat-rate premium at five dollars per plan participant for the first five years of a new single-employer plan of an employer with 100 or fewer employees.

(Sec. 211) Reduces PBGC additional premiums for new and small plans. Phases in, over a five-year period, the variable-rate premium for a new defined benefit plan. Limits, for a plan maintained by an employer with 25 or fewer employees,

the variable-rate premium to no more than five dollars times the number of plan participants at the end of the preceding year.

(Sec. 212) Authorizes the PBGC to pay interest on premium overpayment refunds.

(Sec. 213) Revises rules for substantial owner benefits in terminated plans. Reduces the phase-in periods for guaranteed benefits for a ten-percent or more owner (substantial owner) in the case of plan termination. Applies the allocation of asset rules to a substantial owner with less than 50 percent ownership in the same manner as other participants.

(Sec. 214) Requires the Secretary of Labor to revise specified regulations to require more timely notification of suspension of pension benefits to recipients who return to work for an employer from whose pension plan they are receiving a retirement annuity.

(Sec. 215) Directs the Secretary of Labor to study and report on: (1) model small employer group plans; and (2) the effect of this Act on pension plan coverage.

(Sec. 216) Revises the formula for determining the interest rate range for additional funding requirements for pension plans by the PBGC.

(Sec. 217) Sets forth provisions relating to certain amendments to pension plans or annuity contracts.

Title III: Stock Options - Amends the Internal Revenue Code to exclude incentive stock options and employee stock purchase plan stock options from the definition of wages (thus excluding them from employment taxes, including social security taxes, railroad retirement taxes, and unemployment taxes). Provides that wage withholding is not required on: (1) disqualifying dispositions; and (2) compensation where the option price is between 85 and 100 percent of the value of the stock.

Title IV: Social Security and Medicare Held Harmless - Provides that the amounts transferred to any trust fund under the Social Security Act shall be determined as if this Act had not been enacted.

Actions Timeline

- **May 9, 2002:** Referred to the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, for a period to be subsequently determined by the Chairman.
- **Apr 15, 2002:** Received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and Pensions.
- **Apr 11, 2002:** Rule H. Res. 386 passed House.
- **Apr 11, 2002:** Considered under the provisions of rule H. Res. 386. (consideration: CR H1217-1267; text of measure as introduced: CR H1217-1220)
- **Apr 11, 2002:** Rule provides for consideration of H.R. 3762 with 2 hours of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. In lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. Measure will be considered read. A specified amendment is in order.
- **Apr 11, 2002:** GENERAL DEBATE - Pursuant to the provisions of H. Res. 386, the House proceeded with two hours of general debate on H.R. 3762.
- **Apr 11, 2002:** DEBATE - Pursuant to the provisions of H. Res. 386, the House proceeded with one hour of debate on the George Miller (CA) amendment in the nature of a substitute.
- **Apr 11, 2002:** Mr. Miller, George moved to recommit with instructions to Education and the Workforce.
- **Apr 11, 2002:** DEBATE - The House proceeded with 10 minutes of debate on the George Miller (CA) motion to recommit with instructions. The instructions contained in the motion require the bill to be reported back to the House with an amendment adding a new section providing for treatment of certain funded deferred compensation plans for corporate insiders as pension plans covered under ERISA.
- **Apr 11, 2002:** The previous question on the motion to recommit with instructions was ordered without objection.
- **Apr 11, 2002:** On motion to recommit with instructions Failed by recorded vote: 204 - 212 (Roll no. 91). (text: CR H1264-1265)
- **Apr 11, 2002:** Passed/agreed to in House: On passage Passed by recorded vote: 255 - 163 (Roll no. 92).
- **Apr 11, 2002:** On passage Passed by recorded vote: 255 - 163 (Roll no. 92).
- **Apr 11, 2002:** Motion to reconsider laid on the table Agreed to without objection.
- **Apr 10, 2002:** Rules Committee Resolution H. Res. 386 Reported to House. Rule provides for consideration of H.R. 3762 with 2 hours of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. In lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. Measure will be considered read. A specified amendment is in order.
- **Apr 9, 2002:** Committee on Ways and Means discharged.
- **Apr 9, 2002:** Committee on Ways and Means discharged.
- **Apr 9, 2002:** Committee on Financial Services discharged.
- **Apr 9, 2002:** Committee on Financial Services discharged.
- **Apr 9, 2002:** Placed on the Union Calendar, Calendar No. 233.
- **Apr 4, 2002:** Reported (Amended) by the Committee on Education and the Workforce. H. Rept. 107-383, Part I.
- **Apr 4, 2002:** Reported (Amended) by the Committee on Education and the Workforce. H. Rept. 107-383, Part I.
- **Apr 4, 2002:** House Committee on Ways and Means Granted an extension for further consideration ending not later than April 9, 2002.
- **Apr 4, 2002:** House Committee on Financial Services Granted an extension for further consideration ending not later than April 9, 2002.
- **Mar 20, 2002:** Committee Consideration and Mark-up Session Held.
- **Mar 20, 2002:** Ordered to be Reported (Amended) by the Yeas and Nays: 28 - 19.
- **Mar 20, 2002:** Mr. Goss asked unanimous consent that the Committee on Education and Labor have until midnight on April 4 to file a report on H.R. 3762. Agreed to without objection.
- **Feb 15, 2002:** Sponsor introductory remarks on measure. (CR E174)
- **Feb 14, 2002:** Introduced in House
- **Feb 14, 2002:** Introduced in House
- **Feb 14, 2002:** Referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways

and Means, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

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