



**Actuaries &
Employee Benefit
Consultants**

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Last night the U.S. Senate passed the **Pension Protection Act of 2006**, and President Bush is expected to sign it within the next couple of weeks. The 900-page bill that has been years in the making includes provisions that significantly impact practitioners and sponsors of qualified and non-qualified plans. While the provisions are too extensive to list in this newsflash, here are a few of the highlights:

- An additional safe harbor option for 401(k) plans using automatic enrollment**
 - ⊙ Automatic enrollment of at least 3% and increasing 1% per year up to 6%
 - ⊙ Matching contribution of 100% of the first 1% plus 50% of the next 5%
 - ⊙ Full vesting after 2 years of service

- ADP testing relief for 401(k) plans**
 - ⊙ Refund deadline extended to 6 months after the end of the plan year for 401(k) plans using automatic enrollment
 - ⊙ Refunds are always taxable in the year of distribution, regardless of timing

- Increased rollover flexibility**
 - ⊙ Non-spouse beneficiaries permitted to roll over benefits to IRA accounts
 - ⊙ Direct rollovers permitted from qualified plans to Roth IRAs

- New combination defined benefit/401(k) plan**
 - ⊙ DB accrual of at least 1% of pay for up to 20 years of service
 - ⊙ Automatic 401(k) enrollment at 4% plus a match of 50% of the first 4%
 - ⊙ Provides 401(k) safe-harbor and deemed to be not top heavy

- Pension provisions from the Economic Growth and Tax Relief Reconciliation Act of 2001 including all increased contribution and deduction limits made permanent**

(continued)

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 **Increased deduction limits**

- ⊙ Permits defined benefit deductions of up to 150% of applicable funding target
- ⊙ Limit for defined contribution plans calculated without regard to PBGC-covered defined benefit plan of the same employer

 **Cash Balance plans clarified**

- ⊙ Deemed not to violate the Age Discrimination in Employment Act
- ⊙ Requires full vesting after no more than 3 years

 **Reporting and disclosure changes**

- ⊙ Form 5500 filing exemption for one-person plans expanded to plans with less than \$250,000 in assets
- ⊙ Simplified Form 5500 to be established for plans with 25 or fewer participants
- ⊙ Companies using intranets for internal communications must post their annual Form 5500 on their intranet sites

 **Fiduciary “free pass” for participant investment advice provided by...**

- ⊙ A fee-based, independent investment advisor whose fee is not affected by the investments chosen by the participants
- ⊙ A computer model provided by an investment institution and verified by an independent third party

 **Other fiduciary safe-harbors**

- ⊙ Mapping investments in a participant direct defined contribution plan
- ⊙ Default investment option when participant does not make an election

 **New rules effective for 2008 for calculating lump sum payments from defined benefit plans**

(continued)

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- ☰ **Increased funding targets for defined benefit plans deemed to be “at risk”**
 - ⊙ Determined using new 70%/80% test
 - ⊙ Applicable only to plans with more than 500 participants
 - ⊙ Additional loading factors for plans that are at-risk in any 2 of the 4 preceding years

- ☰ **Valuation of defined benefit plans**
 - ⊙ Significant changes to minimum funding calculations
 - ⊙ Plans with more than 100 participants must use the first day of the plan year as the valuation date
 - ⊙ Smoothing over a period not to exceed 24 months can be used for asset valuation

- ☰ **Miscellaneous**
 - ⊙ For defined contribution plans, reduction of maximum vesting schedule to the 2/20 graded or 3-year cliff schedule
 - ⊙ PBGC missing participant program open to terminated defined contribution plans

Swerdlin & Company is conducting two workshops for you to learn more about this monumental legislation.

1. We will hold a webcast on Thursday, August 10, 2006 from 2:00 pm to 3:30 pm. For more information on the webcast, please visit www.swerdlin.net/news/2006-08-webcast.html

2. We will hold a breakfast workshop at the Ashford Club in Atlanta, Georgia on Thursday, August 17, 2006. For more information on the workshop, please visit www.swerdlin.net/news/2006-08-17-workshop.html

We are developing an FAQ on the Pension Protection Act on our website at www.swerdlin.net/newsFAQ.html

In the meantime, please e-mail Adam Pozek at apozek@swerdlin.net if you have any questions or would like additional information.

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