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House 401(k) Provisions May Pass This Week

Article published on Dec 13, 2005

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A pension reform bill that could give a boost to mutual funds is nearing a vote in the House of Representatives, but it's unclear whether that will come this week or after Congress reconvenes in January.

The Pension Protection Act of 2005, introduced earlier this year by Rep. John Boehner (R-Ohio), includes provisions to make permanent higher contribution limits for IRAs and qualified retirement plans. Part of 2001's Economic Growth & Tax Relief Reconciliation Act (EGTRRA), those limits are currently set to expire in 2010. The new bill also aims to encourage the use of automatic enrollment and investment advice within defined contribution plans, such as 401(k)s.

Talks were underway on the Hill yesterday about getting the bill through before the House adjourns at the end of the week, Washington watchers say. A number of industry organizations are pushing for the bill, including the **Investment Company Institute (ICI)**, the **Profit Sharing/401(k) Council of America (PSCA)** and the **American Society of Pension Professionals and Actuaries (ASPPA)**.

Last week House Acting Majority Leader Roy Blunt announced plans to scuttle the Boehner bill until next year, according to a report in the Associated Press. Within days, PSCA issued an alert on its website maintaining that it still expected a vote to occur this week. David Wray, president of PSCA, now says the bill's fate is "very much up in the air."

ICI is also closely watching the discussion in the House, according to spokesman James Doyle, who echoes the uncertainty surrounding the retirement bill's immediate fate.

The bill faces competition for the House floor from other hot-button legislative issues. Members of Congress are expected to work into the weekend hashing out a massive budget reconciliation bill, according to Niels Holch, a partner at Washington, D.C. law firm **Holch & Erickson**.

"The budget process, the appropriations and all the must-pass pieces of legislation are going to get top priority," Holch explains.

Ed Ferrigno, vice president of Washington affairs for PSCA, notes the bill has a number of provisions favorable to retirement plans, particularly the extension of EGTRRA.

That law raised the annual contribution limits for IRAs for the first time since 1981. It also increased the limits for 401(k) plans, 403(b) plans and governmental 457 plans. In addition, it allows investors age 50 and older to make "catch-up" contributions to employer-sponsored plans and IRAs. But its 2010 sunset date leaves the longevity of those changes in question.

"EGTRRA permanency is by far the most important provision in the House bill, followed by the automatic enrollment provisions that are expected to be in the bill that will go to the floor," Ferrigno says,

The bill provides incentives to plan sponsors to automatically enroll new employees in company 401(k) plans unless the workers opt out. It also makes it easier for plan sponsors to offer investment advice in 401(k) plans. Either provision could give a slight boost to fund assets, though automatic enrollment might also create many accounts with small, administratively troublesome balances.

Automatic enrollment has been the subject of growing interest in recent years. Fund giant Fidelity recently announced it would start automatically enrolling its employees Jan. 1, 2006. According to a survey earlier this year by Hewitt Associates, 19% of employers offer automatic enrollment, up from 14% in 2003.

Even if a House vote is delayed until next year, some think the Boehner bill appears well-positioned for passage. "There's a good chance that bill will become law next year," says Fred Reish, an employee benefits lawyer with **Reish Luftman Reicher & Cohen**.

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