BCG Retirement News Roundup

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Boomershine Consulting Group (BCG) has launched this monthly news roundup of highlighted significant articles from the retirement industry – for clients and friends. Retirement plan news has become increasingly pertinent for many audiences these days, including:

- Retirement Plan Sponsors – addressing both private and public sector issues
- Employers – dealing with complicated decision making for their plans
- Employees – educating the Boomer generation that is nearing retirement
- Industry Practitioners - helping to understand and resolve today's significant challenges

We review numerous industry news services daily and will include a collection of timely and significant articles each month concerning compliance, actuarial plan costs (including assumption debates), plan design change issues and benefit trends, as well as other related topics.

Inside This Issue

Public Sector/Government Plans

Private Sector

Public Sector/Government Plans

Maryland Treasurer Nancy Kopp says state must fully fund pensions

ANNAPOLIS -- Maryland Treasurer Nancy Kopp on Tuesday stressed the need to move away from a system that has chronically underfunded state pensions, a concern of credit-rating agencies that have given the state its coveted AAA bond rating.

Kopp testified in favor of a House bill to require the state to phase out a faulty funding system within 10 years and would potentially eliminate the $21 billion unfunded liability within 25 years.

Kopp is scheduled to meet with the three major bond-rating agencies Thursday.

"It will be a great pleasure to tell them on Thursday the issue's before the legislature," she told the House Appropriations Committee.

The ratings agencies had pointed out the underfunding as a cause for concern in July 2012, the last time Maryland asked to issue bonds. Moody's Investors Service called it a "credit challenge," but all three agencies still granted Maryland the highest possible AAA rating, which means lower interest rates. Republican lawmakers argue that further reforms are needed, charging that Gov. Martin O'Malley and the Democratic leadership of the General Assembly aren't interested in addressing the issue.

One bill, sponsored by Howard County Del. Gail H. Bates, would require the state pension board to change its assumed rate of return from its current 7.75 percent to 6 percent. Such a move would, at least in the short term, force some hard choices on the state: either increasing its yearly contribution to the system, requiring employees to contribute more or cutting benefits.

In rosier fiscal days in the early 2000s, when Maryland's pension system was almost fully funded, the state instituted the so-called corridor method of funding pensions that didn't require the state pay the full amount it owed every year, since the financial markets were soaring. It was meant to eliminate erratic jumps in what taxpayers put into the system, but as the economy fell apart, the method left the state owing billions more than what it put into its pension system.

The legislation would phase out the corridor method over the next 10 years, requiring the state to start paying everything it owed the pension system by 2023.

Maj. Morris Krome, who represents police pensioners on the state's retirement system Board of Trustees, is the only member still around from when the corridor method was established. He reminded the House Appropriations Committee that the retirement board opposed the corridor method when it was introduced.

"If the bill isn't enacted, either now or in the very near future, then some terrible things are going to happen down the road," he stressed Tuesday, pointing out that police employees would be footing 100 percent of the bill for their pensions by 2020 if the current system remained.

The bill, sponsored by Del. Melony Griffith, D-Prince George's County, would also refinance the $21 billion debt with the goal of paying it all off by 2038. The committee took no vote Tuesday.

February 12, 2013 | 8:00 pm | Modified: February 12, 2013 at 8:15 pm, The Examiner

Pension reform is put on hold

TALLAHASSEE - House Speaker Will Weatherford's push to close the state's $136 billion pension system to new state employees is on hold.

A report released Friday was supposed to provide an estimate of how much the change would cost to pay out benefits to the employees currently in the system while switching new state employees into 401(k)-style retirement plans.

Instead, the report was deemed incomplete. Weatherford said Monday that he wants the missing information before he can decide his next move, and that won't be until at least March 1.

Weatherford, R-Wesley Chapel, has made ending pensions for new employees one of his top priorities of the coming legislative session. He says change is needed because the state's current pension - which has about 145,000 current and future beneficiaries, including Hillsborough, Hernando and Pasco school and sheriff's office employees - is unsustainable and will require a mammoth taxpayer bailout sometime in the future.

Unions oppose the move because they say it shifts costs and risks to workers.

A report released Friday by Milliman, a Virginia actuarial firm, concluded that closing the state's pension system to future employees would endanger the benefits of those currently enrolled in the pension plan. The problem: Because Weatherford's proposal would turn away new workers, the pension plan would be forced to rely on a shrinking payroll base on which contributions to retirees are made.

To make up the shortfall, either workers or taxpayers would chip in more, the report stated.

Weatherford said he wasn't surprised that the $70,000 report, which he had ordered, concluded it would cost more money to reform Florida's retirement system.

"We know that doesn't come free," Weatherford said.

But what the report didn't include were costs associated with keeping the pension plan intact, making it difficult to compare costs between reform and status quo. Weatherford said he didn't know why that estimate wasn't included.

"We do need, I believe, to have that baseline so that we can give the citizens of Florida and the Legislature all the information necessary to make a decision," Weatherford said.

Ben Wolf, a spokesman for Florida's Department of Management Services, said that as soon as the report was received, state officials notified Milliman that the study was incomplete. He said another study, this one costing $25,000, will be sent to the state explaining how much the current pension system will cost.

So far, at least, Senate President Don Gaetz hasn't publicly matched Weatherford's enthusiasm in reforming the retirement system for state workers, teachers and college and local government employees. Altogether, the pension system serves 1,007 different agencies across Florida, from the Tampa Sports Authority to the Pasco County Mosquito Control District to Pinellas County government.

The Senate is preoccupied instead with reforming smaller pension systems that are run separately by local governments. Sen. Jeremy Ring, D-Margate, who chairs the Senate committee that is handling pension reform, said he doesn't see a pressing need to reform the state pension plan.

"With municipal pensions, there's a legitimate need for reform," Ring said. "But the Florida Retirement System is a completely different discussion because it's difficult to define the urgency. I don't believe moving to a 401(k) system is a bad thing. The challenge, however, and it's a big however, is that it could be a bad thing in terms of how much it could cost to close down."

Ring said he's received little guidance from Gaetz on the issue.

"And that's because he wants to wait for all actuarial reports to come out," Ring said. "Ultimately, he'll have to get engaged and give us some direction."

But with the confusion over the Milliman report, that would have to wait.

Gaetz's spokeswoman, Katie Betta, said in an email that he was reviewing the study and couldn't comment.

Tampa Bay Times

February 19, 2013 Tuesday

Jerry Brown administration digs in against unions on pensions

SACRAMENTO -- Gov. Jerry Brown’s administration is pushing back against labor union efforts to roll back some of the pension changes made by state lawmakers last year.

The governor has vowed to fight any legal or legislative effort that he views as softening the law, which requires current employees to pay more of their own retirement costs and increases the retirement age for public workers.

In Contra Costa County, the local pension system has sued the state over the law's benefit cuts that it says are illegal. Brown said recently his administration would vigorously defend the law in court.

A statewide transit workers union asked the U.S. Department of Labor to find that the restrictions passed by state lawmakers violated federal labor law. Last week, the Brown administration responded with a letter from state Labor Secretary Marty Morgenstern to acting U.S. Labor Secretary Seth Harris and a legal opinion saying the retirement changes adopted last year complied with federal standards.

Assemblyman Luis Alejo (D-Salinas) has introduced a bill that would exempt about 20,000 transit workers from the changes in the law, which include requirements for current employees to pay a larger share of their own retirement costs.

The Los Angeles Times

By Anthony York

February 18, 2013, 11:11 a.m.

How GASB Changes Will Affect Public Pensions – Part III

The pending requirements by the Governmental Accounting Standards Board (GASB) will require understanding many new terms (some of which are explained in the GASB Part II post; Part I is here). It will also require getting used to several new numbers.

It's the numbers, Robert P. Schultze, director of the Virginia Retirement System (VRS), says that finally gets people's attention. Mr. Schultze has presented the impact of the accounting changes for his state at several public meetings and at a forum hosted by the National Conference of State Legislatures.

VRS maintains five defined benefit plans, including one for the state's more than 146,000 teachers in 147 school divisions.

As of 6/30/2012, the unfunded liability for the teachers' plan was reported as $14.70 billion; applying the new GASB rules, the amount comes to $15.16 billion.

The funding hasn't changed; simply the calculations.

This is due to several factors including using a new requirement to mark pension assets at market as of the date of the actuarial valuation (6/30/12). This is because the new rules preclude the use of "asset smoothing" to gradually recognize excess investment gains and losses over several years (Virginia currently smooths such gains and losses over a five-year period).

Where the most significant change is apparent, however, is what's referred to as pension "expense" – not what it costs each school board for its pension, but the cost that will be reported on its income statement.

In the following chart, Mr. Schultze contrasts three different dollar amounts: what the school divisions actually paid in fiscal year 2012 (6.33 percent), what the actuary recommended should be paid (12.91 percent), and what the new GASB calculations, not meant for funding, would state on financial statements:

GASB Accounting Expense

School Board	2012 Pension Expense Based on 6.33% of Payroll	2012 Pension Expense Based on 12.91% of Payroll	2012 Pension Expense Based on GASB 68
Fairfax County	$ 79,100,000	$ 161,400,000	$ 255,800,000
Prince William County	28,500,000	58,000,000	92,000,000
Loudoun County	26,300,000	53,700,000	85,100,000
Virginia Beach	24,300,000	49,500,000	78,500,000
Chesterfield	16,100,000	32,800,000	52,000,000
Henrico County	15,100,000	30,800,000	48,800,000
Arlington County	14,500,000	29,600,000	46,900,000
Chesapeake	13,300,000	27,200,000	43,100,000
Norfolk	12,900,000	26,200,000	41,600,000
Newport News	9,700,000	19,800,000	31,300,000
Total Teachers Plan	**$ 450,434,000**	**$ 918,658,000**	**$ 1,456,377,000**

There is a significant difference, example, for the school board of Newport News reporting an expense of $9.7 million versus reporting one of $31.3 million.

The reason for the jump, as Mr. Schultze explains, is that accrued pension expenses will increase significantly due to shorter amortization of unfunded liabilities. The new GASB pension expense number is for accounting purposes, not funding, meaning it is not intended to reflect an actual pension cost.

However, the accrued pension expense will be placed on employers' income statements and turn what may have been a cash surplus into a big deficit on an accrual basis.

At a public meeting in Kentucky, the media reported:

The newly reflected debt won't alter those cities' actual pension obligations. Public employers will pay for liabilities through annual pension contributions, as they do now.

But the sudden upsurge in documented liabilities — the largest ever for many local governments and agencies — is expected to cause a seismic shift on balance sheets that could damage their credit ratings and loan agreements.

GASB contends the new calculations and their required placement on employers' financial statements will promote greater transparency and comparability. Whether or not this proves to be the case, the new numbers certainly will require significantly more financial literacy.

by Ady Dewey
February 22, 2013

Big state pension change analyzed by actuaries

The Republican legislative leadership's plan to "soft freeze" the Florida Retirement System -- making new public employees join a market-based investment pool similar to the 401(k) plans popular in the private sector -- will leave public agencies with dwindling numbers of employees contributing money to pay pensions for growing ranks of retirees, an actuarial study released Friday says.

"We are reviewing the study received from the actuary and will derive from it the fiscal impact of our plan to reform Florida's outdated pension system," House Speaker Will Weatherford, R-Wesley Chapel, said in a prepared statement. "Ultimately, we believe that reducing the taxpayer exposure to Florida's pension liability and creating greater fiscal predictability in our budget is in the best interest of all Floridians."

Weatherford requested the financial analysis from the Department of Management Services, which contracted with the Milliman consulting group of Vienna, Va., to assess the likely results. Weatherford and Senate President Don Gaetz, R-Niceville, are intent on making employees hired after Dec. 31 of this year join the "defined contribution" pension plan, rather than the "defined benefit" plan now covering most employees and retirees.

The switch is called a "soft freeze" because, instead of making all FRS members take their chances in the market, it would close the defined benefit plan to new hires as of Jan. 1, 2014. Current employees could still opt into the defined contribution system if they wanted to but -- based on current data -- not many are likely to switch.

A study by Florida TaxWatch, endorsing the switchover plan on Thursday, said 84 percent of public employees are in the "DB" plan, which has an unfunded actuarial liability of about 13 percent.

In a defined benefit plan, pensions are calculated with an established accrual rate -- 1.6 percent for state Career Service employees -- multiplied by average peak earnings and years of service. In a defined contribution plan, the employer and employee contributions are put in an investment pot that the employee can direct, and which is "portable" when leaving government service.

Legislative Democrats and labor lobbyists have argued that the defined contribution system will put employees at risk of losing retirement income. The defined benefit plan has a locked-in monthly payment, which may or may not be greater than the yield of the 401(k)-style defined contribution pension.

Gov. Rick Scott got the 2011 Legislature to impose a 3 percent payroll tax on FRS members, which was upheld by the Florida Supreme Court. Since the mid-1970s, the FRS had been entirely employer-paid but Scott -- who initially sought a 5 percent payroll fee -- and GOP legislative leaders argued that most taxpayers in the private sector don't have paid-up pensions or guaranteed monthly benefits.

"A soft freeze does not impute the current amount of the unfunded actuarial liability," the Milliman report said. "It reduces the normal cost component of defined benefit funding in future years."

That's what Weatherford and Gaetz like about the defined contribution system. They have warned that future Legislatures could be on the hook for massive tax increases, to fund a defined-benefit plan perpetually, if defined benefits are not phased out.

But over the next 30 years or so, Milliman said that could mean more retirees collecting benefits as current employees retire -- and fewer active employees remaining to support the defined benefit plan with their 3 percent and the employer contributions. Those rates range from 3.3 percent for regular-class members to 11 percent of salary for the "special risk" employees such as police, firefighters, prison officers and others in dangerous jobs.

"If future members (of FRS) cannot join the DB plan, the result is a declining DB payroll base on which contributions to fund the DB plan are traditionally made," Milliman said. "This would produce increasing contribution rates as a percentage of payroll, as the payroll over which the (unfunded actuarial liability) is spread declines."

The TaxWatch report on Thursday said there are 540,701 FRS members in the defined benefit plan and 103,045 in the defined contribution system, which has been available to employees since 2002. It said the FRS has 643,746 active employees and 319,689 retirees collecting benefits -- mostly from the defined benefit plan.

About 20 percent of FRS members are state workers. The rest are spread among county governments, school boards, universities, municipal governments and various regional agencies.

Bill Cotterell, 02/15/2013 - 07:50 PM

Governor of Illinois Tells Legislators Pension Costs Put State at ‘Critical Juncture’

CHICAGO — After a year of unfruitful attempts to solve Illinois’s fiscal crisis, Gov. Pat Quinn used his State of the State address on Wednesday to implore legislators again to curb pensions costs that he said were “squeezing out education, public safety and other vital services to the tune of $17 million a day."

"Let there be no mistake," Mr. Quinn said, "our state is at a critical juncture."

Illinois's protracted fiscal problem — an estimated $96 billion in unfunded pension liabilities, the most of any state in the country — has also become a political problem for the governor as it drags down the state's credit ratings. If not addressed this year, political analysts say, the shortfall could pose a serious obstacle if Mr. Quinn runs for re-election, as notables from within his own party are already testing the waters for a possible primary challenge next year.

The filing deadline for the 2014 governor's race is not until December, but there are reports that William M. Daley, President Obama's former chief of staff, is thinking about running. Lisa Madigan, the state attorney general and daughter of the powerful speaker of the State House, Michael J. Madigan, has also not ruled it out.

"It's a testament to his weakness that he's got these high-profile people even making noise about it," David Yepsen, director of the Paul Simon Public Policy Institute at Southern Illinois University, said of the governor's political vulnerability. But he added: "Every legislator and every governor for the last 20 years bears some of the blame. Quinn is in charge now and he's been there for several years, and I think people are starting to hold him accountable for the fact that we still have this problem."

For months, Mr. Quinn, who replaced the convicted former Gov. Rod R. Blagojevich in 2009 and retained office in a 2010 general election by less than one percentage point, has been publicly trying to drum up enough support in the Democratic-controlled legislature for changes to the state's pension system. The measures have been opposed by public sector unions, some of the biggest supporters of Democrats, amid warnings by financial rating agencies that confidence in Illinois was running out.

The state's most recent credit downgrade came last month, when Standard & Poor's dropped the bond rating to A-minus from A, citing a negative outlook for the state and "lack of action" on the pension issue. The decision gives Illinois the lowest bond rating of any state in the country.

Concerns about higher borrowing costs caused Mr. Quinn's financial team to pass on a $500 million bond sale last week, said Laurence J. Msall, president of the Civic

Federation, a nonpartisan organization that tracks government finances.

“We’re not experiencing a speed bump on our fiscal highway, we are going over the cliff financially in Illinois,” Mr. Msall said, calling the state’s pension problems an “embarrassment” to Mr. Quinn and legislators.

Brooke Anderson, a spokeswoman for the governor, said Mr. Quinn inherited significant financial challenges when he took office and had had to make hard decisions regardless of their popularity.

But that seems to be taking a toll. In October, a Chicago Tribune/WGN-TV poll reported by the newspaper put Mr. Quinn’s job approval rating at 26 percent. When asked about his handling of the state budget, 48 percent of Democrats who were surveyed disapproved, compared with 32 percent who said they backed Mr. Quinn’s fiscal decisions. The margin of sampling error for the poll, which surveyed 700 likely voters, was plus or minus four percentage points.

The state’s financial situation has only worsened since then.

By STEVEN YACCINO

Published: February 6, 2013

Private Sector

Retirement Redux;
Survey Suggests Many Executives Rethinking Retirement

Some executives dreaming of their golden years are unsure when those years will actually start. Nearly four in 10 (38 percent) chief financial officers (CFOs) interviewed for a Robert Half Management Resources survey said they are more uncertain about when they're going to retire than they were five years ago. Another 13 percent stated their expected retirement plans have changed compared to five years ago.

The survey was developed by Robert Half Management Resources, the world's premier provider of senior-level finance, accounting and business systems professionals on a project and interim basis. It was conducted by an independent research firm and is based on interviews with more than 1,400 CFOs across the United States.

CFOs were asked, "How, if at all, have your retirement plans changed in the last five years?" Their responses:

Retirement plans unchanged 49%
I am more uncertain and cannot predict when I will retire 38%
I plan to spend more time working than I did five years ago 7%
I plan to spend fewer years working than I had intended five years ago 6%
Total 100%

"Economic trends and personal demands are causing many executives to re-examine their retirement plans," said Paul McDonald, Robert Half senior executive director. "A growing number of professionals nearing the traditional retirement age are exploring project and part-time work so they can continue their careers, while gaining the flexibility to gradually transition into retirement."

McDonald added, "Employers can accommodate seasoned employees who want to ease into retirement by enhancing succession planning efforts and offering consulting opportunities. This allows firms to retain legacy expertise and transfer knowledge from departing executives to future company leaders."

About the Survey
The national study was developed by Robert Half Management Resources. It was conducted by an independent research firm and is based on more than 1,400 telephone interviews with CFOs from a random sample of U.S. companies with 20 or more employees. For the study to be statistically representative and ensure that companies from all segments are represented, the sample was stratified by geographic region and number of employees. The results were then weighted to reflect the proper proportion of employees within each region.

About Robert Half Management Resources
Robert Half Management Resources is the premier provider of senior-level finance, accounting and business systems professionals to supplement companies' project and interim staffing needs. The company has more than 150 locations worldwide and offers online job search services atroberthalfmr.com. Follow Robert Half Management Resources attwitter.com/roberthalfmr for workplace news.

PR Newswire

February 21, 2013 Thursday 8:10 AM EST

The right timing and a little planning maximizes benefits and enhances retirement

The majority of Americans support continuing the Social Security program, even if they are decades away from drawing benefits, a 2010 survey by AARP found.

Nevertheless, with the program's future financial viability an ongoing subject of political debate, many people may undervalue the role Social Security can play in their retirement planning.

"For years, financial services companies have downplayed the role of Social Security in bolstering financial security in retirement," writes James Mahaney, vice president of Strategic Initiatives for Prudential, in the white paper "Innovative Strategies to Help Maximize Social Security Benefits."

"However, considering the increased financial risks retirees now shoulder, the tax preferences that Social Security receives, and the income options that Social Security now offers, a strong argument can be made that Social Security should play a greater role in a retiree's financial planning."

Each day, 10,000 Americans reach retirement age. With people living longer and fewer companies offering pensions, saving for retirement has become even more important for today's workers.

Yet, retirement savings rates remain low.

Social Security offers "regular income that is guaranteed to increase over time and continue for as long as you live," Mahaney writes. "No other (retirement) vehicle can match the combination of inflation-fighting increases, longevity protection, investment risk elimination, and spousal coverage that Social Security can (offer)."

With Social Security accounting for approximately 40 percent of income for the average retiree, according to the Employee Benefit Research Institute, it makes sense to take steps to maximize potential Social Security benefits, Mahaney advises.

While most Americans realize they accrue Social Security benefits throughout their careers, many may be unaware that they can influence the amount they will receive upon retirement.

Retirees can help maximize their Social Security benefits by avoiding four costly - and common - mistakes:

* Don't underestimate the real value of Social Security.

* Don't rush to collect Social Security - and then regret the reduced benefits for the rest

of your life.

* Don't overlook the various ways married couples can integrate their benefits.

* Don't get blindsided by taxes.

Claiming benefits as soon as they're eligible is a common mistake that can cost retirees tens of thousands of dollars over their lifetime. Although most everyone becomes eligible for benefits at age 62, delaying benefits until you reach Full Retirement Age (which varies depending on your birth year) or later may help ensure you receive the maximum amount you qualify for.

"Retirees often apply for Social Security benefits early," Mahaney writes. "Most certainly didn't stop to think that... they could have potentially doubled their initial payments if only they had waited until age 70."

Another common mistake is forgetting that when you retire, the income received from IRA withdrawals often causes Social Security benefits to become taxed as well. Since Social Security income is taxed differently than IRA income, you can often reduce your taxes by choosing higher Social Security income and lower IRA withdrawals.

It's never too early - or too late - to plan for retirement, experts agree. Talk to your financial advisor about your retirement strategy and how Social Security fits into it. You can also read the Prudential white paper, "Innovative Strategies to Help Maximize Social Security Benefits," online at www.Prudential.com.

"It's all about choices," Mahaney concludes. "Those who understand how to evaluate their choices and optimize their decisions will be the ones to enjoy a more secure retirement. A larger amount of Social Security within a retirement income strategy may, indeed, be the golden ticket to the golden years."

Dayton Daily News (Ohio)

February 17, 2013 Sunday
USA TODAY

IRS Provides Single-Employer Defined Benefit Plan Average Segment Rates for 2013 Plan Year

The Internal Revenue Service (IRS) released Notice 2013-11, providing guidance on the 25-year average segment rates applied to adjust the otherwise applicable 24-month average segment rates used to compute the minimum contribution requirements for single-employer defined benefit plans under Internal Revenue Code (Code) §430 and the Employee Retirement Income Security Act of 1974 (ERISA) §303 for plan years beginning in 2013. The guidance reflects the changes made to the Code and ERISA by the Moving Ahead for Progress in the 21st Century Act (MAP-21).

Notice 2013-11 will be published in Internal Revenue Bulletin 2013-11 on March 11, 2013.

IRS Releases Covered Compensation Tables for 2013

The U.S. Internal Revenue Service (IRS) issued Revenue Ruling 2013-2 which provides tables of covered compensation under Section 401(l)(5)(E) of the Internal Revenue Code for the 2013 plan year. These tables are used to determine contributions to defined benefit plans and permitted disparity. For purposes of determining covered compensation for the 2013 year, the taxable wage base is $113,700.

Closed pension plans face non-discrimination peril

Frozen pension plans are looking to Congress for a solution to the discrimination problem

Employers that thought closing their defined benefit plans to new employees would simplify their pension decisions could be in for a rude surprise as they increasingly risk flunking non-discrimination tests.

“When sponsors do a soft freeze, it's not a question of "if', it's a question of "when' you will run into a compliance problem,” said Scott Jarboe, partner with Mercer's Washington office.

The problems arise most often when defined benefit plans are closed to new hires. As the earnings of participants in the closed plans grow, so does the disparity between the richness of their benefits and those of other employees for whom a defined contribution plan is their only choice.

So, more participants in the closed plan are moving into the highly compensated employee category, while newer employees and turnover keep overall benefit values lower in other plans.

When that gap gets wide enough, sponsors can fail the Internal Revenue Service's non-discrimination rules test.

Employers are now hoping the federal government will allow plans that passed the test when first closed to new hires to be considered to have passed permanently, unless plan enhancements are made. They are pushing for either a legislative or regulatory change as soon as possible.

“More and more companies are going to (Capitol Hill) to talk about this issue with members of Congress,” said Kent Mason, an attorney with Davis & Harman LLP. Mr. Mason is outside counsel to the American Benefits Council in Washington, which is leading the charge.

“They're telling them that if this issue does not get addressed, many of the grandfathered employees will have to be removed from the plan. The potential tragedy is that they would lose the best years.”

Rep. Richard Neal, D-Mass., hopes to re-introduce legislation that idled in the last Congress. That bill would allow grandfathering of closed plans at some point, but the timing for getting anything through a distracted Congress is unknown.

A more likely approach is through regulatory channels at the Treasury Department. Although officials there declined to comment, “they are very aware of this issue, and we have had very constructive discussions,” said Mr. Mason. “I think we have an opportunity to fix it.”

Rules to prevent benefit abuses favoring highly paid plan participants seemed like a good idea when passed decades ago. But now, “we're starting to see the results of not letting anyone else in” to the closed DB plan,said David Driscoll, a principal with Buck Consultants, Boston.

'Extremely complex'

Those non-discrimination rules “are extremely complex,” noted Stewart Lawrence, senior vice president and retirement practice leader for The Segal Co. and its Sibson Consulting division in New York, who leads the national retirement practice. “With the testing for coverage and benefits you are permitted disparity, but at some point they (get too far apart). It's all about the demographics.”

Maria Sarli, a retirement resource actuary in Towers Watson & Co.'s Atlanta office who works with large company plans, said she thinks the problem is going to hit critical mass in the next two to 10 years, depending on each plan's demographics.

Officials at one large pension fund client of Towers Watson are struggling to decipher the complex regulations and tinker with changes as the demographics in the various plans shift, Ms. Sarli said. But getting that older group of employees through the pipeline and into retirement could take several decades. “It involves an awful lot of modeling and uncertainty,” she said. “It is entering the debate more than they expected.”

An internal survey by Aon Hewitt, Lincolnshire, Ill., of 78 closed plans found that while half had five or more years before non-discrimination rules become an urgent problem, 16% had already failed the discrimination test and another 14% were headed toward failure within two years.

“Sometimes you can fail without realizing it,” said Ms. Sarli.

IRS holds all the cards

While many consultants noted that IRS officials will work with sponsors, they also said the agency holds all the cards and has the power to disqualify plans, which would subject employers to taxes on benefits and investment earnings.

“The IRS takes no pleasure in disqualifying a plan, and they give fairly ample opportunity to catch up, (but) they are conscientious about it,” said Buck's Mr. Driscoll.

The options for an immediate fix are few and unappealing to employers, employees or both. Sponsors can freeze the defined benefit plan so no more benefits accrue, continually cull some highly paid employees from it, increase benefits to other employees, or allow more people into the closed plan.

“Either way, it's telling the employer to expand (its) pension liability,” said Rob Austin, senior retirement consultant with Aon Hewitt in Charlotte, N.C. “Fixing a defined benefit plan is extremely difficult. None of these is really great news from a plan sponsor's perspective ...”

“There is no silver bullet,” agreed Mr. Jarboe of Mercer. “There are the costs and financial impact on the company (to consider), and then there's the competitive impact” of changing benefits.

He and his counterparts at other firms spend more time these days redesigning plans to avoid the problem in the first place. “We don't want to put something in that would blindside them down the road,” he said.

Said Rich Martin, a senior retirement plan consultant with The Principal Group in Des Moines, Iowa: “The longer you've had your plan in place, you have a higher probability of not passing. As the DB group shrinks, it's going to get worse.”

BY HAZEL BRADFORD | FEBRUARY 18, 2013