



After Enron: Pension Reform Proposals

Twenty thousand Enron employees lost approximately \$1 billion in pension assets during the company's recent collapse. Factors contributing to large employee losses included:

- Lack of diversification – Employees had 63 percent of their 401(k) assets invested in Enron stock.
- Restrictive corporate rules – Company rules barred employees from selling Enron matching stock until they reached age 50.
- An ill-timed lockdown period – Employees were prevented from selling assets for several weeks last fall while plan administrators were changed. During this period, Enron stock prices fell significantly.

In response to problems brought to light by the Enron debacle, a number of legislative proposals have been offered. A summary of some of the most prominent proposals follows.

Senate Bills

***Protecting America's Pensions Act (S 1992) sponsored by Sen. Kennedy, D-MA**

[Sen. Kennedy's plan is currently the leading Democratic Proposal.]

- Permit companies to contribute stock to 401(k) plans or offer stock as an investment option to plan participants, but not do both. This provision encourages, but does not mandate, diversification of assets.
- Allow an employee to sell company matching stock after participating for 3 years. Some companies currently allow workers to diversify quickly, but others impose waiting periods that may stretch decades.
- Require companies to take out insurance to cover losses in pension plans. Insurance is not currently required for defined contribution plans.
- Require companies to give 30 days notice before a lockdown period. No notice is currently required.
- Require executives to disclose sales of company stocks.
- Require employers to provide workers with detailed quarterly reports. Under current law, reports are due annually.
- Establish an Office of Participant Advocacy in the Department of Labor to act as a watchdog on pension issues.

***Pension Protection and Diversification Act (S 1838) sponsored by Sens. Boxer, D-CA and Corzine, D-NJ**

[Previously the most prominent Democratic proposal, Boxer and Corzine have backed off their plan and now endorse Kennedy's bill.]

- Limit employees to holding no more than 20 percent company stock in their 401(k) accounts.
- Allow employees to sell company matching stock after 90 days.
- Allow employees to diversify assets in employee stock ownership programs (ESOPs) after 5 years and after they've reached age 35. Currently, ESOP stock can be sold only when an employee reaches age 55 and has been in the plan for 10 years.

***Independent Investment Advice Act (S 1677) sponsored by Sens. Bingaman, D-NM and Collins, R-ME**

[See also HR 2269 below]

- Removes a ban that prohibits companies that administer retirement plans from giving investment advice to plan participants. Allows an employer to designate and monitor a qualified investment adviser for plan participants without being liable for any breach or loss with respect to the provision of advice.

House Bills

***Employment Retirement Savings Bill of Rights (HR 3669) sponsored by Reps. Portman, R-OH and Cardin, D-MD**

[Passed the House Ways and Means Committee 36-2 on 3/14/02]

- Allow employees to sell company matching stock after 3 years.
- Require employers to offer at least 3 investment options other than employer securities.
- Require companies to give at least 21 days notice before a lockdown period.
- Require companies to provide plan participants with yearly notices on the principles of risk management and the importance of diversification.
- Allow employees to pay for retirement advice and counseling with pretax dollars deducted automatically from their paychecks.

***Retirement Security Advice Act (HR 2269) sponsored by Rep. Boehner, R-OH**

[Passed the House 280-144 on 11/15/01 and awaiting action in the Senate]

- Removes a ban that prohibits companies that administer retirement plans from giving investment advice to plan participants. Allows these firms to give investment advice as long as there is adequate disclosure of any relevant information about the adviser's fees and potential conflicts. Differs from S 1677 in that advisors do not have to be independent of the sponsoring company.

***Pension Protection Act (HR 3463) sponsored by Rep. Deutsch, D-FL**

- Limit employees to holding no more than 10 percent company stock in their 401(k) account.

White House Proposal

The proposal outlined by President bush would:

- Allow employees to sell company matching stock after 3 years.
- Require employers to provide workers with detailed quarterly reports on their accounts, including the value of their assets, their rights to diversify, and the importance of maintaining a diverse portfolio.
- Require companies to give 30 days notice before a lockdown period.
- Prohibit executives from selling company stock during lockdown periods when workers are unable to trade on their plans.