Association News

TAUC Legislative and Regulatory Update, December 2018

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Change is coming to Washington once again. The most expensive midterm election season in US history will result in a divided 116th Congress with Democrats retaking the House of Representatives. With the winner of two races yet to be officially announced, Democrats have gained at least 38 seats in the House to retake the majority. Republicans expanded their majority in the Senate 53-47.

The impact of the election remains to be seen. Many predict gridlock and partisan fighting over the House's anticipated oversight and investigations of the Trump Administration and desire to relitigate the tax bill. Others are hopeful that divided government could present an opportunity to advance legislation that could attract bipartisan support - such as a major infrastructure package. President Trump, Senate Majority Leader McConnell and Congresswoman Pelosi (who is very likely to return to the Speaker's Office) have all signed a willingness to work on infrastructure legislation.

Before focusing on next year's agenda, the 115th Congress will need to complete action on a number of items left unresolved prior to the election. Most importantly, Congress must decide how to fund the seven remaining FY 2019 appropriations bills. The current Continuing Resolution (CR) was set to expire on December 7th. With the death of former President George H.W. Bush, Congress enacted a 2-week CR to give themselves more time to come to an agreement. Members involved in the negotiations report significant progress on the remaining appropriations bill. The most significant outstanding issue remains the President's insistence on an additional $5 billion to fund construction of the border wall.

Multiemployer Pension Reform

One issue that will not be part of the end-of-session discussions will be multiemployer pension reform. The co-chairs of the Joint Select Committee on the Solvency of Multiemployer Pension Plans (JSC) announced last week that they could not agree to a solution before the November 30th deadline for reporting legislative recommendations. Senator Hatch (R-Utah) and Senator Brown (D-Ohio) had been working to develop a proposal that could garner the support of a majority of the JSC members. In making the announcement, they claimed that while significant progress has been made in addressing the pending crisis, more time will be needed to find a proposed solution.

Among other changes, the initial proposal:

- Did not include a loan program for failing plans, rather proposed to have orphan liability assumed by the PBGC
- Was paid for through a combination of increased premiums and new stakeholder fees on retirees, actives and employers, as well as mandatory annual transfers from the Federal General Fund
- Tightened the funding rules for multiemployer plans requiring high contributions from employers and/or benefit cuts
- Repealed the Multiemployer Pension Reform Act of 2014 (MPRA), and restored benefits for participants in a plan with a recovery plan that had been approved by the Treasury Department
- Raised the maximum PBGC guarantee for a participant with 30 years of service from $12,870 per year to $25,200 per year (effective as of date of enactment of MPRA - including for plans that have a rescue plan in place under MPRA); and
- Did not include composite plans.

The proposal raised significant concerns from NCCMP, construction employers, building trades unions and many plans. Ultimately, it failed to generate enough support among JSC members to finalize recommendations prior to the November 30th deadline. Members of the JSC pledged to continue working on finding a solution to this crisis next year. TAUC joined other contractor associations and building trade unions in communicating our serious concerns with the proposal to members of the JSC and congressional leadership. We will continue to meet with members of congress and their staff to ensure that any effort to address the looming multiemployer pension plan crisis is equitable and does not undermine otherwise healthy plans or unnecessarily increase costs to contributing employers. We will also continue to work to ensure that any proposal authorizes the use of hybrid composite plans.

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