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Publications

Rhode Island Enacts Law to Require Church Defined Benefit Plans with at Least 200 Members to Provide Financial Information

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Church plans exempt from ERISA do not enjoy the preemption of state law under ERISA. As a result, church plans may be subject to state laws (setting aside any freedom of religion arguments). As a result of participants in the State of Rhode Island being threatened with loss of their pensions from a church hospital plan collapse in Providence a few years ago, the state of Rhode Island has now enacted a law, effective June 28, 2019, requiring church defined benefit plans of a certain size to provide certain financial and funding information on the plan.

The law itself is quite short:

"(A) All defined benefit plans that are not covered by the Employee Retirement Income Security Act of 1974 (ERISA) and have two hundred (200) or more plan members shall be required to comply with the provisions of 29 U.S.C. § 1024(b)(3).

(B) This section shall not apply to governmental plans as defined in 29 U.S.C. § 1002(32)."

The reference to ERISA reporting provisions is to the requirement that, within 210 days after the close of the fiscal year of the plan, the administrator shall furnish to each participant, and each beneficiary receiving benefits under the plan, a copy of the following information normally provided with the financial information on the Form 5500 annual report:

(A) a statement of the assets and liabilities of the plan aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year of the plan; and

(B) a statement of receipts and disbursements during the preceding twelve-month period aggregated by general sources and applications;

as well as such other material (including the funding percentage of the plan) as is necessary to fairly summarize the latest annual report.

Thus, the plan administrator of a church defined benefit plan may be required to provide information regarding the plan's financial position and funding beginning 7 months after the end of the plan's fiscal year.

The language of the statute raises a number of practical and jurisdictional questions. For example, do the plan sponsor or the plan administrator need to be located in the State of Rhode Island? Do the plan members need to be in the State to count towards the 200-member threshold, or to be required to be provided notice? And if so, how does the plan determine if a member is a resident of the State? Further, do the notices need to be compiled under ERISA actuarial assumptions? At the current time, the answers to these questions do not seem to be clear, nor is it clear if or when the State may be issuing any guidance. However, any church defined benefit plan that has not elected to become subject to ERISA and that has members in Rhode Island will want to review the new law and whether it may need to provide the necessary information to participants and beneficiaries.

Another concern might be whether other states may decide to start regulating church plans. Church plans already have exemptions from the insurance laws in a number of states. Interesting, too, is that Rhode Island exempted governmental plans in the state from having to provide the same funding information to plan members.

If you have any questions regarding the new law, please contact David Powell or your regular Groom attorney.

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