

RA Bench

COLI BEST PRACTICES 2006 LEGISLATIVE OUTLOOK

January 31, 2006

This notice provides an update on the current status of the “COLI Best Practices” provision and an outlook for the prospects of passage in 2006.

Early in 2005, Senators Grassley (R-IA) and Baucus (D-MT), Chair and Ranking Member of the Senate Finance Committee, included the COLI provision in their comprehensive pension reform legislation. This legislation was ultimately passed by the full Senate in November 2005. This provision was crafted and originally passed by the Senate Finance Committee in 2004. Specifically, the COLI provision effectively would:

- Limit coverage to directors and “highly-compensated employees,” who are defined as individuals earning at least \$90,000 annually or in the top 35 percent by compensation
- Require employees to obtain the informed consent of any employee before enrolling him or her in a COLI Plan
- Require employers to report information about their COLI plans to the Internal Revenue Service.

The House version of the pension reform legislation does not include the COLI provision. In May 2005, Representatives Tom Reynolds (R-NY) and Earl Pomeroy (D-ND) introduced standalone legislation in the House, the “COLI Best Practices Act of 2005.” 31 members of the 41 member House Ways and Means Committee signed onto the bill as cosponsors. The bill has 47 total cosponsors.

2006 Outlook:

The differences between the House and Senate versions of the pension legislation will be worked out in a joint conference committee. Supporters of the legislation seek to have the conference committee work completed by early to mid-April.

In our view, should the pension legislation be completed in 2006, the COLI provision has a good chance of surviving the conference committee process. As noted previously, the provision has now passed the Senate, as part of the pension bill, on a bipartisan basis. In addition, the standalone COLI legislation introduced in the House also has significant bipartisan support from key players in tax policy in that chamber.

In the short term, the chances of the enactment of the COLI Best Practices provision hinge on whether the House and Senate reach a conference agreement on the pension legislation. If it appears that this legislation may stall for the year, other appropriate vehicles on which the COLI provision could be attached will be assessed and pursued.