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## U.S. BUSINESS NEWS

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# House Moves to Prevent Proposed Pension Rules

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Staff Reporters of THE WALL STREET JOURNAL

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In an unexpected move that involved possibly doctored Treasury documents, an expensive full-page advertisement in the New York Times and a lot of heat over cash-balance pension plans, the House passed an amendment that could prevent the Treasury from issuing controversial pension regulations.

Rep. Bernie Sanders, a Vermont independent, offered the amendment, which was tacked on to an appropriations bill, to stop the Treasury from issuing final regulations on cash-balance pension plans -- regulations that have been on the drawing board for more than 15 years. The vote passed 258 to 160, with 65 Republicans and 192 Democrats in favor.

Cash-balance plans are controversial because they usually cut pensions for older workers. In late July, a federal district court in Illinois concluded that **International Business Machines Corp.**'s cash-balance plans had discriminated against older workers.

Mr. Sanders and his co-sponsors, who include Reps. Gil Gutknecht (R., Minn.), George Miller (D., Calif.) and Maurice Hinchey (D., N.Y.), say the Treasury regulations would have reversed the court's decision in the IBM case. "The court found that IBM knew that older workers would lose up to 47% of their pensions under the cash-balance conversion," Mr. Sanders said. "Now the Treasury is about to help employers make an end run around the courts and illegally cut pensions."



**Bernard Sanders**

Although the final regulations haven't been issued, the Treasury is widely viewed as sympathetic to employers in pension matters, and in December issued proposed regulations that said cash-balance plans wouldn't be subject to age-discrimination rules.

Hundreds of large employers have adopted cash-balance plans, which usually save companies money by cutting pensions for older workers, and indirectly boost earnings by cutting pension liabilities.

The adverse decision in the IBM case alarmed employers, which are seeking favorable regulations from the Treasury, which they hope will aid them in their cases in the courts.

On Monday, an IBM lobbyist, Susan M. Siemietkowski, sent a document she called the "Treasury's statement of opposition" to various lawmakers' staffs, including Mr. Gutknecht. The Treasury document, on official Treasury letterhead, noted "Treasury Strongly Opposes the Sanders Amendment" and advised lawmakers to oppose the amendment, which it said "will weaken the defined benefit system."

Tara Bradshaw, a spokeswoman for the Treasury, said the agency didn't issue the document. "It is a Treasury generated fact sheet stating our position on a set of [past] amendments that were never offered. However, they were not sent in the format you provided and, therefore, appear to have been doctored."

She said the Treasury had prepared an earlier document pertaining to an amendment offered by Mr. Sanders last year, but that the original document was "designed for informational purposes and was not formally released," she said. "We were not aware the document had been circulated beyond a very limited number of select staff."

IBM spokesman Bill Hughes said, "We received the document from the Erisa Industry Committee, and we understand that it was prepared by Treasury and distributed to members of the House last week. We believe that the document was not changed from what the Treasury distributed." He added, "We're doing everything we can to get to the bottom of this."

The IBM lobbyist also sent lawmakers a document titled "IBM-Wash Post.doc," which included text that appeared Tuesday, in full-page ads in the New York Times and the Hill, a daily newspaper for members of Congress and their staffers.

The Microsoft Word document labeled its creator as Richard C. Shea, a lawyer at Covington and Burling, which is defending IBM's case.

When asked if he wrote the advertisement, Mr. Shea said no. When told that his name was attached to the document, he said he was aware of "various versions" of the ad "floating around," and said he didn't write it. He declined to say whether he was involved in the ad campaign, saying one of its sponsors was a client and hadn't authorized him to discuss it. "It's possible someone took a document I had originally drafted and prepared a new one on top of it," he said.

The ad carried the headline "Don't Destroy America's Pension System," and said the Sanders amendment would "outlaw vast numbers of pension plans." It was signed by a handful of lobbying groups, including the Erisa Industry Committee and the American Benefits Council, lobbying groups to which IBM belongs, and paid for by Erisa Industry Groups. Also listed was the Coalition to Preserve the Defined Benefit System, an employer lobbying group. The Web site for the coalition doesn't identify its members. However, the site's address is registered to Watson Wyatt, a consulting firm that is IBM's actuary, and which helped it implement its cash-balance plan.

When asked about Watson Wyatt's relationship to the coalition, Eric Lofgren, global director of the firm's benefits-consulting group, says Watson Wyatt was "in at the birth" of the coalition "with a bunch of employers," and functions as an adviser to the group.

Last year, Mr. Sanders offered a similar amendment, which passed the House 308-121, with most Democrats and 47% of Republicans voting in favor; it ultimately was stripped from the final bill.

Sen. Thomas Harkin (D., Iowa) also is expected to introduce a limitation amendment aimed at preventing the Treasury from issuing cash-balance regulations. If the reconciled amendments ultimately pass, the final regulations on cash-balance plans won't come out for another year.

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