

Rick Terven

From: Rick Terven
Sent: Wednesday, December 17, 2014 11:15 AM
To: Rick Terven
Subject: FW: NCCMP Multi-Elert - Congress Approves Multiemployer Pension Reform

From: Randy G. DeFrehn [<mailto:rdefrehn@nccmp.org>]
Sent: Tuesday, December 16, 2014 1:53 PM
To:
Subject: FW: NCCMP Multi-Elert - Congress Approves Multiemployer Pension Reform

Please excuse the delay in getting this information to you following our conversation, but it has been an incredibly busy couple of days for us and I hope you will understand.

In the link provided below, I am forwarding an explanatory document (a "*Multi-Elert*") that provides a summary of the bill that was enacted over the weekend that clarifies that this bill includes tools trustees can use only if they so choose (and remember that Multiemployer plans are managed by equal numbers of labor and management trustees, so no one can impose any changes on them that they don't agree to voluntarily).

I appreciate your having reached out to find what is really in this bill. You will find that it is not as some have characterized it - a way for plans to simply reduce cost by cutting pension benefits. As you can imagine, the unions that participated in the process to arrive at this comprehensive set of reform recommendations, including the Teamsters and the Machinists, would never have proposed such a plan. The fact is, however, that a growing number of plans are heading for insolvency, including Central States Teamsters. According to the PBGC these include plans with as many as 1.5 million participants - roughly 10% of all Multiemployer plan participants. Under current law benefits remain unreduced until the plan becomes insolvent (defined as having insufficient assets to pay benefits and administrative expenses for a year) at which time the trustees MUST reduce benefits for ALL participants - pensioners, terminated vested and actives alike - to the guaranty level provided under the PBGC multiemployer guaranty fund. When that happens the plan will cease to provide any new accruals and the PBGC funds all future benefit payments through "loans" to the plan. The guaranteed benefit is a function of accrual rates and years of service. The first \$11 per month per year of service is fully protected while 75% of the next \$33 is also guaranteed. For someone with 30 years of service, that amounts to a maximum guaranteed benefit of \$12,870 per year, or \$1,072 per month. There are no options. No benefit above these limits is guaranteed for any purpose.

In real terms, for many pensioners that is an enormous reduction. Take the Delaware Millwrights whose plan was taken over by PBGC last April. One pensioner from that fund was quoted in the press earlier this year as saying that in March he got a pension check from the fund for \$4,000, the next month, when the PBGC started paying, he received \$800.

Many plans realize that this would have been their fate without any other choices. So the Retirement Security Review Commission (Commission), a group comprised of 42 labor and management groups, plan representatives and advocates, developed a proposal that would allow plans heading for insolvency, but which could survive if they had additional flexibility, to take the same actions they would be forced to take later, but before they spend all of their assets and are left presiding over a wasting trust with no hope for either their existing pensioners, or the active employees. Many of these active workers have doubled or tripled their

contribution rates above historical levels to help fund the previous generations' benefits while slashing their own accruals. They face the prospect of getting little or nothing when they retire, and if the plan terminates, they are guaranteed not to have anyone coming behind them to help in their old age.

As if that weren't bad enough, for the last few years the PBGC has been issuing "exposure" reports that have shown their liabilities growing at an exponential rate, going from \$5 billion, to \$10 and in the latest report issued last month, to \$42 billion and they now say that the probability of that fund itself becoming insolvent within the next 10 years is 95%. Even before the latest forecast, the Government Accountability Office and the Congressional Budget Office have both estimated that unless the PBGC premiums are raised, when they spend the \$1.7 billion in assets they currently have, they will have only current cash flow from premiums to pay benefits. Once that happens, the maximum benefit won't be \$1,072, but will be reduced to a maximum monthly amount of about \$125. To address that possibility the Reform Act also includes an increase in the PBGC premiums for all plans from the current \$13 per participant per year, to \$26.

To better protect those plans that have not passed the point of no return from going under, the Commission adopted the following recommendations:

1. For plans (and only those plans) whose contributing employers and trustees have taken all reasonable measures to preserve the plan's solvency, but which are certified to be heading irreversibly to insolvency, (called "critical and declining" plans in the bill) the trustees may prepare a plan that reduces benefits of participants equitably provided that:

- Benefits may only be reduced as much as necessary to achieve plan solvency; and
- Once benefits are reduced, the plan must be projected to remain solvent; and
- No benefits may be reduced below 110% of the PBGC guaranty providing all participants with long term benefits above what they would have received had the plan become insolvent and gone to the PBGC.

A number of participant protections were also included to permit trustees to protect "vulnerable" participants, including at a minimum:

- No participant over age 80 and no disability pensioner may be subject to any reduction.
- Pensioners between ages 75 and 80 will have that protection phased in.

A proposal which demonstrates that all reasonable measures had a been taken and that the trustees have exercised due diligence in crafting the proposal must be submitted to Treasury for approval and participants must be notified that the application has been filed.

To make sure participants know what is happening and to provide input to the trustees during the process, plans of 10,000 or more participants must appoint a Retiree Representative from among their current retirees (who would have access to both legal and actuarial support).

If approved by Treasury, the proposal must then be submitted to the plan participants for a vote. If more than 50% of participants reject the plan it fails. If, however, the plan is determined to be "systemically significant" (meaning it presents the possibility of at least \$1 billion in claims to the PBGC), the Treasury Department could override the vote and implement the plan anyway. The rationale is that participants of a single plan should not be able to decide they don't want to accept a plan in such a way that brings down the entire guaranty fund; thereby depriving everyone else in the system from the modest protection provided by that system.

Once again, putting this in terms of the real world, let me give you an example of a plan heading for insolvency by 2028, whose trustees ask their actuary to run the numbers to see if they can be saved.

The plan covers Iron Workers in Cleveland. Over the past few years their industrial base has eroded significantly, they have increased their contribution rate from \$5 to \$10 per hour and they cut their active members' accruals from \$100 to \$50 per credit, yet they are still heading for insolvency and there is nothing else they can do. The contribution rate has made their employers reluctant to a bid work due to their growing withdrawal liability and even when they do bid they are less and less competitive. Average benefits paid out for the plan as a whole are about \$1,700 per month, and those retired on a service pension receive on average \$2,900 per month. The actuary determined that if the plan becomes insolvent as projected in 2028, PBGC will pay about 50% of the current benefit. On the other hand, if they can act in the next two years, the plan would only have to reduce benefits by 10%. So instead of the average pensioner having his benefit reduced from \$1,700 to \$850, the new average benefit would be \$1,530. For the service pensioner, the difference is even more dramatic, with benefits payable under the revised plan being preserved well above the PBGC of \$1,072, to \$2,600 under a 10% reduction.

It can't be any clearer that taking action earlier will both save the plans and provide significantly higher benefits for everyone. Obviously, not every plan will be able to preserve that high a percentage of their benefits; every plan is different and those heading to insolvency will have more or less time to resolve their problems. One thing is clear, however, and it goes to the heart of why getting this legislation passed sooner rather than later was in everyone's best interest, the longer we wait, the more pain everyone involved must endure.

I've gone on long enough, but I hope this gives you the kind of information to clear the waters that have been muddied by those who simply wanted to stop the legislation for their own reasons, which was not always because it was what was best for plan participants.

Please share this with anyone whom you believe is interested and don't hesitate to call me with any questions you or they may have.

Best regards,

Randy

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NATIONAL COORDINATING COMMITTEE FOR MULTIEMPLOYER PLANS

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Ladies and Gentlemen:

Last night Congress passed the *Consolidated and Further Continuing Appropriations Act, 2015*, which contains many of the recommendations put forward in *Solutions Not Bailouts*. This landmark legislation will provide many troubled multiemployer plans with the tools they need to remain solvent and protect long-term participant benefits, and will also address several technical issues and shortcomings of the Pension Protection Act.

Enactment of these reforms was the result of the tireless efforts of a great many people from across the multiemployer community. The NCCMP extends its sincere gratitude to everyone who contributed their time and energy to this extraordinary process.

The following Multi-Elert contains a full discussion of the multiemployer pension provisions of the legislation.

Multi-Elert Volume 14 Issue 4

Please let us know if you have any questions, and thank you once again for all your contributions to the success of *Solutions Not Bailouts*.

Best regards,

Randy

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