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Multiemployer Pension Funds Get Leeway To Cut Retiree Benefits

January 15, 2015 | | Unions And Union Membership,Labor And Employment

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We've written in the past about the looming danger presented by the large number of drastically underfunded union multiemployer pension benefits plans in the U.S. Well, while we were all rushing around in December getting ready for Christmas, Congress passed H.R. 83, the Consolidated and Further Continuing Appropriations Act of 2015, to re-fund the Government. Included in that Act were a series of amendments to the Multiemployer Pension Protection Act which will allow trustees operating severely impaired funds to cut benefits. The changes apply only to multiemployer plans (Taft Hartley Plans) and not to single employer plans. In November 2014, the Pension Benefits Guarantee Corp. issued a report indicating its multiemployer insurance program was almost certain to become insolvent in 10 years. At the time, it was estimated that of the 1,400 multiemployer plans nationwide, 200 plans covering a total of 1 million participants were at risk of termination. Clearly the Teamsters Central States pension fund is one of those funds and is considered the most obvious pension fund that will take advantage of the amendments to the Act. There has been little public attention paid to date to these changes, but the changes could be substantial since they allow retirement benefit reductions of up to 60 percent for those participants in the severely distressed funds. Retirees 80 or older will not be effected. Retirees 75 to 79 may see smaller benefit cuts. Here are some of the other changes:

- Retirees receiving a disability pension are not subject to benefit cuts.
- Trustees will have discretion on how to allocate cuts and they will be held exempt from fiduciary responsibility claims in making such cuts.
- Only the Department of Treasury can reverse decisions by the Trustees' to cut benefits, but only if the decision to cut benefits is found to be "clearly erroneous."
- Participants in plans with 10,000 or more participants will vote on cuts before they are implemented, but a majority vote of all workers and retirees in a plan is required to stop a decision to cut benefits. And, even if a majority votes against the cuts, the Treasury Department can uphold the trustees' decision to make cuts, if the pension plan poses a "systemic" risk to the PBGC.

Many of the changes enacted were proposed in a report from the Partnership for Multiemployer Retirement Security entitled "Solutions not Bailouts: A Comprehensive Plan from Business and Labor to Safeguard Multiemployer

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Retirement Security, Protect Taxpayers and Spur Economic Growth.” The recommendations in the plan were developed by the National Coordinating Committee for Multiemployer Plan’s Retirement Security Review Commission, a joint employer-union group.