The Association of Union Contractors (TAUC) Summer Summit

Legislative and Regulatory Update

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Brief History

"Solutions Not Bailouts"

- Drafted by the Retirement Security Review Commission
- Released February 19, 2013
- Three goals:
  - **Preservation:** Proposals to strengthen the current system
  - **Remediation:** Measures to assist deeply troubled plans
  - **Innovation:** New structure to foster innovative plan designs

Multiemployer Pension Reform Act of 2014 (MPRA)

- Enacted December 16, 2014
- Eliminated PPA "sunset" provisions
- Included many components from "Solutions not Bailouts" including:
  - Preservation portion (technical corrections and other changes)
  - Remediation portion (benefit suspension provisions for plans in "critical and declining" status)
- Did not include Innovation portion—specifically, Composite Plans

MPRA Applications to Suspend Benefits

“MPRA” = Multiemployer Pension Reform Act of 2014

Applications as of July 31, 2018	Number
Total number of plans submitting applications	22
Approved applications **Note:** only 1 approval so far on first attempt	5
Applications denied, not yet resubmitted **Note:** includes 1 denial following withdrawal and resubmission	4
Applications withdrawn, not yet resubmitted	2
Applications under review **Note:** includes 5 resubmissions following denial or withdrawal	11

Recent developments:

- Treasury published additional guidance in Rev Proc 2017-43 (July, 2017)
- New Special Master appointed (September, 2017)
- Treasury approved suspension application on first submission (November, 2017)
- Treasury is open to pre-application conferences (November, 2017)
- Ten (10) applications submitted or resubmitted in first half of 2018

MPRA Applications to Suspend Benefits *continued*

“MPRA” = Multiemployer Pension Reform Act of 2014
MPRA Applications as of July 31, 2018

Short Plan Name	Location	Type*	First Submission		Resubmission	
1. Central States	Rosemont, IL	S	9/25/15	**Denied**		
2. Iron Workers Local 17	Cleveland, OH	S	12/23/15	Withdrawn	7/29/16	**Approved**
3. Teamsters Local 469	Hazlet, OH	S	12/28/15	Withdrawn	3/31/16	**Denied**
4. Road Carriers Local 707	Hempstead, NY	S+P	3/15/16	**Denied**		
5. Iron Workers Local 16	Baltimore, MD	S	3/26/16	**Denied**	12/28/17	In Review
6. Bricklayers Local 7	Austintown, OH	S	6/28/16	Withdrawn		
7. Bricklayers Local 5	Uniondale, NY	S+P	8/4/16	Withdrawn		
8. United Furniture Workers A	Nashville, TN	S+P	8/17/16	Withdrawn	3/15/17	**Approved**
9. NY State Teamsters	Syracuse, NY	S	8/31/16	Withdrawn	5/15/17	**Approved**
10. Automotive Industries	Alameda, CA	S	9/27/16	**Denied**		
11. Western States Office Employees	Portland, OR	S	2/22/17	Withdrawn	5/15/18	In Review**
12. Teamsters Local 805	New York, NY	S+P	3/22/17	Withdrawn	2/23/18	In Review
13. IAM Motor City	Troy, MI	S	3/29/17	**Approved**		
14. Alaska Ironworkers	Anchorage, AK	S	3/30/17	Withdrawn	12/19/17	**Approved**
15. Southwest Ohio Carpenters	Austintown, OH		3/30/17	Withdrawn	6/29/18	In Review
16. Pressroom Unions	New York, NY	S	3/15/18	In Review		
17. Plasterers Local 82	Portland, OR	S	3/28/18	In Review		
18. Plasterers Local 94	Harrisburg, PA	S+P	3/30/18	In Review		
19. Sheet Metal Local	Massillon, OH	S	3/30/18	In Review		
20. Mid-Jersey Trucking and Local 701	North Brunswick, NJ	S	6/25/18	In Review		
21. Toledo Roofers Local 134	Toledo, OH	S	6/25/18	In Review		
22. Local 807 Labor Management	Long Island City	S	6/29/18	In Review		

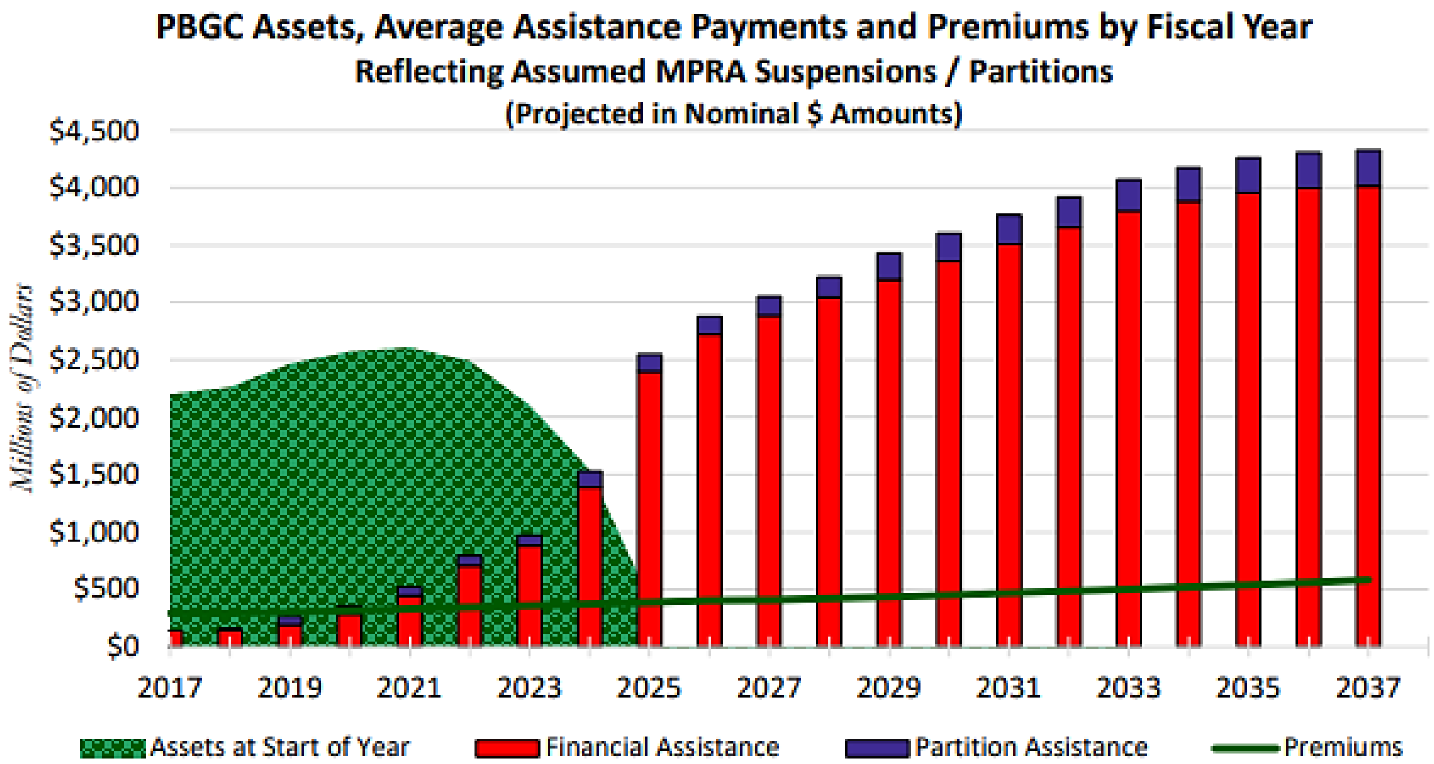
* Application types: S = Suspension only; S+P = Suspension + Partition
** Second resubmission, third submission overall

MPRA Participant Votes

- Overview of MPRA participant vote rules
  - Participant vote takes place 30 days after Treasury approves suspension
  - Suspension takes effect unless rejected by a majority of participants (not ballots)
    - i.e., an unreturned ballot counts as a vote in favor of the suspension
  - Treasury will override participant vote for plans that are "systemically important"
  - Pension Accountability Act would change MPRA participant voting rules
- Participant votes as of July 5, 2018
  - All 5 participant votes conducted to date have failed to reject the suspension
  - However, in 3 votes, the majority or returned ballots were against the suspension

Participant Vote Results	Certified	Reject	Approve	Not Returned	Against %
Iron Workers Local 17	1/27/2017	320	616	1,002	**17%**
United Furniture Workers	8/31/2017	**1,928**	1,041	6,304	**21%**
New York State Teamsters	9/13/2017	**9,788**	4,081	20,767	**28%**
IAM Motor City	12/13/2017	**371**	126	714	**31%**
Alaska Iron Workers	6/8/2018	142	175	507	**17%**

PBGC Multiemployer Program



Highlights from PBGC FY2017 Projections Report

- Multiemployer Program projected to become insolvent around FY2025
- Projected average deficit is about $65 billion (discounted present value)
- Premiums must increase by 6+ times to support the program for the next 20 years
- Greater premium increases needed to extend solvency longer

Recent Legislative Proposals

Legislative Proposals Related to Multiemployer Pension Plans	
Keeping our Pension Promises Act (“KOPPA”)	• Key sponsor: Sen. Bernie Sanders (I-VT) • Would expand PBGC’s ability to partition orphan liability • Funded through certain tax increases on wealthy individuals • Would also permit transfers from PBGC’s single-employer program to its multiemployer program
Pension Accountability Act	• Key sponsor: Sen. Rob Portman (R-OH) • Would change participant voting rules under MPRA • Would eliminate “systemically important” override
Loan Proposals	• Proposals to provide federally-backed loans to troubled plans • Different proposals by UPS, International Brotherhood of Teamsters, and National Coordinating Committee for Multiemployer Plans (NCCMP)
American Miners Pension Act	• Sponsors: Sen. Manchin (D-WV), Sen. Capito (R-WV), Rep. McKinley (R-WV), Rep. Welch (D-VT), Rep. Norcross (D-NJ) • Would allow funds to be transferred from the Abandoned Mine Land fund to the United Mine Workers 1974 Pension Plan • Would also provide low interest loans to the Plan
Give Retirement Options to Workers (“GROW”) Act	• Sponsors: Rep. Roe (R-TN), Rep. Norcross (D-NJ) • Would allow multiemployer plans to adopt “composite plan” design • Originally part of NCCMP’s “Solutions Not Bailouts” proposals • Hybrid composite plan design would apply to future service benefits only • Strict funding requirements for legacy benefits

Multiemployer Pension Loan Proposals

Key Points

- Loans supported by federal government to plans in critical and declining status
- Additional funds from loans enable the plans to remain solvent
- Proposals have similarities, but key differences remain

Proposal Feature	UPS	Teamsters	NCCMP
Loans from Treasury	Yes	Yes	Yes
Increased employer contributions	No	No	No
Participant benefit reductions	Yes	No	Probably
Increased premiums for PBGC	Yes	No	No

Exhibit adapted from presentation by Josh Gotbaum (former PBGC director) at the International Foundation of Employee Benefits Annual Conference, October 2017

Note: Teamsters proposal was introduced in November 2017 as the "Butch Lewis Act"
* Footnote here

Joint Select Committee

Joint Select Committee on Solvency of Multiemployer Pension Plans

Senate	
Orrin Hatch (R-UT)*	Sherrod Brown (D-OH)*
Lamar Alexander (R-TN)	Joe Manchin (D-WV)
Michael Crapo (R-ID)	Heidi Heitkamp (D-ND)
Rob Portman (R-OH)	Tina Smith (D-MN)

House	
Virginia Foxx (R-NC)	Richard Neal (D-MA)
Phil Roe (R-TN)	Bobby Scott (D-VA)
Vern Buchanan (R-FL)	Donald Norcross (D-NJ)
David Schweikert (R-AZ)	Debbie Dingell (D-MI)

Committee Overview

- Created as part of two-year budget deal: Bipartisan Budget Act of 2018
- Tasked with finding legislative solution for multiemployer pension solvency crisis:
  - Over 100 plans in critical and declining status, facing insolvency within 20 years
  - PBGC multiemployer program projected to become insolvent within 10 years

Process for 2018

- First Committee meeting took place on March 14, 2018
- Subsequent hearings have been held on April 18, May 17, June 13, July 13, and July 25
- Must conduct at least 5 public meetings, including at least 3 public hearings
- Committee report on findings and recommendations due by November 30, 2018
- Congress must vote on any motion by Committee before last day of session

* Co-Chairperson

Debate on Stricter Funding Requirements

- Increase funding requirements for multiemployer plans?
  - Idea raised by several members of Joint Select Committee
  - Intent is to prevent a new multiemployer solvency crisis from emerging
  - May include mandated valuation discount rates, like for single-employer plans
- Segal letter to Joint Select Committee (June 21, 2018)
  - Mandating single-employer rules would harm healthy multiemployer plans:
    - Would increase amount and volatility of contribution requirements
    - Would increase employer withdrawals and bankruptcies
    - Would push otherwise healthy plans toward insolvency or mass withdrawal
    - Would result in greater member benefit reductions
    - Would further weaken PBGC
  - Any legislative solution should strengthen the overall multiemployer system

Segal Study on Funding Assumptions

Segal "Data" Publication, (July 2018)

- Illustrates how low discount rates would be detrimental to healthy plans
- Focus on two well-funded national multiemployer plans
- Model impact of using different discount rate assumptions:

Discount Rate	Description
7.5%	Current assumption for both plans
5.5%	Similar to current mandated rates for single-employer plans, with "stabilization" relief
3.7%	Similar to what mandated rates for single-employer plans would be, without relief
3.0%	Similar to current liability rates, based on 30-year Treasury securities (also includes mandated mortality tables)

Segal Study on Funding Assumptions *continued*

		Alternate Discount Rates		
Plan A	**Current 7.5%**	**5.5%**	**3.7%**	**3.0%**
Zone Status	**Green**	**Yellow**	**Red**	**Red**
Funded Status	97%	77%	60%	54%
Increase in Cost of Annual Benefit Accruals	N/A	48%	123%	166%
Year of Projected Funding Deficiency	N/A	N/A	2021	2021
Magnitude of Contribution-Rate Increase Required	N/A	Nearly double over 10 years	More than double over 5 years	Nearly triple over 5 years

Segal Study on Funding Assumptions *continued*

		Alternate Discount Rates		
Plan B	**Current 7.5%**	**5.5%**	**3.7%**	**3.0%**
Zone Status	**Green**	**Red**	**Red**	**Red**
Funded Status	105%	79%	58%	50%
Increase in Cost of Annual Benefit Accruals	N/A	58%	156%	216%
Year of Projected Funding Deficiency	N/A	2022	2019	2019
Magnitude of Contribution-Rate Increase Required	N/A	Increase 25% each year for 5 years	More than double each year for 3 years	Increase 4-fold each year for 2 years

Variable Plan Designs
An Overview

- Variable plans provide lifetime income to participants, while reducing risk to plan sponsor
- Legacy plan benefits are protected and must still be funded
- No free lunch: benefit protections and reduced volatility come with higher costs
- Various transition considerations (e.g., one plan or two, coordination with legacy benefits)
- “Composite plan” is not yet permitted under current U.S. law; other options are

Plan Design	Key Features
Variable Accrual	• Traditional defined benefit plan with variable **future** accrual rate • Accrual rate adjusts each year, usually based on asset returns • Benefits are fixed once they have been accrued • Funding risk increases over time as more benefits become fixed
Variable Annuity	• Hybrid defined benefit plan with variable tot4al benefit • Benefit often defined as units; unit value changes based on asset returns • Caps and floors can reduce benefit volatility (but increase risk to plan) • Benefit at retirement can be fixed (more risk) or remain variable (less risk)
Composite	• Technically not a defined benefit plan; not yet permitted under U.S. law • Mandatory **realignment program** if projected funding < 120% in 15 years • Possible corrective measures grouped into tiers; retiree benefits cut as last resort • Legacy plan funding requirements are clearly defined • No withdrawal liability, no PBGC guarantees, no PBGC premiums

Composite Plan Proposal

- Background
  - Developed as part of NCCMP "Solutions Not Bailouts" proposals
  - Modeled after Canadian plan design
- Key features
  - Optional design available to eligible plans
  - By definition, neither defined benefit (DB) nor defined contribution (DC)
    - Lifetime income; benefit amount subject to adjustment
    - No unfunded liability, no withdrawal liability
    - No PBGC guarantees, no PBGC premiums
  - Legacy plan benefits remain intact, must be funded

Composite Plan Proposal: A Brief History	Date
"Solutions Not Bailouts" report	Feb 2013
"Multiemployer Pension Reform Act" (MPRA) - Passed *without* composite plan proposal	Dec 2014
"Multiemployer Pension Modernization Act" - Draft legislation introduced	Sep 2016
"Give Retirement Options to Workers Act" (GROW Act)	Feb 2018

Composite Plan Proposal *continued*

- Restrictions
  - Plans in critical status (or projected to be in next 5 years) are ineligible
  - 5-year prohibition on employers that withdrew from another multiemployer plan
- Annual certification and realignment program
  - Annual certification due 120 days into plan year
  - Must adopt "realignment program" if projected funded percentage in 15 years < 120%
  - Realignment program modifications grouped by "tier":

Tier	Realignment Program: Available Corrective Measures
I	Increase contributions; reduce future accruals (≥ 1% of contrib.); reduce adjustable benefits
II	Reduce accrued benefits not yet in pay status; reduce "non-core" benefits in pay status
III	Reduce future accruals (no limit); reduce "core" benefits in pay status

- Restrictions on amendments increasing benefits

Effect of Amendment on Increasing Plan Liabilities	≤ 3%	> 3%
Current funded percentage, before amendment	≥ 110%	≥ 110%
Current funded percentage, after amendment	≥ 100%	≥ 140%
15-year projected funded percentage, after amendment	≥ 120%	≥ 140%

This is a high-level summary of draft legislation dated February 2, 2018. Provisions are subject to change.

Composite Plan Proposal *continued*

Legacy funding rules

- Legacy and composite: two components of same plan
- ERISA/PPA rules continue to apply to legacy plan
- **Transition contributions** dedicated to fund legacy liability
  - Initial amount: 25-year amortization based on actuary's assumptions
  - Subsequent gains and losses amortized over 15 years
  - Transition contribution in future years cannot drop below initial rate ("floor")
  - Contributions continue until legacy liability fully funded based on PBGC assumptions
- Special rules if legacy plan goes into yellow or red zone
  - Potential anomaly: at least 25% of total contributions must go to composite accruals
- Optional 25-year amortization of unfunded liability in funding standard account

Because Transition Contributions must continue until the legacy liability is fully funded based on *PBGC assumptions*, the transition period may end up being much longer than 25 years.

This is a high-level summary of draft legislation dated February 2, 2018. Provisions are subject to change.

Questions