
August 13, 2018

The Honorable Orrin Hatch
The Honorable Sherrod Brown
Co-Chairs Joint Select Committee on the Solvency of Multiemployer Plans
Washington, DC 20510

Dear Senators Hatch and Brown:

On behalf of tens of thousands of construction employers, all of whom contribute to multiemployer defined benefit pension plans, we are writing to urge Congressional action this year to help stabilize industry plans. Significantly, construction industry plans account for over half of all multiemployer defined benefit plans and cover nearly four million multiemployer defined benefit participants. These eight leading construction employer associations represent the vast majority of contributing employers in the construction industry.

Many construction industry plans, while not in “critical” or “critical and declining” status, face significant unfunded liabilities and suffer the same long-term risks that have driven other plans to insolvency. Without prompt and careful action by Congress, employer exits, bankruptcies, and mass withdrawals could occur causing plan failures and increasing the Pension Benefit Guaranty Corporation’s (PBGC) multiemployer liability.

We know and appreciate that the Joint Select Committee on the Solvency of Multiemployer Pensions (JSC) has been working to find a balanced, bipartisan solution for PBGC funding issues and for *ailing* plans affecting approximately 1 million participants in an estimated 115 plans that will go insolvent within the next 5 to 20 years. Time constraints have not allowed JSC public hearings to address the concerns of construction industry employers who represent a significant segment of the multiemployer defined benefit system. Our views are encompassed in the following:

Pass Composite Plan Design – The GROW Act: Congress should modernize the multiemployer system by authorizing Composite Plan design as proposed in H.R. 4997, a bipartisan bill sponsored by Reps. Phil Roe (R-TN) and Don Norcross (D-NJ). The composite plan concept incorporates the best features of defined benefit plans and defined contribution plans. Composite Plans would offer voluntary options to share risks, providing funding stability, providing lifetime income to participants, and limiting employer obligations to negotiated contributions only, without cost to the taxpayer. The legislation was written to protect benefits already earned in legacy plans and no participant would lose benefits under the old plan. The design would also allow new employers to join the plan without the burden of withdrawal liability, broadening the base of contributing employers. The well-documented trend of private sector employers abandoning the lifetime benefits of defined benefit pension plans will put more strains on public safety nets as more workers retire in the coming years, but the GROW Act could provide a lifetime of stable, secure benefits for retirees and not add additional burdens and costs to the nation’s already taxed public safety nets.

Avoid Misguided Funding Requirements Which Could Destabilize Plans: Many plans are struggling to maintain their base of contributing employers and the impact of select structural changes to plan funding rules could have severe unintended consequences. System changes or mandates must strike a delicate balance to keep employers participating in the plan. Mandating strict investment rate

assumptions is both unreasonable and unnecessary. Actuarial data shows that 7.0 to 7.5% investment assumption rates for a diversified portfolio with blended rates are not inappropriate. Mandating lower assumption rates will drive up risks to employers on several levels. Lower investment assumptions would cause actuarially calculated liabilities to rise, forcing dramatically increased contribution rates. Some employers could strategically opt to withdraw from plans and financially weakened employers could be pushed into bankruptcy, leaving remaining employers no option except a mass withdrawal. Congress should not take rash action that could deepen the current crisis.

Effectiveness Must Dictate Any PBGC Premium Increases: Congress sets the rate for PBGC insurance premiums. Congress has raised the per-participant rate for multiemployer plans over time and MPRA doubled the rate for 2015 and included automatic increases for inflation. Some suggested premium increases have been extreme but any significantly higher premium increase would ultimately require additional employer contributions. Raising per-participant premiums too high will result in additional instability further undermining benefit security for participants, both for retired and active workers. Any increase in premiums should be considered after all other tools are exhausted, such as, after the authorization of composite plans, a viable solution for stressed plans not yet facing insolvency, thus ensuring premium increases would not go pointlessly to a failed agency.

Industry Has Worked to Meet the Challenges but Time is Running Out: The industry began taking action over 15 years ago to improve funding for the plans, mainly through contribution increases, then through reducing benefit accruals along with additional contribution increases, then supporting the Pension Protection Act -- which for troubled plans mandated even more contribution increases. Additionally, employers negotiated a "Solutions Not Bailout" plan with our labor union partners at the table, a plan that included the Composite Plan design. Employers supported the 2014 Multiemployer Pension Reform Act (MPRA) -- even though alternative plan design was not included and even though premium increases were included -- because of the commitments of labor unions, and Republican and Democrat legislators to continue working with employers until composite plans were enacted into law.

While construction employers have stood by waiting for legislative action for years because of these promises, time is now of the essence. Unfunded liabilities created by withdrawal liability are frequently higher than the value of the company owners spent a lifetime building. Now these employers, who have followed the law and made the required contribution requirements year after year, face growing scrutiny from lenders and tighter credit markets, both of which will only increase without Congressional approval of composite plans.

The current system is fragile and needs modernization this year, not in the future and not just for failing plans. Another year of inaction will result in fewer employers each year being able to make their ever-increasing contribution requirements putting a secure retirement for millions of active and retired construction craft workers in jeopardy.

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FCA International
Mechanical Contractors Association of America
National Electrical Contractors Association
International Council of Employers of Bricklayers and Allied Craftworkers***

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