'Solutions Not Bailouts' Featured in Northwest Labor Press

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More than 10 million American union members are banking on union-sponsored multiemployer pension plans to provide a secure retirement after a lifetime of work. But a fraction of those pension plans are at risk of insolvency thanks to massive financial market losses.

When pension plans run out of money, the government insurance agency known as the Pension Benefit Guaranty Corporation (PBGC) takes them over and pays out benefits. But PBGC doesn't guarantee the full pension benefit: Its current maximum benefit for multiemployer pension plans is $12,870 a year for a worker retiring at age 65 with 30 years of service. In some cases that's only a fraction of the benefits the workers were promised. And the agency itself is at risk of insolvency; one or two big multiemployer pension plan failures would burn through PBGC's reserves, leaving only current premiums to pay pension benefits. In that scenario, retirees who now get $1,000 a month would get $125.

Making matters worse, under the law, participating employers have to make up for pension plan financial losses. And if they want to leave the plan while it's underfunded, they must pay an exit fee, known as "withdrawal liability," equal to the total amount needed to pay current and future benefits for their employees. Those requirements are putting stress on many small unionized employers, making it harder for them to compete on price, and causing some to go out of business. And when participating employers fail, responsibility for rescuing the pension plan falls to the remaining employers, which makes it more likely that they too will fail.

All that has led a trade group representing union benefit plans to propose the formerly unthinkable: a bill in Congress to let distressed pension plans reduce benefits for all participants — even current retirees — in order to prevent the plans from going under.

"This is a crisis that's going to affect people," said Randy DeFrehn, executive director of the National Coordinating Committee for Multiemployer Plans (NCCMP). "And it can't go on the way it is."

In 2011, staff members from the relevant committees of the U.S. House and Senate approached DeFrehn's group to come up with legislative recommendations. NCCMP formed a Retirement Security Review Commission, composed of dozens of representatives from more than 40 unions, union employer groups, and pension plans. After more than a year of study and debate, the Commission published a report: "Solutions not Bailouts: A Comprehensive Plan from Business and Labor to Safeguard Multiemployer Retirement Security, Protect Taxpayers and Spur Economic Growth."

Congress bails outs bankers, but balks at bailing out pensioners

The Commission and its report start from the assumption that union pensions will have to rescue themselves.
Congress bailed out the banks. It bailed out General Motors. But when it comes to union retirees, DeFrehn says Congressional leaders told him not to expect any government bailout.

Given that framework, NCCMP's report proposes that pension plans which are projected to become insolvent be given authority to stop the slide by reducing current and future pension benefits. Pension trustees would decide how to do that, but would not be allowed to cut benefits past the amount needed to achieve solvency, and would not be allowed to go below 110 percent of the PBGC's maximum benefit amount.

Under current law, distressed pension plans are obligated to pay current retirees the full dollar value of the promised benefits — until they run out of money. DeFrehn says that's not fair to those retirees who were counting on collecting benefits in the years after the plans are projected to become insolvent.

"You really have to think of it in terms of today's pensioners versus tomorrow's pensioners. And right now, all the burden is falling to tomorrow's pensioners. Their contribution rates have doubled, tripled, quadrupled. Their accrual rates have been slashed in half and then in half again. And that's to support people who benefited from a lot of those ad hoc increases in order to protect the deductibility of the contributions," DeFrehn told the Labor Press.

"My hope is that the system can be reformed so that my business will be viable for the long-term and that pension benefits already earned can be saved without any bailout from the federal government." Carol Duncan

The NCCMP report also proposes formation of a new kind of pension plan that would still guarantee a certain income in retirement but would take employers off the hook for pension plan financial losses. Similar to a kind of plan that's common in Canada, the proposed "target benefit" plan would guarantee a minimum benefit based on conservative assumptions about investment return, while aiming for returns sufficient to provide benefits above that amount.

NCCMP proposal gets a hearing

On Oct. 29, the U.S. House Subcommittee on Health, Employment, Labor and Pensions held a hearing on NCCMP's proposals. It was the subcommittee's sixth hearing on the multiemployer pension crisis since early 2012. DeFrehn thinks the committee will draft legislation in the coming months along the lines of the NCCMP proposal.

"We need to maintain the delicate balance between the needs and desires of plan participants with the economic realities of the marketplace so that the contributing employers can remain competitive and profitable," AFL-CIO Building and Construction Trades Department President Sean McGarvey told the Congressional subcommittee.

Carol Duncan, CEO of General Sheet Metal (GSM) in Clackamas, Oregon, also testified at the hearing, and told Congress how her construction business is threatened by the pension funding crisis. GSM

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employs 60 to 100 members of Portland-based Sheet Metal Workers Local 16 — fabricating and installing sheet metal roofs, siding, duct work, and HVAC systems. Under the union contract, GSM contributes to a national pension plan and a local pension plan. Both plans lost value in the 2000 and 2008 financial meltdowns. The national plan alone lost 28 percent of its asset value in 2008. To make up the losses, the pension increased employer contributions. GSM contributed $149,000 to the national plan in the last year, and that's slated to increase 7 percent a year every year until at least 2017.

"It is no longer feasible for employers to be the backup for stock market performance," Duncan told the subcommittee.

In any downturn, construction is one of the first industries to feel the hit, and one of the last to recover. With little work to go around, competition is fierce, Duncan said, and the additional pension contributions are making it harder for her and other union firms to compete. And makeup contributions aren't even the whole story, Duncan said. Construction businesses are very dependent on banks and insurance companies for credit and bonding. A new financial accounting standard requires that company financial statements include detailed information on pension plan contributions, and also note the amount of any potential withdrawal liability. In GSM's case, the withdrawal liability — the exit fee it would have to pay if it left the pension plan — exceeds the value of the company. That makes it harder for GSM to secure bank loans and bonding, Duncan said.

"I feel good about taking care of our employees by paying them a living/saving wage, as well as providing good health care benefits, and I want to continue to be able to do that," Duncan testified. "My hope is that the system can be reformed so that my business will be viable for the long-term and that pension benefits already earned can be saved without any bailout from the federal government."

NCCMP's pension reform proposal has the backing of the AFL-CIO Building Trades Council as well as Associated General Contractors and numerous union contractor associations such as SMACNA (Sheet Metal and Air Conditioning Contractors' National Association), the group Duncan is active in.

'Solution' draws critics

But the proposal also has critics, including the AARP. At the hearing, AARP legislative policy director David Certner objected to cutting current retiree benefits, and said Congress should first explore other alternatives.

"The retirement security offered by defined benefit [pension] plans would become illusory if, after having worked a lifetime and earned that pension – which is, after all, income in the form of deferred compensation – your benefits can be cut after you've already retired," Certner said.

Certner said Congress should consider increasing the insurance premiums paid by pension plans to the PBGC, to shore up PBGC's funding and enable more generous benefits. Currently, PBGC premiums for multiemployer pension plans are just $12 per year per participant.

DeFrehn agrees that premiums should rise, but says even 10 times that amount would not be enough to rescue the PBGC if one or two of the biggest at-risk pension plans fail, like the Central States Teamsters Pension Fund or the United Mine Workers Pension Fund.

At least two national union leaders have also come out in opposition to parts of the NCCMP proposal — International Association of Machinists President Thomas Buffenbarger and Teamsters General President James Hoffa Jr. Buffenbarger sat through the hearing, and afterward held a press conference to oppose any solution that would cut retiree benefits.

"Raiding pension plans and robbing seniors of retirement benefits is not the way to solve any financial crisis, whether it's in Detroit, state houses or the latest 'solution' to fix a small number of troubled multi-employer plans," Buffenbarger said. "The proposals being considered by Congress ask our nation's most vulnerable citizens to pay for a problem created by Wall Street, the very ones who have taken billions in taxpayer bailouts."

"The last thing anybody wants is for people to have benefits cut," DeFrehn told the Labor Press. "But

ours is a solution that says, 'If they're going to be cut, is there a way for us to salvage them at a higher level and not have plans fail if they don't have to?' "

For his part, Hoffa wrote a letter to House Education and Workforce Committee Chair John Kline (R-Minnesota), saying the Teamsters can't support any proposal that would cut accrued benefits of participants and current retirees despite the fact it could potentially prolong the life of plans heading toward insolvency.

"Differing from the NCCMP approach, we believe that it is the federal government's responsibility to solve the problem of insuring the promises made to our retirees," Hoffa wrote. "The question is whether as trade union leaders we accept the status quo and attempt to maneuver within it, or whether we are prepared to fight for changes that will ensure that the right to a dignified retirement remains sacrosanct."

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