

# Will Congress come to the rescue of multiemployer pension funds?

Congress may give some relief to beleaguered union multiemployer pension trusts, via provisions added to the “tax extenders” bill. The provisions are similar to ones in a union-supported bill introduced by North Dakota Congressman Earl Pomeroy last October. The provisions would give underfunded pension trusts more time to make up for investment losses, a change that would reduce the immediate burden on participating union employers and lessen pressure to cut benefits.

Randy DeFrehn, executive director of the National Coordinating Committee for Multiemployer Plans (NCCMP), said the latest word is that the bill would give trusts up to 30 years to amortize the 2008-09 losses, and 10 years to “smooth” losses for accounting purposes. Under current rules, trusts generally have 10 years to amortize losses, and five years of smoothing.

Amortization is simply the amount of time it takes to pay off a loan, or in this case, replenish fund losses. Smoothing, on the other hand, is a method of accounting for market gains and losses: Trust actuaries take the gains and losses of a given year and divide those into tranches, recognizing one tranche each year for the purposes of calculating the “actuarial value” of a trust’s assets.

“Basically it’s a rolling average,” DeFrehn explained. “It takes the peaks and valleys, the market volatility, out of the equation from a funding standpoint.”

Smoothing is an especially common practice with multiemployer plans, because their contributions are based on multi-year collectively bargained contracts, and they can’t easily adjust contributions based on what’s happened in the market

year-to-year.

DeFrehn said the Pomeroy bill, HR 3936, was a conversation starting point. Later, pension relief provisions became an add-on to HR 4213, a separate bill that would retroactively extend certain tax breaks for individuals and businesses that expired last year.

NCCMP is a coalition of multiemployer benefit trusts and sponsoring unions and union employer associations. Its mission is to represent the interests of trust participants in Congress, federal regulatory agencies, and the courts. The group has been campaigning for pension funding relief since 2009.

Several provisions of the Pomeroy bill are not in the tax extenders bill, however.

One would have made a difference in pension

trusts that have had large employers go out of business, leaving “orphaned” groups of workers who are owed benefits. The Pomeroy bill would have allowed trusts to “partition” those groups of workers off, with the federal government’s Pension Benefit Guaranty Corporation taking responsibility for paying benefits and preserving the assets invested on their behalf. That would have relieved surviving employers in multiemployer plans of the burden of making up for investment losses for the former employees of defunct employers.

Another Pomeroy bill provision would have relaxed the “corridor” — the maximum allowable difference between present market value of assets and the actuarial value derived from smoothing. The Pomeroy bill said actuarial value had to be be-

tween 70 and 130 percent of market value; the current corridor is 80 and 120 percent.

Multiemployer pension plans are tightly regulated by the federal government to make sure pension promises are backed by adequate funds, that the funds are only used for the benefit of pensioners, and that the investments and benefits are managed by employer and union trustees in a transparent and prudent fashion. But in some cases, federal rules have created unintended effects. Tax rules prevented trusts from building up assets above a certain point, and now that they’ve lost value, pension rules are requiring benefit cuts and big increases in employer contributions.

DeFrehn hopes that Congress will pass the tax extenders bill before its Memorial Day recess.

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pension fund was left with hundreds of “orphaned” retirees and vested participants who were employed by a company that no longer contribute to the pension. Today, the fund has over 3,100 retirees collecting benefits, 2,600 workers no longer employed by participating employers who are entitled to future benefits, and 2,278 actives. The burden on remaining employers to make up the shortfall is forecast to rise 15 percent a year for at least the next 10 years, with all contributions off-benefit.

“Once they get into trouble, mature plans have a hard time digging themselves out,” says Doug

Holden, principal and consulting actuary at Milliman, a top employee benefits consulting firm. “I’ve been at this for 30 years,” Holden said, “and 2008 was the worst year in the financial markets I’ve ever seen.”

Pension trusts are in crisis nationwide. When a single-employer pension fails, the federal government’s PBGC (Pension Benefit Guaranty Corporation) takes it over and assumes responsibility for paying benefits. When a multiemployer pension becomes insolvent, PBGC gives it financial assistance — long-term loans that are rarely repaid. In 2008, 42 multiemployer pension plans received assistance, totaling \$86 million.

But it’s not just the prospect of insolvency or the price-tag of the bailout that are worrisome for union pensions. It’s also the potential harm to the high-wage union share of the labor market. Union employers will pay heavy pension surcharges, making them less competitive with nonunion firms. And non-union employers will be all the more reluctant to sign union contracts that commit them to join multiemployer pension plans that have sizable pre-existing liabilities.

The traditional “defined benefit” pension, in many industries, is what separates union from nonunion employees. Will it now become an albatross for union employers?

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