PENSION RIGHTS CENTER

PROTECTING AND PROMOTING RETIREMENT SECURITY
1350 Connecticut Ave., NW, Suite 206 | Washington, DC 20036-1739
P: 202-296-3776 | F: 202-833-2472 | www.pensionrights.org

Summary of pension cutback provisions in the Multiemployer Pension Reform Act of 2014

In December 2014, Congress passed and President Obama signed into law the 2015 Omnibus spending bill, which includes provisions of the Multiemployer Pension Reform Act of 2014 that allow trustees of certain multiemployer plans to cut retirees' pensions. Below is a summary of these provisions:

1. The legislation permits deep pension cuts to retirees in certain financially-troubled multiemployer plans. Financially-troubled plans are plans expected to not have enough money to pay 100% of benefits within 15 and, in some cases, 20 years.[1] There are instances where the cuts can be as much as 69% of a participant's benefits.

2. The decision to cut benefits is made by plan trustees, who are typically more aligned with active workers and employers than with retirees.

3. Retirees who are age 80 or over, or who are receiving a disability pension, are not subject to benefit cuts. Retirees ages 75-79 are subject to smaller cuts than retirees under age 75.

4. How big or small the cuts are for those under age 75 is determined by the trustees. The cuts are subject to certain legal limits, the most important of which is that benefits cannot be cut below 110% of the amounts that the federal pension insurance agency guarantees.[2]

5. Plan trustees can decide how to allocate the cuts. For example, they can cut retirees' benefits more than those of active workers, and they can decide whether and how much to reduce benefits for early retirement and surviving spouses.

6. Plan trustees are required to reduce the benefits of participants whose employers went out of business (or withdrew from the plan for other reasons without paying all of their obligations) first, before they reduce the benefits of any other plan participants. This will mean that those retirees whose companies went bankrupt will have greater reductions than other retirees.

7. UPS retirees in the Central States Teamsters plan are given special protection: their benefits are last in line to be cut. This provision is reportedly the result of a last-minute deal designed to save UPS an estimated $2 billion that it would otherwise have been contractually be required to pay to its retirees.

8. There is no provision for automatic restoration of lost benefits if a plan's funding status improves.

(continued)

[1] Plans projected to run out of money within 20 years can cut benefits if there are twice as many retirees as active workers in the plan or the plan does not have enough money to pay more than 80% of future promised benefits. However, no plan can cut benefits unless the cuts are projected to restore the plan to solvency.

[2] The Pension Benefit Guaranty Program's multiemployer program guarantees 100% of the first $11 of a participant's monthly benefit rate, plus 75% of the next $33 of the monthly benefit times the participant's years of credited service.

9. A trustees' decision to cut benefits can only be reversed by the Department of the Treasury, and then only if the Treasury Department concludes that the decision is based on a determination that is "clearly erroneous."

10. Before cutting benefits, the trustees must provide information to all plan members about the cuts, and plans with 10,000 or more participants must appoint a retired plan participant to represent the interests of pensioners. The trustees appoint this representative and can even appoint a trustee or former trustee of the plan.

11. Plan trustees must allow all participants to vote on cuts before they are implemented. However, this right is largely illusory. First, a majority of <u>all</u> workers and retirees in a plan – not just a majority of the ones who vote – is required to block cuts. Thus, a vote to block cuts fails even if 100% of those voting oppose the cuts, if only 49% of participants actually vote.

12. Even if all participants vote against cuts, the Treasury Department, in consultation with the Department of Labor and the Pension Benefit Guaranty Corporation (PBGC, the federal pension insurance program) can override the vote and uphold the trustees' decision to make cuts if it concludes that the plan's insolvency would increase the PBGC's projected liabilities by $1 billion or more.[3]

13. The insurance premiums that multiemployer plans pay to the PBGC are increased from $13 to $26 per participant per year in 2015. In contrast, premiums paid to the single-employer plan program are between $57 and $475 per participant per year.[4]

14. Retirees, widows, and widowers whose benefits are reduced cannot bring a lawsuit under the new law to challenge the legality of the reductions.

[3] When a multiemployer pension plan runs out of money, benefits are reduced to the PBGC's very low guarantee levels and the agency makes loans to the plan to keep it operating. The anticipated size of those loans will exceed $1 billion in the case of some large plans.

[4] The maximum benefit guaranteed by the single-employer program is $60,132 a year in 2015, almost five times the maximum benefit guaranteed by the multiemployer program for a retiree with 30 years of service, $12,780 a year. The guarantee amount is lower for participants with fewer than 30 years of service. Single employer guaranteed benefits are indexed for inflation. Multiemployer guaranteed benefits have not been increased since 2000.

The single-employer program guarantees pensions for retirees whose employers contributed to plans that were set up by one company rather than by a group (or association) of employers. Both types of plans can be negotiated by unions but single-employer plans are typically administered by employers. Multiemployer plans are usually run by an equal number of employer and union trustees.