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## *Multiemployer Plans*

### **Furniture Workers' Pension Cuts OK'd Despite Majority 'No' Vote**

Thousands of members of a pension fund for furniture workers will soon see their benefits cut, even though a large majority of those members voted against the cuts or didn't vote at all.

The outcome of the vote, in which the failure to cast a ballot counts as a "yes" vote, highlights many of the concerns pension advocates and lawmakers have voiced about the Multiemployer Pension Reform Act's voting procedure.

The Treasury Department's announcement Aug. 28 that members of the Nashville-based United Furniture Workers Pension Fund A had approved the plan's proposal to cut benefits for about 29 percent of the plan's participants beginning Sept. 1 was the culmination of a three-week mail-in voting process. Of 9,273 ballots delivered to participants, 1,041 members voted yes, 1,928 voted no, and 6,304 didn't vote. Under the MPRA, those uncast ballots count as "yes" votes. That means the 6,304 nonvotes turned to "yes" votes.

"The fact that almost 68 percent of participants failed to cast a ballot and they were counted as yes votes is entirely undemocratic and makes a mockery of the voting process," Karen Friedman, executive vice president of the consumer advocate Pension Rights Center in Washington, told Bloomberg BNA. The fact that nearly twice as many people who voted said no to the cuts means that, under normal democratic rules, the cuts would have been rejected, she said.

Others say the voting accurately reflected the sentiments of a majority of the plan's members, who weren't affected by the cuts and lacked an incentive to vote.

"Keep in mind that under the proposal, nearly 7,100 participants are projected to experience no reduction at all," Kyle Flaherty, the plan's attorney, told Bloomberg BNA. Many participants may not have voted because they had been informed very clearly that not casting a vote would be counted as a vote in favor of the proposal, said Flaherty, a partner at Bryan Cave in New York.

The fund sought benefit cuts under the MPRA, also known as the Kline-Miller Act, to avoid insolvency, which its actuaries projected would occur in 2022.

Members of the New York State Teamsters Conference Pension and Retirement Fund are currently voting on a similar proposal from their plan trustees to suspend their benefits. Voting on that proposal is slated to end Sept. 6.

**Absence of Vote Equals 'Yes'** Plan members were informed that if they didn't vote, they were helping to pass the proposal. The ballot materials sent to the participants read: "MPRA sets specific rules for how votes are counted. If you do not vote or if your vote is received after 8:00 PM ET, August 24, 2017, you will be treated as though you voted to approve the benefit reduction. In other words, if your vote is not received by the deadline, this will be counted as a vote in favor of the benefit reduction."

In addition, the Treasury Department, which implements the MPRA, held three telephone conference calls with plan participants and beneficiaries during the three-week voting period. During the calls, Treasury officials explained the voting procedures and took questions from members.

**Efforts to Change Voting Procedure** Still, some are calling for change in the MPRA voting procedure.

Ohio Sen. Rob Portman (R) in March introduced the Pension Accountability Act (S. 489), which would prohibit unreturned ballots from being tallied as yes votes. "I remain concerned about the undemocratic nature of current law that allows unreturned ballots to be automatically counted as 'yes' votes in favor of benefit cuts," Portman told Bloomberg BNA in an Aug. 29 email. Passage of the bill "would ensure our retirees have a voice in the process and a fair vote," he said.

The legislation has yet to gain much traction, garnering the support of only three other senators, all Republicans.

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