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Multiemployer Plans

Central States Rescue Not Only Option, Says Sponsor of Bill to Prevent Benefit Cuts

A lawmaker who introduced legislation to address the Central States Pension Fund's anticipated future insolvency—along with other supporters of the bill and critics of the fund's rescue plan—disputed the notion that the plan is the only realistic solution.

Rep. Marcy Kaptur (D-Ohio) told Bloomberg BNA on Oct. 9 that although the fund's trustees are sincerely trying to save the fund for the benefit of its participants, cuts of 60 percent or more to the earned pensions of hard-working low- and moderate-income workers and retirees are unfair. Congress bailed out others who were harmed by the market slide in 2008, including Wall Street firms, and ''surely it can find a way to do the same for these people,'' she said.

Kaptur and Sen. Bernie Sanders (I-Vt.) introduced in companion bills earlier this year the Keep Our Pension Promises Act (S. 1631, H.R. 2844), which was designed to address the Central States, Southeast and Southwest Areas, Pension Fund insolvency (42 BPR 1095, 6/23/15).

Kaptur said that the issue would crop up in the 2016 presidential election since more than 47,000 workers who would have their benefits cut under the Central States rescue plan reside in Ohio, a key battleground state. Legislation that seeks to resolve this problem may soon look better to the candidates and other members of Congress who would have to answer to those affected by the cuts, she said.

Kaptur said that even if the fund's rescue plan goes into effect, the next Congress could decide to roll back the cuts.

Responding to comments made Oct. 7 by Thomas Nyhan, executive director and general counsel of the Central States Pension Fund (42 BPR 1788, 10/13/15), Karen Friedman, executive vice president and policy director for the Pension Rights Center, said Oct. 8 that her organization rejects Nyhan's statement that a legislative solution to the fund's financial problems was a ''false hope.'' Instead, she said, ''If everyone comes together, we can find a solution that at the minimum allows retirees to have a voice in the process.''

In that interview, Nyhan said that consumer groups, such as the Pension Rights Center, have fed retirees and participants with the false hope that Congress will allocate sufficient funds to preserve their full pensions. He said there isn't bipartisan support for any legislation, no matter how well intended, that will do that. He reiterated that view during an electronic town hall meeting with retirees Oct. 15 (see related article in this issue).

Both Kaptur and an aide to Sen. Rob. Portman (R-Ohio) said they disagreed with Nyhan's claim that legislative efforts to solve the problem were doomed to fail.

'Shocking' Cuts. In a news release posted to its website Oct. 8, the Pension Rights Center said that Central States ''could have taken other steps to truly rescue the Fund. But rather than do the work needed to find better solutions, the Fund took the easy way out: cutting the benefits of the most vulnerable—the very people Congress intended to protect when it passed'' the Employee Retirement Income Security Act.

The PRC said in the statement that it was shocked at how bad the decreases are, with retirees reporting that they have been blind-sided by proposed cuts to their benefits of between 50 percent and 70 percent. The consumer advocacy group said that retirees have told them that, as a result of the fund's proposal, they ''will lose their homes, won't be able to support their families, and will have to go on public assistance''—which the PRC said is ''going to cost the government more than finding a real solution for these troubled plans.''

According to the PRC, a real solution exists through the legislation from Kaptur and Sanders, which would repeal the benefit suspension provisions of the Multiemployer Pension Reform Act.

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>
> —Karen Friedman, Pension Rights Center

The MPRA was passed as part of the federal appropriations bill in December 2014. It gives distressed multiemployer pension plans the option to reduce retiree benefits, something that previously wasn't permissible under ERISA (41 BPR 2559, 12/30/14).

Needed Funding. Kaptur's and Sanders's legislation, the PRC said, would provide ''funding for troubled multiemployer pension plans and the Pension Benefit Guaranty Corporation.'' The PRC said the bill isn't a ''bailout,'' but rather a ''common-sense, workable approach to a difficult problem'' that ''calls for a year-by-year modest transfer of taxpayer dollars to a Legacy Fund that will help certain severely underfunded multiemployer plans make good on their pension promises.''

According to the PRC, this legacy fund would be ''offset by modifying two types of tax shelters benefiting the top one percent. One of these tax shelters only helps wealthy investors in art works and real estate. The other only benefits very large estates.''

The PRC also pointed to the Pension Accountability Act, introduced by Portman in the Senate on Oct. 7, as proof that there is bipartisan support for finding a better and fairer solution to this problem. That bill would give multiemployer plan participants who face potential pension benefit cuts more weight in the participant voting process (42 BPR 1789, 10/13/15).

Noting that the earliest the benefit cuts could take effect is July 1, 2016, the PRC said there is ample time for Congress to hold hearings on the Kaptur and Sanders legislation and the Pension Accountability Act—and ''for the Central States trustees to join with retirees and others around the country in working for their enactment.''

Defense of PAA. Responding to comments from Nyhan regarding fundamental flaws in the Pension Accountability Act and its focus on giving retirees more say on multiemployer benefit plan reduction proposals, an aide to Portman told Bloomberg BNA on Oct. 8 that it's ''fundamentally unfair'' to the some 48,000 affected Ohio residents ''not to have a seat at the table as decisions affecting their hard-earned benefits are discussed.''

The aide said that requiring a majority vote of the participants and retirees to pass such a plan would force the fund to talk to the people affected, to hear their concerns and figure out a workable solution. Even if the fund isn't able to procure a majority vote initially, the fund would still have until 2026, the year of its predicted insolvency, to find a workable solution or come back to Congress, the aide said.

The Keep Our Pension Promises Act, however, is a non-starter in Congress because it seeks to raise taxes by about $30 billion over 10 years, the aide said.

The aide said that Portman's bill has thus far received only favorable comments from a bipartisan array of both Senate and House members, most of whom have a large number of constituents who would be affected by the Central States rescue proposal, he said. This group includes members who support Keep Our Pension Promises Act, the aide said.

Kaptur said she supports the Pension Accountability Act and hoped to eventually have bipartisan support for her legislation.

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The Pension Rights Center's news release is at http://www.pensionrights.org/newsroom/releases/pension-rights-center-calls-proposed-retiree-benefit-cuts-central-states-pension-f.

Sen. Portman's statement announcing the Pension Accountability Act is at http://www.portman.senate.gov/public/index.cfm/press-releases?ID=4ba36035-5145-499b-8ef9-5f2f2d799a0d.

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