

## COMMENTS ON APPLICATION FOR BENEFITS SUSPENSION SUBMITTED BY IRON WORKERS LOCAL 17 PENSION PLAN

These comments, submitted by the Pension Rights Center, respond to the Department of the Treasury's request for comments on the application of the Iron Workers Local 17 Pension Plan to reduce benefits for certain retirees. The Pension Rights Center is a consumer organization that has been working for four decades to protect the retirement security of worker, retirees, and their families. These comments are based on a review of the Iron Workers Local 17 application and comments submitted by and on behalf of retirees.

The Pension Rights Center opposed the enactment of the benefit suspension provisions of the Multiemployer Pension Reform Act of 2014 (MPRA) and is currently working with other organizations to develop a legislative alternative to these provisions that would address both the financial problems of severely troubled multiemployer plans and the Pension Benefit Guaranty Corporation's multiemployer program. A number of measures have already been put forward, and others will be proposed in the near future. We ask that the Department of the Treasury consider asking applicants to temporarily withdraw their applications to allow time for a consensus proposal to be developed and introduced into Congress.

If that is not possible, we urge the Treasury Department to reject the application submitted by Iron Workers Local 17 on the ground that it does not satisfy the relevant statutory criteria for approval of the application. Specifically:

- The application does not demonstrate that the proposed cuts will ensure that the plan will remain solvent for 30 years;
- The application fails to show that the plan's trustees have taken all reasonable steps to avoid insolvency;
- The proposed benefit suspensions are not equitably distributed across the participant and beneficiary population; and
- The notice provided to participants was not written in a manner so as to be understood by the average plan participant.

### **I. The application does not demonstrate that the proposed cuts will ensure that the Local 17 plan will remain solvent for 30 years.**

The application projects that the proposed benefit cuts will make it possible for the plan to survive for 30 years. However, the projections do not reflect the fact that the International Iron Workers Union permits contractors who work in the area covered by Local 17 to opt out of contributing to the pension plan. According to the application,

the Iron Workers International Union has negotiated National Agreements that contributing employers can execute with the Iron Workers International Union instead of the Iron Workers Local 17 Union that allows the employer to make all contributions specified in the Iron Workers Local 17 Collective Bargaining Agreement **with the express exception of contributions to this Pension Fund.** (IW17PF\_238)

The survival of the Local 17 plan depends on new contractors joining the plan as currently contributing contractors move to jobs in other areas or file for bankruptcy. These new “National Agreements” will ensure the demise of the plan long before the 30 year time horizon specified in Treasury Department regulations. This fact is not mentioned in the projections included in the application.

## **II. The application fails to show that the plan’s trustees have taken all reasonable steps to avoid insolvency.**

The application details the trustees’ past actions to reduce benefits and suggests that the proposed suspensions are the only remaining option short of a managed mass withdrawal. However, there is nothing in the application to indicate that the trustees made any efforts to pursue other options. Possible options were mergers with other Ironworker plans, adoption of and arrangements, such as those adopted in other industries, that would relieve firms that join the plan in the future from responsibility for the accumulated withdrawal liability of former contributing employers.

Given the building trades’ recovery from the Recession and the amount of new construction projected for Cleveland, it is likely that with a merger or new arrangements for relieving future contractors from past liabilities, the Local 17 plan could become sufficiently attractive to new employers to continue without the proposed benefit cuts. However, these reasonable measures were not pursued, possibly because the retiree cuts were an easier-to-implement approach

## **III. The proposed benefit suspensions are not equitably distributed across the participant and population.**

The proposed benefit suspensions unfairly target retirees who were encouraged by the plan to take early retirement. As pictured in [this Cleveland Plain Dealer article](#), the Local 17 plan participants worked in an extremely hazardous occupation. From the perspective of the workers, the union, and the employers, there was every reason to induce them to leave employment to make way for younger workers.

The application proposes reducing the benefits of early retirees in three different ways. It would dramatically reduce the value of the benefits that retirees have earned (“reduction of the benefit accrual rate”); it would severely penalize participants for retiring before age 62 (“reduction of the subsidy provided for retirees under the 30 and Out Service Pension”); and it takes away credits that had earned for performing extra hours of work (“elimination of benefit credits over 1 per year”).

The result of this “triple whammy” is that the retirees we have talked to and heard about have been told that their benefits will be cut by as much as 50 to 60 percent if the application is approved. To make matters worse, these retirees have medical, disability, or age restrictions that would make it impossible for them to go back to work.

At the same time, the application proposes to fully protect current workers, deferred vested employees, and those participants who have earned 30 and out benefits who continue to work until age 62.

The stated rationale for protecting current workers from cuts is that their benefits are have already been reduced as the result of the plan's "Red Zone" rehabilitation plan and other measures. But this fails to take account of the fact that earnings of current workers are considerably higher than the wages of retirees who worked ten or fifteen years ago, making it possible for them to save for retirement in other ways. Also, inflation has reduced the purchasing power of the retirees' benefits. (For example, a \$3,546 pension in 2006 is only worth \$2,968 in today's dollars.)

The actual rationale is that both the union and the employers need to be able to continue to attract and retain current workers. This is a perfectly valid rationale, and one recognized in MPPRA. However, it completely ignores the interests and needs of retirees, the individuals ERISA was enacted to protect.

As further evidence of the total disregard of retiree interests, there appears to be nothing in the application to require restoration of retiree benefits if the condition of the plan were to stabilize and/or if benefit increases are provided to active workers.

Finally, no rationale is put forward for protecting participants who have 30 years and remain in the plan until age 62. We urge the Treasury Department to examine who is included in this protected group.

#### **IV, The notice provided to participants was not written in a manner so as to be understood by the average plan participant.**

The notice provided to participants is filled with technical terms "benefit accrual rate" "benefit credit," "early retirement factor" "subsidy," etc. The average retired iron worker is not familiar with these terms. He knows the amount of his current monthly pension, and that there is a proposal to reduce it. But these terms are a foreign language, and do not help him understand how the reduction in his benefit was calculated or why the reduction is necessary – other than an unsubstantiated statement that without the reduction the plan will become insolvent in 2025.

A comment posted by the principal advocate for MPRA in response to Local 17's initial application suggested that the relatively few comments filed by Local 17 retirees was traceable not, as we had assumed, to the incomprehensibility of the statement but rather was the result of the "diligence" of the trustees in "engaging retirees at every step" in the process that led to the application. Pattie Overstreet, the wife of Local 17 retiree Walter Overstreet, replied to this comment by saying "His conclusion is incorrect" and noted, "we are a small Local and don't have thousands of retirees." Subsequently, in an e-mail to the Pension Rights Center, she offered an additional explanation for the small number of comments.

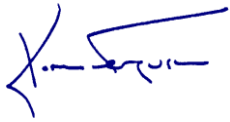
It is very difficult to get the retirees to post comments for several reasons. Many don't use or have access to computers and are totally computer illiterate. Most are so demoralized they remind me of "deer in headlight" frozen in disbelief and feel that there is no way to win a fight against their own Local, the International and the government. These are seniors some don't fully comprehend the whole situation. It is very hard to make people who have given up fight.

Both Pattie and Walter Overstreet filed comments on the initial application. We urge Treasury Department officials to meet with them and other affected Local 17 participants before ruling on the application.

## **V. Conclusion**

The Iron Workers Local 17 application does not meet the statutory requirements for benefit suspensions established by the Multiemployer Pension Reform Act. The proposed benefit cuts would cause devastation to retirees and their families without preserving their pension plan. The cuts are apportioned unfairly, and have not been adequately communicated to retirees. For these reasons, we believe that the Department of the Treasury must reject the application.

Respectfully submitted this 14<sup>th</sup> day of October 2016,



Karen W. Ferguson  
Director