THE STATE OF MULTIEmployer PENSION PLANS

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Topics for Discussion

• Historical Perspective
• Legislative Outlook
• Withdrawal Liability
• Actuarial Projections
• PPA Refreshers
• Q&A

NECA Convention – Tuesday, September 15, 2009

Historical Perspective - 2006 Pension Protection Act

• Provided framework for funding reform
• Restored trustee and bargainers flexibility to salvage severely underfunded plans
• Protected normal retirement benefits at normal retirement age
• Protected employers from sanctions

The Problem

• Economic woes putting NECA Chapter “defined-benefit” plans into trouble
• Quick Survey from the IFEBP:
  2008: 80% Green
  2009: 20% Green

Worker, Retiree, and Employer Relief Act (WRERA)

NECA helped secure relief with Congress
• 1 year freeze on zone status
• Extend correction period from 10 to 13 years (Endangered plans) and from 15 to 18 years (Critical plans)

Political Environment

• Democratic Congress and White House should be receptive to labor’s concerns
• Not asking for wholesale changes; only asking for additional time and flexibility in meeting PPA obligations
• Stock market has come back nicely from March 2009 lows, but still a long way to go.
Legislative Outlook

• The only proposal that is expensive, and therefore unlikely to pass, is the “orphan” provision, which is not helpful to the construction industry.
• The other provisions are supported by both business and labor, so they have a good chance of passing in some form.
• Reps. Earl Pomeroy (D-N.D.) to play lead

Options for ME Pension relief

• Isolate (2008-2009) losses and amortize them over 30 yrs
• Allow mergers “alliance” of troubled ME plans
• Expand relief granted in WRERA expanding correction period to 5 years

Withdrawal Liability

• Withdrawal Liability is your share of the plan’s unfunded vested liability.
• Your share is determined in proportion to your contributions – if your company makes 1% of the contributions to the fund, your company is responsible for 1% of the unfunded vested liability.
Withdrawal Liability

- If you go out of business, then no withdrawal liability.
- If you sell your business, and the buyer stays in the plan, then no withdrawal liability.
- If you move out of the area, then no withdrawal liability.
- If you stop contributing to the fund, but continue in business in the same area on a non-union basis, then you pay withdrawal liability.

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Withdrawal Liability

- Estimated growth in percentage of plans with withdrawal liability
  - 1999: >5
  - 2009: 85

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Actuarial Projections

Baseline at January 1, 2008

Baseline at January 1, 2009

Baseline Projection - 2009
Asset Return Sensitivity Projections
15% Return in 2009

ACTUAL IBEW-NECA FUND

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Hours Sensitivity Projections
Hours are 90% of Baseline in 2009 & 2010

ACTUAL IBEW-NECA FUND

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Contribution Increase Projection
Current contract increases repeated in next contract

ACTUAL IBEW-NECA FUND

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PPA REFRESHER
“Yellow Zone” (Endangered Status) Requirements

- Plan must notify interested parties 30 days after actuarial certifies as endangered
- Funding Improvement Plan (FIP)
  - Must be adopted by Trustees within 240 days after certification
  - Include options or range of options to improve plan funding
  - Include either funding improvement plan or rehabilitation plan
  - Reduced underfunding by one-fifth over 10 years
  - Avoid underfunding over 10 years
  - Do not include any additional funding
  - At least one schedule showing only reduced benefits
- Funding improvement period
  - Begins after expiration of contracts covering 75% of active participants (or 2 years after adoption of FIP)
  - Requirements for 10-year "funding improvement" or "rehabilitation" period
  - By the end of the period, pass all solvency tests
  - By the end of the period, no projected funding deficiencies (benefit cost increase)
  - One schedule showing only reduced benefits
  - One schedule showing only increased benefits
  - Possible alternate schedules showing a combination

“Red Zone” (Critical Status) Requirements

- Plan must notify interested parties 30 days after actuarial certifies as critical
- Rehabilitation plan
  - Must be adopted by Trustees within 240 days after certification
  - Include options to exit critical status in 10 years (or longer if needed)
- Schedules to bargaining parties
  - Provided by Plan within 30 days after adoption of FIP
  - At least one schedule for increased contributions, one for reduced benefits
- Funding improvement period
  - Begins after expiration of contracts covering 75% of active participants (or 2 years after adoption of FIP)
  - Requirements for 10-year "funding improvement" or "rehabilitation" period
  - By the end of the period, pass all solvency tests
  - By the end of the period, no projected funding deficiencies (benefit cost increase)
  - One schedule showing only reduced benefits
  - One schedule showing only increased benefits
  - Possible alternate schedules showing a combination

Red Zone: Adjustable Benefits

- Benefits, rights, and features other than accrued benefit payable at normal retirement age may be reduced or eliminated.
- Qualified joint and survivor annuity is protected, but subsidy is not.
- Benefits in pay status before notice of certification are protected.
- Adjustable benefits for active and inactive vested participants are not protected.
- Adjusted benefits include:
  - Early retirement subsidies
  - Social Security level income option
  - Subsidized disability benefits
  - Subsidized pre-retirement survivor annuities
- Cannot reduce adjustable benefits until 30 days after notice has been sent to participants and beneficiaries, contributing employers, unions.

Red Zone: Employer Surcharges

- Mandatory surcharges apply to employer contributions
  - 5% of contributions in initial critical year
  - 10% of contributions in subsequent critical years
  - Terminates upon adoption of CBA consistent with rehab plan
- Surcharge shall not apply until 30 days after employer receives notice.
  - Notice that the plan is in critical status and surcharges are in effect.
  - PPA does not specify when surcharge notice must be sent.
  - However, model critical status notice includes surcharge notification.
- Surcharge shall not generate benefit accruals.
## PPA Annual Timeline

For a plan year beginning January 1, 2010

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
<th>Latest Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actuarial certification</td>
<td>30 days into plan year</td>
<td>3/31/2010</td>
</tr>
<tr>
<td>Notice to interested parties (e.g., employer)</td>
<td>30 days after actuarial certification</td>
<td>4/30/2009</td>
</tr>
<tr>
<td>Inspection of multiemployer plans (critical status only)</td>
<td>30 days after notice of inspection is sent to employers (may be later than contribution notices)</td>
<td>N/A</td>
</tr>
<tr>
<td>Adoption of PPA or rehabilitation plan</td>
<td>20 days after plan becomes effective</td>
<td>11/29/2009</td>
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<tr>
<td>Certification of plan in good paying posture</td>
<td>20 days after adoption of PPA or rehabilitation plan</td>
<td>12/28/2010</td>
</tr>
<tr>
<td>Funding improvement of rehabilitation plan</td>
<td>9/30/2010</td>
<td></td>
</tr>
</tbody>
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