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

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

Legislative Outlook (cont.)

- These changes (other than the orphan provision) do nothing at all for the long-term health of the funds; what they essentially do is to liberalize some of the rules in order to buy time to permit the plans to heal.

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

Options for ME Pension Relief

- Extend amortization period from 15 to 25 years
- Extend smoothing period from 5 to 10 years
- Enact a temporary freeze on zone certifications

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 never withdraw, you never pay.
- In the construction industry, you only pay withdrawal liability if you withdraw from the fund and then compete with the fund.
- Estimated growth in percentage of plans with withdrawal 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.***

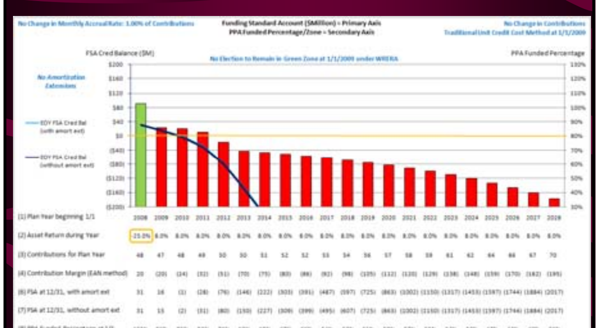
Withdrawal Liability

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

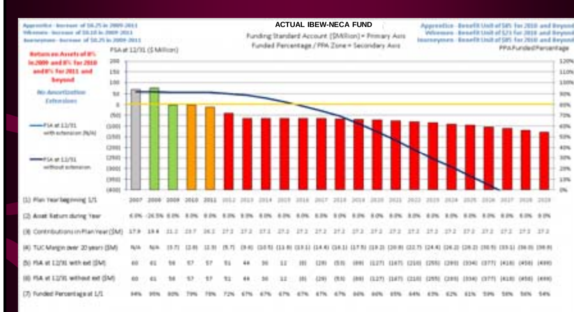
Actuarial Projections

Baseline at January 1, 2008

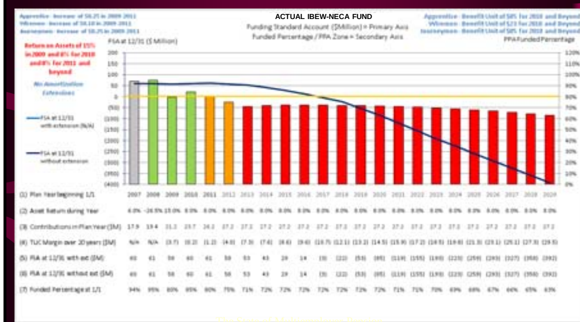
Baseline at January 1, 2009



Baseline Projection - 2009



Asset Return Sensitivity Projections
15% Return in 2009



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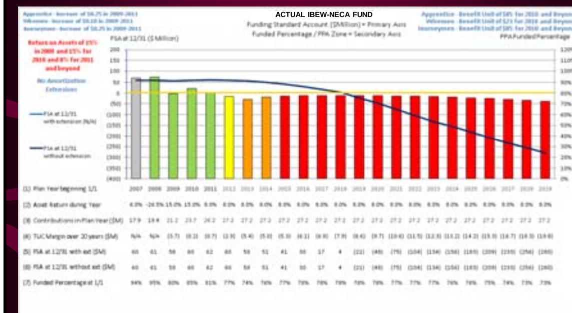
Asset Return Sensitivity Projections
15% Return in 2009 & 2010



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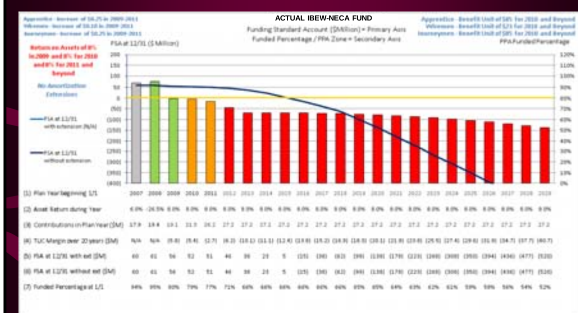
Hours Sensitivity Projections
Hours are 90% of Baseline in 2009 & 2010



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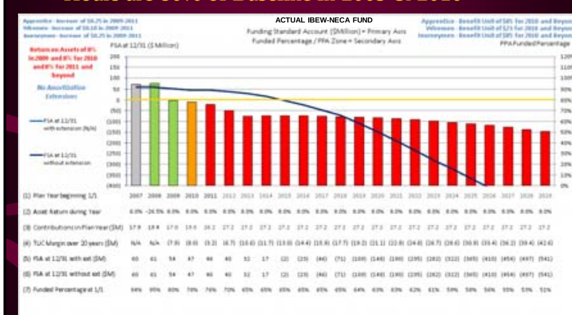
Hours Sensitivity Projections
Hours are 80% of Baseline in 2009 & 2010



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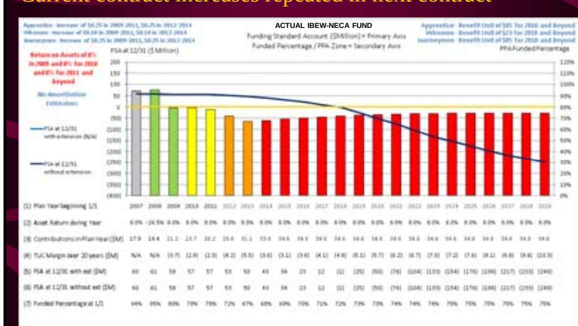
Contribution Increase Projection
Current contract increases repeated in next contract



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PPA REFRESHER

PPA Certification Criteria

“Yellow Zone” Endangered

- Not in critical status, and
- Funded percentage < 80%

OR

- Accumulated Funding Deficiency (AFD) in current plan year or projected in next 6 years, taking into account PPA amortization extensions

“Orange Zone” Seriously Endangered

- Not in critical status, and
- Funded percentage < 80%

AND

- AFD in current plan year or projected in next 6 years, taking into account PPA amortization extensions

“Red Zone” Critical

- AFD in the current plan year or projected in next 3 years (4 years if < 65% funded), without regard to PPA amortization extensions

OR

- Funded percentage < 65% and fails 7-year solvency test

OR

- Expected contributions for current plan year do not cover normal cost plus interest on unfunded liability, PV of inactive liability exceeds PV of active liability, and projected AFD in current or next 4 years

OR

- Fails 5-year solvency test

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“Yellow Zone” (Endangered Status) Requirements
Yellow Zone versus Red Zone

Based on current proposed regulations; awaiting final regulations and further guidance.

	Yellow Zone (Funding Improvement Plan)	Red Zone (Rehabilitation Plan)
Requirements for 10-year “funding improvement” or “rehabilitation” period:	• By the end of the period, reduce underfunding by one-third. • During the period, avoid funding deficiencies (reflect amort ext).	• By the end of the period, pass all critical status tests. • By the end of the period, no projected funding deficiencies for next 10 years (reflect amort ext).
Do surcharges apply on employer contributions?	NO.	YES, until a CBA consistent with the rehabilitation plan is adopted. (On $1.30 hourly rate, 5% or 6.5¢ for first year, 10% or 13.0¢ for future years)
Can reduce or remove adjustable benefits?	NO.	YES, including early retirement subsidies, disability benefits, and other ancillary benefits.
Schedules to bargaining parties:	• One schedule showing only reduced benefits, • One schedule showing only increased contributions, and • Possible alternate schedules showing a combination.	• A “default” schedule (e.g., for non-conforming employers). • Additional schedules are optional (e.g., a “preferred” schedule for conforming employers).

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“Yellow Zone” (Endangered Status) Requirements

- **Plan must notify interested parties 30 days after actuary 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
  - Goal is to reduce underfunding by one-third over 10 years
    - Reduce underfunding by one-fifth over 15 years for seriously-endangered plans 70% or less funded (or over 10 years if at least 70% funded)
  - Also, avoid accumulated funding deficiencies
- **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)

Red Zone (Critical Status) Requirements

- **Plan must notify interested parties 30 days after actuary 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 rehab plan
  - Preferred schedule (or schedules) and default schedule
  - Default schedule is to reduce benefits (minimum of 1% of contributions)
- **Plan may reduce or eliminate “adjustable” benefits**
  - Includes early retirement subsidies, special death benefits, etc.
- **Surcharges apply to employer contributions**
  - 5% for first year, 10% thereafter
  - Surcharges apply 30 days after notice given and terminates upon effective date of contract consistent with rehab plan
- **Rehabilitation period**
  - Begins after expiration of contracts covering 75% of active participants (or 2 years after adoption of RP)

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.
- **Adjustable 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

Event	Deadline	Latest Date
Actuarial certification	90 days into plan year	3/31/2010
Notice to interested parties (endangered or critical only)	30 days after actuarial certification	4/30/2009
Imposition of surcharges (critical status only)	30 days after notice of surcharge is sent to employers (may be later than certification notice)	Depends
Adoption of FIP or rehab plan	240 days after due date for actuarial certification	11/26/2010
Send FIP or rehab plan schedules to bargaining parties	30 days after adoption of FIP or rehab plan	12/26/2010
Funding improvement or rehab period begins	After expiration of contracts covering at least 75% of active participants, not later than first of plan year following second anniversary of adoption of FIP or rehab plan	1/1/2013

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Q & A