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AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.



March 1, 2016

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
United States Senate
Washington, DC 20510

Re: Support Authorization of Composite Plans in the Multiemployer Pension Plan System

Dear Chairman Hatch and Ranking Member Wyden:

Thank you for holding the important hearing titled, “The Multiemployer Pension Plan System: Recent Reforms and Current Challenges”. Multiemployer pension plans are common in the unionized sector of the construction industry. They give employers the opportunity to provide their employees with a defined benefit plan that allows them “portability” to be able to earn continuous benefits as they go from employer to employer usually within the same geographic area. More than half of the 10 million participants in multiemployer defined benefit plans are construction industry workers and retirees.

AGC urges Congress to act on an important component of multiemployer pension reform that was not included in the Multiemployer Pension Reform Act of 2014: changing the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code to recognize a new “composite plan” design. Composite plans combine the best aspects of traditional defined benefit and defined contribution or 401(k) plans by providing a lifetime annuity for participants, pooling longevity risk and are professionally managed.

The plan design mandates that contribution rates and benefit levels are structured so plan assets exceed liabilities by 20 percent. This funding cushion ensures that plans actually have the ability to pay benefits rather than making promises that last only as long as the plan has assets. The funding adequacy is determined by 15-year actuarial projections and the plan design includes tools to improve funding, if needed, by negotiating a higher contribution rate, reducing the rate of future benefit accrual or scaling back ancillary benefits. Composite plans would be adopted and employer contributions would be negotiated during collective bargaining and incorporated into collective bargaining agreements, similar to how today’s defined benefit plans are funded.

Additionally, the composite plan model does not create any unfunded liabilities or withdrawal liability. Under the current defined-benefit system, the creation of contingent withdrawal liability makes the employer liable for the ups and downs of investment returns, the size of the asset base and the health of other companies paying into the plan. This model creates a system that imposes crippling withdrawal liability and little remedies for employers to account for their exposure. The contingent liability can also effect a company’s bonding ability and ability to sell or pass down a company to the next generation. In most cases, under the current rules, an employer will never be

able to pay down its liabilities. During the transition to composite plans, legacy liabilities under existing defined benefit plans would not be eliminated. Rather, employers would continue to make contributions to the pension trust where a portion of the contribution would pay down legacy costs and a portion would go towards the new composite plan.

The composite plan structure is innovative but not untested. It is similar to the model that is in practice throughout much of Canada. In addition, independent stress testing of the composite plan design proves that the plans would have lower costs and could survive significant market and economic downturns compared to a traditional defined benefit plan.

It is important that Congress act quickly to allow composite plan designs. The construction industry has finally begun to expand, giving employers and employees their best chance to add new plan participants in over a decade. With the vast majority of construction industry plans returning to fiscal health; this is a perfect opportunity to adopt these changes and provide limited disruption of benefits for participants. If Congress fails to act in the near future, some construction contractors that are signatory to collective bargaining agreements requiring contributions to defined benefit multiemployer plans will choose to wind down and close their businesses rather than endure mounting unfunded liability and risk collapse or possible mass withdrawal from the plans.

A transition to the new composite plan design will also eliminate unfunded liabilities and, in turn, future Pension Benefit Guaranty Corporation (PBGC) liabilities. The PBGC's potential insolvency and the need for additional funding remains a stigma over contributing employers. Increasing insurance premiums to the PBGC can further jeopardize the number of contributing employers to traditional defined benefit plans and will ultimately result in employers exiting the system thereby placing unsustainable financial strains on the remaining employers and plans. This will result in a further weakened PBGC and possibly accelerate its insolvency.

In conclusion, the Multiemployer Pension Reform Act was a step in the right direction and provides many needed reforms to the multiemployer system. But Congress needs to enact a few additional reforms to the pension system that allow multiemployer plans to modernize by choosing from additional retirement plan models, including the composite plan design.

Sincerely,



Jeffrey D. Shoaf
Senior Executive Director, Government Affairs

cc: Senate Committee on Finance