
December 20, 2019

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Lamar Alexander
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Chairman Alexander:

On behalf of tens of thousands of construction employers, all of whom contribute to multiemployer defined benefit pension plans, we urge the Congress to find a constructive and achievable path to reform as you begin to again consider modifications to the multiemployer defined benefit pension system.

Construction industry plans account for over half of all multiemployer defined benefit plans and cover nearly four million multiemployer defined benefit participants. These eight leading construction employer associations represent the vast majority of contributing employers in the construction industry.

Plans and Employers Under Stress: Construction employers believe Congress must do more than simply address the looming insolvency of approximately 10 percent of the plans in the multiemployer system. The overall system is under stress; many plans face significant unfunded liabilities and are subject to the same long-term risks that have driven other plans to insolvency.

Employers are also under stress. Despite years of ever-increasing contributions, companies that owners spent a lifetime building are subject to withdrawal liability that is frequently higher than the value of their company. Owners cannot sell their business; the risks are too great to pass along to their children or other heirs; and the liabilities hinder the ability to transfer ownership to employees and the formation of an Employee Stock Ownership Plan, ESOP. Just staying in business is a challenge as employers face growing scrutiny from lenders and tighter credit markets. These liabilities are also a growing threat to the capacity of these companies to obtain credit on reasonable terms.

We know balancing the interests of employers, participants, retirees, and taxpayers is challenging, but we urge policymakers to find bipartisan solutions and to recognize that maintaining the viability of contributing employers is key to avoiding a complete collapse of the system. Modifications to the current system must consider the impact on contributing employers.

Employers sponsoring multiemployer defined benefit plans have long-demonstrated their commitment to providing retirement security for their workers. These employers have increased contributions for over 15 years, some for more than 20 years. Active workers have seen decreases in their future benefits even in the face of the increased contributions.

Congress should take careful action now to avoid deepening the crisis.

Grassley – Alexander White Paper Comments

Laying a blueprint on the table was an important step in developing a bipartisan agreement. Financial security in retirement is important to individuals, to families, to the economy and the government. We are hopeful

thoughtful deliberations are taking place and we are pleased to offer the construction employer perspective on Chairman Grassley's and Chairman Alexander's proposal.

The multiemployer system plays a key role in providing retirement security. According to the National Coordinating Committee for Multiemployer Plans (NCCMP), in 2015 alone, multiemployer pension plans paid \$41 billion in pension income to retirees who in turn contribute to the economy and pay taxes. The employers create the jobs and fund the system that provides those benefits. It is critical that multiemployer pension reform works for employers. Our view:

Composite Plans

Construction employers support Composite Plan language as proposed in the bipartisan GROW Act. Any plan that is not in critical status or projected to be in critical status for any of the next five years should be eligible to adopt a Composite Plan.

Composite Plans are a key element in preventing a future crisis. The Grassley – Alexander proposal would authorize a new kind of multiemployer pension plan, Composite Plans. These plans would be voluntary and must be agreed to by both labor and management before being adopted. The Composite Plan structure recognizes that employers should not be forced to choose between protecting the viability of their business and providing a retirement benefit for their employees.

The strict transition and funding rules associated with Composite Plans mean no worker would lose benefits under the legacy plan. Going forward, Composite Plans would provide a secure lifetime income that participants cannot outlive while employer risk is limited to negotiated contributions. Moreover, Composite Plans provide an off ramp from plans further threatening the PBGC and ultimately threatening to impose additional, future costs on taxpayers.

The current system creates unpredictable and unacceptable risks for participating employers and the current crisis makes it clear that the defined benefit system no longer guarantees a secure retirement. Unfunded liabilities create a barrier to new employers entering the system and, worse, serve as an impetus for current employers to leave the plan, further destabilizing individual plans and the system overall. The single-employer world has for the most part abandoned the defined benefit model in favor of a defined contribution model. It is time to authorize the new voluntary, hybrid Composite Plan model.

PBGC Premium Increases

Construction industry employers and active workers have made significant sacrifices to cover unfunded liabilities in their own plans and cannot also be expected to finance the rescue of failing plans. Construction employers support the current premium structure with any modest increases being phased-in over a reasonable time period. Before increasing premiums, Congress should ensure that all other tools are fully deployed. MPRA tools should be implemented for failing plans, government funding should be approved to pay for partitioning proposals, Composite Plans should be authorized and plans allowed to take early corrective action.

Under the proposal, using one industry plan as an example, the PBGC premium would go from \$4 million per year to over \$48 million a year, not including the union copay or the retiree copay. It is not feasible for plans or employers to absorb this cost.

Congress has raised the PBGC premium rate for multiemployer plans over time and MPRA doubled the rate in 2015 and included automatic increases for inflation. Ultimately, premium increases are shouldered by the employer. Extreme increases would weaken the financial health of individual employers and the plans. It doesn't make sense to bankrupt remaining plans to pay for the benefits promised by failed plans.

Changes to the Discount Rate

The proposed discount rate would drive an inordinate number of plans to critical status. The phase-in period outlined in the proposal is inadequate for collective bargaining purposes as contribution rates are generally fixed for three to ten years. Giving trustees additional tools so they can react more quickly and effectively to market volatility and adverse plan experience than currently allowed by the Pension Protection Act would ensure plans stay well-funded without the destabilizing effect of lowering the discount rate.

Severe and sudden changes to the funding rules will have grave and unintended consequences. Even a modest change in investment assumption can dramatically change funding status. In one example, a quarter of a percent lowering of the investment assumption moved a plan from a comfortable green zone to the yellow zone. As previously stated, Congress must maintain a delicate balance to keep employers participating in the plans. Mandating lower investment assumptions would cause actuarial liabilities to rise, causing dramatically increased employer contributions. Changes that financially weaken employers, weaken the system and would put more multiemployer plans at risk of insolvency.

The proposed change assumes no lessons were learned as a result of the market contraction from 2000 – 2002 or from the financial crisis in 2008. Plans actuaries and trustees are more sensitive to stock market volatility. As a result, as noted in the White Paper, the average rate of return assumed by plans is 7.13%. Any mandatory change in the interest rate assumption must be accompanied by a realistic phase-in period.

We agree that plans could achieve more stable long-term funding if trustees were able to take early, strong action in the face of adverse experience. Early action would mean less drastic action.

Finally, we want to emphasize that in our view, the need to act soon is critical, not just for the benefit of failing plans but for the benefit of unstable plans that want to take action now to forestall more severe funding issues later. All of the undersigned associations stand ready to work with the appropriate committees and Members of Congress to stabilize and strengthen the system for the future.

Sincerely,

**Associated General Contractors of America
FCA International
Mechanical Contractors Association of America
National Electrical Contractors Association
International Council of Employers of Bricklayers and Allied Craftworkers**

**Sheet Metal & Air Conditioning Contrs Nat'l. Assn
Signatory Wall and Ceiling Contractors Alliance
The Association of Union Constructors**

*Cc: Ranking Member Ron Wyden, Committee on Finance
Ranking Member Patty Murray, Committee on Health, Education, Labor and Pensions*