

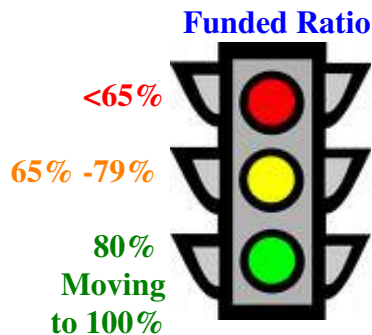
# MULTIEMPLOYER HIGHLIGHTS OF NEW LAW

## PENSION PROTECTION ACT OF 2006

House Vote 279 to 131

Senate Vote 93 to 5

### Multiemployer Pension Plans Brief Snapshot



More than 9,000,000 workers are members of **Multiemployer** defined benefit pension plans. The new law requires more stringent funding to improve the financial health of pension plans so that the pension plans can keep the promise made to the workers. Basically, contributions need to keep the funding very strong where investment income does not meet expectations. (*Comment - pension funds need to eventually be 100% funded.*)

The new law allows **Multiemployer** plans to continue to calculate the Plan's funded ratio of assets to accrued benefits using their actuary's interest assumptions and asset valuation method.

### SUMMARY

#### Effective for Plan Years Beginning in 2008

I. Generally, a plan is considered in the **RED ZONE (CRITICAL STATUS)** if it is "less than 65% funded."

When: (1) Less than 65% funded with a projected funding deficiency within 5 years or inability to pay benefits over the next 7 years; OR (2) projected funding deficiency within 4 years or inability to pay benefits in 5 years, regardless of funded ratio; OR (3) benefits for inactives are greater than for actives, contributions are less than costs, and funding deficiency projected within 5 years; OR (4) assets plus 5 years of contributions are less than 5 years of benefit payments plus administrative expenses.

Action: Same notice requirements as described below for the "Yellow Zone." Surcharges on contribution rates following employer notification of critical status (5% first year and 10% following years) until an acceptable contribution rate is negotiated. Develop a Rehabilitation Plan (RP) to stabilize the plan's finances and emerge from critical status by the end of a 10 year period. Provide bargaining parties schedules of contribution increases and reductions in future benefit accruals as described below for the "Yellow Zone" but with additional limitations. Note: Benefit improvements only allowed if included in RP. No lump sums can be paid.

II. Generally, a plan is considered in the **YELLOW ZONE (ENDANGERED STATUS)** if it is "less than 80% funded."

When: (1) Less than 80% funded; OR (2) has or is projected to have a minimum funding deficiency within the next 6 years AND is not in the **RED ZONE**.

Action:

(a) Notification to participants and employers must show: (1) options for correcting the problems; (2) the strategy the trustees are taking to correct the problems; and (3) the consequences if the actions taken by the trustees are not successful.

- (b) If plan is in the **YELLOW ZONE**, develop a Funding Improvement Plan (FIP) to reduce underfunding by 1/3 in 10 years, taking collective bargaining agreements into consideration. Note: benefit improvements only permitted if included in FIP.
- (c) Bargaining parties need to be provided information with one or more schedules showing contribution increases and reductions in future accruals needed to achieve FIP goals. Trustees are to redesign the plan as needed consistent with the FIP and collective bargaining agreements.
- (d) Trustees need to take actions to postpone projected funding deficiency by one year and help stabilize the funding ratio while awaiting any new collective bargaining agreements.

III. Other changes that have been legislated and are applicable to **Multiemployer** plans include:

- (a) Liabilities created for future benefit improvements and assumption changes will now be amortized over 15 years rather than 30 years.
- (b) Short-term benefit improvements, e.g., a 13th check, need to be funded by the time the benefit improvement is fully paid.
- (c) If there is a projected funding deficiency within 10 years, the amortization period may be increased automatically by 5 years (a plan must adopt a program to correct the problem in order to be allowed to use the extra 5 years) and may be increased an additional 5 years with IRS permission.
- (d) An actuarial certification of the plan's status is required within 90 days after the start of the plan year.
- (e) The current newly required "Annual Funding Notice" that is sent to participants, employers, union representatives and PBGC will include more information and will be required to be sent out by 120 days after the end of the plan year. However, the actuary's assumptions can be used in the new Annual Funding Notice.

Although this brief "Snapshot" discusses primarily **Multiemployer** defined benefit plans, the rules are more stringent for **Single Employer** plans. Single employer defined benefit plans will become subject to stricter minimum funding requirements starting with plan years beginning in 2008. A seven year funding target is established which is based on 100% of the plan's accrued liabilities. These liabilities are calculated based on corporate bond interest rates, which are currently more conservative than the valuation interest rates. The funding target must be met on a seven year schedule to avoid a funding deficiency and the associated excise taxes.

Again, this is a very brief summary of the new funding requirements under the Pension Protection Act of 2006. Additional information concerning other provisions of the new law will be forthcoming.

*richard Gabriel associates will work with plan sponsors and their legal counsel in the coming months to understand and respond to this pension reform.*

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