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The Next Pension Bailout

New momentum to dump union retirement burdens on taxpayers.

Congress is gone for August—heaven be praised—but that hasn't stopped unions from quietly mobilizing to push through a big new priority this fall: a pension bailout. Big Labor is going Code Red on the issue, in the face of a looming accounting change that would force companies to confront the Ponzi-style nature of multi-employer pension plans.

We wrote in June about this class of some 1,500 union-run retirement vehicles, in which companies across an entire industry pay into a single pension pool. Hundreds of these multi-employer pools are badly underfunded, thanks to years of labor funneling money into new pay and benefits, rather than into the funds for retirees.

The big problem with these plans is that when one company in the pool goes out of business, the other companies remain on the hook for the cost of the plan. These spiraling liabilities inspired Pennsylvania Senator and Big Labor favorite Bob Casey to introduce legislation to cordon off "orphaned" pensions—those for which an employer has stopped contributing or withdrawn from the plan—and drop them on the federal Pension Benefit Guaranty Corporation.

The PBGC is already significantly underfunded and taxpayers are its ultimate backstop. Yet the Casey bailout could dump as much as $165 billion in new liabilities on the PBGC, while multi-employer plans would get a clean bill of health. What a deal.

This cause has taken on new political urgency, and no less than Senate Majority Whip Dick Durbin has endorsed the bill. The reason for the rush is new rules that may soon be issued by the Financial Accounting Standards Board (FASB), the green-eyeshade outfit that dictates how companies keep their books. Those proposed rules would expose the multi-employer time bomb.

Here's why. In 1980 an amendment to the Employee Retirement Income Security Act established the principle that any company in a multi-employer plan had a right to assume that other members would pay in perpetuity. Those that did not, and left the plan, were required to pay a "withdrawal penalty" to make the plan whole. This is fine in theory, though in reality these penalties have rarely covered the true cost of withdrawal, which means liabilities for remaining companies have continued to grow.

As plan obligations climb, and a mediocre stock market has reduced fund assets, more companies are running for the exits. Most notably, UPS was willing pay a remarkable $6.1 billion in 2007 to flee its plan. FASB's new rules are likely to acknowledge this new corporate reality, and they would in effect require companies to assume that they must pay the withdrawal penalty, and therefore to include that liability on either an income statement or balance sheet.

Ouch. Many companies have withdrawal liabilities that exceed their assets, and the result would be a painful reckoning. The accounting changes would also embarrass Big Labor, exposing its pension promises as bankrupt and perhaps leading to wholesale reform of multi-employer plans. One labor law firm, Groom Law Group, sent out an SOS in July, announcing its intention to form a group to fight the FASB rules, which it noted would put unions under "increased pressure at the bargaining table to decrease contributions and cut benefits." Anything but that.

Thus the election year urgency to pass the Casey bill. If Democrats could shift orphan company pensions to the taxpayer, the liabilities for the remaining companies would fall dramatically, and the multi-employer scheme could continue. Unions and employers could keep promising current workers fabulous pay and benefits, without which they have little chance of stemming their continuing decline in membership.

The losers? Those would be existing retirees in multi-employer plans, who were also promised such benefits but whose pensions would now be dumped on the feds. Even under Mr. Casey's bill, payouts to current retirees would be limited to $21,000 a year—a fraction of what workers expected to receive.

If this all sounds like it could never pass, keep in mind this is the most willful Congress in modern history. Congress just completed paying off the teachers unions with $10 billion, and unions will put enormous pressure on Democrats to pass the pension bailout before they lose their huge majorities.

Many companies with multi-employer plans such as the trucking firm YRC Worldwide (organized by the Teamsters) are joining the union lobby effort, and more than a few Republicans could go along. The outrageous all too often becomes the inevitable with this Congress, and it will again unless taxpayers raise a ruckus.