NATIONAL TAXPAYERS UNION FOUNDATION

Issue Brief

JULY 22, 2019
BY: ANDREW WILFORD

Multiemployer Pension Plan Bailout Fails to Address Structural Problems

Introduction

Congress faces a crisis on multiemployer pensions that could endanger the pensions of over a million Americans. Action is critical, but so too is the need for reforms that go beyond stopgaps.

At issue is H.R. 397, the Rehabilitation for Multiemployer Pensions Act, a bill that would provide loans to insolvent private employer pension plans. Yet as it stands this bill, a rebranding of the Butch Lewis Act, would end up costing taxpayers while at the same time failing to require reforms to these pension funds that would ensure taxpayers are not on the hook when the loans mature.

Background

Multiemployer pension plans became popular in the post-World War II era as a means to protect against a bankruptcy costing employees their pensions. The basic

Key Facts:

- **Multiemployer pension programs that cover more than a million Americans are at risk of going bankrupt.**
- **A federal agency, the Pension Benefit Guaranty Corporation, exists to protect against these failures. Yet the PBGC is projected to become insolvent by 2025.**
- **Significant structural reforms to the PBGC need to be a core element of any legislation to address this crisis.**

idea is straightforward—businesses that share some common characteristic (be it location, industry, union, etc.) combine their pension programs into a single, collectively bargained program. This larger, combined pension program is then more resistant to individual businesses going bankrupt and more able to diversify its investment portfolio.

Unfortunately, things have not gone smoothly as of late. While more than 10 million Americans are covered by one of the roughly 1,400 multiemployer pension plans in the country, about 130 of these plans are on track to become insolvent within 20 years, endangering the pensions of more than 1.3 million Americans.

In theory, there's federal protection against plans going belly-up. The Pension Benefit Guaranty Corporation (PBGC) is an independent federal agency established in 1974. The PBGC essentially provides insurance on pension plans, offering partial insurance for retirees' pensions to businesses that pay for the protection.

Unfortunately, these failing multiemployer pensions are in such a poor financial state that PBGC is running out of the financial resources to provide loans to prop them up. Prior to 2014, the PBGC's multiemployer program was set to become insolvent by 2022. Congress passed reform legislation in 2014 to allow severely underfunded programs to reduce retirement benefits and increased the premiums that multiemployer pension plans are required to pay, but reforms have not gone nearly far enough.

At the end of the last fiscal year, PBGC was running a deficit of $51.4 billion despite the fact that it ran a $2.4 billion surplus with its single-employer plans. The agency predicts that its multiemployer program will run out of funds before the end of FY 2025, and possibly as soon as FY 2024.

Congressional Proposals

H.R. 397 would provide a carrot without bothering to provide the stick. Rather than encouraging structural reforms to these failing pension programs as a condition for the extension of loans, H.R. 397 would offer loans with few guardrails against a failure to repay. In fact, loans that these pension programs are unable to repay would be subject to alternative repayment plans or simple forgiveness.

This legislation will cost taxpayers at least $67 billion over the next ten years. Yet even this obscures the true cost, as the ten-year budget window does not adequately reflect the true cost of these programs. Over the full 30-year loan period, the total costs to taxpayers would likely be much higher.

H.R. 397 proposes to create a new federal agency, the Pension Rehabilitation Administration (PRA) within the Department of the Treasury, tasked with providing loans to failing multiemployer pension programs. Multiemployer pension funds receiving loans from the PRA would be prohibited from reducing employee contributions or increasing benefits for the duration of the loan. However, benefits reduced under previous agreements with the PBGC would be required to be restored upon receiving a PRA loan.

None of these reforms make significant steps towards changing the underlying issues that led to such widespread multiemployer pension failure. The Government Accountability Office (GAO) identified several unaddressed problems with the federal government's approach towards employer pension plans, including:

- Failure of premiums to take into account the risks the federal government takes on insuring each individual pension program. Factors such as the financial health of the employers involved in pension plans the PBGC is insuring and the risk of the investments that the pension funds are engaging in are not factored into the premiums the PBGC charges. GAO estimates that companies with credit ratings below investment grade make up $175 billion worth of exposure for the PBGC.

• Lack of technical knowledge in PBGC leadership positions. The PBGC's board is made up of the Secretaries of Labor, Treasury, and Commerce, not anyone with experience relevant to the PBGC's mission.

• Declining participation in defined benefit pension plans and the associated funding issues that causes for the PBGC.

Yet Congress should take further steps to reduce the cost borne by taxpayers. Taxpayers should not be left on the hook for irresponsible pension plan management, but a legislative bailout of failing pension plans hardly incentivizes financial responsibility. Though the PBGC is, in theory, intended as last-resort insurance, it creates moral hazard without appropriate safeguards. There is little incentive to design a financially solvent pension program if employers and employees alike can count on federal bailouts of plans that are not well-designed for future solvency.

As such, loans should only be issued with the expectation of repayment. Benefit reduction should be a core requirement for federal assistance to failing pension plans, and loans should be contingent upon the provision of real-world collateral.

Amendments offered to H.R. 397 provide possible ways forward that are more cautious with taxpayer dollars. These proposals included a requirement for loanees to purchase guarantees of the loan from insurance companies as a condition to receive a PRA loan, a requirement for the Department of the Treasury to conduct a repayment risk assessment (with loans only to be issued if the Treasury concluded that there was a high likelihood that loans would be repaid), removing the ability for loans to be forgiven, and increasing PBGC premiums, among others. All of these amendments represent far more comprehensive reform proposals than H.R. 397.

Conclusion

Congress has a responsibility to taxpayers to provide more than just a funding stopgap that fails to address the perverse incentives and structural failures that led to the PBGC's current financial woes. Federal aid to failing multiemployer pension programs must be contingent upon significant reforms that reduce taxpayer liability for poorly-designed pension funds.

About the Author

Andrew Wilford is a Policy Analyst with National Taxpayers Union Foundation

NATIONAL TAXPAYERS UNION FOUNDATION

2019 National Taxpayers Union Foundation
122 C Street NW, Suite 650, Washington, DC 20001
ntuf@ntu.org