

July 10, 2013

**Harkin/Roberts Bipartisan Pension Bill (S. _____)
“Cooperative and Small Employer Charity (CSEC) Pension Flexibility Act of 2013”**

Defined-benefit “multiple-employer” pension plans established by not-for-profit cooperatives and charities should not be subject to rules designed for other types of plans.

Overview

In the Pension Protection Act of 2006 (Pub L. No. 109-280) (“PPA”), Congress recognized its new pension funding rules were not appropriate for rural cooperative “multiple-employer” defined benefit plans, since by design, these plans pose virtually no risk of default to PBGC. As such, Congress granted these plans a temporary exemption to stay under the pre-PPA rules (*See PPA Sec. 104*). Congress later extended this treatment to eligible charities (*See Sec. 202, Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010; Pub. L. No 111-192*).

S. _____ allows these Cooperative and Small Employer Charity (CSEC) “multiple-employer” plans that are already temporarily excluded from PPA to choose between (1) staying excluded from PPA permanently; or (2) jumping in to PPA in 2014 if they wish to do so.

According to publicly disclosed data compiled by PBGC, only 33 multiple-employer plans (covering just over 127,000 active employees) filed their annual required reports with this PPA Sec. 104 designation. S. _____ is narrowly targeted to only impact these existing plans.

CSEC Plan Design

Defined-benefit “multiple-employer” pension plans established by not-for-profit cooperatives and charities – which S. _____ calls “Cooperative and Small Employer Charity” plans (“CSECs”) – are generally subject to requirements that do not reflect their unique structure, especially in the case of pension funding requirements. Under the bill, the funding rules applicable to CSECs would be modified to fit their characteristics.

CSECs allow such entities to pool their resources to achieve economies of scale otherwise only available to large employers. Importantly, the bill does not modify the current law definition of a multiple-employer plan (“MEP”), as set forth in guidance from the Department of Labor (“DOL”) and the Treasury Department.

PPA Temporarily Excluded CSECs

PPA substantially reformed pension funding rules for all private pension plans, including “single-employer” plans (any defined-benefit pension plan sponsored by one employer to provide benefits only to that one employer’s employees), and “union multi-employer” plans aka “Taft/Hartley” plans, (any collectively bargained plan maintained by more than one employer, usually within the same or

related industries, and a labor union). Unfortunately, PPA did not enact rules that “fit” the unique plan design of “multiple-employer” plans like those of rural cooperatives and charities, which are plans maintained by unrelated employers not pursuant to collective bargaining agreements.

PPA’s “single-employer” plan rules are specifically designed to protect the PBGC in case a single employer maintaining a plan goes bankrupt. In the case of CSECs, the bankruptcy of a single employer does not affect the ongoing nature of the plan. On the other hand, even though the rationale for the PPA “single-employer” plan funding rules does not apply to CSECs, PPA did not enact rules that “fit” the unique plan design of these plans, and instead provided a temporary exemption to stay under the pre-PPA rules (*See PPA Sec. 104*).

Even under the pre-PPA funding rules, however, this same problem existed. “Union multi-employer” plans were subject to special rules designed for them. The “single-employer” plan rules were amended in 1987 to add the “deficit reduction contribution” (“DRC”) requirements, which were based on the same concerns about the plan sponsor going bankrupt. The DRC rules were (and still are) applied to CSECs without reflecting the fact that the rationale for their enactment did not apply to CSECs. Accordingly, under S. _____, the DRC rules would not apply to CSECs.

In short, because CSECs are by far the least common of these types of plans, CSECs are often not separately considered when new rules are added. The result is the application of some “single-employer” plan rules that should not apply. S. _____ resolves this inequity permanently.

Adjusting PBGC Premiums to Better Reflect CSEC Reduced Risk Profile

Recent increases to PBGC premiums were applied without consideration of the unique structure and low-risk profile of CSEC plans and without a thorough examination of the impact such increases would have on CSEC participants and beneficiaries. S. _____ resolves this inequity for plans that, by design, pose virtually no risk of default to the PBGC, by making scheduled increases in PBGC premiums inapplicable to CSECs. It freezes CSEC premium rates at 2013 levels – preventing scheduled increases – while the PBGC conducts a study to determine what CSEC premium rates should be. PBGC would then make recommendations to Congress. If Congress chooses not to act, premium rates would remain at 2013 levels.

Summary

S. _____ is narrowly targeted to permit Cooperative and Small Employer Charity (CSEC) “multiple-employer” plans that are already temporarily excluded from PPA to choose between (1) staying excluded from PPA permanently; or (2) jumping into PPA in 2014 if they wish to do so. Again, according to data provided by the PBGC, only 33 multiple-employer plans (covering just over 127,000 active employees) filed their annual required reports with this PPA Sec. 104 designation. A listing of these entities is on Page 3 of this document.

List of 33 Coop & Charitable Multiple Employer Plans Filing 5500's Under PPA Sec. 104 (Publicly Disclosed Data via PBGC) - June 14, 2013

(13 Co-ops have 100,776 active employees (78% of all active employees)
 (20 Charities have 27,161 active employees (21.2% of all active employees))

<u>Sponsor</u>	<u>Co-op or Charity</u>	<u>Active Participants</u>	<u>% of Actives</u>	<u>Retirees</u>	<u>TVs</u>	<u>Total Participants</u>	<u>% of Total</u>
National Rural Electric Cooperative Association	Co-op	56,920	44.5%	2,935	4,003	63,858	28.7%
United Benefits Group	Co-op	16,291	12.7%	9,720	9,084	35,095	15.8%
National Telecommunications Cooperative Association	Co-op	13,574	10.6%	1,835	1,862	17,271	7.8%
Growmark Inc.	Co-op	3,941	3.1%	869	1,442	6,252	2.8%
Cooperative Pension / Savings Board	Co-op	3,827	3.0%	1,368	1,547	6,742	3.0%
Dairy Farmers Of America, Inc.	Co-op	1,269	1.0%	5,934	3,729	10,932	4.9%
Southern States Cooperative, Inc. & Subs	Co-op	1,173	0.9%	2,132	2,038	5,343	2.4%
MFA Oil Company	Co-op	1,158	0.9%	740	329	2,227	1.0%
Sunkist Retirement Board	Co-op	943	0.7%	2,380	3,684	7,007	3.1%
Member Cooperatives Of CHS Inc	Co-op	780	0.6%	148	506	1,434	0.6%
Hawkeye Insurance Association	Co-op	524	0.4%	126	161	811	0.4%
Sunkist Retirement Board	Co-op	277	0.2%	191	576	1,044	0.5%
Sunsweet Growers Inc.	Co-op	99	0.1%	68	74	241	0.1%
United Jewish Appeal-Federation Of Jewish Philanthropies Of New York	Charity	6,224	4.9%	2,212	2,959	11,395	5.1%
Young Women S Christian Association Retirement Fund, Inc.	Charity	6,185	4.8%	2,173	3,802	12,160	5.5%
Girl Scouts Of The USA	Charity	4,963	3.9%	3,400	5,867	14,230	6.4%
Christian Schools International	Charity	4,415	3.5%	2,368	4,310	11,093	5.0%
Northeast Theatre Corp	Charity	1,057	0.8%	161	604	1,822	0.8%
United Way Of Greater Houston	Charity	848	0.7%	345	886	2,079	0.9%
Jewish Community Federation	Charity	563	0.4%	320	306	1,189	0.5%
United Way Of Central Iowa	Charity	521	0.4%	291	563	1,375	0.6%
Jewish United Fund Of Metropolitan Chicago	Charity	486	0.4%	298	419	1,203	0.5%
United Way Of The Greater Dayton Area	Charity	442	0.3%	107	565	1,114	0.5%
Lincoln Center For The Performing Arts, Inc.	Charity	360	0.3%	118	301	779	0.3%
United Way Of Greater Toledo	Charity	336	0.3%	383	864	1,583	0.7%
United Way Of Greater Richmond & Petersburg	Charity	322	0.3%	217	719	1,258	0.6%
United Way Of Greater Cincinnati	Charity	220	0.2%	288	516	1,024	0.5%
United Way Of Lancaster County	Charity	80	0.1%	70	124	274	0.1%
United Way Of Greater Stark County, Inc.	Charity	73	0.1%	7	83	163	0.1%
Jewish Community Of Louisville, Inc.	Charity	31	0.0%	2	104	137	0.1%
Jewish Federation Of Central NJ	Charity	18	0.0%	2	17	37	0.0%
Greater Miami Jewish Federation Inc.	Charity	17	0.0%	5	28	50	0.0%
Greater Twin Cities United Way	Charity	-	0.0%	383	1,035	1,418	0.6%
TOTALS		127,937	100.0%	41,596	53,107	222,640	100.0%