The American Rescue Plan and Multiemployer Pensions

GORDON GRAY | FEBRUARY 11, 2021

Executive Summary

- There are about 1,400 multiemployer pension plans that cover about 10 million active and retired workers.
- Collectively, these plans hold about $496 billion in assets but face $1.2 trillion in liabilities for a net liability of $672 billion.
- Despite years of bipartisan, good-faith negotiation to responsibly address this issue, the House of Representatives is considering legislation to use taxpayer funds to bail out the most underfunded private pension plans, with no reforms to prevent the problem from recurring.

Introduction

Multiemployer pensions are collectively bargained defined-benefit retirement plans. There are about 1,400 such plans covering 10 million active and retired workers. Many of these plans are critically underfunded, risking the retirement benefits of covered workers. Meanwhile, the federal backstop for such plans – the Pension Benefit Guaranty Corporation's (PBGC) multiemployer revolving fund – will become exhausted in 2027 and will not have the resources to protect retirees if the multiemployer-pension system's finances continue to deteriorate. Despite years of deliberate, sincere policy negotiations to responsibly address this challenge, congressional Democrats have decided a multi-billion-dollar taxpayer bailout of union pensions is critical to combating the coronavirus.

The Multiemployer Pension Challenge and Policy Process

Serial underfunding in certain plans has pushed the multiemployer system and the federal backstop for beneficiaries, the PBGC, to the brink of collapse. There are about 1,400 multiemployer pension plans that cover about 10 million active and retired workers. Collectively, these plans hold about $496 billion in assets but face $1.2 trillion in liabilities for a net liability of $672 billion. The Congressional Budget Office (CBO) estimated that the PBGC fund that guarantees a portion of pensioners' benefits will be exhausted by 2027.

This has been an apparent, predictable, and measurable problem for years. Agency reports, think tank white papers, congressional hearings, and even a special select congressional committee have sounded the alarm on this challenge.

The Butch-Lewis Act

The opening bid from congressional Democrats to address this process was the Butch-Lewis Act (H.R. 397), in various iterations. Along a largely party-line vote, the House passed H.R. 397, which provides taxpayer-funded grants to highly underfunded plans and taxpayer loans that can be forgiven to struggling multiemployer-pension plans. The taxpayer commitment was estimated at near $70 billion over 10 years, but without structural reforms

to the system to prevent needing a bailout in the future. Indeed, CBO noted that "most multiemployer pension plans that received loans under H.R. 397 would become insolvent within a few years after the end of their loan repayment periods."

[The Americn Action Forum examined](#) a separate proposal that combined a loan architecture similar to that of Butch-Lewis with benefit reductions and improved stakeholder funding. The policy reflected the reality that there was simply no chance Congress would let hundreds of thousands of retirees in Pennsylvania, Ohio, and elsewhere get pennies on their pension dollar. Indeed, Congress has a [robust history](#) of waiting until the last minute to address a predictable problem and eventually just committing taxpayer funds to insolvent entities.

Senate Republican Proposal

Recognizing that a counterfactual involving a taxpayer bailout was more likely than a costless one, Senate Republicans moved away from blanket opposition to committing taxpayer funds to assist the multiemployer system. The Senate approach proposed key reforms to how the multiemployer system is governed. Critically, the Senate reform plan acknowledged the need to tighten plans' measurement of liabilities. Multiemployer plans are permitted to estimate their liabilities with far greater discretion than single-employer plans. The Senate's propose policy change is long overdue and [highly consequential](#) for lasting reform. As desirable as this policy is, a gradual implementation may be necessary to avoid precipitous plan failures. The Senate approach also recognized this reality and proposed a phased-in cap on the discount rate that plans can use to evaluate liabilities. Beyond this critical change, the Senate approach includes other key reforms that address [some of the root causes](#) of the crisis in the multiemployer pension system. These include simplifying and improving the lump-sum payment – known as [withdrawal liability](#) – that firms must pay when exiting sponsorship of a plan. The proposal would also *increase* the PBGC guarantee of multiemployer plans, a change that can only be paired with other reforms and additional funding. Of particular note, the Senate proposal drew on increased funding streams from stakeholders: plan sponsors, participating unions, and individual beneficiaries. While the Senate proposal provided taxpayer funds as *part* of the solution, they were not *the* solution.

An Evolving Approach

Along the way, as good-faith negotiations among concerned policymakers and stakeholders proceeded, the policy approach evolved. Where conservatives were initially opposed to consider a role for taxpayer assistance, they recognized that the federal government was already involved. Where progressives once championed a taxpayer loan program that would fail to solve the problem, they evolved their thinking in the form of a partition program that shared similar architecture to the Senate Republican proposal and affirmed the policy goal of ensuring beneficiary plans were solvent. In short, a divided government was deliberately working toward a sustainable fix.

But that progress has been supplanted by a crass bailout. In the House reconciliation bill, congressional Democrats have scrapped any pretense of reform, accountability, or any acknowledgement of moral hazard. The "pension assistance" is not the open-ended loan program of prior versions of Butch-Lewis, nor is it a taxpayer partition with significant stakeholder contributions. Rather, the Democrats' pension relief measure simply provides the worst-funded plans with a taxpayer commitment to fund their shortfalls for the next 30 years.

Whereas the Democrats' partition plan in the HEROES Act at least tethered partition assistance to long-term funding goals for plans receiving assistance,[1] the assistance provided to multiemployer plans is as straightforward as it is misguided:

The amount of financial assistance provided to a multiemployer plan eligible for financial assistance under this section shall be such amount required for the plan to pay all benefits due during the period beginning on the date of payment of the special financial assistance payment under this section and ending on the last day of the plan year ending in 2051, with no reduction in a participant's or beneficiary's accrued benefit as of such date of enactment…

That's the definition of a bailout. Whereas CBO estimated that the pension relief contained in HEROES would cost $58 billion, the more open-ended commitment of the reconciliation legislation will likely be both more costly and more likely to encourage enduring underfunding in the multiemployer pension system.

Conclusion

The multiemployer pension system has been struggling for years and is predictably under strain. The federal backstop, the PBGC, is similarly insolvent over the medium-term. Congress has slowly, and deliberately, inched towards a consensus solution to this challenge that strikes an appropriate balance between taxpayer protections and the interests of retirees. Under the guise of COVID-19 relief, congressional Democrats have decided to forgo a lasting solution to the challenge and simply write these plans a check to cover their costs for the next 30 years. It's a very expensive way to not solve a problem.

[1] SEC. 4233A(g): https://www.govinfo.gov/content/pkg/BILLS-116hr6800pcs/pdf/BILLS-116hr6800pcs.pdf