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LEGISLATIVE ACTION ALERT

America is facing a pension crisis. Retirees will pay the price if we don't act now

By John Boehner and Joe Crowley for CNN Business Perspectives August 14, 2019

According to an article posted online by CNN© Business, few have seen firsthand the frustration of Washington gridlock and partisanship more than we have. We know all too well when something doesn't get fixed in D.C., it can end up hurting people back home. When it comes to the multiemployer pension plan crisis, the effects are already real.

Millions of retirees and workers are at risk of losing their multiemployer pension benefits because their plans are forecasted to become insolvent in the near future. This would lead to these retirees receiving just a portion of their pensions. Today's crisis also puts this country on the trajectory toward a systemwide collapse, and the elimination of billions in retirement dollars and tens of thousands of jobs.

The impetus for today's crisis is the result of a number of factors — from shrinking union membership, to changes in regulatory policies and the stock market losses during the Great Recession. In addition, some employers in multiemployer pension plans have gone bankrupt, forcing the employers that remain to assume financial responsibility for the bankrupt employer's former workers, or "orphan participants."

Inaction leaves Americans out to dry: the widowed grandmother whose financial stability depends on her husband's pension, the aunt and uncle who rely on their pensions after health problems forced early retirement, and young new employees, excited about their first job, but scared they may never see retirement benefits.

As former congressmen from New York and Ohio, this is a near and dear issue to both of us. A number of plans in our home states have been faced with an impossible choice — drastically cut benefits to stay afloat or collapse entirely. Just ask the thousands of beneficiaries who have already experienced their plans falling apart and were forced to accept steep pension cuts. This includes people in New York, Ohio, Michigan, Pennsylvania and Oregon, just to name a few.

Iron Workers Local 17 in Ohio, for example, has reduced benefits for some participants by 30%, while the Toledo Roofers Local No. 134 Pension Fund has been forced to reduce benefits by an average of more than 30%.

Even worse, in New York, the Road Carriers Local 707 Pension Fund has become insolvent. As a result, these current and retired truckers will now receive as little as $570 per month — half of the $1,313 monthly benefit they expected. In total, more than 15 plans nationwide have already faced severe cuts just to remain on life support — meaning that hundreds of thousands of people no longer have access to the retirement they've earned.

Left unchecked, this crisis will decimate the retirement future of millions. Over the years, the number of retirees has grown dramatically, while the number of active participants and employers has decreased. This imbalance, combined with the market decline from the Great Recession, has put many of these vital pension plans on an unsustainable path. If we continue on the current trajectory, one of the largest multiemployer pensions plans in the country, Central States, will collapse by 2025 and affect approximately 400,000 people.

To make matters worse, the Pension Benefit Guaranty Corporation (PBGC) multiemployer program, the funding backstop for plans that have run out of money, is also projected to collapse by 2025. The dissipation of the PBGC would leave retirees with about 2% of what they had counted on for retirement. To put that into perspective, the average worker who earned a pension of $20,000 per year would receive only $400 annually when the PBGC fails. The collapse of the entire system would further compound the pension crisis at hand and have a domino effect on our economy, potentially leading to widescale business closures, layoffs and rising unemployment.

Despite the severity of the situation, there is a path forward. We can solve this problem together.

Unlike other policy problems, this one has a clear answer: a legislative solution that protects retirees, maintains the solvency of the PBGC, creates options for plans to enhance funding, protects businesses and adds new tools to help reduce plan liabilities. The US House of Representatives has taken a critical first step toward heading off this crisis by passing the Rehabilitation for Multiemployer Pensions Act, but there is more work to be done in order for both sides of Congress to come together on a bipartisan compromise this year.

Doing nothing to address this crisis is unconscionable to our families, our friends, our neighbors and the middle-class bedrock of our great nation. It's important that the public sector and private sector work together now to fix the multiemployer pension plan system. Americans can't wait.

Read article at: https://www.cnn.com/2019/08/14/perspectives/pensions-us-retirement/index.html

NLRB Decides First Mandatory Arbitration Case Following Supreme Court's *Epic Systems* Ruling

WASHINGTON, DC—The National Labor Relations Board addressed several important questions involving mandatory arbitration agreements following the Supreme Court's *Epic Systems* decision. Specifically, the Board held:

- Employers are not prohibited under the National Labor Relations Act (NLRA) from informing employees that failing or refusing to sign a mandatory arbitration agreement will result in their discharge.
- Employers are not prohibited under the NLRA from promulgating mandatory arbitration agreements in response to employees opting in to a collective action under the Fair Labor Standards Act or state wage-and-hour laws.
- Employers are prohibited from taking adverse action against employees for engaging in concerted activity by filing a class or collective action, consistent with the Board's long-standing precedent.

Today's decision, *Cordúa Restaurants, Inc.*, 368 NLRB No. 43 (2019), was the first to address the lawfulness of employer conduct surrounding mandatory arbitration agreements since the Supreme Court's *Epic Systems* ruling issued in 2018. In *Epic Systems v. Lewis,* the Court held that class- and collective-action waivers in mandatory arbitration agreements do not violate the NLRA.

Chairman John F. Ring was joined by Members Marvin E. Kaplan and William J. Emanuel in the majority opinion. Member Lauren McFerran dissented in part.