

**Unions vs. Private Pension Plans:
How Secure Are Union Members' Retirements?**

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Unions vs. Private Pension Plans: How Secure Are Union Members' Retirements?¹

Introduction

At a time when unions are intensifying their efforts to organize American workers, it is troubling to see a widespread pattern of poor performance among collectively bargained pension plans. They perform quite poorly relative to plans sponsored unilaterally by employers for nonunion employees. The disparity raises this question: are union members getting as good a deal in their retirement funding as they might? Or, to put it another way, do collective bargaining contracts lack provisions for the funding necessary to generate the generous retirement income that unions advertise?

This paper offers explanatory background information on pensions, on sources of information about pensions, on the reporting and disclosure requirements of Congress and the U.S. Department of Labor, and on the data and analysis that illuminate sources of the underfunding problem. It also examines the role that union politics may play in pension planning. The paper goes on to analyze the general health of pension plans in the United States and, in particular, documents six case histories that illustrate underfunding patterns in union pension plans. The data show that, generally, employer plans are better funded, although not all have been adequately funded.

¹ The author is grateful for the research assistance of Andrew Brown and Jeffrey Weaver.

Executive Summary

American workers depend on pensions for the bulk of their retirement income. That is why Congress and the U.S. Department of Labor require annual disclosure of the financial status of individual pension plans. A detailed analysis of these data shows that union-negotiated plans are not as actuarially sound as those provided by private companies to their non-union employees.

Pensions come in two broad categories: defined benefit pensions, and defined contribution pensions. A defined benefit pension promises a specific monthly stipend for a retiree's lifetime, calculated using the number of years worked and some measure of the worker's earnings over that time. A defined contribution pension sets up personal investment accounts; typically, the employee can make some choices about how the money in his account is invested.

A large part of the difference between union plans and employer plans appears to be a tendency towards low contributions among union plans. In 2005, the latest full year of data available, collectively bargained pension plans were more poorly funded than their non-union counterparts. Large plans, those with 100 or more participants, strongly showed this pattern. While 36.5 percent of non-union plans were fully-funded², only 19 percent of union plans met this criterion. The Pension Protection Act of 2006 considers funds under-funded, but not "at-risk," if they are at least 80 percent funded. While nearly 90 percent of non-union plans met the funding threshold of 80 percent, only about 60 percent of union plans were not "at-risk." Among collectively bargained pensions, around 11 percent were only 65 percent funded, low enough to put the larger national plans in the heavily-penalized "critical" category. Only two percent of non-union plans were in this condition.

Among small plans, similar patterns emerged. Of non-union plans, 57 percent were fully funded as compared to 28 percent of union plans. While 43 percent of non-fully funded non-union plans failed to pay their annual costs, 71 percent of union plans that were not fully-funded were behind on payments. However, as compared to large union plans, small union plans were 37 percent more likely to be less than 80 percent funded, and 16 percent more likely to be in "critical" condition.

² Funding level is calculated as the ratio of "accrued liabilities" to assets, where accrued liabilities are the present value of all benefits the plan would have to pay if they closed at the end of the year and paid all promised benefits based on current service. A fully funded plan would have a 1:1 or greater ratio. A fuller explanation of funding levels is contained in the section "Sources of Information on Pension Plans."

Our analysis finds that pension plans for the officers and staffs of unions were much better funded than those for the rank-and-file. On average, the 21 largest union pension plans had less than 70 percent of the funds that they would need to cover their total obligations, and none were fully funded. Seven were less than 65 percent funded. Yet 23 officer and staff funds from the same unions had 88.2 percent of the funding they would need to pay promised pensions, including seven fully funded plans and another 13 with at least 80 percent of their required funds. Excluding the seven plans strictly for union office employees, staff funds had 98.4 percent of their required funds.

Unions have also been caught using their funds to achieve their political ends. In 2005, the Department of Labor wrote the AFL-CIO a letter telling it to reconsider such practices. Theoretically, pension funds are not permitted to make investment decisions based on politics or public policy. Using pensions as a political tool hurts union members because it may push their retirement funds into lower yielding investments. That diminishes investment returns and thus reduces resources available to pay promised benefits.

The histories of several union pension funds help demonstrate why they are in poor financial condition. The Sheet Metal Workers International Union lobbied for more benefits until 2008, when its significant liabilities required it to negotiate combinations of increased payments and decreased benefits. The Teamsters implemented only modest reforms of their pension plans and did so too late to forestall the Pension Protection Act's automatic penalties. The Plumbers and Pipefitters Union lost millions to its previous trustees, as it made self-interested investments that yielded criminally-low returns. A bookkeeper of the Laborers' pension fund embezzled hundreds of thousands of dollars in contributions.

Inadequate funding of plans was allowed for many years under the Employee Retirement Income Security Act of 1974. Until the passage of the Pension Protection Act of 2006, it was difficult to ensure that contributions matched liabilities. Several very large pension funds, despite claiming that worker pensions were well-protected and well-funded until as late as last year, were subsequently required to adopt emergency recovery measures when the 2006 Act became law in January 2008.

The major reason why these abuses and failures occur is that the workings of defined benefit pension plans are obscure and thus lessen the accountability of union leadership and employees. Form 5500, which describes the financial health of pension plans, is often not filed for more than 12 months after the end of a plan year. A summary annual report sent to union members does not disclose the cost of promised liabilities, tracking only assets and direct annual costs. As a

result, the effects of benefit increases on the overall funding adequacy of a plan may not be seen for two or three years.

This delay makes it difficult for workers to understand how increased pay-outs may affect the likelihood of the plan becoming under-funded, and nearly impossible for them to detect fraud in a timely fashion, compounding the effects of fraud, negligence and loss.³ It also encourages workers and their representatives to view pensions only in terms of gains in annual future benefits, omitting the long-term costs of lowered wages or instability of the fund.

Although a defined benefit fund may benefit a worker in certain ways, it is not a transparent system. Defined contribution plans such as 401(k) plans give workers the privilege and responsibility of managing the funds, and they are much easier to understand and monitor. If five percent of paychecks are supposed to go into a 401(k) account every month, it is much easier for workers to check their 401(k) account statements to verify that the deposits have been made.

The choice of type of pension plan involves significant trade-offs. Unions have often presented defined benefit plans as practically the perfect form of retirement benefit. This paper presents evidence that shows how these choices may have hurt rank-and-file workers while giving their leaders greater influence. Workers deserve to understand the trade-offs made in their name and they deserve to have the opportunity to make their own choices.

³ This statement is quite literal. If an official embezzles \$1 million and it is detected immediately, he can be forced to pay back the money as soon as the courts prove it. But if the crime is detected two years later, the fund will be short, assuming a three percent growth rate, \$1,060,900. When the official is forced to compensate the fund, he will return \$1 million, and the fund will be missing the money the contribution would have earned, and will continue to have less money than if the money had been returned immediately.

What Are Pensions?⁴

Pensions are regular payments made to retired workers from money that they and their employers put aside during their working years. In the United States, the best-known pensions are the monthly Social Security benefits that the federal government pays. In addition, some workers have nongovernmental pensions earned during their years of employment in the private sector; others have pensions earned working for state, local or federal government.

All types of pensions can be considered deferred compensation – that is, a part of a worker’s earnings not paid immediately. In an age when workers were expected to work at a single company for most of their working lives, this was a useful tool to encourage company loyalty and get workers invested in staying on beyond a few years. For workers, the promise of income while retired was attractive, and so they would stay with an employer for decades, sometimes keeping a job that they found disagreeable or barely tolerable. Many pensions are not legally owed to a worker until he has worked at a company for several years, when the pension becomes “vested.”

Pensions come in two broad categories: defined benefit pensions, and defined contribution pensions. A defined benefit pension promises a specific monthly stipend for a retiree’s lifetime. This sum is often calculated by using the number of years worked and some measure of the worker’s earnings over that time. The worker may or may not contribute to the pension plans, but the employer always contributes.

A defined contribution pension sets up an investment account for each worker. The worker contributes a portion of each paycheck – perhaps four or five percent – into the account. The employer may make so-called “matching” contributions, although the term is something of a misnomer because the employer’s payment is often less than the worker’s, perhaps one-third or one-half. The money in the defined contribution account, often known as a 401(k) account, is invested and appreciates over long periods of time. How much retirement income the defined contribution account will generate depends on the amount invested choice of investment and years invested.

The sponsor of a defined benefit plan contributes a certain amount of money per participant every year into a pooled investment account. This is known as funding future obligations, rather than trying to pay these costs as they come due. The employer hopes that enough money will accumulate, with investment

⁴ For a more detailed assessment of the financial workings of pensions, see Appendix 1.

income and appreciation, to pay the promised benefits. This approach requires companies to predict how much they will pay into the fund in the future. These calculations, especially the future value of present contributions, make managing a defined benefit plan complicated. A financial manager (usually an institution) is hired to make investment decisions so that the fund will grow enough to meet the employer's future pension obligations to its employees.

Defined contribution plans create more predictable costs for employers, who, in collective bargaining contracts, normally agree to make contributions of a certain size, or to match employee contributions to a certain extent.

Upon retirement, holders of defined contribution accounts can purchase "annuities" – contractual promises by financial institutions to pay a certain amount of money every month for the rest of the holders' lives. Or retirees can simply withdraw the money and consume it at their own pace. If they do the former, they have effectively transformed their defined contribution plans into defined benefit plans at the point of retirement.

Some people prefer defined benefit plans because an employer is usually liable for those promised future benefits. However, in order to get those benefits, workers have to stay in the same job for many years, a situation that is increasingly unusual in our dynamic workforce. Also, there is usually some risk that the employer will experience reversals or will fail, events that may put the pension at risk.

In contrast, participants in a defined contribution plan have a legal claim on the money diverted from their paychecks to personal accounts as well as the investment return on this money. Workers have some say over how the money is invested – in bonds, stocks, or a mixture. Moreover, defined contribution plans are portable; workers take them when they change jobs. This is an important consideration in an economy in which lifetime employment is becoming increasingly uncommon. With portable accounts, workers are free to move to more attractive jobs.

Unions prefer defined benefit plans because such plans prevent workers from leaving their firm for a non-union job. In other words, defined benefit plans may contribute to union security.

Another important distinction in pension accounting is the difference between "single-employer," "multiemployer," and "multiple-employer" pension plans. A single-employer plan is sponsored by one firm to support the retirement of its workers. Single-employer plans may be adopted unilaterally by private employers or be created by negotiation with labor unions.

Multiemployer pension plans are created by a labor union in order to provide retirement income for workers in several different places of employment. This requires the union, the sponsor of the plan, to negotiate with each employer to join and contribute to the fund.

Finally, a multiple-employer pension plan is usually adopted by a parent company to provide pensions for employees in some number of its affiliated companies. Trade associations or other groups of employers may also choose to form multiple-employer pension plans.

The rationale behind multiemployer and multiple-employer pension plans is that they allow firms to pool risk among several employers. Multiemployer pension plans allow workers to keep their pensions if they change jobs to another participating company, within a limited range (often within the same industry). This consolidates union pension contributions into larger individual funds. Multiple-employer pension plans allow parent companies to transfer covered workers between subsidiaries with minimal paperwork.

Trends in Pension Coverage

In 2005, there were an estimated 679,095 pension plans in existence in the United States. Close to 48,000 of them, about seven percent, were defined benefit plans. This contrasts starkly with 1975, when approximately one-third of the nation's 311,094 pension plans were defined benefit plans. While there are more pension plans in existence today than in the 1970s, there are fewer defined benefit plans.

There were three causes for the shift in styles. First, workers began to view pension plans as integral parts of their compensation benefit packages, so more employers began to offer them. Second, workers, finding lifetime employment ever less common, saw the wisdom of having portable pension accounts. Chart 1 shows that the change in pension plans has been driven almost entirely by the rise of defined contribution plans. Third, employers came to regard long-term future liabilities as undesirable and developed a preference for defined contribution plans, which entail no future obligations and risks.

Single-employer plans have driven this shift because plans covering many firms are often multiemployer plans, and thus union-run. Chart 2 demonstrates this. The changes in types of pension plans offered almost exactly reflect the overall trends in Chart 1. It is difficult for even a single firm to extricate itself from a collectively bargained plan, even if it promises to transfer all assets into personal accounts. Unions distrust the "personal responsibility" of individual retirement

accounts, perceiving them as enabling workers to move out of the union setting. Nevertheless, as Chart 3 shows, plans offered by multiple employers have increasingly been defined contribution plans; as of 2005, they made up half of multiple employer plans.

In 2005, collectively bargained defined benefit pensions held over \$800 billion in assets. Multiemployer plans held close to \$350 billion. As discussed below, national unions have come to see these assets as leverage in political and social battles. Thus, union leadership may also dislike defined contribution plans because they means fewer assets under union management and possible less influence owing to how the assets are managed.

While the Employee Benefits Security Administration of the U.S. Department of Labor and the Internal Revenue Service have been questioning the pressure unions place on managers of pension funds, some unions continue to use their assets to force managers to either comply with their wishes with respect to voting on corporate shareholder issues, or lose their accounts. The money in defined contribution plans, however, belongs to individual union members, limiting the ability of the union to affect investment choices and corporate policy.

Despite their waning popularity, defined benefit plans supported the retirement of close to 42 million people in 2005, at least 20 million of them current workers.

Sources of Information on Pension Plans

Most pension funds must file Form 5500 annually with the Internal Revenue Service and the U.S. Department of Labor. Form 5500 includes information about the assets and liabilities of the pension fund; the number of participants; some details about the pension plan; and the investment earnings of the pension fund.

Form 5500 requires estimates of the value of fund's assets, liabilities, and the present value of all benefit payments. Because of the complexity of the calculation, companies are asked to calculate only their "accrued" liabilities. They estimate the present value of all benefits they would have to pay if they closed at the end of the year and paid all promised benefits based on service to that time. That is, if benefits are one percent of wages per year of service, a person who had worked at the company for 10 years would be owed an annuity of ten percent of his wages each year.

If the ratio of assets divided by liabilities is greater than or equal to one, the company would be able to pay all of its promised benefits *assuming all actuarial assumptions are correct*. This is an important qualification and will be discussed

later. If this ratio is less than one, it indicates that the company has promised to pay more in benefits than it expects to have when benefits are paid. A ratio of less than one is the major indication to plan participants that their pension fund – and possibly their own benefits--are in danger. A ratio less than one, an “under-funded” plan, may suggest mismanagement of funds.

The Employee Retirement Income Security Act of 1974 (ERISA), a law written to protect defined benefit pension plans, had provisions that specifically required sponsors to pay a minimum contribution each year of the normal cost⁵ and annual payments on their previous loans. However, it included another provision, intended to encourage pension sponsors to keep their plans well-funded, that has contributed to the deterioration of funds.

In any year in which a sponsor pays more than the sum of the normal cost and other charges, ERISA allowed the fund to gain a “credit” that can be used to reduce the minimum required payment in future years.

That happened during the “dot-com bubble” of the late 1990s, when many pension funds ran up large credits due to their ability to pay. But the funds started performing poorly because of the stock market fall. Thus the fund administrators used the credits to pay off the debts they accumulated during the fall, and, often, their normal costs. As a result, many employers did not make contributions for years, even though their funded ratios had fallen significantly.

General Health of Pensions in the United States

In 2005, on average, large plans were 94 percent funded. This included 3,755 collectively bargained pension plans (including single and multiemployer plans) and 5,206 non-collectively bargained plans.

Collectively bargained plans, on average, were 88 percent funded. In contrast, non-collectively bargained plans were on average 98 percent funded, as can be seen in Chart 4. This suggests that plans brought into existence through union negotiations are worse off. Among “non-bargained” plans, 36.5 percent, or 1,904 pension plans, were at least fully funded. Among collectively bargained plans, only 713, or 19 percent of the plans, were at least fully funded (shown in Chart 5).

The Employee Benefits Security Administration (EBSA) allows for a certain amount of fluctuation in pension funds. Both legislators and EBSA seem to recognize that a fund can be less than fully funded but not be in a great deal of

⁵ Normal cost is equal to the annual increase in benefits to be paid to current workers

trouble. Plan sponsors are permitted to take out loans, thus increasing liabilities, and then pay off the loans over a number of years. Dips in the stock market may cause dips in the funding ratio that take several years to recover. So, in general, it is considered acceptable for a fund to have as little as 80 percent of the value of its liabilities.

In 2005, 4,520 non-bargained pensions, nearly 87 percent of the total amount, had at least 80 percent of the money they needed to pay all liabilities. Only 61 percent of collectively bargained pension plans, or 2,304, were at least 80 percent funded.

Unsurprisingly, this pattern repeats itself for the lowest level of funding – critical status, defined as less than 65 percent funded. In 2005, 93, or only 1.8 percent of non-bargained pension funds were in critical status. In contrast, 401, or about 11 percent of collectively bargained pension funds had less than 65 percent of the money they needed to fulfill their obligations. This is illustrated in Chart 6.

What leads to the difference between fully- funded and poorly-funded pension funds? One theory is that poorly-funded plans rely heavily on their credits to reduce payments, which, as described in Appendix 2, can have a detrimental effect on assets when poor market performance reduces investment returns. Alternately, poorly-funded plans may have fallen behind on payments, which put them further into debt as funding deficiency charges begin to accumulate.

In 2005, 31 percent of funds that were not fully funded did not contribute enough money to cover their annual costs. Chart 7 shows that among plans in critical condition, only 13 percent paid their annual costs.⁶

For those plans in critical condition, however, union plans were still worse off. One-third of non-union plans in critical condition paid at least their annual charges, while only eight percent of union pensions of the same status did (shown in Chart 8).

While among under-funded plans it is usual to find that the employer has fallen behind on payments, the data cited above suggest that this problem is more common among union funded plans. Not meeting annual payments is a certain way for a pension fund to fall behind on its ability to pay its participants.

Not only are collectively bargained plans more likely to fall behind on payments, they are more likely to be forced to pay large penalties to help make up the difference between their assets and liabilities. Under ERISA, poorly-funded

⁶ Fully funded plans are not discussed in this comparison because their fully- or over-funded status means they may reduce annual payments if they choose.

single and multiple-employer plans may be required to pay additional funding charges, regardless of whether or not they have eliminated their regular contributions through credits. In 2005, of 5,144 non-union plans, 856, or about 17 percent, had to pay extra fees. Seven hundred and thirty five union plans had to do the same. They made up about 30 percent of single and multiple-employer collectively bargained plans (Chart 9).

Why Union Plans Tend to Perform More Poorly

The financial instability of union plans could be due to the longevity of collectively bargained pensions. In many cases, union contracts are not modified annually. As a result, the problem could arise from an inability to alter employer contributions from year to year to help correct for poor market performance, actuarial changes, and other unplanned increases in pension liability. If this were the case, the problem might be exacerbated in multiemployer pension plans. When contributions come from several employer-union contracts, it would take more time and more negotiation to increase contributions.

There are other possible explanations for the performance of union pension funds being worse, on average, than that of non-union plans. Union leaders could be negligent, corrupt, or unwilling to fight for the “boring” benefit of ensuring that the pension fund is fully-funded. Rank-and-file members do not want to hear that union leaders have fought with management to ensure that the pension they were promised is now more likely to be paid, since it suggests that pension funds are unstable. Of course, it is worse news to learn that union leaders have not been trying to make sure that those promises are protected.

It is hard to capture this in the data, but the practice of amending plans is another possible source of the disparity between the financial health of union and non-union pensions. Unions love to win pension increases for their constituents. But, unlike businesses, unions do not themselves have to conform to the bottom line. They can ask for whatever they think would make them look good as negotiators and champions of the rank-and-file. Employers may be inclined to prefer agreeing to sweetened retirement benefits because it is usually cheaper to promise a dollar of future benefits than to pay a dollar in current wages. Thus it is easy to see how businesses could agree to pension plan amendments in lieu of wage increases.

There is a widespread tendency for unionized pension plans to be less well-funded and less likely to “catch up” on payments when they fall behind. This trend may in part be caused by incompetent union leaders. But the failings of

union pensions – while real and serious – are also due to the following structural failings.

First, unions do not, as a rule, negotiate contracts to ensure that annual contributions match the minimum payments needed to keep pension funds stable. Multi-employer plans, which are run by single unions covering many employers⁷ and require multiple rounds of negotiation, are more likely to fall behind and stay behind than those run by single entities managing a fund.

The data show that single-employer and multiple-employer pension funds, which require fewer rounds of negotiation than multiemployer funds, are less likely to consistently fall behind on their payments, regardless of union status. Thirty-seven percent of non-fully funded single or multiple-employer plans paid their annual charges in 2005. In contrast, only four percent of multiemployer funds that were not fully funded met their annual obligations (Chart 11).

Secondly, there is a tendency to increase pension liabilities by more than merited during negotiations. This occurs because employers are more willing to increase future obligations rather than current ones, and future benefits may be more important than wages to workers who are well paid. While due diligence is likely exercised in advance by employers to determine how much pensions will cost them, uncertainty plus the cheaper present cost of future obligations increase the likelihood that expensive amendments are adopted.

These explanations, it should be said are, first of all, hypotheses. There seems to be some evidence of their truth, but more data and analysis are needed to validate them. If these are the causes of poor union pension performance, they do not excuse union leaders for the poor performance of pension funds. Leaders often conceal poor performance, and rank-and-file members seem to express no understanding that their future income is at risk, or why.

Unions, after all, use benefits to attract new union members. They assert that union members are more likely to have pensions and health insurance. Such promises would be less persuasive if members understood that the benefits were by no means guaranteed.

In other words, union leaders assign a higher priority to raising benefits than to securing them. This often occurs in the face of management seeking to restrain costs, suggesting that union leaders have placed the level of benefits at a higher priority than the benefits' security.

⁷ As opposed to a joint board of trustees with representatives from both sides

Workers need to understand that there are advantages to having defined benefit pension plans, but only if the plans are properly funded. They also need to understand that companies are reluctant to increase benefits, whether with wages or pensions, because it is hard to rescind previously-promised benefits. The rank-and-file should hold union leaders at least as accountable as employers for failures to properly fund their accounts. Neither group can unilaterally decide on inadequate funding, but it is central to union leaders' duties to protect the interests of workers. This means that they should expend at least as much effort on properly funding pensions as they do on increasing pensions. Failure to do so is a breach of their responsibilities.

Small Plans

Unlike large plans, most small plans are non-negotiated. Of 25,627 small plans, 856, or 3.3 percent are collectively bargained, compared to the 42 percent of large plans (shown in Chart 12).

The 856 small union pension plans are, on average, larger than non-union plans. The small union plans have an average of 54 people each, while the 24,771 non-union small plans have an average of about 13 (Chart 13). This contrasts with large plans, in which union plans (dominated by 1,000 or so multiemployer plans) were about twice as large as non-union plans (shown in Chart 14). Excluding multiemployer plans, the two groups were about the same size for large plans, demonstrating that much of the difference in size was due to plans that covered many employers, rather than a tendency for union plans to cover employers with more workers. This exclusion of multiemployer plans does not change the results for small plans.

Despite the differences in composition, it is reasonable to expect collectively bargained small plans to fare worse than non-union plans.

This is indeed the case. Only 28 percent of bargained plans are fully-funded, compared with 57 percent of non-bargained plans. In 71 percent of under-funded union pension plans, the employer contribution was less than costs. Forty-three percent of employers whose private funds were not fully-funded contributed less than their annual costs. If anything, the disparities among small plans are more striking. While small plans are overall more likely to be fully-funded, the difference in funding between the collectively bargained and private plans is greater.

Small union plans do not do as poorly as large, multiemployer plans. On some levels they do about as well as small non-union plans. Thirteen percent of small non-union plans were in critical condition in 2005, while 16 percent of union

plans were. About 22 percent of non-union plans were less than 80 percent funded, while 37 percent of union funds were.

Size is almost certainly the reason for this. Small unions are more accountable since their benefits can be more easily evaluated. A 500,000-person union could pretend that \$5 billion will be enough to pay all pensions. A 50-person union, in contrast, cannot pretend that \$150,000 is enough.

Hence, problems of underfunding, while less severe among small plans, justify concern over the overall level of funding of all union pension plans.

Officer and Staff Pension Plans

Many unions have staff and officer pension plans at the national level, so union leaders may not rely on the rank-and-file plan for their own retirement income.

How does the performance of these in-house employee plans compare to that of rank-and-file plans? The question is not easily answered.

It is hard to know how many plans cover union employees and officers. Some union employee pension plans are collectively bargained, but many are not. The leaders of local unions may or may not be involved in employee and officer pension plans of their national union.

To gauge the differences between officer and rank-and-file plans, we extracted a sample of the 21 largest union and staff pension plans from the same national organizations. These staff and national pension funds represent some of the biggest names in labor: SEIU, UNITE-HERE, the United Steelworkers, the United Food and Commercial Workers, the Plumbers and Pipefitters, the International Brotherhood of Electrical Workers, the Sheet Metal Workers, and the Bakery, Confectionery, Tobacco Workers and Grain Millers International Unions.

As of 2005, each of these plans covered at least 64,000 working or retired participants. Combined, the 21 largest multiemployer union pension plans had only 67.7 percent of the funds needed to meet their obligations. None of the plans were fully financed, and seven were in critical condition. Fourteen had less than 80 percent of their needed assets.

On the other hand, 23 officer and staff funds from the same unions were much better off. Together, the funds had 88.3 percent of their needed funding. Six of the funds were at least fully funded, and 20 of the funds had more than 80 percent of their needed assets. None of the funds were in critical condition.

Excluding seven pension funds for office employees of the unions, the 16 staff and officer funds had 98.4 percent of their needed funding. The data suggest a worrying disparity: staff pensions are more likely to be better funded.

As a rule, staff and officer pension plans at unions, especially retirement plans for the subset of employees within a union's national staff, tend not to be collectively bargained. A few are, such as the Operating Engineers' Pension Fund employees' plan, the Sheet Metal Workers National Pension Fund staff plan, and the Sheet Metal Workers office employees' plan. But officers' pension funds are perks of their job, and in part reflect the bias of better funding among non-bargained.

It is easy for union officers to ensure that their pension plans are well-funded. The officers make the essential business decisions for the union as employer. Union officers know – or are in a position to know, if they engage competent accountants – how much they should pay into their own pension plan. They control the allocation of union dues to the union's several categories of expenditures, although some unions may have procedures for budgetary review by rank-and-file, or at least a members' committee. From year to year, union officers, with the help of technical staff experts, such as accountants, can improve deficient pension plan funding more easily than a corporation can.

Since their own retirement is affected, union leaders have an incentive to ensure that their future is secure before looking to the general union funds. They may spend more effort tracking and correcting pension funding for officers' pensions.

Unions are fans of “pay-for-performance” for corporate executives. They argue that a CEO ought to be punished, or at least not rewarded, for poor outcomes – flat or declining profits. They decry such practices as golden parachutes and stock option re-pricing. But it is clear that unions are not structured in a way that best advantage their members. The leaders do not have incentives to ensure that the national pension fund is well-managed because their own future is not at stake.

There is intuitive sense in giving a manager a personal interest in the future performance of the company he manages. In the same way, it might make sense to put union leaders' pension funds in the same boat as the funding for the rank-and-file. By giving them a personal stake in the future of the pension fund, the unions would push their leaders to weigh the costs and benefits of benefit increases and thus to make better decisions at the bargaining table.

Pension Fund Politics

In recent years, pension funds controlled by organized labor have become more involved in corporate and political battles that do not seem directly related to investment returns for their beneficiaries. While it is difficult to discern the financial impact of unions' political agenda on pensions, engaging in these disputes has not materially improved financial performance of pensions and might well have a negative effect. In some instances, labor has even threatened to use their pension funds for explicit political purposes with little regard to the financial consequences.

In theory, pension funds are not permitted to make investment decisions based on politics or desired change of public policy. That is, pension investment decisions are not supposed to be motivated by a desire to influence elections or Congressional action on legislation. Pension fund trustees are supposed to invest in accordance with "fiduciary duty", which is outlined in the 1974 Employee Retirement Income Security Act. The Act says that pension funds should make investment decisions calculated to minimize risks and maximize returns, and for no other purpose.

Over the years, unions have successfully changed the operative meaning of fiduciary duty. This process of change started in the early 1990s when the AFL-CIO published *Proxy Voting Guidelines*. These guidelines encouraged union pension funds to consider not only how investment decisions would affect a pension fund's financial performance but also the effect of these decisions on communities, the environment, and the economy. This overly broad interpretation of "fiduciary duty" has allowed unions to join forces with others in the left-leaning progressive community by making investment decisions whose goals are not always consistent with traditional investment strictures.

One of the best examples of this came in 2005, when the Bush administration proposed changes to the Social Security system that would permit workers to have personal retirement accounts. When personal retirement accounts were announced, the President had the backing of major Wall Street investment firms. A coalition was formed to bring together these firms to advocate Social Security reform along the lines proposed by Mr. Bush.

The AFL-CIO opposed adoption of personal retirement accounts. The labor federation works closely with the Democratic Party, which also opposed the initiative. But, lesser known, the federation also had ties to major Wall Street investment firms through its pension fund investments. The federation was upset with these firms because of their support for personal retirement accounts.

In a stunning series of letters to several of these firms, organized labor threatened to take into consideration a firm's position on Social Security when deciding which firms would manage their pension fund assets. The not-so-subtle threat was: support Social Security reform and risk losing our business. A public policy issue had now become a criterion for awarding or renewing investment management contracts. That was a dubious proposition for plan beneficiaries who, in all likelihood, want to stay out of politics and simply ensure solid investment returns for their pension plans. If, for example, Wachovia Bank managed pension funds better than Edward Jones, then would it make economic sense to drop Wachovia because the bank favored Social Security reform? The Department of Labor eventually was alerted to these threats and wrote the AFL-CIO a letter:

"The Department is very concerned about the potential use of plan assets to promote particular policy positions...A fiduciary may never increase a plan's expenses, sacrifice the security of promised benefits, or reduce the return on plan assets, in order to promote its views on Social Security or any other broad policy issue."⁸

More indirectly, organized labor's pension funds have also become strategically involved in corporate shareholder battles, often introducing resolutions at annual shareholder meetings in the name of better "corporate governance."

It might make sense for the Autoworkers union to propose a series of shareholder resolutions at Ford or GM. Obviously, the Autoworkers have a direct interest in how those companies operate because so many of their members work for those same companies. But that is not how many pension funds use shareholder resolutions.

For example, in 2004, there was a popular, labor-driven shareholder resolution to split the CEO and chairman of the board roles at some companies. The Teamsters presented the resolution at Merrill Lynch and Coca-Cola; the Bricklayers at Wal-Mart; the International Brotherhood of Electrical Workers at Kohl's; the Plumbers at Allergan⁹. There is no indication that the Teamsters are going to launch an organizing campaign for Merrill Lynch employees or that the Plumbers are trying to unionize Allergan. Rather, the goal was to use pension fund power to influence corporate decisions in a way that labor's low membership numbers otherwise preclude.

⁸ U.S. Department of Labor Employee Benefits Security Administration, 2005

⁹ Georgeson, 2004, pp. 16-17

It is not clear that these activities of labor-controlled pension funds improve returns on investments. Many financial scholars have hypothesized that organized labor's desired reforms, such as splitting the CEO and chairman roles, might make companies less competitive. That could thus ensure lower returns in the long-run for a plan, since the firms in which they invest will see diminished profits. Even in cases where there is not a clear negative financial effect, one can still reasonably question the resources and time that labor dedicates to these battles. Ultimately, pension fund management resources are used for purposes that are at best tangential to the fund's presumed goals. In other cases, such as the Social Security example above, it is clear that labor is inappropriately mixing policy goals with investing strategy, a blend that can clearly harm retirees, who depend upon the pension fund's performance to realize promised retirement benefits.

Six Case Histories

The following six case histories illustrate problems and weaknesses in union pension plans. Among them are weaknesses in ERISA requirements, poor compliance efforts by the Labor Department, union officer self-interest, and the tendency of unions towards corruption and seeking greater benefits rather than more stable funding. Some of these plans demonstrate long-term negligence or inaction; others represent periods of fraud and corruption, small-scale and large.

While direct embezzlement of funds is unambiguously illegal and punishable, many of the problems are issues of accountability or compliance. At least until recent years, low funding ratios were allowed by a set of obscure accounting rules. Despite the legality of their decisions, the union leaders who allowed the degeneration of pension funds harmed hundreds of thousands of workers. The case histories below demonstrate that the deterioration of pension funds was not only due to law-breaking, but also to larger failures that union members may pay for if and when their benefits fall short.

Service Employees International Union

The SEIU has roughly two million members, with most in low-skill, low-wage jobs. It is a strong supporter of defined benefit pension plans, arguing that defined contribution plans are bad for workers. On its Website, SEIU says the defined contribution plans have the following flaws:

1. They place the burden of fund management on workers.

2. They can fail workers if the market performs poorly or the worker underestimates how much he needs to fund his retirement.
3. They do not provide supplemental benefits, such as early disability, cost of living adjustments, retiree health coverage, and death benefits.
4. They yield lower returns than defined benefit plans.

The union also asserts that “the purpose of a defined benefit fund is to provide employees who retire with as much replacement income as possible for as long as they live.”¹⁰ It would seem reasonable, therefore, that SEIU leaders deliver generous, well funded pensions for members.

In 2006, the SEIU National Industry Pension Plan, a plan for the rank-and-file covering 100,787 SEIU workers, was 75 percent funded. A separate fund for the union’s own employees had 1,305 participants and was 91 percent funded. The pension fund for SEIU officers and employees had 6,595 members and did even better, at 103 percent funded.

Such inequality was not always the case. In 1996, the SEIU National Industry Pension Fund had close to 110 percent of the funds it would need to pay all promised pensions to its workers¹¹.

Of course, stock market performance has faltered since 1999, and the performance of the fund reflects that. In 1998, the fund had slightly more than enough assets to pay its obligations. In 2000, it had approximately 85 percent of needed funds, and it has not risen higher than 90 percent since.

The SEIU blames the poor performance of private pensions on “the weak economy, poor investment returns, and outdated IRS rules”¹².

The argument for the effects of a weak stock market loses potency when the performance of the National Pension Fund is compared to the performance of the two staff and employee pension funds. Admittedly, both lost ground from 2005, but they are performing well despite poor market performance. The officers and employees pension plan, being overfunded, had room to decline in value without hurting its beneficiaries.

¹⁰ Service Employees International Union [SEIU], 2008a

¹¹ The plan for the union’s employees had a similar level of funding.

¹² SEIU, 2008b

Outdated IRS rules do create an environment in which a plan sponsor can severely underfund a pension plan. However, there is nothing that prevents a union from negotiating with an employer to prevent that from happening. The union has a large role in negotiating and monitoring pension plans. If employers have taken advantage of IRS rules to underfund a pension fund, the union has allowed it to happen. It has been complicit.

Comparing the pension funds of members to the pension funds for officers and staff of the SEIU shows strong evidence that neither poor market returns nor the weak economy explain the national pension's underfunding. The three plans are merged into a single trust, and thus are managed in the same manner. The only difference between them is that decisions regarding contributions to the officers' funds are made by the officers of the SEIU alone, instead of by several large employers pursuant to collective bargaining contracts. Therefore, the difference in funded status must be due to differences in contribution, not management or market performance.

The success of the officers' funds shows the heads of the national organization know how to properly fund a pension plan if they choose to. As described in previous sections, it is doubtless possible to manage union dues and assets in order to properly fund the pension plan. The SEIU leaders know how to properly fund a pension plan, yet have clearly failed to push their corporate partners to properly fund pensions.

The problem of poor funding occurs not only in the national pension plan. In 2005 and 2006, it was revealed that 13 SEIU local pension plans were all less than 80 percent funded. Seven of them were less than 65 percent funded. In 1996, all of them were more than 65 percent funded, and half were more than 80 percent funded. While those that were in poor shape back in 1996 merit significant attention, the Massachusetts Service Employees Pension Fund is of greatest concern. It fell from nearly 110 percent to 70 percent funded in 10 years, and the SEIU 1199 Upstate Pension Fund fell from 115 percent to 74 percent since its inception in 1999. Chart 15 shows the degeneration of these funds' strength from 1996 to 2006.

Poor market performance can account for some of these falls. However analysis of their latest Forms 5500 reveals that 10 of these 13 funds paid less than two-thirds of their annual charges. Even if part of their problems is due to unstable financial markets, the union's inability to ensure that annual costs are covered makes the problem worse.

Part of the problem in local pension management could be the more secure future incomes of the leadership. Participation in the national officers and

employees pension plan (the overfunded plan) is mandatory for the officers and employees of local SEIU unions. If local union employees were dependent for retirement income on the plans that cover union members, they would have more incentive to protect those plans.

Second, these local leaders may be giving into national pressure regarding shareholder activism. Local and national SEIU pension funds made up more than 30 percent of Kohlberg Kravis Roberts' 2006 Fund, and union president Andy Stern is not above trying to use that leverage to pressure KKR, private equity firms and other companies to adhere to the SEIU's principles¹³. This pressure could lead to investment choices that do not yield sufficient returns or take time from other efforts to compensate for weak markets or insufficient contributions.

Third, mismanagement is a possibility on the local level because the same trust does not control several funds with divergent returns. While SEIU national leaders cannot make a bad investment without harming their own financial futures, it is possible for incompetent local managers to mismanage the funds without affecting their own pensions.

The SEIU is one of the fastest-growing unions in the United States. It trumpets its efforts to secure health and retirement benefits for service workers. Unfortunately, it is becoming clear that the SEIU is not truly securing these benefits. Workers drawn into its national pension fund are hurt by a fund whose adequacy has been falling from year to year.

The Sheet Metal Workers National Pension Fund

Started in 1966, the Sheet Metal Workers National Pension Fund is a multiemployer plan covering workers who are members of the Sheet Metal Workers' International Association. As of the end of 2006, the plan covered more than 136,000 people, 69,164 of whom were then working at plants unionized under the SMWIA. It seemed that the union-bargained benefits for workers would carry them through retirement comfortably. After all, according to the SMWIA website, "union members are also more likely to have a guaranteed retirement plan."

Unfortunately, while the SMWIA offered a retirement plan it portrayed as "guaranteed," the plan did not turn out to be financially sound. As late as 2006, the union's National Pension Fund had "guaranteed" \$7.45 billion in benefits to

¹³ Luce and Kirchgaessner, 2007

active and former workers, but had accumulated only \$3.1 billion in assets – less than 42 percent of the amount needed. Due to the accounting rules in force before the passage of the Pension Protection Act of 2006, past overpayments had allowed SMWIA and its corporate partners to pay less than their minimum required payment. Even though SMWIA lauded its pension fund for regularly earning a benchmark of 8.5 percent, it at best was holding steady at a \$4.3 billion difference between assets and liabilities.

In a 2008 letter to SMWIA workers, general president Michael Sullivan acknowledged that “the largest driving force of funding problems is benefits.” That is, the largest source of the funding deficiency was the result of benefit increases after the creation of the fund.

The SMWIA Pension Plan offered up to 10 years of past service pension credit,¹⁴ a 120-payment pension plan, several generous early retirement options, and a “COLA” of cost-of-living adjustment, a thirteenth payment each year that amounted to a bonus of about eight percent. While many of these benefits had analogues in other unions’ pension plans, the “COLA” payment, an annual sum equal to two percent of benefits per year of service, was a unique feature that cost the fund heavily. Despite these continuing costs, in 2005, a plan amendment was adopted that increased expected liabilities by nearly \$29 million. The payments on this debt - \$402 million in 2006 - exceed “normal costs”, the annual increase in benefits to be paid to current workers, by nearly 10 times.

The essential problem is that until recently, there was little chance of the debt being paid. In 2006, normal costs and payments on the fund’s debt equaled \$483 million, while contributions to the fund equaled \$301 million. Failing to meet annual required payments increases the risk that the fund will fall further behind its target value in future years, increasing its unfunded liability and thereby the high-interest debt (8.5 percent in 2006) to be paid off in future years.

The SMWIA Fund was not required to make its full payments because of its \$1.5 billion in credits (due to earlier overpayment), which allowed it to offset some of the required payments into the fund. By law, nothing required the union or its participating employers to pay off its \$3.7 billion in acknowledged debt until that \$1 billion credit was paid off – around 2022.¹⁵

¹⁴ Workers with work history for an employer who later elects to join the pension plan can receive benefits as if they had worked for up to 10 years under the plan.

¹⁵ This was calculated using standard amortization calculations and the listed amortization base and annual payment on the fund’s credits, assuming SMWIA’s benchmark interest rate of 8.5 percent.

After the passage and implementation of the Pension Protection Act of 2006, the managers of the fund no longer had any way to conceal these deficiencies.¹⁶ The act demands that a fund with less than 65 percent of its promised benefits submit to new regulations, regardless of fund performance or funding credits.

Because of the gross deficiencies in the National Fund, the managers had to develop two recovery options to hasten the fund's revitalization. In 2008, they might seek to require participating employers to contribute an extra 10 percent to the pension fund in 2008, followed by increasing additional sums over the following nine years¹⁷. Alternatively, they put forth a schedule that decreases benefit accrual to one percent of annual contributions for the participant,¹⁸ as opposed to current accrual of 1.5 percent of wages for 1200 hours, and 0.7 percent of wages for hours worked over 1200 hours. Under this recovery option, contributions would not have to increase, but could not decrease¹⁹.

Each employer and union branch would be free to determine which option to use.

Either recovery option reduces worker benefits. Both eliminate COLA increases set into the plan after 2002, and both limit lump-sum payments of more than \$5,000 to retirees. Both eliminate a benefit guaranteeing 120 months of payment to the retiree or designated beneficiary, and both reduce options and benefits for early retirement.

No matter how optimistic union administrators profess to be over their ability to save the union pension fund, someone is going to have to suffer to keep it from going under. Either the companies will have to pay heavily to keep the fund afloat as-is (it is estimated that the increased contributions would drain at least \$168 million from employers over the next 10 years) or workers will be paid smaller pensions than they originally were promised – and expected. Regardless of the outcome, because non-standard plans were frozen, workers intending to rely on early retirement options, lump-sum payments or guaranteed 120 payments will be hurt.

Michael Sullivan, the union president, may be speaking the truth when he speaks of the "hard decisions" that SMWIA staff had to make to save a failing pension

¹⁶ Ironically, they lambasted Enron's accounting, saying, "they [workers at Enron] didn't have [a guaranteed retirement plan] and lost millions of dollars in their 401(k) savings due to management greed." (Sheet Metal Workers International Association [SMWIA], 2008)

¹⁷ SMWIA, March 2008, p. 4

¹⁸ If that year, the sponsor contributed \$100 for a particular worker, his benefits would increase by \$1 per year.

¹⁹ SMWIA, March 2008, p. 3

plan. But his concern can be only for his constituents, not for his own future. Reports to the government show that the union's own plan for its employees was funded more than 10 times more generously than the collectively bargained general union plan for rank-and-file members.

Union filings with IRS show that in 2006, the last year available, Mr. Sullivan received, in addition to his salary and expense account, \$133,198 from rank-and-file benefit plan contributions, including contributions to the SMWIA Staff Pension Plan for his account. This plan, covering 250 people (69 active workers), had, in 2005, \$57 million in assets, and was 81 percent funded. The staff plan held an average of \$230,848 for each of its participants, compared with \$22,879 per person in the fund that covers the rank-and-file.

Recent increases in staff benefits prove even more disturbing. While the SMWIA rank-and-file members saw their COLA benefits disappear, the union staff's COLA fund more than tripled in 2006. Incredibly, this increase was entirely due to employer contributions. The staff did not have to put down any of their own salary.

To make this picture even more dismal, one need only look at the name listed under "plan administrator" for both of these funds. The union staff fund is administrated by the general secretary-treasurer of SMWIA, Joseph Nigro. The general worker fund is administrated by Michael Sullivan. Admittedly, Mr. Sullivan was previously SMWIA's secretary-treasurer, and admittedly, the fund was in trouble before he took the job, but these facts ought to have made it much clearer that the fund needed help.

In 2007, the Sheet Metal Workers National Pension Fund sponsored at least three pay-for-performance proposals through its stock holdings, like many unions.²⁰ But the poor performance, management, and negotiation of its pension fund suggest that more attention should have been directed inward.

Teamsters' Central States, SE and SW Areas Pension Plan

The Central States, SE and SW Areas Pension Plan covered more than 450,000 members of the International Brotherhood of Teamsters in 2006. The Central States fund had – and appears still to have – a chronic condition of underfunding.

²⁰ Clear Channel Communications, Inc., Plum Creek Timber Company, and Equitable Resources, Inc. (Georgeson, 2007, pp. 31-32)

In October of 2007, UPS bought out nearly 45,000 workers from the union pension fund. That is, the parcel-delivery company assumed the pension obligations of the fund and paid the Teamsters \$6.1 billion. The deal boosted the Central States pension fund's assets to \$26.8 billion. But in 2006, the fund had liabilities equal to \$41.8 billion. Even with a huge cash infusion in 2008, the fund apparently was still around 64 percent funded. As a result, in April 2008, under the disclosure requirements of the 2006 Pension Protection Act, the Teamsters was to inform the IRS that their fund was in "critical" condition and required to develop a rehabilitation plan similar to that adopted by the SMWIA.

This was not a new problem. In 2006, the fund had \$19.3 billion to cover \$41.8 billion of liabilities, putting it \$20 billion in debt in addition to other shortfalls. As early as 2002, the Teamsters hired Independent Fiduciary Services and Watson Wyatt Worldwide to assess the status of the fund.

Press releases issued by the Teamsters were quick to state that the Central States Pension Fund is not controlled by the Teamsters. By law, the union had given control to outsiders, J.P. Morgan and Goldman Sachs, and is forbidden to make investment decisions²¹.

Those statements were true, but omissive. The Boards of Trustees contain union representatives, and are responsible to recommend funding changes and plan amendments based on incoming financial information. The argument that the Teamsters do not control the management of the fund in a week-to-week sense is therefore irrelevant. The implicit claim that the decisions of the Teamsters, including the benefits and funding schedules, are less important than market performance is only part of the story. If a fund begins to fall behind because of market performance, the sponsors have a responsibility to take countervailing measures, by reducing promised benefits or increasing contributions or both.

In 2003, the Teamsters took just such action, reducing benefits to keep the fund from collapsing entirely. This change required not only a reduction in promised payments, but also pressure from the Teamsters for employers to contribute more. Documents on the Teamsters Website argue that the funding inadequacy was not the union's fault.

"Every pension fund in the United States is under similar pressure, and that every conflict between workers and employers...centers around rapidly rising health care costs...there are more retirees than active participants in the Central States Funds, and that retirees are retiring

²¹ International Brotherhood of Teamsters [IBT], November 12 2002

earlier and living longer...than anyone ever anticipated...as major Fund employers go out of business there are no longer active participants contributing into the Fund for benefits collected by former employees.”²²

Many of these points are valid. Unexpected increases in costs and demographic shifts make the valuation of pensions more complex. But the last argument, about the decline in the number of active workers who pay into the fund, is disingenuous. The contributions of active workers are not supposed to pay the benefits of former employees. They are supposed to be invested. Systems in which current payments fund current benefits are called *unfunded* systems. The Social Security Administration runs on this model. A truly well-funded system, on the other hand, would ensure that the fund had enough investment income to pay retirement benefits.

This language suggests that someone in the Teamsters, whether in upper-level management, media departments, or financial services, fundamentally misunderstands the nature of the Central States Fund – or, perhaps, is practicing misdirection. A system in which you promise to take an individual’s money, invest it, and return a certain amount to him in the future – but instead use it to fulfill current similar obligations to another person – is not called a pension plan. It is called a Ponzi scheme. Now, the Central States Fund is not a Ponzi scheme, as it is not run solely for the benefit of its administrators and early adherents. It is merely a poorly-funded pension plan. But this language and current situation demonstrate the problems with Teamsters pension fund.

The eventual buyout of 45,000 UPS workers’ pensions by their employer should not, therefore, have come as a surprise. Those lucky workers will have a better shot at their full pension. The benefits are generous and supported by UPS alone.

The UPS experience highlights an important question that union leaders seem unwilling to answer. The problem lies, they claim, in escalating costs, poor market performance, and a rising ratio of retirees to workers. But why were these issues not addressed promptly when they became clear? The Teamsters knew the fund was in trouble as early as 2002, and continued to allow a funding arrangement inadequate to cover growing liabilities. The Teamsters deserve some of the blame. In their 2003 reduction of benefits, they said, “putting the entire burden on increased employer contributions would lead to the bankruptcy of dozens of Teamster employers and the loss of thousands of Teamster jobs...which would end up canceling out the effect of the increased employer contributions.”²³

²² IBT, 2003

²³ IBT, 2003

James P. Hoffa, president of the International Brotherhood of Teamsters, did not try to create a manageable contribution/benefit scenario until new legislation forced him and his colleagues to admit that their pension fund was in a severe condition. Indeed, as late as October 4, 2007, the Central States Fund issued the following statement for Mr. Hoffa: "I can assure you that...there are no plans to reduce benefits for any active or retired participant."²⁴

It is not the job of the investment managers of a pension fund – in this case, J.P. Morgan and Goldman Sachs – to ensure that the sponsors have agreed to make actuarially adequate contributions. It is only their responsibility to manage funds responsibly and to alert the administrators if agreed contributions are not made.

Ironically, Mr. Hoffa and the IBT's national representatives have included among their legislative priorities "[to] ensure that all Americans are provided with retirement security and work to reverse the decline in defined pension plans."²⁵ It is disingenuous to claim that the existence of a defined benefit pension plan will automatically ensure retirement security, especially considering the condition of Central States' pension fund. Union leaders are expected to seek legislative protections and benefits for workers. But union members might be well served to push their leaders to ensure their benefits are secure before the leaders lobby Congress to mandate expanding them.

Plumbers and Pipefitters National Pension Fund

In 2005, the Plumbers and Pipefitters National Pension Fund (known as UA National Pension Fund) supported 147,682 people, including 71,570 current workers. Unfortunately, the 2005 trustees of the fund were inexperienced. An earlier board had been removed in 2004 following litigation by the U.S. Department of Labor.

According to DOL documents, this story began in 1997, when the UA National Pension Fund trustees agreed to purchase the Diplomat Resort and Country Club in Hollywood, FL. Without discussing proposed renovations, architectural designs or budget, they spent \$40 million of fund money to pay in part for the purchase of the seaside resort and agreed to spend an additional \$60 million in pension funds to pay for the initial redevelopment.

²⁴ Board of Trustees, Central States, 2007, p. 1

²⁵ IBT Government Affairs Department

Their overseer proposed a plan to tear down and rebuild the hotel, increasing total expected costs from \$277 million to \$400 million. In April 1998, the plan was approved. The trustees of the UA Pension Fund retained a construction manager with no limit on costs or time. They had essentially agreed to pay a group an unspecified and open-ended sum of money for an indefinite period of time on a project whose benefits they had never considered. Why? Because the construction team involved two relatives of an official with UA. The trustees invested another \$50 million after it became clear the return on the original investment in the Diplomat resort was expected to be low²⁶.

It is unsurprising, therefore, that in 2005 the UA Pension Fund had only \$4.1 billion to cover \$8.2 billion in promised benefits. In the end, it is estimated that this mistake cost the union “only” \$800 million in pension funds²⁷. Yet if the Diplomat scheme was at all representative of how their predecessors ran the UA Fund, one should expect more losses from past trustees’ imprudent management.

Poor financial decisions – whether through malice or error – can have a long-lasting effect on union pension plans. Among these poor decisions is not trying to shore up a pension fund when it falls behind. Other pensions mentioned in this paper, while falling behind in annual required expenses, at least offset their low payments with amortized credits – actual money that the union had acquired, either through higher-than-expected returns, a cut in benefits, or other changes that reduced liabilities or increased assets.

The UA National Pension Fund trustees did not have a deficiency in their funding, but they did not pay their annual charges. Employer contributions plus amortized credits equaled \$540 million in 2005. Total costs for the year equaled \$602 million. The reason that UA National Pension Fund has gotten away with not paying its annual expenses (despite having less than 50 percent of the money they would, eventually, need to pay future obligations) is that it had contributed more than required in the past. Its credit grew every year in which the fund covered its costs, accumulating interest at a constant rate that ignores actual returns on the fund. Every year that the fund fell behind, the credits were reduced to cover the deficiency.

Former trustees of the UA National Pension Fund were poor managers of the union members’ financial future. But the new ones have not shown themselves to

²⁶ National Legal and Policy Center, 2004

²⁷ This is the gross cost. With the valuation of the project at \$527 million, the net loss was \$273 million.

be tremendous improvements. They are ignoring a \$4.2 billion deficit by relying on financial sleight-of-hand. The Teamsters are right that the problem cannot be solved by just increasing employer contributions. This fund, however, as of June 2008 either had 65 percent of its required funds or had not yet come to a consensus with EBSA. Thus it still has not been caught in the Pension Protection Act compliance net. Even as other pension funds have acknowledged their unsustainable practices and tried to remedy it, the UA National Pension Fund continues to use credit to cover its overall deficit in pension funding. As a result, it has continued to do nothing about its poor balance.

Laborers National Pension Fund

The Laborers National Pension Fund supported 45,849 people in 2005, 14,433 of whom were current workers. It had \$1.63 billion in assets, and owed \$2.2 billion in future benefits. Being almost 75 percent funded put Laborers in a troubled, but not dire, situation.

The fund had two major problems. First, like many union pension plans, it was not paying all of its annual charges, meaning that it was moving even further away from a fully funded plan.

Second, one of its bookkeepers, Maile Epley, pleaded guilty in 2006 to stealing \$302,021.45 from the Laborers Pension Fund over the course of her 16-year career at the fund. In January 2007, she was sentenced to two years in prison and ordered to pay back the money stolen²⁸. But had the money remained in the pension fund, returns from investment and compounded interest would have increased its value.

Ms. Epley's ability to embezzle more than \$300,000 undetected for 16 years suggests a design flaw in defined benefit pension plans generally. It is that the money involved in union pension funds is vast. The largest funds have billions of dollars of assets. In addition to the temptation involved for people even tangentially dealing with this money, it is nearly impossible to monitor such large flows.

If the Laborers had a defined contribution pension plan, then workers would have a flat amount deducted from each paycheck and deposited into their individual retirement accounts. It would become apparent within three months, if not sooner (depending on how accessible the pension statements were), if some intermediary had diverted funds. With defined benefit plans, money is

²⁸ Department of Justice, January 31, 2007

transferred at almost random intervals between employers, the union, and plan administrators.

The only way to tell that it all gets to the right place is to have two sets of books, one kept by those responsible for dispatching funds to the money manager and one kept by the money manager. The entries should match. Someone must be responsible for comparing both, possibly an auditor who is unconnected to either party.

Defined benefit plans are obscure and complex. They get into trouble because workers have no idea what goes on with them. Contributions are made by participating employers and may not equal annual costs. Money is gained and lost constantly. Even though workers might be told how much money is in the account, this does not tell them anything about the security of their future income.

Leaving aside the problems with the structure of the defined benefits plan, the Laborers Fund had a separate issue common to nearly all of these unions. Its assets seem immense at \$1.63 billion, especially when compared to the Staff Pension Plan, which had only \$92 million. It sounds like the national fund is better off, but for 45,849 workers, the national fund has merely \$35,641 apiece. The staff plan has \$159,256 for each of its 578 workers. Again, the staff plan was much better funded than the rank-and-file one.

UNITE Here Fund Administrators Inc.

One of the more complex pension fund relationships involves the funds controlled by the UNITE-HERE labor union and its administrator, UNITE Here Fund Administrators. UNITE-HERE was formed in 2004 ago by a merger of the previous UNITE and HERE unions. UNITE has a historic relationship in the financial services industry, forming the original Amalgamated Bank of Chicago in 1923²⁹. The union still retains strong ties to the Amalgamated Bank today, with the bank's board of directors comprised primarily of union leaders and their allies. This connection - unique among labor unions - has allowed UNITE and eventually UNITE-HERE to maintain a lucrative foothold in pension fund administration and banking services for union members.

Many of UNITE-HERE's major pension funds are administrated by UNITE Here Fund Administrators, a separate 501 (c) (5), which operates as a tax exempt labor

²⁹ At this point, the union was known as the Amalgamated Clothing Workers of America (ACWA)

organization. UNITE Here Fund Administrators collects millions of dollars in fund administrative fees every year. According to the organization's 2006 IRS 990 form, UNITE Here Fund Administrators took in almost \$35 million for performing administrative work for "seven health and welfare funds and seven retirement funds." In 2004 and 2005, this number also stood at over \$30 million dollars, demonstrating that the pension fund administration business is robust for UNITE Here Fund Administrators.

The structure of the organization is mysterious and seems to have numerous conflicts of interest. In an attachment to the 2006 Form 990, the organization states that, "The UNITE HERE National Retirement Funds owns 100 percent of the common stock of Alico Services Corporation which in turn owns 100 percent of UNITE Here Fund Administrators Inc." Making matters even murkier, the attachment goes on to say that, "Amalgamated Life Insurance Company is a for-profit insurance company and a 100 percent owned subsidiary of Alico Services Corporation, which is also the parent of the reporting entity."

What this attachment suggests is a byzantine financial arrangement whereby the UNITE HERE National Retirement Fund - the union pension - controls the common stock of same company that owns UNITE Here Fund Administrators. In essence, the pension fund is paying itself millions of dollars every year in fees for administrative work, using its preexisting relationship with the Amalgamated Bank and Alico Services Corporation as a middleman.

Conflicts of interest also abound when the composition of the various boards is examined. Listed among the Board of Directors at UNITE Fund Administrators is Bruce Raynor, General President of the UNITE-HERE Labor Union. The four current officers listed in the Form 990 - Ronald Minikes, Michael Hirsch, Mark Schwartz, and Paul Mallen - all hold the same or similar positions with Amalgamated Life Insurance Company.

The quartet is also handsomely compensated for their work with Amalgamated Life Insurance Company. Mr. Minikes was paid \$337,304 in compensation in 2006; Mr. Hirsch made \$188,281; Mr. Schwartz \$137,201; and Mr. Mallen \$263,209. Finally, the board composition of the UNITE Here National Retirement Fund itself is almost exactly the same as the UNITE Here Fund Administrators. Only four people are different - Lynne Fox, Gail Meyer, Ronald Minikes and Steven Weiner - and even out of that group, Minikes makes a salary of more than \$300,000 for union related activities through Amalgamated.

The actual amount of money that UNITE Here Fund Administrators collects from each pension fund presents some noteworthy differences. For example, in 2003, UNITE Here Fund Administrators was paid \$3,903,573 for pension fund

administrative work for the ILGWU Eastern States Health and Welfare Fund (The ILGWU was a predecessor to UNITE). The plan covered 84,841 participants meaning that UNITE Here Fund Administrators charged roughly \$46 per plan participant for their services. However, in the Staff Retirement Plan that covered union officials, UNITE Here Fund Administrators charged \$126,042 for 4,455 plan participants - only \$28 per plan participant. It is unclear why rank and file retirees were charged 50 percent more than union officials for their plan administration.

Although this confusing arrangement has not produced allegations of criminal wrong-doing, as in other pension funds, the interlocking financial relationships between UNITE Here National Retirement Fund, UNITE Here Fund Administrators, and the Amalgamated Bank are curious, at best. These relationships and conflicts of interest deserve greater scrutiny because several UNITE HERE pension funds are either under-funded or entirely insolvent. The disparity between the amounts charged for administrative work on regular retiree plans and on union officials' plans also suggests that union officials might unfairly benefit from this arrangement.

This is another example of potential problems with the union defined benefit plan. Administrators can wrap the workings of the fund in mystery, and then use the uninformed state of the workers to their advantage through large administrative fees. It also makes embezzlement much easier, as in the previously mentioned case of Ms. Epley from UA National Pension Fund.

Conclusions

Despite their rhetoric, unions do not guarantee their members better retirements, merely more risky ones. Union-negotiated pension schemes consistently maintain dangerously low ratios of assets to liabilities. This is especially obvious when they are compared to pensions provided by private companies to non-union workers. Although nearly 90 percent of non-union funds had at least 80 percent of the funds they need, only 60 percent of union plans were at or above that mark. Although unions may promise their members terrific benefits, they do not deliver.

Collective bargaining for pensions tends to result in promises larger than are affordable. The above examples reflect this apparent tendency to neglect the bigger picture in union negotiations. While ensuring that the pension fund can pay out its promised benefits is vitally important, bucking up a pension fund is not as glamorous as increasing member benefits. Even small unions, it seems, can

fail to consider the negative effect of benefit increases on the state of their pension funds.

Trustees, as noted above, need to make the best decisions for the value of the funds. But negotiators need to make similar decisions, as well. Poor markets can harm the value of a fund. Labor negotiators should identify how they can rebuild the value of funds or recommend ways to protect funds. Preventing a loss of value is wiser and cheaper than having to “pay twice” for the same benefits. Furthermore, labor should always understand how benefits affect costs and the funded ratio of their pension. Even modest benefit increases can vastly increase the value of liabilities. If labor cannot negotiate employer payments to match increases in benefits, their constituents are no better off.

Union negotiators have strong incentives to win as many concessions as possible, since that is how their job performance is valued. But union officials are under different pension plans, so do not suffer the consequences of unsustainable plans. Their personal plans tend to be in much sounder fiscal condition. This suggests that they know one cannot promise the moon and the stars in pension benefits. Even more importantly, it shows that how better results ensue when individuals are put in charge of their own futures.

Furthermore, the opacity of the internal workings of pension plans makes it difficult to hold them accountable. Thus such negotiating sessions produce unsustainable plans, hurting the American workers who put their faith in unions.

The Pension Protection Act of 2006 has cast light on the financial messes that the union plans are in and is forcing them to make changes. By requiring disclosure, it has forced reform of a number of poorly maintained pension plans, such as that of SMWIA, which had merely 43 percent funding.

The Act limits increases in plan benefits and thus prevents struggling firms from promising more than they can pay. More importantly, the Pension Protection Act brings the employees into the process so that they can make the hard decisions on whether to reduce benefits or increase contributions. But the Pension Protection Act may not be enough. A number of provisions of the law, including some that require sponsors to fund their pensions adequately, will expire in 2014. These provisions should be made permanent, because unions are unlikely to get their houses in order by 2014, especially if the unions think they can just wait out the expiration of the law.

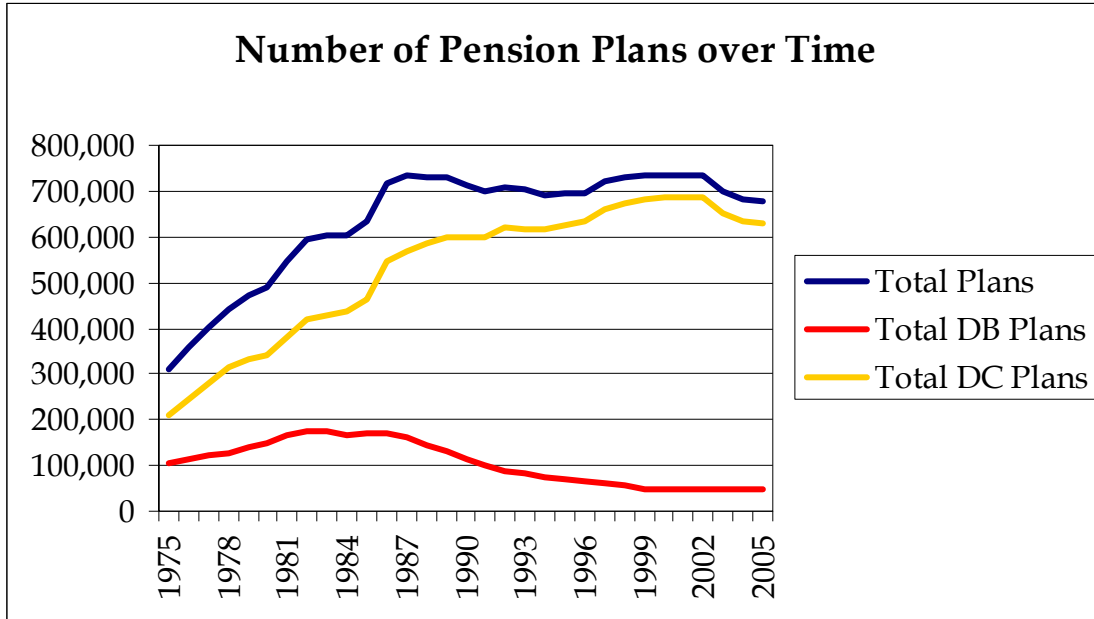
Yet the law deals only with the symptoms of the problem. When workers entrust their retirement assets to an outside party, it is important that this party's only

interest be achieving the best returns possible. Unions clearly do not do this. Time and time again, they have pursued petty political agendas and become enmeshed in corruption scandals rather than maximizing the financial returns to their constituency.

A defined contribution benefit plan, where workers can monitor their pensions themselves, may prove a better option. It will never suffer from naïve promises, since the worker controls what goes in. But whatever is done, it is clear that union members are not being helped by their representatives. More must be done to help workers realize the retirement benefits that they have labored so hard for.

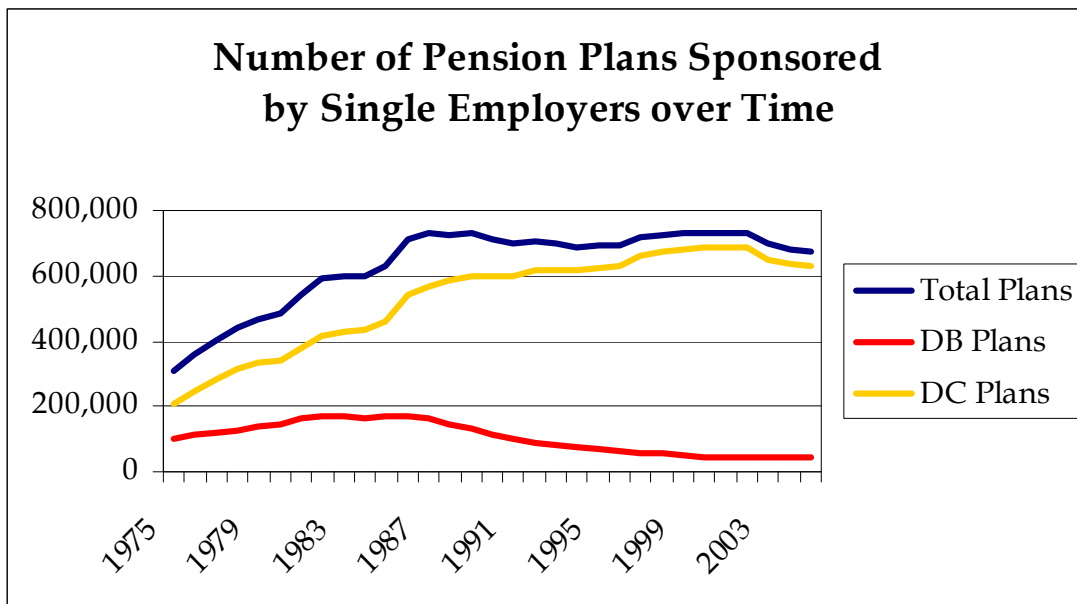
Charts

Chart 1



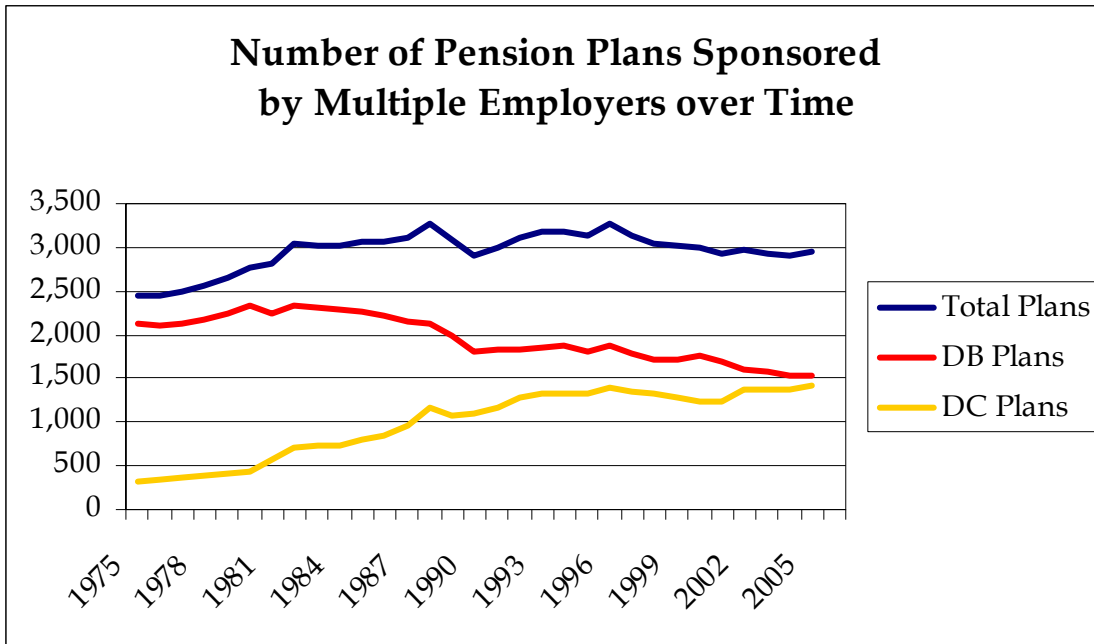
Source: U.S. Department of Labor, "Private Pension Plan Bulletin Historical Tables"
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Chart 2



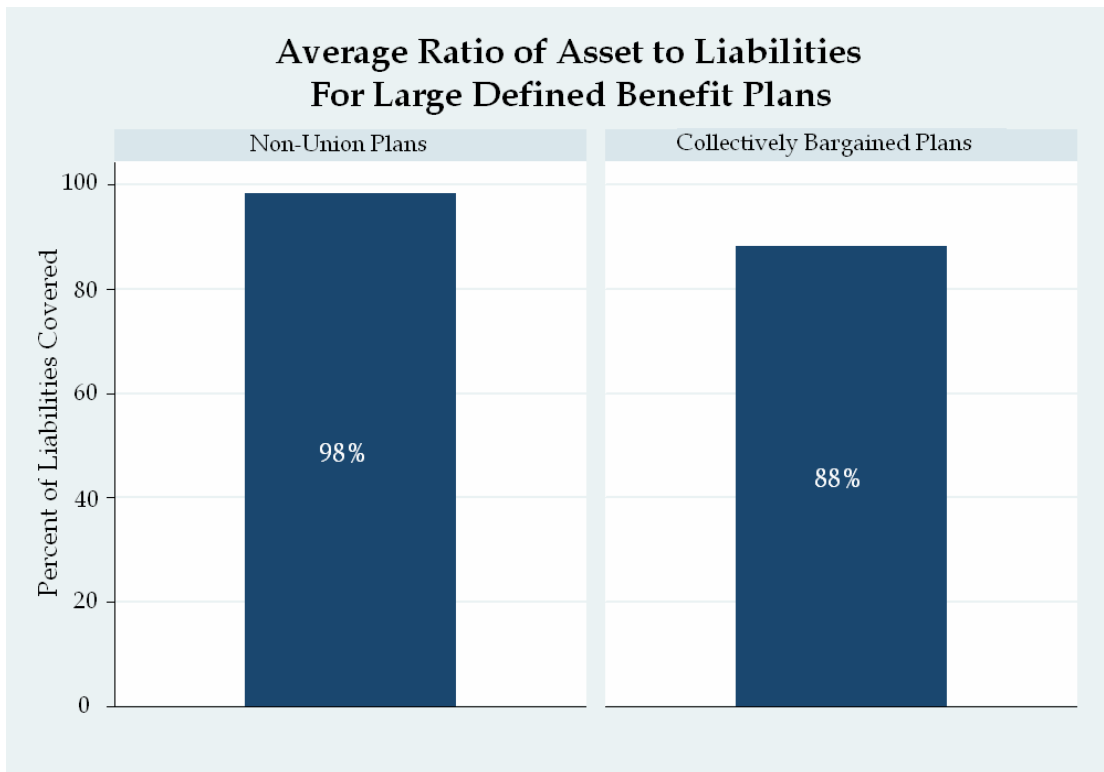
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Chart 3



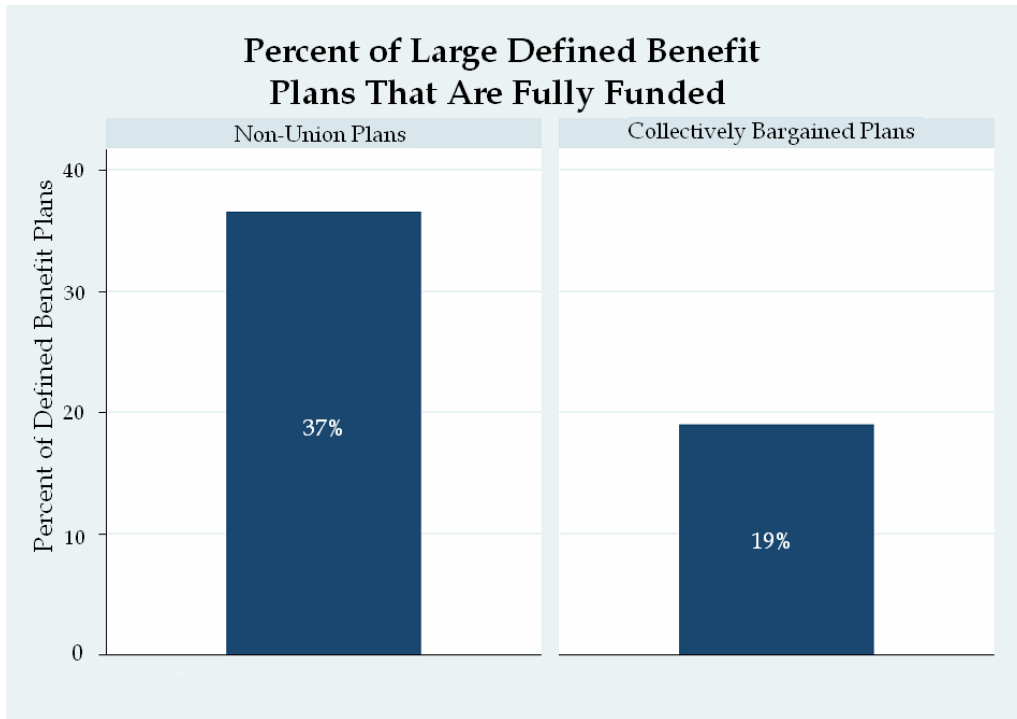
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Chart 4



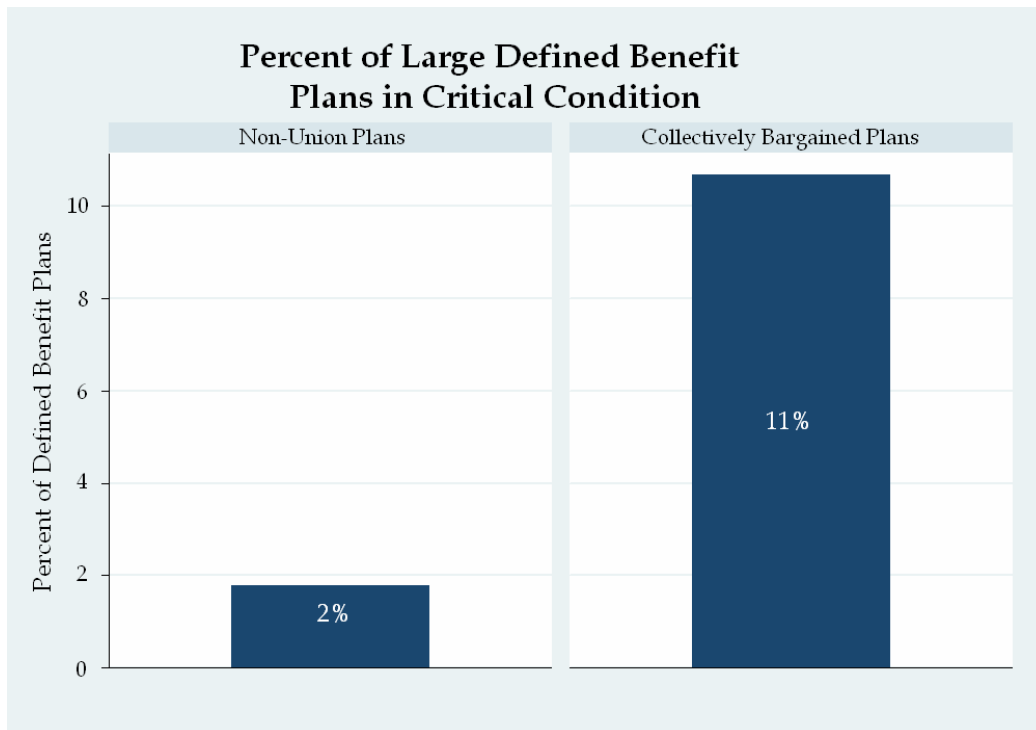
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 5



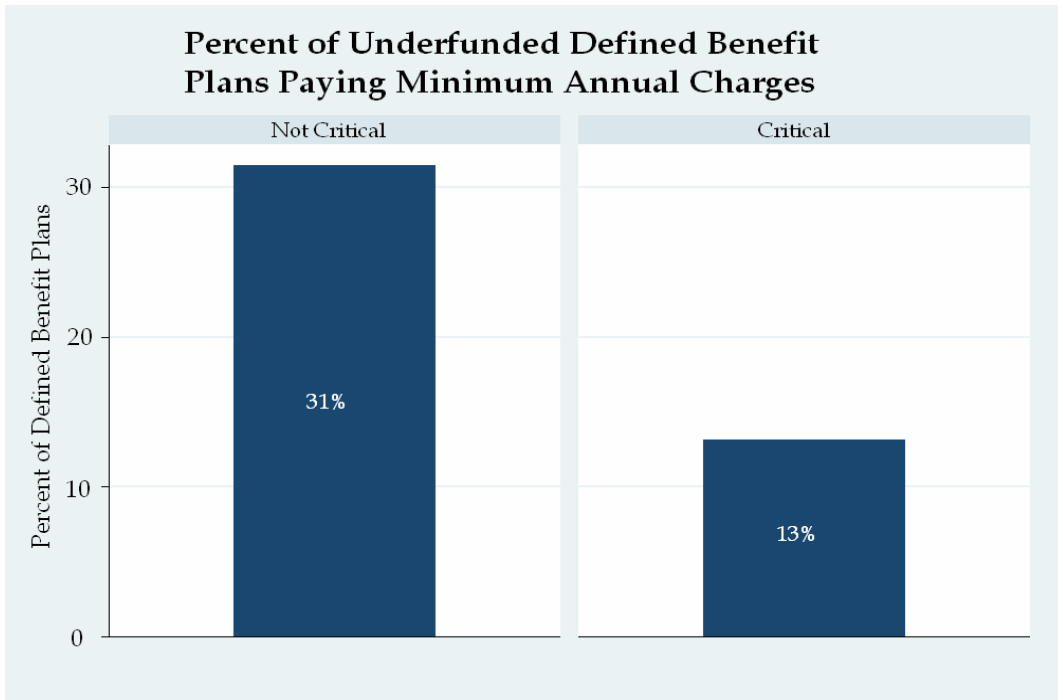
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 6



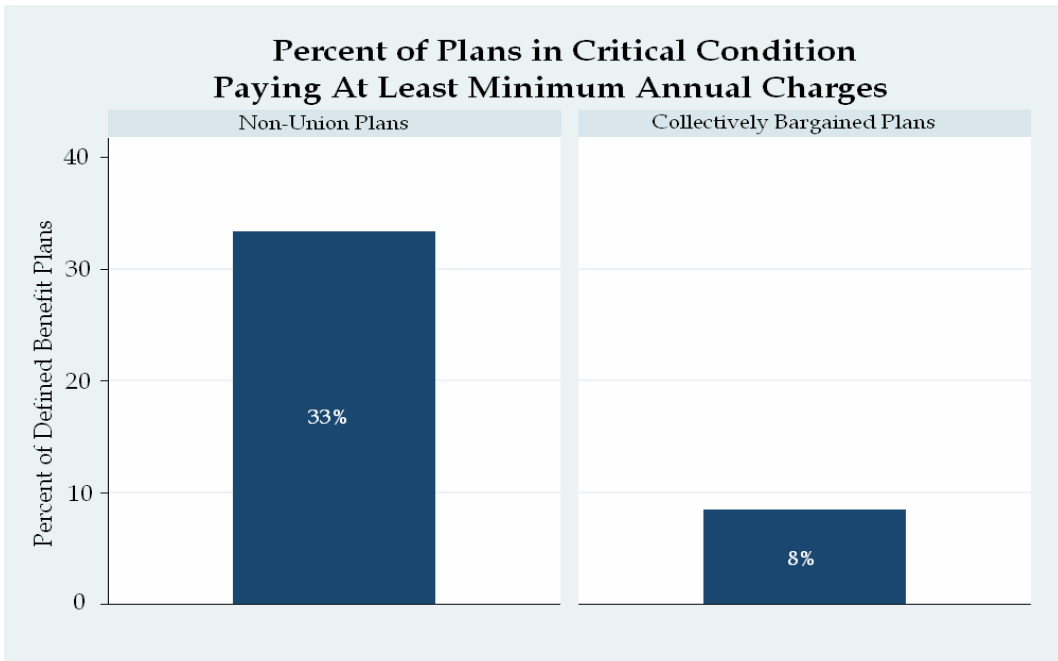
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 7



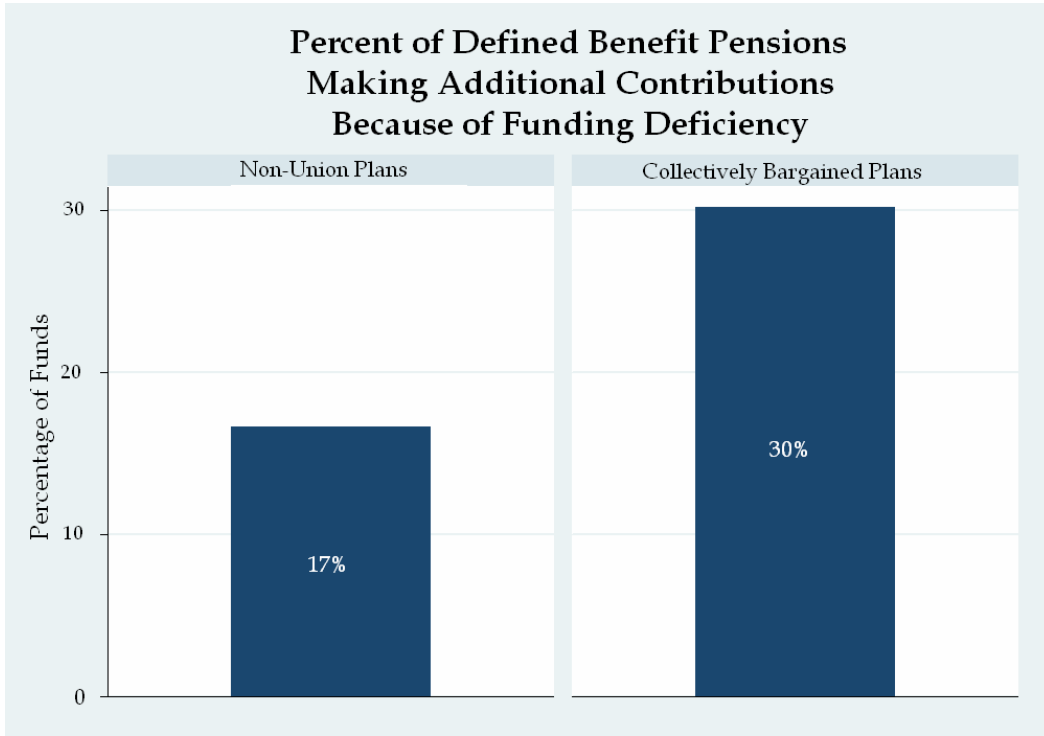
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 8



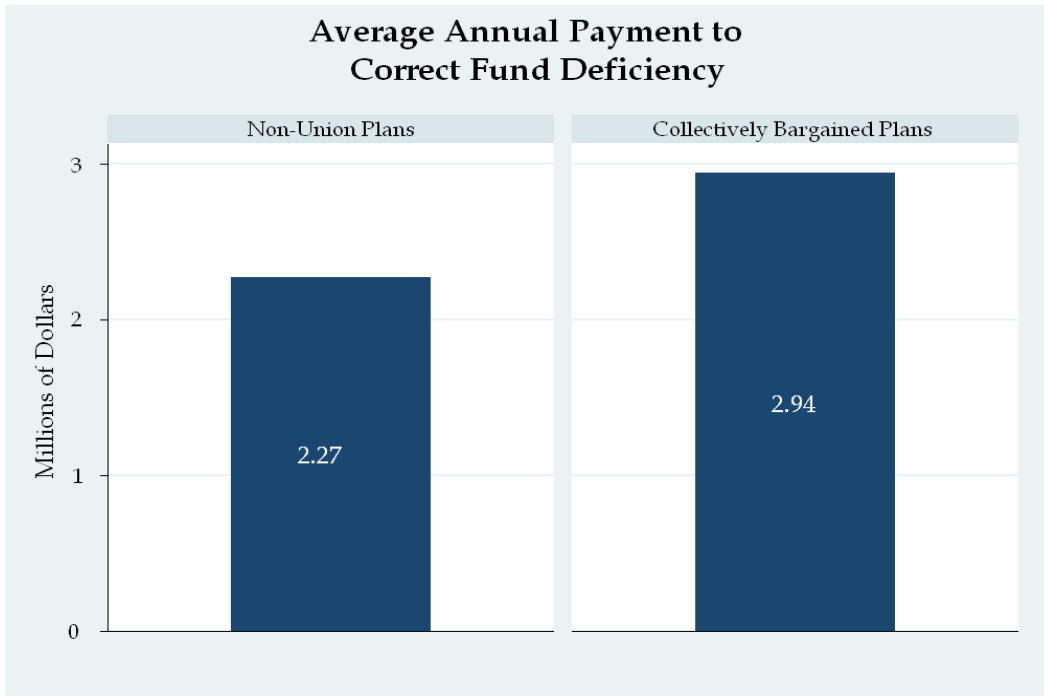
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 9



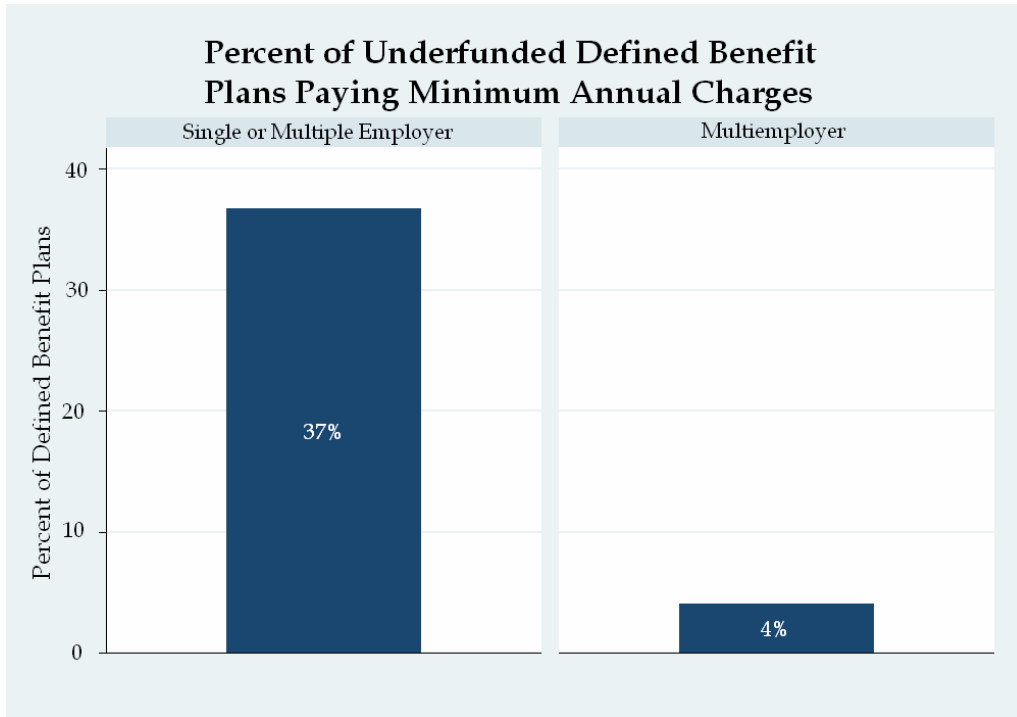
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 10



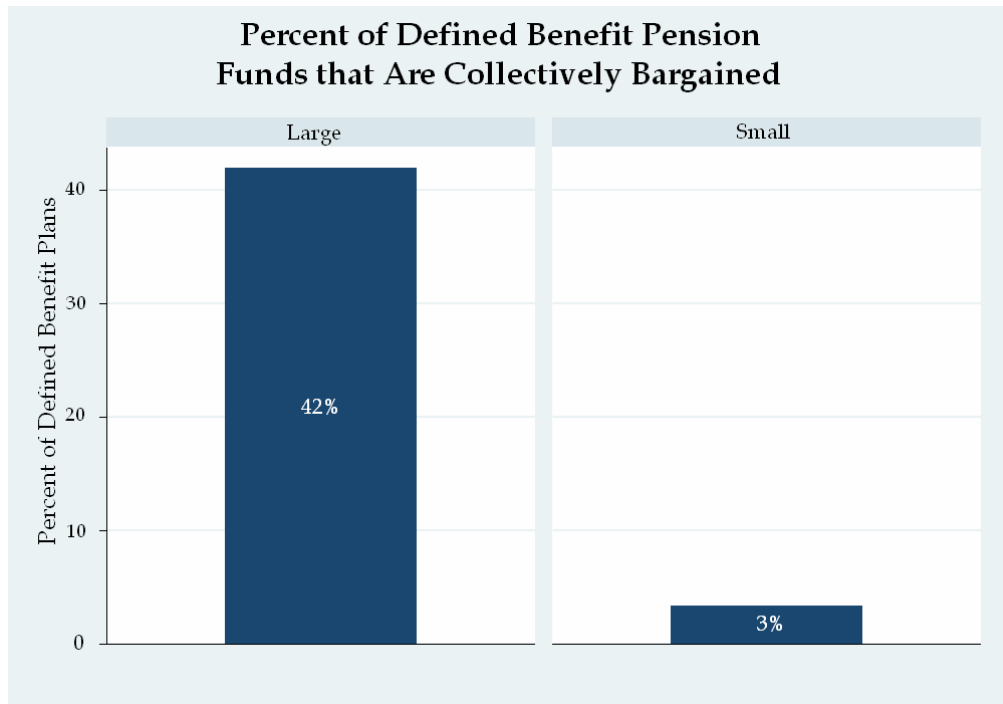
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 11



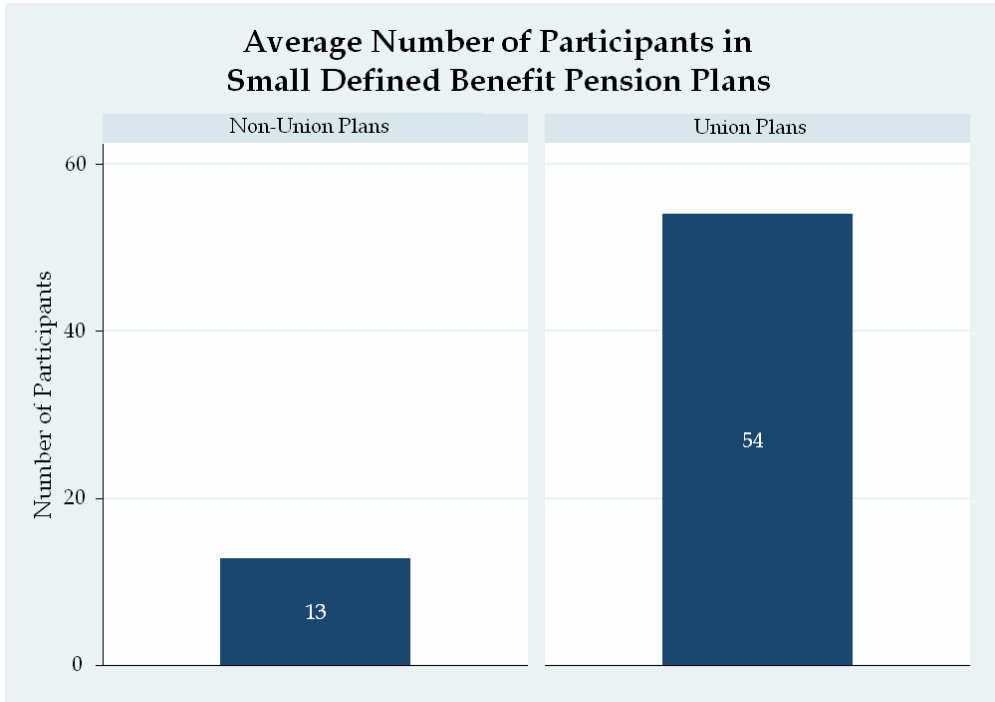
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 12



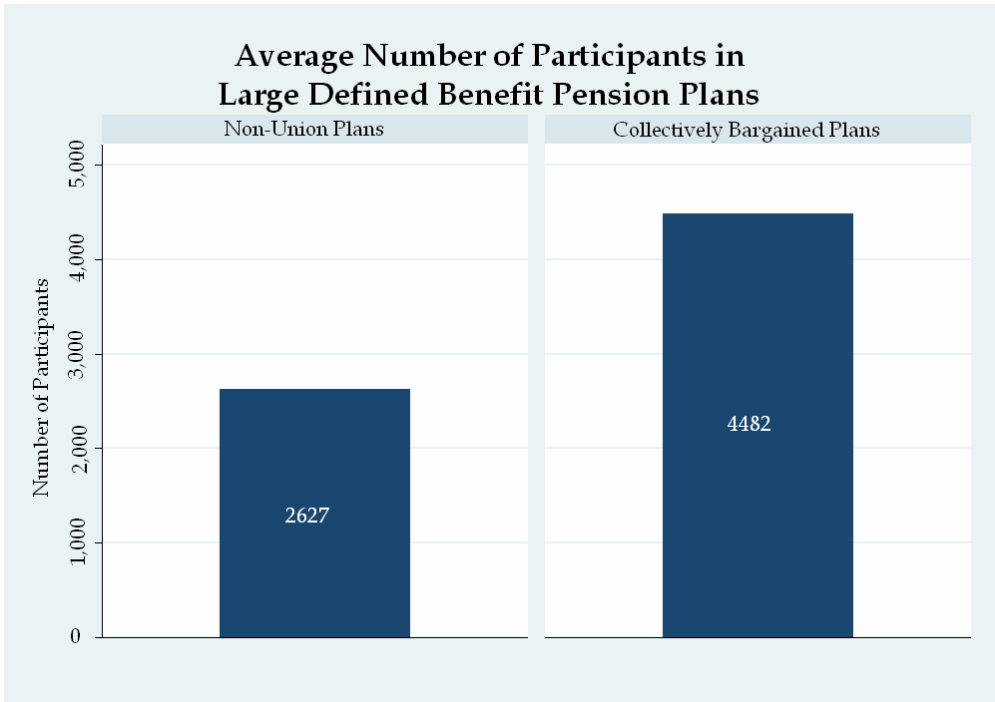
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 13



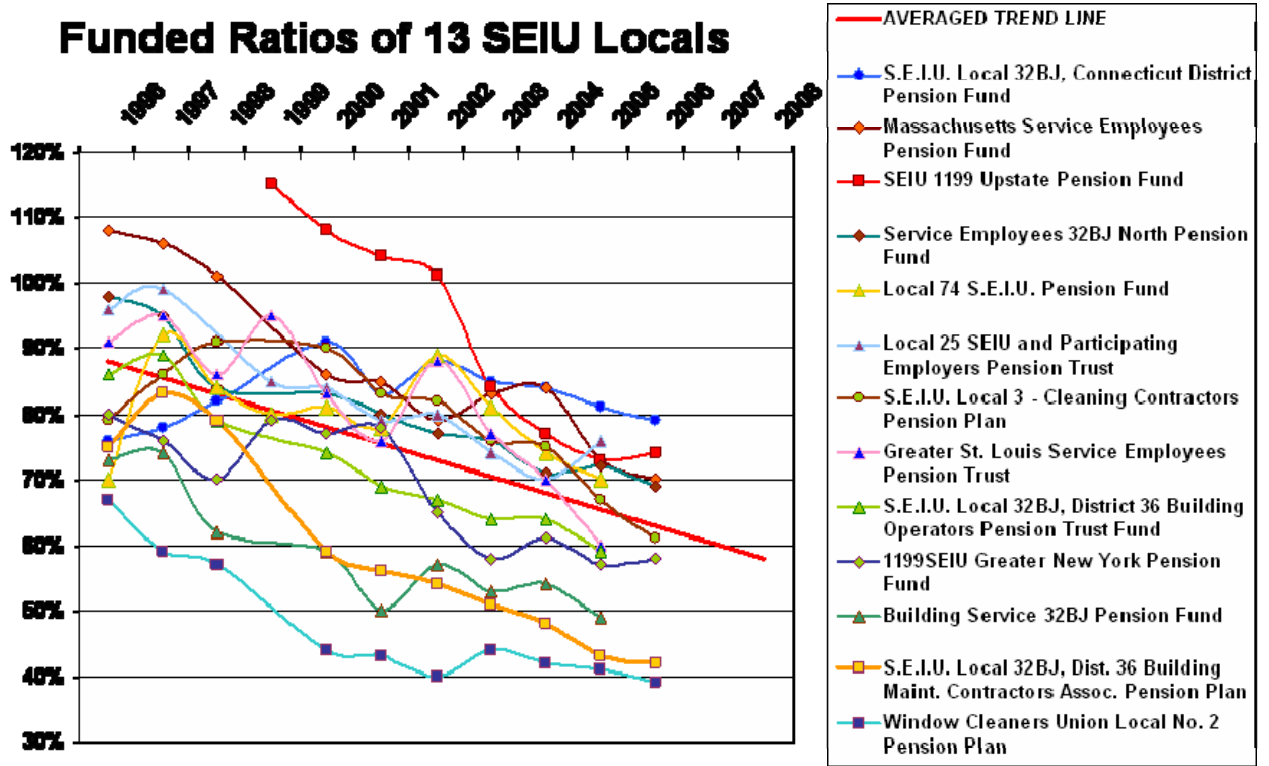
Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 14



Source: Form 5500 (year 2005), Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Chart 15



Source: Form 5500, Employee Benefit Security Administration, U.S. Department of Labor, and Hudson Institute calculations

Appendix 1

How Do Pensions Work?

A defined benefit pension plan is a promise to pay each participant a specified sum of money during each year of retirement. Such payments are called an annuity.

Imagine a 35-year-old woman (we will call her Susan) who wants an annuity to pay her \$50,000 a year after she retires. If her bank promises a flat, perpetual interest rate of three percent, she can plan her retirement income with a fair degree of certainty. This, and the calculations that follow, are a simplified model of how these plans work in the real world. Few individuals make these calculations themselves, but the example is intended to illustrate a simplified version of the process that actuaries go through.

Susan will first calculate how much money she must have to generate that much income every year after she reaches 65. She does this knowing that she will receive a 3% interest rate on any money she invests. Then Susan will calculate how much a year or a month she must pay under her contract to fund the annuity. The younger she is when she opens the annuity contract, the more payments she will make, but the lower each annual contribution will have to be.

According to the Social Security Administration, a 35-year-old woman can expect to live approximately 46.22 years longer. Susan wants to play it safe, so decides to assume that she will live until age 85. Thus she will need the annuity to provide her payments for 20 years, from age 65 until age 85.

Susan first thinks that her annuity account will need to have \$1,000,000 ($\$50,000 \times [85 - 65]$) in it on the day she retires. She quickly realizes that this is incorrect. Every year, the account will grow by three percent. If she has \$1,000,000 on the day she retires, she will have more money than she needs, since it will be growing even when she is in the midst of receiving payments.

So she looks at it another way. Say she was retiring next year, and wanted her bank account to have \$50,000 in it. She would need to invest \$48,543.69, because $(1.03) \times \$48,543.69 = \$50,000$. If she wanted her bank account to have \$50,000 in it two years from now, she would have to invest \$47,129.80 today, because $(1.03)^2 \times \$47,129.80 = \$50,000$.

Thus, the total amount of money Susan will need the day she retires, at age 65, equals the amount she will need at age 66 plus the amount she needs at age 67,

and so forth. Since she wants \$50,000 each year, factoring in the interest she gets on the money in the account that is waiting to be withdrawn, she will need: $\$50,000/(1.03) + \$50,000/(1.03^2) + \$50,000/(1.03^3) + \dots + \$50,000/(1.03^{20})$. Investors have a quick way to write this: $\$50,000 * a_{20|3\%}$, that is, how much money you would need today in a bank account that pays three percent annually in order to withdraw \$50,000 every year for 20 years (called the present value of an annuity). It comes out to be \$743,873.75, which is less than a million, but still substantial.

Luckily, Susan has 30 years to work on this fund. She decides that she will make a deposit to her bank account at the end of every year. She could try to “eye” how much she needs to contribute each year, but decides to make the same deposit every year. Once again, she could try investing $1/30^{\text{th}}$ of \$743,873.75, or \$16,530.53 every year, but remembers that each payment, will also earn interest. Using the same reasoning as above, she constructs a formula: $\$743,873.75 = X*(1.03^{29}) + X*(1.03^{28}) + \dots + X*(1.03) + X$. Investors would write this as $\$743,873.75 = X*s_{30|3\%}$, and when she solves it, Susan finds that she can earn this money by depositing \$12,303.14 every year.

If defined benefit pension plans were this simple, companies would not have so much difficulty with them. Unfortunately, there are a number of complications that make the people in charge of planning and tracking these funds (called actuaries) have much more calculating to do. Most of this work arises because companies prefer to make level payments every year to stabilize cash flows. There are also uncertainties that will arise over the years as the employer’s payroll expands or shrinks, as compensation changes and as investment outcomes deviate from the original assumptions. For all of these reasons, a plan may find itself under-funded or overfunded.

Earnings

Most defined benefit pension fund benefits are a percentage of an employee’s annual earnings. The formula can be based on an “average” wages, as is Social Security, or it can be based on the worker’s earnings during his last year of work. In either case, it is tremendously difficult to predict how much a worker will make during his last year, perhaps 20 years into the future. So, for many workers, actuaries do not know in advance precisely how much their promised benefits will be. Actuaries address this problem by making assumptions about the percentage growth an employee’s wages will undergo each year, and use that number in their calculations.

Experience

It is a common feature for one’s defined benefit stream to be equal to a percentage of income per year worked. For example, a retiree whose benefit is

one percent per year and who had worked for the employer for 10 years would receive 10 percent of his income, and if he had worked for 40 years, 40 percent of his income. This requires actuaries to develop models suggesting how much experience workers, on average, will have acquired before leaving the company. Individuals who work with the company for only 10 years will earn a much smaller pension than people who work there for 40 years.

Retirement Age and Lifespan

If employees are promised the same pension regardless of when they retire, then a person who retires earlier costs the company more than one who retires later. Consequently, pension plans reduce benefits for those who retire early and augment them for those who work beyond normal retirement.

Companies keep track of traditional retirement patterns, and try to estimate when their workers will retire. If workers tend to retire earlier, companies will try to increase contributions so that the employees can make larger payments for a shorter period. Their estimates are important for determining how much the company expects to owe each year.

Lifespan is another key variable. Workers who live to be 90 will receive much more in pension payments than workers who die at 70. If life expectancy increases over time by one year, the fund's pension liability increases.

Real Fund Growth

Susan, above, could predict exactly how much money she needed because she knew that the contractual interest rate was three percent, and always would be. Defined benefit plans do not put their money in banks, but invest in a wide variety of stocks, bonds, and other financial products that give different returns on the investment. The plans must assume that their money will grow at some rate, but have no guarantee that it will. This creates uncertainty about the future value of the fund. As some of the experience cited in this paper demonstrates, a defined benefit fund may find that it is overfunded and can relax contributions, or that it is under-funded and needs to augment contributions (assuming unchanged promised pension benefits). In either situation, employers and unions may have conflicting ideas about what should be done.

Appendix 2:

Financial Changes Required by the Pension Protection Act of 2006

Congress passed the Pension Protection Act of 2006 in response to growing worries over the defined benefit pensions of workers across the country. It intended to require pension sponsors to keep their funds actuarially sound, ensuring that no company or union would make promises to workers they could not keep.

One of the Pension Protection Act's main provisions is a requirement that plans keep their funds financially sound, or "on-target," with specific provisions to prevent funding lapse. In 2008, this target is 92 percent of all accrued liabilities³⁰, and increase annually until 2011, when the target will be set at 100 percent.

The Act calls upon pension sponsors to consider their total assets to be the assets reduced by the amount of their credit balance. These modified assets would be used to calculate whether or not the plan was funded. Pension plans that are less than 80 percent funded (65 percent funded in 2008, and increased annually by five percent until 2011) or 70 percent funded, using "at-risk" assumptions that inflate liabilities,³¹ are forbidden from reducing their annual liability by using their credits³². The sponsor can otherwise use credits to reduce payments.³³

Sponsors can discard credits in order to increase the value of their adjusted assets. This allows them to use past over-payments to bring poor-performing funds up to their required funded ratio. Both choices reduce the amount of credits, and therefore increase assets allowable for calculating funding percentage. Unlike prior years, the credit fund would grow at the previous year's real rate of return.

³⁰ This refers to the ratio of assets to liabilities, discussed in "Sources of Information on Pension Plans"

³¹ "At-risk" assumptions can be thought of as EBSA inquiring as to whether the fund would be stable even if certain market measurements suffered shocks that negatively affected the plan.

³² These are the credits one received for contributions in excess of what is required, discussed in "Sources of Information on Pension Plans"

³³ This law, although confusing, makes sense. If Company XYZ paid an extra \$10,000 one year to a \$100,000 fund that was 100 percent funded, it would list its fund as still being 100 percent funded, because its modified assets would equal \$110,000 - \$10,000. This essentially treats extra contributions separately from the "main" fund, and so allows the IRS to see how well the fund would be doing if the extra contributions had not been made. This makes sense because extra contributions are payments against future contributions, and so should not be counted among the money being used to fund current obligations.

Furthermore, the Act requires at-risk plans (those with less than 60 percent funding) to contribute at least its normal cost each year.

The law prohibits plans that are less than 80 percent funded from increasing benefits. Furthermore, it prohibits funds with less than 60 percent of their expected benefits from paying beneficiaries more than a monthly annuity payment, that is, no bonus payments.

The Pension Protection Act requires multiemployer plans, beginning in 2008, to absorb their entire funding liability as a 15-year debt. Multiemployer pension plans with less than 65 percent funding will have to identify themselves as in “critical” status, requiring the submission of a plan to regain proper funding status. Plans less than 80 percent funded are “endangered” and required to adopt a plan to revise benefit structures. The critical and endangered provisions apply only to multiemployer plans.

Both programs follow a similar path: the sponsor must provide two schedules to all participating parties. One reduces benefit accrual (not currently-earned benefits), and the other increases contributions. Plans in “critical” status are specifically required to develop more complex action plans so that they can emerge from the status within ten years.

In short, one of the Act’s main provisions is to require plans to remain well-funded, with specific provisions to prevent a lapse.

Starting in 2008, critically-funded (assets are less than 65 percent of accrued liabilities) union pension plans are coming under strict scrutiny, as unions are forced to help employers and workers negotiate a middle ground between decreased benefits and increased costs.³⁴

³⁴ That is to say, employers will have to increase costs, and employees will have to accept benefit cuts; neither should be able to leave the bargaining table without sacrificing something.

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