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"Protecting" Private Union Pensions with Bottomless Bailouts Is a Recipe for Disaster

Rachel Greszler

A new bill in Congress, the Butch Lewis Act, would require taxpayers to stand behind private union pension plans' broken promises. The proposal would apply to troubled union, or multiemployer, pension plans which have collectively promised about $600 billion more in benefits than they can afford to pay.[1]

Those unfunded promises are terrible news for the workers who were promised benefits that are not there. They should not also be terrible news for taxpayers who had no role in making those promises. Yet, that is exactly the case with the proposed bill.

The Butch Lewis Act would force taxpayers to pay for the compensation of private-sector workers—and not just for past compensation promises.[2] As proposed, the bill could require taxpayers to pay for the compensation of current and future private-sector workers as well.

The Butch Lewis Act would require taxpayers to:

- Make loans to insolvent, private-sector union pension plans,
- Stand behind those loans and forgive the debts if the private pension plans cannot repay them, and
- Provide additional tax dollars to make sure that even if the loans and loan forgiveness are not enough to bring plans to solvency, neither private pension beneficiaries nor the unions that run the pension plans would lose a cent.

Instead of setting all the wrong incentives, rewarding bad pension management, and opening the door to hundreds of billions—or even trillions—of dollars of taxpayer-funded pension bailouts, Congress should first eliminate the preferential treatment it provides to union-run pension plans. This preferential treatment—including allowing plans to use whatever interest rate assumptions they want—allowed these plans to run themselves into the ground. Congress should also reform the Pension Benefit Guaranty Corporation (PBGC) so that the government can keep the commitments it made, including protecting workers from a complete loss of pension benefits and preventing taxpayers from bearing any private-sector pension costs.

In sum, Congress must not put taxpayers on the hook for private losses, nor should it disrupt the market by putting companies and pension plans that make good on their retirement promises at a competitive disadvantage to those who do not.

Private Pensions Are Part of Workers' Compensation, Not Government Promises

Like wages and other benefits, pensions are part of workers' total compensation. The main difference between pensions and other benefits is that pension benefits are promises for future compensation. Workers who have pensions as part of their compen-

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The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

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sation typically accept lower wages in exchange for the promise of a secure retirement.

However, the problem with compensation taking the form of a future promise is that the promise is only as good as the company or union making that promise. When a promise is not due until decades in the future, there is a strong incentive to neglect that promise by failing to set aside enough money to fulfill it. With pensions, union-run plans have consistently used overly optimistic assumptions to justify underfunding their plans, often paid out benefits to workers who did not earn them, and provided windfall pension benefits to others.

In the case of these multiemployer pension plans, unions made pension promises they cannot keep. The government and taxpayers never had a seat at the negotiating table of these unions and employers, and the government and taxpayers never made any compensation promises to these workers. Workers are not at fault for broken promises of future pension benefits. But since neither taxpayers nor the government made those promises, they should in no way be obligated to stand behind them. Unless Congress wants to turn all compensation promises made by private employers into government promises, it should not do so for select, private-sector unions.

What Is in the Multi-Layer Pension Bailout Plan?

The sponsors of the Butch Lewis Act included multiple different components of "financial support" to "guarantee" that individuals and families receive what their pension plans promised them. One component of this plan—taxpayer-backed loans—masks the fact that this bill is an outright bailout.

Layer One: A New Government Entity to Make Taxpayer-Backed Loans. The Butch Lewis Act would create a new Pension Rehabilitation Administration (PRA) within the Treasury Department. The PRA would issue special bonds to provide subsidized loans to troubled multiemployer pension plans and sell those bonds to large financial institutions. Those bonds would be backed by the "full faith and credit of the U.S. government"—in other words, by taxpayers.

The PRA would then use the proceeds from those bond sales to make "loans" to troubled union pension plans. In order to qualify for the loans, the plans would have to be on track to become insolvent within the next 15 years to 20 years. This is a strange criterion for loan qualification. Borrowers usually have to prove their ability, as opposed to their inability, to repay a loan in order to qualify for one.

The PRA would only make loans to insolvent pension plans. Take, for example, the United Mine Workers of America's (UMWA's) 1974 Pension Plan. (The UMWA is one of the two most prominent pension plans this legislation seeks to address.) With only $55 million in employer contributions in 2015 and $622 million in pension benefit payments, the UMWA's pension fund is quickly running out of money and will be unable to pay promised benefits within about five years.[3] Moreover, the plan is closed to new participants and has only one active worker paying into it for every 12 retirees receiving benefits. This leaves zero hope that the fund can become solvent or that it can pay its estimated $5.8 billion in unfunded pension promises.

The other prominent and deeply troubled multiemployer pension plan that this legislation seeks to assist is the Central State Teamsters pension plan. With $36.2 billion in estimated shortfalls, the Central State Teamster's unfunded pension liability is more than six times as large as the UMWA's.[4]

Taxpayers would bear all the risk of these reckless loans while the union pension plans and their beneficiaries would emerge unscathed. Troubled plans would use the loans from the PRA to effectively safeguard the unfunded promises they made to their workers. They would do that by purchasing assets, such as fixed-income annuities, that would protect workers' promised benefits.

1. According to the Pension Benefit Guaranty Corporation's most updated data files, multiemployer pensions had $611 billion in unfunded pension promises in 2013. Pension Benefit Guaranty Corporation, *Data Book Listing*, "Table M-10: Funding of Underfunded PBGC-Insured Plans (1980–2013) Multiemployer Program," https://www.pbgc.gov/sites/default/files/legacy/docs/2014-data-tables-final.pdf (accessed November 27, 2017).
2. Butch Lewis Act of 2017, S. 2147, https://www.congress.gov/115/bills/s2147/BILLS-115s2147is.pdf (accessed November 29, 2017).
3. The full 2015 Form 5500 Filing for the United Mine Workers of America is available for download (with free membership) at FreeERISA, http://freeerisa.benefitspro.com (accessed November 27, 2017).
4. The full 2015 Form 5500 Filing for the Central States, Southeast & Southwest Areas Pension Plan is available for download (with free membership) at FreeERISA, http://freeerisa.benefitspro.com (accessed November 27, 2017).

The plans themselves would be at no risk. Troubled plans would be allowed to borrow as much as they need to purchase assets that would secure their unfunded promises. The only payments they would make for the first 29 years of the 30-year loans would be low-rate interest payments. If, after 29 years, a plan cannot, or finds it difficult to, repay its loan, the PRA would be required to revise the repayment terms. Those revised terms could include installment payments and loan forgiveness. Based on the fact that plans can receive loans only if they can prove their insolvency, the likelihood of many—if not all—of the loans being forgiven at the taxpayers' expense is extremely high.

Layer Two: Direct Taxpayer Bailout for 100 Percent of Private Union Pension Promises. Some private union pension plans are in such bad shape that even largely unfettered access to 30-year, interest-only, subsidized government loans cannot keep them afloat. The Butch Lewis Act consequently adds a second layer of pension bailouts. This provision stipulates that regardless of whether the troubled pension plans can repay their loans, pensioners would still receive every penny of their promised benefits. Guaranteeing zero cuts in promised benefits would come by requiring taxpayers to shell out enough cash—in addition to the subsidized and often forgiven loans—to back every private unions' pension promise to the last cent.

Such an arrangement is akin to a parent offering an unlimited loan to a child who has accumulated massive credit card debt. However, instead of requiring the child to work hard, cut spending and repay the loan, the parent would tell the child that in the event of repayment failure, the parent will forgive the loan and also pay any additional debt the child has accumulated into the indefinite future.

Such bottomless bailouts would create a horrible incentive for troubled as well as healthy pension plans to promise more than they can pay, and fail to set aside the money to keep those promises. Nothing in the legislation prevents troubled pension plans from continuing down their destructive paths. Although the bill would prohibit plans from increasing benefits or accepting lower contributions *while* they are receiving loans from the PRA, nothing prevents unions from continually expanding pension promises or reducing employers' contributions so that they will be troubled enough to receive a bailout. In fact, the bill encourages private union pension plans to do just this. Of the approximately 1,300 multiemployer plans across the U.S., 95 percent are less than 70 percent funded.[5]

Layer Three: Pension Increases for Past Plan Insolvencies. The Butch Lewis Act not only proposes bailouts for private union pensions that are on the verge of insolvency, it specifies that plans that have already become insolvent—of which there are dozens—could also receive PRA loans to bring their benefits back up to their promised levels.[6] This is like reaching back into a past bankruptcy and retroactively making every party whole. Such an arrangement would not only increase the overall cost of the proposed private union pension bailout, but would also change—wrongly—the rules of the game after the game is already over.

Elimination of the Separation Between Taxpayers and Self-Financed Government Entities

By providing a direct line of taxpayer funds to the PBGC, the Butch Lewis Act would upend the current separation that exists between taxpayers and government entities. This separation is supposed to protect taxpayers from the illegitimate governmental forays into private-sector ventures (such as acting as an insurance company and loan-provider).

The PBGC was established as a self-financed, government entity to provide mandatory insurance to private-sector pension plans. By statute, the PBGC cannot access taxpayer dollars, and as a back-up insurance program it only pays part of pensions' promised benefits—not 100 percent as the bill proposes.

5. Pension Benefit Guaranty Corporation, *Data Book Listing*, "Table M-13: Plans, Participants and Funding of PBGC-Insured Plans by Funding Ratio (2013) Multiemployer Program," https://www.pbgc.gov/documents/2014-data-tables-final.pdf (accessed November 29, 2017).

6. The PBGC's multiemployer program insures against plan insolvency (its single-employer program insures against plan termination), so a plan does not need to be terminated to qualify for PBGC financial assistance. If a plan cannot meet its obligations, the PBGC will provide it with loans to the plan to make its PBGC-insured benefit payments while the plan itself remains in operation. Those loans are not expected to be repaid. See John J. Topoleski, "Pension Benefit Guaranty Corporation (PBGC): A Primer, November 3, 2016, Congressional Research Service, https://fas.org/sgp/crs/misc/95-118.pdf (accessed November 29, 2017).

The Butch Lewis Act would eviscerate this setup, effectively turning the Pension *Benefit* Guaranty Corporation into the Pension *Bailout* Guaranty Corporation. Instead of providing limited pension insurance, the bill would turn the PBGC into a taxpayer-financed government bailout company, providing 100 percent of what private businesses and unions promise but fail to pay their workers.

Many of the plans that would receive funds have been deemed "critical and declining," meaning that they have no chance of becoming solvent. Loans would also go to plans that are closed to new participants, meaning that they have no new revenue coming in. Providing subsidized, taxpayer-backed loans to these closed plans is equivalent to offering loans to bankrupt individuals who have no job (or job prospects). Not only do they have massive debts, they also have no way to earn money to pay back a loan.

Guaranteed Bailouts Make Private Pensions Even More Reckless

The Butch Lewis Act would establish a prime case of moral hazard. That is, by guaranteeing that workers will receive 100 percent of the pension benefits they were promised, unions will make more unsustainable pension promises, knowing that they will not actually have to stand behind them. In fact, companies that do not engage in such reckless pension promises could suffer a competitive disadvantage. If a union and its employers negotiate a sustainable pension plan and set aside the necessary funds to make good on their promises, they will either have to pay their workers lower wages or promise them smaller pensions than their competitors who take advantage of the government's pension bailout guarantee.

Bailing out private pensions could prop up otherwise dying companies and sectors of the economy while undermining and threatening the existence of more viable, responsible, and competitive ones. Perverse government interference like this in the private market would be destructive for the entire U.S. economy—companies, workers, and taxpayers alike.

Private Union Pensions Are Only the First Step in Pension Bailouts

The Butch Lewis Act would open the door to bailing out multiemployer pensions' roughly $600 billion in unfunded promises. Yet multiemployer pensions represent only one part of unfunded pension promises across the U.S. The other unfunded pension problem comes from state and local government pension promises.

State and local governments have promised an estimated $5.6 trillion more in pension benefits than they have set aside to pay.[7] Although taxpayers who live in those states and localities back these promises (in theory), some unfunded pension promises are so large that they have and will effectively bankrupt those state and local governments. Former governor of Illinois Pat Quinn proposed a federal guarantee of Illinois' unfunded pension promises. If the federal government bails out private-sector union pensions, it will signal to state and local governments that it may also bail out their pensions. If state and local governments believe a federal bailout is an option for their massive unfunded pension promises, they will have no incentive to take action to fix their more than $5 trillion pension problem on their own through rational pension reforms and curbing other government spending.

Alternatives to Taxpayer Bailouts for Troubled Private Pension Plans

Instead of providing multiple layers of bailouts, and setting a destructive and expensive precedent that could lead to multi-trillion-dollar, taxpayer-backed pension bailouts, Congress can take the following steps to help protect pensioners who stand to lose a large portion of their promised benefits.

- **End union pensions' preferential treatment**. Congress should end the preferential treatment it gives to multiemployer, union-run pension plans. For example, multiemployer plans should not be able to assume that they will earn whatever investment returns they want, because doing so allows them to contribute far less than is necessary to fully fund their promised benefits. Union plans should have to follow the same rules that Congress requires of non-union private-sector plans (single-employer plans).

- **Designate the PBGC to take over insolvent union plans, instead of giving them loans**.

7. American Legislative Exchange Council, "Unaccountable and Unaffordable 2016: Unfunded Public Pension Liabilities Near $5.6 Trillion," October 13, 2016, https://www.alec.org/publication/pensiondebt2016/ (accessed November 27, 2017).

When single-employer plans fail, the PBGC takes them over and pays PBGC-guaranteed benefits. However, when multiemployer plans fail, the PBGC makes loans (which are never repaid) to the plan and pays its administrators—often the same ones that oversaw the plan's demise—to pay out PBGC-guaranteed benefits. By administering PBGC benefits itself, instead of paying failed plan administrators to do so, the PBGC could reduce its administrative costs; moreover, putting the jobs of the plan's administrators on the line would encourage union-run plans not to overpromise and underfund their benefits.

- **Prevent pension losses by reforming the PBGC's multiemployer program.** The PBGC's multiemployer program will run out of funds to pay insured benefits in 2025. At that point, incoming revenues will cover less than 10 percent of insured benefits. Congress needs to reform the PBGC so that it can provide its promised insurance protection *without* requiring a taxpayer bailout. This could be accomplished through a combination of premium increases, including variable-rate premiums, and amplified use of provisions in the Multiemployer Pension Reform Act of 2014.

- **Reject any form of pension bailout.** Never before in history has the federal government bailed out a private sector or state or local pension plan. If lawmakers open the door to $600 billion in bailouts for private-sector union pensions, they will open the floodgates to upwards of $5 trillion in bailouts for unfunded state and local government pensions.

By acting now to reform the PBGC's multiemployer program and to put into place rules that help ensure private-sector pensions can keep the promises they make, Congress can help protect pensioners without costing taxpayers a cent.

*—**Rachel Greszler** is Research Fellow in Budget, Economics, and Entitlements in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, at The Heritage Foundation.*