

SERVICE EMPLOYEES PENSION FUND OF UPSTATE NEW YORK

Notice of Critical Status

This is to inform you that on March 31, 2010, the plan actuary of the Service Employees Pension Fund of Upstate New York (“Plan”) certified to the U.S. Department of the Treasury and to the Plan Board of Trustees that the Plan is in critical status for the plan year beginning January 1, 2010. Federal law requires that you receive this notice.

Critical Status

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Plan’s actuary has determined that over the next four years the Plan is projected to have an accumulated funding deficiency for the 2013 plan year.

Rehabilitation Plan

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. This is the second year the plan has been in critical status. The law permits pension plans to reduce, or even eliminate, benefits called “adjustable benefits” as part of a rehabilitation plan. In November of 2009, you were notified that adjustable benefits may be reduced or eliminated. If the trustees of the plan determine that further benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant’s basic benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after April 30, 2009.

The Trustees did adopt a Rehabilitation Plan (“RP”) in November of 2009. The RP described the actions to be taken by the Plan’s Trustees, and the benefit and contribution changes to be bargained by the bargaining parties, to achieve a timely emergence from critical status within the rehabilitation period required by law. As permitted by Section 205 of the Worker Retiree and Employer Recovery Act of 2008, the Trustees have elected to extend the Plan’s rehabilitation period by an additional three years. The Plan is required to update the RP annually.

Adjustable Benefits

The plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the pension plan may adopt:

- Post-retirement death benefits;
- Thirty-six-month payment guarantees;
- Disability benefits;
- Early retirement benefit or retirement type subsidy;
- Benefit payment options other than a qualified joint-and-survivor annuity (QJSA); and
- Recent benefit increases (i.e., occurring in the past 5 years).

Employer Surcharge

The law requires that all contributing employers pay to the Plan a surcharge to help correct the plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the plan under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the Plan is in critical status. The surcharge ceases to be effective for an employer upon reaching a collective bargaining agreement adopting one of the RP schedules.

Where to Get More Information

For more information about this Notice, you may contact Beth Barrett, Fund Manager, Service Employees Pension Fund of Upstate New York, P.O. Box 1240, Syracuse, New York 13201, (315) 424-1754. You have a right to receive a copy of the rehabilitation plan from the Plan.