

**NOTICE OF CRITICAL STATUS**

**SOFT DRINK AND BREWERY WORKERS UNION  
LOCAL 812 RETIREMENT FUND**

**To: All Participants, Beneficiaries, Contributing Employers and Union Representative of the Soft Drink and Brewery Workers Union, Local 812 Retirement Fund**

This is to inform you that on September 28, 2011, the Fund's actuary certified to the U.S. Department of the Treasury and also to the Soft Drink and Brewery Workers Union, Local 812 Retirement Fund, that the Fund is in critical status for the Plan Year beginning July 1, 2011. Federal law requires that you receive this notice.

**INTRODUCTION**

The Pension Protection Act ("Act"), signed into law in 2006, is intended to improve the financial condition of pension funds. The Act introduced several formal safeguards relating to funding, which, in simplest terms, is how much a pension plan has coming in, going out, and what is in reserve (or "in the bank") for future pension payments. The safeguards are intended to prevent future funding problems and correct those that have already developed.

The Act requires us to test the Fund annually to determine its official funding status. The federal law has adopted specific phrases to classify a fund's status at the time of the report. Funds that are labeled as "endangered," "seriously endangered" or "critical" must notify all fund participants, beneficiaries, unions, and contributing employers of the fund's status, as well as take corrective action to restore the fund's financial health.

**CRITICAL STATUS**

The Fund is considered to be in critical status as of July 1, 2011, because it has funding problems. More specifically, the Fund's actuary determined that the Plan is projected to have an accumulated funding deficiency for Plan Years beginning July 1, 2016. What this means is that by the 2016 Plan Year, contributions are not expected to be high enough to meet government standards for funding promised benefits plus those benefits that participants are currently earning.

**REHABILITATION PLAN AND REDUCTION IN BENEFITS**

The Act requires pension plans in critical status to adopt a rehabilitation plan designed to enable the Fund to improve its funded position so that, over time, it will be able to meet the statutory funding requirements. On May 26, 2011, the Trustees adopted a Rehabilitation Plan, which contains two Schedules of recommended contribution increases and possible reductions in benefits: a Preferred Schedule and a Default Schedule. Contributing employers must adopt a Schedule at the expiration of their current collective bargaining agreements. For collective bargaining agreements that were in effect when the Fund entered critical status, if a contributing

employer does not adopt a Schedule within 180 days of the date on which the collective bargaining agreement expired, the Default Schedule will be imposed on that employer.

Both the Preferred Schedule and the Default Schedule require contribution increases, and effective January 1, 2012, the Default Schedule requires a reduction in future benefit accruals and adjustable benefits. Please see the Notice of Important Changes for more information on the benefits eliminated under the Default Schedule.

Any reduction of adjustable benefits will not reduce the level of a participant's basic benefit payable at normal retirement such as a single life or qualified joint and survivor annuity. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 28, 2010. But you should know that whether or not the Fund reduces adjustable benefits in the future, effective October 28, 2010, the Fund is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status.

#### **EMPLOYER SURCHARGE**

The Act requires that all contributing employers pay to the Fund a surcharge to bring the Fund into compliance with the Act's funding rules. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Fund 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 year thereafter in which the Fund is in critical status.

#### **WHAT'S NEXT**

We understand that legally required notices like this one can create concern about the Fund's future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Fund. With the assistance of the Fund's actuary, counsel and other professionals, and working with the contributing employers and the Union, the Trustees have developed a rehabilitation plan that addresses these issues. As a final note, since the Fund is influenced by economic and financial variables beyond our control (such as market volatility and changes in employment and/or the number of contributing employers), unexpected developments can affect the funding status of the Fund and any future actions that may be needed.

For more information about this notice or the Fund, please contact the Fund Office in writing at the address listed at the top of this letter. Please note that you have a right to receive a copy of the rehabilitation plan from the Fund after the rehabilitation plan is adopted by the Trustees.

Sincerely,

The Board of Trustees  
Date: October 28, 2011

*As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.*