



I.B.E.W. Local 43 and Electrical Contractors Trust Funds
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Notice of Critical Status

International Brotherhood of Electrical Workers Local 43 and Electrical Contractors Pension Plan

To: Participants, Beneficiaries, Contributing Employers and Union Officers.

This is to inform you that on September 28, 2010, as required by federal law, the actuary for the International Brotherhood of Electrical Workers Local 43 and Electrical Contractors Pension Plan (the “Fund”) certified to the U.S. Department of the Treasury and to the Board of Trustees that the Fund is in critical status for the Plan Year beginning July 1, 2010. That same 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 and added notification requirements for Trustees to share more information about a fund’s financial circumstances with participants, contributing employers, and others directly related to the pension plan. Many of the Act’s safeguards relate 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 obligations. 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 and these have come to be identified with a “color code.” Funds that are labeled as “seriously endangered” or “endangered” status (commonly known as yellow zone) or “critical” status (or, red zone) 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.

Fund’s Status – Red Zone

The Fund is in critical status (red zone) as of July 1, 2010, based on the actuary’s determination that the Fund is projected to have an accumulated funding deficiency within four years. What this means is that by the 2013 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 Possibility of Reduction in Benefits

The Act requires that a fund in the red zone adopt a Rehabilitation Plan designed to improve its funded position so that, over time, it will be able to meet the statutory funding requirements. The Trustees are currently developing the Rehabilitation Plan and will be finalizing it in the near future and will be sending a summary of it to you afterwards. It is anticipated the Rehabilitation Plan will have two “schedules.” The first schedule will be the “preferred schedule” that the Trustees will recommend the bargaining parties adopt. The “preferred schedule” would not likely make any changes to the current Plan benefits. The second schedule will be the “default schedule.” The “default schedule” will likely eliminate of certain death benefits, along with disability benefits and makes changes to the early retirement benefit provisions. Both schedules include the future contribution rate increases that are required to enable the Plan to emerge from critical status within the statutory timeframe contemplated by the Act.

In addition, while not currently being considered by the Trustees, under the Act, a Rehabilitation Plan may eliminate or reduce “adjustable benefits.” Adjustable benefits include:

- Plan benefits, rights, and features, including pre-retirement death benefits (other than qualified joint and survivor annuities), optional forms including the 10-year certain guarantee, and similar benefits; and
- Early retirement benefits or retirement-type subsidies.

The level of benefits you have already earned that are payable at normal retirement age as a single life or qualified joint and survivor annuity cannot and will not be reduced under the Act’s rules.

Benefit Restrictions

Due to the critical status certification, effective on the date of this notice the Fund is not permitted to allow participants to select the Social Security Level Income Option or any other payment in excess of the monthly amount paid under a single life annuity (except for the payout of benefits with a value that is less than \$5000). These restrictions apply while the Plan is in critical status.

Employer Surcharge

Just as the PPA will not permit payment of certain benefits while the Plan is in critical status, it likewise imposes obligations upon the contributing employers. Thus, the law requires that all contributing employers pay to the Fund a surcharge to help correct the Fund's financial situation, beginning 30 days after the employer is notified that the plan is in critical status and until the Trustees have adopted the Rehabilitation Plan and one of the “schedules” is adopted by the bargaining parties.

If applicable, the surcharge is a percentage of the employer’s negotiated contribution rate. A 5% surcharge is applicable in the first Plan Year in critical status. The surcharge goes up to 10% for each succeeding Plan Year in which the Fund is in critical status, until the employer agrees to a collective bargaining agreement that implements one of the schedules in the Rehabilitation Plan. These surcharges are separate requirements and are in addition to the obligation of the contributing employers to pay their regular contributions and their share of accumulated funding deficiencies.

The surcharge amount is required to be paid in a separate check made payable to the International Brotherhood of Electrical Workers Local 43 and Electrical Contractors Pension Fund, with the notation "surcharge." These surcharges will be disregarded in determining benefits and potential employer withdrawal liability allocations, as required by the law. However, they will be reflected in the determination of the annual payment for any withdrawal liability allocation.

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 are finalizing the development of a Rehabilitation Plan that addresses these issues. You should know that the future contribution increases included in the Rehabilitation Plan's anticipated "preferred schedule", will improve the Fund's financial condition, and help to secure your pensions. 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 Fund's status and any future corrective actions needed.

For more information about this notice or the Fund, you may contact the Fund Office at the address or phone number listed at the top of this letter.

Sincerely,

The Board of Trustees
Date: October 2010

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