

## **Notice of Critical Status for The Laborers' District Council of Western Pennsylvania Pension Fund**

This is to inform you that on March 31, 2010 the Pension Fund Benefit Plan actuary certified to the U.S. Department of the Treasury, and also to the plan sponsor, 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**

A plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Pension Plan's actuary determined that the Plan is projected to have an accumulated funding deficiency for the current plan year.

### **REHABILITATION PLAN AND POSSIBILITY OF REDUCTION IN BENEFITS**

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the Trustees of the Plan determine that 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 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, 2010. But, you should know that whether or not the Plan reduces adjustable benefits in the future, effective as of April 30, 2010, the Plan 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.

### **ADJUSTABLE BENEFITS**

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

- Post-retirement death benefits;
- Disability benefits (if not yet in pay status);
- Early retirement benefit or retirement-type subsidy;
- Benefit payment options other than a qualified joint-and survivor annuity.

### **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 ends when the Union and the employer enter into a collective bargaining understanding that includes terms consistent with a Rehabilitation Plan adopted by the Trustees.

### **WHERE TO GET MORE INFORMATION**

For more information about this Notice, you may contact the Fund Office at Forbes-Pride Building, 1425 Forbes Avenue, Pittsburgh, PA 15219, or call 412-263-0900 in Pittsburgh, or 1-800-242-2538 in other areas. You have a right to receive a copy of the Rehabilitation Plan from the Plan.



# Laborers COMBINED FUNDS OF WESTERN PENNSYLVANIA

*Serving the Laborers' District Council of Western Pennsylvania  
Pension Fund, Welfare Fund and other affiliated Funds*

FORBES-PRIDE BUILDING • 1425 FORBES AVENUE • PITTSBURGH, PENNSYLVANIA 15219-5140  
PHONE: 1-412-263-0900

## LABORERS' DISTRICT COUNCIL OF WESTERN PENNSYLVANIA PENSION FUND

TO: Collective Bargaining Representatives and Participating Employers  
FROM: The Board of Trustees of the Laborers' District Council of  
Western Pennsylvania Pension Fund  
DATE: April 29, 2010  
RE: Annual Funding Notice for 2009 and Notice of Critical Status for 2010

The Pension Protection Act of 2006 ("PPA") amended Federal laws governing the funding requirements for pension plans like the one maintained by the Laborers' District Council of Western Pennsylvania Pension Fund. These new funding requirements first took effect in 2008, and the PPA requires, among other things, that the Fund now send out additional information describing the Fund's funding status under new PPA funding requirements.

The PPA requires that the Fund's actuary annually issue a certification to the Secretary of the Treasury and to the Fund's Board of Trustees evaluating the Fund's long-term ability to meet its minimum funding requirements under the PPA. If the actuary certifies that the Fund is either "endangered," "seriously endangered," or in "critical status," as those terms are specifically defined under the PPA, the Fund must provide the parties with notices of the actuary's certification of that status.

The enclosed Notice of Critical Status states that on March 31, 2010, the Fund's actuary certified that the Fund is in critical status for the 2010 Plan Year. Critical status is defined very specifically under the PPA and can be triggered by the results of any one of several different calculations that the Fund's actuary must perform, projecting the Fund's assets, liabilities, and funding over the next ten years. The 2010 Plan Year is the first year the Fund has been placed in critical status.

As indicated in the enclosed Notice of Critical Status, when a pension plan is determined to be in a critical status, the plan's board of trustees must develop a strategy, known as a rehabilitation plan, including benefit and contribution changes designed to restore the financial health of the plan and get it out of the critical status within ten years. The deadline for the Pension Fund's Trustees to develop such rehabilitation plan this year is late November, 2010.

However, under the PPA, thirty days after receipt of the enclosed Notice of Critical Status, the PPA requires an employer to pay a surcharge of 5% of all pension contributions due during the 2010 Plan year, and 10% each succeeding Plan year the Plan is in critical status, until the employer agrees to adopt the terms of the rehabilitation plan, including increased contributions, into its collective bargaining agreement with the Union. In order to avoid such surcharges for all participating employers, The Board of Trustees is working on a rehabilitation plan which would provide for benefit changes, but no employer contributions increases in 2010, other than those previously negotiated. If employers adopt the terms of that rehabilitation plan prior to May 30, 2010, they will not be subject to the surcharges. The Trustees understand that in 2011, and in negotiating new collective bargaining agreements with participating employers in the future under the rehabilitation plan, the Union hopes to work out arrangements to allocate the additional contributions needed within the total economic package on which the parties may ultimately agree, to eliminate the threat of surcharges, and comply with the Fund's rehabilitation plan. Thus, it is anticipated that the Union will be in touch with all employers prior to May 30, 2010 to discuss arrangements to enter into addendums to the collective bargaining agreements which will adopt a Fund rehabilitation plan and avoid surcharges for employers.

Our Pension Fund, like numerous others, has gone into a critical status. PPA changes in the ways a Fund is required to measure its status and periods of very poor investment markets since 2000, particularly in 2008, have combined to cause this situation. Pending Federal legislation may provide some limited help to the Fund, participants, beneficiaries, employers and the Union in addressing this situation, but the actuarial determination of critical status, and the need for a rehabilitation plan in 2010, cannot be avoided. The Trustees are committed to taking all reasonable actions to improve the financial standing of the Fund, and get it out of the critical status.

Sincerely,

The Board of Trustees

**For Calls Made in Pennsylvania but Outside Metropolitan Pittsburgh, Use Toll Free Number: 1-800-242-2538**

**FAX NUMBERS: Benefits Dept. - 1-412-263-2813 • Reports Dept. - 1-412-263-2825 • Administrative Dept. - 1-412-263-2084**

Website: [www.lcfowpa.com](http://www.lcfowpa.com)





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PHONE: 1-412-263-0900

April 29, 2010

Dear Participants and Beneficiaries:

Enclosed are two Notices regarding the funding status of the Laborers' District Council of Western Pennsylvania Pension Fund ("Fund"). The Notices are being sent to you as required by the Pension Protection Act of 2006 ("PPA"). The Notices may be hard to understand – unfortunately, the Pension Fund is required to issue these Notices using language terms required by the PPA. We want to try to explain these matters to you in a clearer way.

**NEW LEGAL REQUIREMENTS AND PROCEDURES.** The PPA imposes new rules and procedures regarding the funding status of defined benefit pension plans like the Fund. One of the changes made by the PPA is the creation of "zones" to describe the funding status of multiemployer pension funds. Different rules will apply to a pension fund depending on the zone into which it falls. Each year the actuaries for plans like ours have to calculate the funding status of the plan, and then certify that status to the fund's board of trustees and the Federal government. The actuary for our Fund has certified that the Fund is in critical status for the 2010 Plan Year.

**INFORMATION FOR THOSE WHO ARE ALREADY RETIRED AND RECEIVING MONTHLY PENSION BENEFITS.** If you are already receiving monthly pension benefits from the Fund as a retiree or beneficiary, the information in the enclosed Notice of Critical Status on adjustable benefits is not applicable to you. In other words, if you are currently receiving a monthly retirement benefit from the Fund, your monthly benefit will not change as a result of this Notice.

**INFORMATION FOR THOSE WHO HAVE NOT YET RETIRED.** If you are not currently receiving monthly pension benefits from the Fund, it is important for you to understand how this situation may affect the benefits for which you may be eligible. The Trustees are required by Federal law to design a new funding program, known as a rehabilitation plan. Such rehabilitation plan details are then submitted to the Union and employers that participate in the Fund and they must adopt such rehabilitation plan arrangements when they renegotiate their collective bargaining agreements. Any benefit changes, if they occur, would be the result of collective bargaining, except as explained below.

**CHANGES REQUIRED BY THE PENSION PROTECTION ACT OF 2006.** While the Plan is in critical status, except for certain retroactive payments, the PPA prohibits the Plan from paying any benefits after April 30, 2010 in the form of a lump sum, or other payments in excess of the monthly pension amount payable in the form of a single life annuity. This prohibition on the payment of lump sums will continue as long as the Fund is in a critical status. As the Trustees develop new funding plans, including increased employer contributions and benefit changes, and they are adopted by the Union and participating employers, you will receive information about such changes before they are put into effect. Also, the Trustees will continually monitor the financial status of the Pension Fund and get annual reports and reviews from the actuaries. We will be diligent in seeking opportunities to restore all benefit options and implement improvements when the Fund's financial condition will permit such changes.

**THE COMMITMENTS OF THE TRUSTEES.** The Trustees will address these problems head-on. We intend to take all prudent steps necessary to get the Plan out of a critical status, and to assure it is in the best possible financial condition. That way, we can consider a brighter future, and opportunities to improve benefits for all participants.

**INFORMATION AND QUESTIONS.** Please read the attached Notices carefully. If you have any questions regarding this letter or the enclosed Notices, please contact the Fund Office, located at Forbes-Pride Building, 1425 Forbes Avenue, Pittsburgh, PA 15219. The telephone number in Pittsburgh is 412-263-0900, and in other areas the number is 1-800-242-2538. More information about benefits and the Pension Fund's rehabilitation plans will be sent to you as they are developed and implemented.

Sincerely,

The Board of Trustees

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