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Multiemployer Pension Plan Topics

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Moderator: DOUGLAS C. BORTON
Panelists: PAUL ANGELO
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BARTHUS J. PRIEN
Recorder: DOUGLAS C. BORTON

Summary: Panelists focus on the basic structure of multiemployer plans, including the interface of the collective bargaining environment and the operations of the plan and trust under the Taft-Hartley Act. The current issues unique to actuaries practicing in the multiemployer pension plan area from the perspective of the union employer, and employee is discussed, as well as their importance in the private sector plans.

With many years of experience, and 20-20 hindsight, the panel discusses how actuaries today would rewrite the provisions of the Multiemployer Pension Plan Amendment Act and subsequent related legislation and regulation.

Mr. Douglas C. Borton: We've been able to recruit an outstanding panel for our meeting. All of our panelists are from sunny California, but to add a little balance, your moderator is from New Jersey.

The purpose of this session is to provide insight into the basic structure of multiemployer plans, to talk about current issues from the viewpoint of unions, employers and employees, and to assess the importance of multiemployer plans on the private sector. We also will discuss how the Multiemployer Pension Plan Amendments Act (MEPPAA) and subsequent related legislation might be rewritten by actuaries if we had the benefit of 20/20 hindsight.

To get a little flavor of the group here: How many work primarily on multiemployer plans? (Show of a few hands.) Rather a small part. Do those of you who raised your hands spend most of your time on multiemployer plans? Very few. It looks like most of the audience doesn't know very much about multiemployer plans. I'm sure that we'll all learn a lot.

Our first speaker is Daniel F. McGinn. Dan is president of McGinn Actuaries Limited in Anaheim, California. He's a former managing director of William M. Mercer. Prior to joining Mercer in 1986, Mr. McGinn was the principal owner and founder of McGinn Associates, an actuarial firm that also was located in Anaheim. Dan has been providing consulting actuarial services, mainly for multiemployer plans, for more than 30 years. Dan has the usual professional affiliations. He's an FSA and a former member of the SOA Board of Governors, as well as a Member of the American Academy of Actuaries and a Fellow and former director of the Conference of Consulting Actuaries. Dan has been active in the International Foundation of Employee Benefit Plans and is a former Director and Treasurer of the Actuarial Education and Research Fund. He also is a member of the International Association of Consulting Actuaries and the Actuarial Club of the Pacific States. He's also an Enrolled Actuary.

Dan has testified on pension matters before both houses of Congress. In addition, he has authored six textbooks on retirement plans and has published more articles then you can count. Dan is a frequent speaker on the subject of pension plans. He publishes a newsletter, *The McGinn Forum*, which comes out as the spirit moves him. I don't know how he gets all the wonderful ideas he writes about in this newsletter. Dan graduated cum laude from Holy Cross College. He will give us an overview of the topics that we're going to be talking about.

Mr. Daniel F. McGinn: When I looked at the agenda for this meeting, I was overwhelmed. It seemed like we were going to cover many difficult and complex topics.

First, according to the session outline, we're scheduled to cover the structure and framework of multiemployer plans, the interplay of plan and trust rules with Collective Bargaining Agreements (CBAs), issues faced by multiemployer plans and the effects of those issues on private sector plans. We’ll finish up with what I call an actuary's wish list.

As far as structure is concerned, you probably know that it all began with the Taft-Hartley Act, the "Labor Management Relations Act of 1947," in which Congress gave unions and employers the opportunity to negotiate and set up employee benefit programs. The programs they could establish were consisted of jointly managed pension trust funds and multiemployer pension plans.

The vehicle by which these plans are established is usually a CBA, a written document whereby the employer agrees to the establishment of the plan, to make contributions to it, and usually to name the trustees that represent the employers. Naturally, the union names the union representatives. We wind up with a joint board of trustees, which is a unique type of organization. You have equal representatives of both employers and the union who don't always agree on things. The trustees collect contributions, arrange for their investment, and ultimately pay the benefits. The terms of the CBA are the vehicle by which the actuary estimates, based on the data given to him, the stream of contributions that is going to be received by the trust fund to support the stream of benefit payments to be paid by the plan.

The trust agreement governs the operation of the plan. The trustees establish an investment policy, set up a funding policy, retain advisors, and so on. The service providers are the same old people that we're familiar with under other kinds of plans. There has to be an administrator, who usually is a third party administrator, who collects contributions, maintains records, pays benefits, and communicates with plan participants and to others.

The actuary for a multiemployer plan has a unique role. It's unlike the corporate role, in which the actuary is hired by the employer. The actuary is retained on behalf of the plan participants. He has to satisfy the labor trustees who will point him in one direction and the employer trustees who will point him in another. Thus he winds up walking a tight rope and has a very peculiar and difficult job. While helping design the plan, checking its experience, and advising the trustees as to its continuance, he must satisfy both sides of a board of trustees.

The attorney drafts the documents and does everything else of a legal nature in connection with the plan. Likewise, the auditor makes sure that the financial statements are in conformity with accepted accounting principles. The investment manager or managers manage the funds under the investment policy of the trustees.

One of the most important single things is the interplay between the CBAs and plan trust operations in maintaining actuarial soundness. This is one of the areas where multiemployer plans differ dramatically from single employer plans. You have a fixed stream of contributions that is intended to support a stream of ultimate benefit payments. Thus the variable that the actuary has to work with tends to be the amortization period of the accrued liabilities.

These conditions apply whether you're talking about the initial participants in the plan, groups who enter the plan through a merger, or new employers joining the plan.

The CBAs are supposed to be accepted by a board of trustees in a manner so that everybody is treated with some form of equality. If you have a single industry plan, it's one thing. But if you have a plan that covers multiple industries with different kinds of employees with different characteristics, the actuary has more of a job on his hands. He has to devise a scheme to maintain equality among all the diverse groups, which might include truckers, warehousemen, construction workers and retail clerks. In my opinion, a single industry plan is the easiest plan from the point of view of the actuary, but it's also one of the most dangerous because the industry can shrink, it can fail, or its characteristics can change and become very different from what the actuary anticipated.

The problems of mergers and new employee groups are basically about the same in my viewpoint. The actuary’s responsibility to the trustees is to find a way for new groups to come into the plan without destroying the age, service and benefit profile of the entire group. If these groups increase the overall age or service, or both, as compared to the existing group, it is financially detrimental to the plan as a whole.

I'm not sure if everyone here who specializes in multiemployer plans serves a trust that has rules governing the acceptability of CBAs. I was wondering if your plans have any kind of formal rules governing the acceptability of agreements, or do the trustees review agreements one at a time? Does anybody have any comments?

From The Floor: The trust I'm involved with has established a set of guidelines to consider new CBAs before the trustees approve them. What do you think of this approach?

Mr. McGinn: The group has some rules in effect, but they're almost like unwritten rules because the trustees review every case as it comes in. That's fine if you have a fairly small group of contributing employees. But if you have a large group of contributing employees, you really need something more formal so the administrative office can carry out the evaluation of whether or not the group is acceptable. At least that has been my experience.

If you don't have some kind of rules governing the acceptability of CBAs or their renewal, the various contribution screens that the actuary has anticipated might be diluted over time. Employers might decrease their contributions upon renewal or bring in different kinds of employees, perhaps by changing the basic group they're covering by leasing employees and making no contributions on those leased employees. This could progressively change the composition of the covered group.

There are other ways in which the contributing employers can affect the actuary's projected contribution stream. A condition to be avoided could involve a situation where there is a wide group of people covered by the plan, but the CBA suddenly says that it is going to make contributions only for people who are age 25 and older, although everyone over age 18 is going to earn benefit credits (or maybe everybody is going to earn benefit credits). There could be other kinds of rules. For example, the average number of hours worked by a group might be 2,000 hours a year, but they might restrict the contributions to 1,500 hours a year. The principal reason it's important to avoid these conditions is that they differ from what the actuary had originally anticipated in his calculations. Let's say the actuary had anticipated that the group, on the average, would have 2,000 hours or 1,800 hours of contributions. Through the collective bargaining process, if the employers and the unions are able to reduce that there would be an adverse financial effect on the stream of contributions and the long-term funding of the plan.

In my view, the most important aspect of multiemployer plans are the unfunded vested benefit liabilities (UVBLs) and the corresponding employer withdrawal liability assessments. In my view, as long as you have these, you say to employers, who are not a party to the plan, ″If you join us, you take on a risk that you don't have now.″ Consequently, the existence of UVBLs and withdrawal liabilities has a very negative influence on getting new employers to join a plan. Most employers will not join a plan unless they are convinced that the trustees have a policy of rapid and full funding of a plan that is structured so contributions and benefit accruals are linked very closely to ensure that there will be no sudden increases in UVBLs.

It's important from the point of view of the union, because as long as there are withdrawal liabilities and UVBLs, the union leadership can't do a very good job of getting new employers to join the plan. With a fully funded plan and a funding policy that is strong, rigorous and adhered to by the trustees, the union leadership sees ways of getting employers to join the plan and existing employers to increase contributions, thereby helping to improve benefits for the existing participants.

The employer contribution base is going to decline no matter what anyone does, simply because employers go out of business, go bankrupt and all kinds of other things happen. That's why it is important to constantly be finding a way to add new employers to the group to maintain the stable population, which really underlies the actuarial assumptions.

From the point of view of participants, it's important because the absence of UVBLs means that the benefits they've earned to date are basically fully funded. They have a good chance of getting increases in benefits because employers won't be hesitant about making contributions. If, for example, they are anxious to have better early retirement provisions, employers might be willing to negotiate higher contributions to provide subsidized early retirement benefits.

I see 401(k) plans, or 401(k) type plans, or something like cash-balance plans as plans of the future for multiemployer plans. I do not see them as the primary plan but as a supplemental plan. Young people don't understand a traditional pension plan. They want to have their own account, to see contributions and investment income credited to that account, and to receive annual reports of their account balances. I think it's inevitable that the pressure will build up. In fact, it has already built up in some instances.

I see these as not replacing traditional plans, but as ways in which union leadership could find a tool that would attract young people, and make the young people feel confident that they're being looked after.

I dreamt about what actuaries might have done as lobbyists in the early 1970s to avoid some of the messes that have come about since the enactment of ERISA and MEPPAA. For so-called plan termination insurance, we've seen the disaster there for small single employer plans. I believe hundreds of thousands of these plans have been terminated simply to get out from underneath the morass of rules, regulations, and administrative and other costs associated with them. I think it would have been wise if actuaries had been willing to talk about the impossibility of measuring the probabilities of plan termination that are needed to price out anything called plan termination insurance. They're not reinsuring plans, they're really insuring the continuity of the employer who sponsors the plan. I think plan termination insurance is a misnomer, but a politically catchy phrase that led a lot of people—especially those in government—-down the primrose path. They think they're really doing something by telling people they're protecting their benefits. But it's easy to protect benefits that an employee doesn't have. Most young people don't have a defined-benefit plan unless they work for a major corporation.

I wish that actuaries, through the American Academy of Actuaries, could have tried to teach something about the concepts of insurance. You have to have random numbers. You can't provide insurance where the corporations often can control profitability, decide to become bankrupt, or manipulate net profit.

Before the enactment of MEPPAA in 1980, it would have been helpful if actuaries had been able to convince Congress about the undesirable effect of assessments of employer withdrawal liabilities. I was part of a group made up of representatives of major insurance companies and consulting firms who met with the technical advisors to the Congress. A major official of the IRS agreed that it was unfeasible to have plan termination insurance for multiemployer plans. By the end of the day, the conclusion was that we believe you and we think you're right, but we're going to have it anyway, because politically it's impossible not to have so-called plan termination insurance for multiemployer plans. When you look at the insured benefit, it's minuscule—-something like a maximum monthly pension of $5 a month plus, 75% of the next $15 per year of service up to 30 years. That may have been significant in 1980, but 19 years later, it's ridiculous. Still, to the extent that employers have UVBL, they're being assessed, although the insured pension is a dribble.

It would have made a lot of sense if actuaries had lobbied to grant tax credits to employers who accelerate the funding of the benefits that are attributable to them. A tax credit, not a tax deduction, would be a powerful incentive for employers to increase their contributions to these plans.

If you had a plan that was very successful and was showing progress in funding, Congress could have allowed, say, a five-year period, to check on the funding progress of a plan after an employer withdrew. If funding progress continued, then the plan would not be assessed.

The other thing would be to limit withdrawal liability assessments to those liabilities created for people covered by a plan after the enactment of ERISA. To the extent that you had unfunded liabilities that existed before ERISA was passed, over which employers had essentially no control whatsoever, it seems inequitable for those employers to be hit with withdrawal liability assessments. That is another idea that actuaries might have pushed.

Here are some of the positive signs. After all these years, the surviving multiemployer plans, at least the ones that we're serving, are stronger then ever. There are no UVBLs, thank goodness. One or more of them have actually proven to be magnets for employer plans for unionized employees. These multiemployer plans have been a magnet because they have a rigorous funding policy that protects the plan structure and effectively prohibits UVBLs and assessments of withdrawal liabilities. At the same time, the groups that join, eliminate PBGC risk premiums and cut their base premiums, as well as reduce their administrative expenses.

Multiemployer plans have survived, and it seems to me that most of them are thriving. This is not just because of the very favorable investment performance in the last few years. I think employer trustees have become active and aggressive, and rigorous funding standards have been established for the plans I'm familiar with. This has been to the benefit of everybody. I see future growth by means of 401(k) or cash balance type supplementary plans where benefits are fully funded as the contributions roll in.

Mr. Robert A. Berk: If you have a money purchase, a 401(k), or similar type of plan, would you allow employees to withdraw their money once they left the industry?

Mr. McGinn: Those are questions I can't answer. It really depends on the attitude of the trustees. I see a successful plan like that somehow or other having to allow employees to withdraw their funds, perhaps at least on an initial basis, transferring funds to an IRA arrangement.

Mr. Borton: Thank you very much Dan, I found your presentation very interesting. It's always nice to try to rewrite history.

Our next California speaker is Paul Angelo, vice president and actuary with The Segal Company, since February 1998. His responsibilities include actuarial consulting to multiemployer plans as well as public sector systems. He serves as the manager of the actuarial department in Segal's San Francisco office. Paul has 20 years of experience as a consulting actuary. He's a frequent speaker at retirement system conferences and the annual EA meeting. He holds a bachelor of science degree from Notre Dame and a master of science degree from Harvard University, as well as a master of actuarial science degree from the University of Michigan Graduate School of Business Administration. So Paul obviously is well qualified academically. He's an FSA, an Enrolled Actuary, a Member of the Academy, and a Fellow of the Conference. He just told me he has been elected to be a member of the Pension Section Council of the Society. I'm sure he'll make a positive contribution.

Mr. Paul Angelo: I'll be talking about three things that we're seeing in our West Coast practice in multiemployer plans. The first will be percentage of contribution formulas, which differ from the more traditional flat-dollar benefit type of formula that you normally associate with a multiemployer plan. I'll then cover some deductibility developments and court decisions in this area. Finally, I'll talk a little bit about some recently deceased legislative possibilities.

The first topic is percentage of contribution plans. We have found in The Segal Company many times that an idea that showed up on the West Coast eventually finds its way East after a lag of several years. These percentage of contribution plans follow that pattern. In our office, where we serve about 85 multiemployer plans, well over two-thirds of them are on the percentage of contribution type formula, whereas in our Midwestern and Eastern Regions, there is still a majority of traditional flat benefit plans.

The last flat-dollar plan I worked on had a relatively low benefit of $29 a month per year of service. There would be a certain number of hours you would have to work in a given year to accrue a full year of service. If you worked any hours above that threshold, it would not increase your benefits unless the plan would let you accrue more then one year of service in a year. However, generally, you would max out on hours. You also could have a problem where you had multiple CBAs in the plan. If you had employers contributing at different dollar amounts, but everybody got the same flat benefit, it was viewed as being unfair. Therefore, a lot of plans would say that if your employer is contributing $2.50, then you get a $40 benefit. If they're contributing more then that, we'll do some sort of ratio on the $40 benefit. In this way, they would adjust the flat-dollar formula to take into account multiple contribution levels from different employers.

Similarly, any time you got an increase in the contribution rate, and if the negotiated contribution rate would not be sufficient in and of itself to increase the benefit, you would have to negotiate both. You'd have to negotiate a higher contribution, and based on an actuarial study, negotiate a higher benefit to go with it. The percentage of contribution plan formula addresses all three of these features automatically.

The typical benefit is described as a percentage of contributions, but you have to do a little shift between monthly and annual. The contribution, which I tend to think of as being made on an annual basis, is multiplied by a percentage that gives you the monthly retirement benefit. Obviously if you wanted to use a percentage that was 12 times as big, you could call it the annual benefit. But the arithmetic seems to work out in manageable quantities if you talk about annual contributions and monthly benefits. The typical benefit rates that we see—at least for future service—are somewhere between 2% to 3.5%. That's not a hard range; some are higher than that. We will talk later, in some detail, about what happens if this rate starts to get too high. The key actuarial throttle that really defines the mechanics of these plans is this benefit rate. What we see in a lot of our plans on the West Coast, where all of our plans are overfunded, is a higher percentage of contribution benefit rate applying to prior service and a lower rate applying to ongoing service.

For example, let's say you have a 3% benefit rate. The employer has negotiated a $2 per hour contribution, and the average employee works a 1,500-hour year. If you think in terms of the traditional flat dollar plan, what you have is a $90 a month per year of service benefit, or 3% times $2 times 1,500 hours. But the key here is that if a person works more than 1,500 hours, he will automatically get a benefit larger than $90 or a lower benefit if he works less than 1,500 hours. Similarly, as I mentioned earlier, when you have different employers or different contribution rates, if you have a contribution of $3 per hour and 1,500 hours worked, you'll get a $135 monthly benefit for that year of service. Now you can have this benefit rate vary by year. There are a lot of flat-dollar plans that say that years of service from 1980 to 1985 are worth $60, and then from 1985 to 1990, they are worth $70. They increase the flat dollar rate for future service but not for past service. The very same thing can happen here. The administrator keeps track of the contributions that are made each year and then applies the appropriate benefit rate for that year to calculate the person's benefit for his whole career.

Now there's a key actuarial juncture that is captured in this benefit percentage. For a given population and a given set of actuarial assumptions, there's a unique benefit percentage that will translate the contributions that are being made into a benefit whose normal cost can be sustained by those contributions. If you increase the benefit percentage, you increase the amount of benefits, which increases the normal cost. Since this would not increase the contribution, you'd go out of balance. So this is the statistic that the actuary has to keep a careful eye on. Our general experience, and I've had this confirmed by other speakers, is that if the benefit rate gets above 4%, you need to watch out. You need to take a careful look at the actual contributions coming in and at the normal cost that comes out of your valuation program to make sure that you don't have a long-term funding problem in which normal cost accrues faster than the contributions. Eventually, that will catch up with you no matter how well funded your plan is.

Let’s say we have a plan that's pretty well in balance, and it has a couple of great years of asset performance, so it starts to run into the full-funding limit. They're having deductibility problems. We have seen some plans increase benefits by increasing this benefit percentage, maybe from 3.5% to 4%, for all contributions backwards and forwards. Doing it backwards will solve their deductibility problem, or at least move in that direction. It will increase the liability for accrued benefits, which, depending on your funding method, can help you with your full-funding limit problem. But when they also increase the future benefit accrual rate their contributions may not be sufficient to support the future benefits. Even though they've solved the problem for the past, they have created a problem going forward.

Consequently, over half the plans that we serve now have what we call a stair-step or a porch benefit; this is where you have a larger benefit for prior service (maybe as high as 5% of contributions), and then it drops down to a lower percentage (in the 2% to 3.5% range) going forward. Then each year, when we do a valuation, if the plans have a deductibility problem or if their measurement of cost is lower than the contributions they're receiving, we extend that porch out for another year into the future. Ideally, if there's a constant stream of actuarial gains coming in, you'll be able to keep building that higher benefit forward. So everyone who retires gets the higher past benefit, but the plan’s commitment going forward is only to the lower rate of benefit and the corresponding lower rate of normal cost.

What happens if you have a normal cost that's greater than the contributions? First, eventually you will have a funding standard account problem. I mean that in the fullness of time, something will go wrong. In the old days, if you had a flat dollar benefit, say $60 per month per year of service, and because of losses or demographic changes you had contributions that were less than your normal cost, you would just increase the contributions. You would not change the level of benefit accrual, so now you have more money coming in to feed the same benefits and everybody is happy. That doesn't work here, because if you increase the contributions, and you don't do anything else, it goes right through into the benefits and the normal cost. You no longer have two separate dials: the benefit dial and the contribution dial. The two are linked together, like an etch-a-sketch kit. So if you are able to get your hands on more contributions, and that's a huge if, you would double the contribution, halve the benefit rate and then convince the members that they're still getting the same number of dollars of benefit. The benefit stream hasn't changed, but you've got more money. Now that's a delightful exercise for communication folks to try to pass on to the members. In a dire situation that is what you end up having to do. Dial up the contributions, dial down the benefit rate and hit a breakeven point.

Mr. Sherman B. Lieberman: The other thing you can do is just halve the contribution rate.

Mr. Angelo: It's the same thing, right? There's another way of looking at this. For example, we've had plans that had an additional contribution negotiated, and want to liberalize early retirement. Let's say they want to move the full benefits age from age 65 to age 60. If they get more contributions in, and we don't do something special, that additional contribution is going to increase the normal retirement benefit, and they're not going to have any new margin available to improve early retirement. So what we do is make the administration of the plan even more complicated by segregating the contribution. Suppose you were getting a $2.50 an hour contribution and are now getting a $3.00 contribution. Your benefit will still be 3% of contributions, but only on the first $2.50. The extra 50 cents is held out of the benefit accrual formula so that it can be used to fund an ancillary benefit like early retirement.

Mr. Paul Chow: What happens if you have a contribution rate of $5 an hour for one employer and 50 cents an hour for another employer? What do you do with equity on expenses?

Mr. Angelo: Loading for expenses in a multiemployer plan is a whole specialty of its own. We have found, first of all, that there's generally not that wide a range. The contribution rates won't go from 50 cents to $5. For most of our plans, we use an actual flat-dollar loading so I do not know of any plans we work on where the administrative office tries to apportion the expense of administration based on the level of benefit. If I understand your question, it's just as expensive to administer a 50-cent benefit as a $5 benefit. I think what we would do in most of our cases would not impact the methodology for setting the expense load. We just have to make sure that our method covers the expected expenses.

We are constantly having to take employers who are not in a growth industry. They can't look for any major changes going forward, but they have to do something to maintain the deductibility of contributions. What we've done primarily is to increase benefits for prior service. Another thing that we've seen done is to load the normal cost and liability by a percentage, so that when that is recovered, as the liability is released, a stream of non-money is produced that is equal to the level of contribution. You're going to pay some of those expenses out of accumulated assets, so you jack up your liabilities to help with your full-funding limit.

An issue that came up because of a general counsel memorandum probably five or six years ago concerns actual versus expected contributions. If you do your valuation and determine that the expected contributions are $1 million and the full-funding limit is $1.2 million, you tell your client he doesn’t have a problem, because you really believe that his contributions are all going to be deductible. But then there's an increase in the level of employment, and the level of contribution units goes way up the next year. Lo and behold, you get to the end of the year, and there are $1.5 million of contributions made, while your deductible limit is $1.2 million. Do you or do you not have a problem? The tax code says that if you are anticipating the variability in the level of contributions to the multiemployer plan, you don't have a problem. As long as your expected contributions are less than or equal to the maximum, even if your actual contributions come in above the maximum, they will still be deductible, as long as it's due to an increase in the number of contribution units. If you go out and negotiate a higher contribution rate, all of that margin is lost. This is what we were relying on with our clients. Now there's General Council Memorandum 39677, which generally disagrees. So now we put in our actuarial reports a standard disclaimer that says we believe that these contributions will be deductible, even if you have an increase in the number of units, but there is a contrary opinion out there. Then we refer the question to legal counsel.

Now here's a fun one. A creative employer has a single employer plan in addition to a multiemployer plan. The single employer actuary told them that any contributions you make up until your tax filing deadline will be deductible for the plan year. They said, ″That's a great idea. Why don't we do that with our multiemployer plan?″ What they did was take the first eight months of contributions in 1999, add those to the contributions for 1998, and deduct all 20 months in a single year. The eight–month period was within the company’s tax filing deadline for the 1998 year. As a result, they were going to get a one-time shift of eight months of contributions into a single year. Then they were going to maintain that going forward, so there would always be a lag between when the contributions were made and when they were deducted.

Both the ninth and tenth U.S. Circuit Courts upheld the tax court’s denial of this. They're very different decisions. One of them is about 30 pages long, and the other is about six pages long. Both decisions came to pretty much the same conclusion. They look at IRC Section 404(a)6. Section 404 has to do with deductibility, and the statement is made that the payment must be on account of such taxable year. You do get a little bit of accrued delay here. For example, typically contributions for the hours worked in December won’t be made until January. You can deduct those for the prior year.

There has been some talk out there that if you coordinate this practice with your minimum funding contributions and disclosure on Schedule B, there may be a way of getting around the court decisions. Again, call the lawyers.

I’m going to mention quickly that there was some multiemployer relief in the Taxpayer Refund and Relief Act of 1999. This is House Bill 2488 that had the multimillion-dollar tax break and was vetoed by the president. We mention these because they have already been passed by Congress, and you may be seeing them again. Most of these do not apply exclusively to multiemployer plans. There are increases in limits all over the place: 415, 401(a)17, and 401(k). There was some beefing up of the Section 204 notices for cutbacks in future accruals. There were also some increases in the full-funding deduction limits. You might have heard about a move in Section 415 to eliminate the 100% of pay limit for multiemployer plans. This is something that the public sector received in a recent tax bill and is something that the multiemployer industry has been working on for many, many years. It looked like they were actually going to get it this time, but there were two versions of the dollar limits. The Senate Bill said that the multiemployer plans would enjoy the same dollar limits that are currently enjoyed by the public sector and tax exempts. That's not the version that survived the conference committee. The conference committee went with the House version, which was to lower the full benefit age from the Social Security normal retirement age of 65, 66, or 67, and pull it back to age 62. Another aspect was to increase the amount of $160,000 and thereby also increase the amount at age 55 substantially to $96,000. I expect you may see some of these again.

Mr. Borton: We now come to our final speaker, Barthus J. Prien. Bart Prien earned a master’s degree in actuarial science at the University of Iowa. Then he served apprenticeship years in actuarial departments of various life insurance companies and my old employer, Buck Consultants. Upon becoming an FSA, Bart joined The Segal Company where he worked primarily on multiemployer plans for 12 years. He was stationed in the Los Angeles office as vice-president and actuary for the Western Region. In 1977, Bart was a co-founder of a new actuarial firm, Prien Associates, Incorporated where he has conducted a wide variety of consulting and actuarial assignments, many of which have been in the multiemployer area. In addition to being an FSA, Bart is a Fellow of the Conference of Consulting Actuaries, a member of the Academy, and an Enrolled Actuary. As a matter of interest, Bart did a major study of employee turnover in selected multiemployer plans, which is in *The Proceedings* of the Conference of Consulting Actuaries. More recently, he chaired a committee of the Society that published a study of pension plan turnover rate table construction. Over the past 25 years, Bart has served on the Society's Mortality Committee for noninsured pension plans, and that group will be distributing a new study later this month.

Mr. Barthus J. Prien: I will cover a couple of topics. The first is Pension Benefit Guarantee Corporation (PBGC) premiums. We've noted that the premium rate for multiemployer plans is only $2.60 per participant, whereas for single employer plans it's $19, and any unfunded accrued liability multiemployer plans have no premium, and the single employers pay $9 for each $1,000 of unfunded liability. Anyone could look at these rates and say how influential your multiemployer plan sponsors must be in political circles. How has the PBGC actuarially determined these premium rates? We believe strongly that the $2.60 premium is excessive. As mentioned earlier, the monthly benefit that's guaranteed is $5 per year of credit, plus 75% of benefit credit over $5 up to $15. That turns out to be a maximum of $12.50 per year of credited service. If it happens that the pension plan was not funded properly over the last ten years, according to the PBGC standards, then they're only guaranteeing $11.50 per year of credited service.

Now let's take an example to try to assess what the premium should be. In a plan that provides $30 a month per year of credited service, let's consider a man who has 25 years of service, an hourly wage of $25 and averages 1,800 hours of employment a year. It turns out in this situation that the PBGC guarantee is only a little over 8% of his final pay. Call that an income replacement ratio at age 65. If we assume that the cost of living is going to go up 3% a year, by the time he's 75, that income replacement ratio is down to 5%. By the time he's 85 years old, it's about 3%. I don't think that's adequate coverage.

There has been no change in the premium rate of $2.60 since 1988. Yet, every fifth year, the PBGC has to report to Congress the level of premium needed and make advice as to what it should be. They have some definitions. Available resources in a given year refers to whether the pension fund can adequately cover the benefits of that year. They have one other definition called, resources benefit level. That's the benefit for your credited service that the pension fund can support at a given point in time. I'll give you an example. Let's suppose the plan can support $10 a month per year of credited service, and the insured benefit is the $12.50 we decided upon earlier. The difference is only $2.50 per year of credited service. I have taken that amount and multiplied it by the premium that the PBGC could expect in a year. I've allowed 5% for expenses.

My source of information is a Segal study that covered 3.5 million people and 478 plans. This represents 40% of the multiemployer field. By extrapolating we conclude that there are about 8.75 million people in the United States covered under multiemployer plans. Therefore, PBGC's net premium after expenses would be approximately $21.6 million. Let's say we assume this insurance is only going to provide $1.50 per year of credited service life annuity starting at age 65. If we use what I think are reasonable assumptions—an average age of 40, eight years of credited service, 6% interest, and the 1983 Group Annuity Mortality Table, 50% male, 50% female—in any given year, all the premium that they gather in could take care of approximately 67,000 people. This is far more than I would expect to have to be paid in cash by the PBGC in a given year.

I assumed arbitrarily that they pay benefits to 10,000 people a year. If my guess is correct, the premium of $2.60 could be reduced to 39 cents. If the PBGC never reduced the premium, which has been its position for the last ten years, it would take in over $18 million of added surplus to its trust funds.

When we look at the financial condition of the multiemployer plans at this time, we find that the funding is quite good. The Segal study that was published in the pension plan guide earlier this year indicated that 96% of the plans in 1977 were fully funded. That included transportation, construction, entertainment, and so on. Is there a need for any PBGC premium under those conditions? Should this be examined by Congress, or should we, as actuaries, investigate and review the PBGC report to see what the facts are? With this very well-funded situation, largely because of the stock market, we find that multiemployer plans often pay out a 13th check, perhaps just before the Christmas holidays. That placates the older retired persons. It makes them think that's pretty nice, but perhaps their benefits are inadequate when you look at the example I gave before that generates a replacement ratio of only 8%. Therefore, I wonder, when we have overfunded conditions, if more attention shouldn't be given to improving the prior past service for these older people and to allow some unfunded accrued liability. It seems there's too much conservatism. Usually there's a companion health and welfare multiemployer plan that needs help. It often happens that these programs provide benefits from early retirement to age 65. We think the multiemployer plan should sometimes use Section 401(h) to provide post-retirement medical coverage that would absorb some of the overfunding that might exist.

We find there are a couple of little problems. Sometimes there's increased employment during the year and the fixed contribution rate brings in more money than is needed. I refer you to Section 413(d)7, of the Code, which allows a carryover of excess contributions above the maximum deductible amount. Members of the Society, as I indicated earlier, are going to receive a new mortality table. You may first think that this table is going to provide some more conservatism, so that if you have an overfunded condition, the table will help relieve that situation. It turns out that the RP2000 mortality table generates almost the same reserves as the 1983 mortality table. You might say, ″There has been a lot of mortality improvement in the last 17 years, so how is that?″ We attribute it to the fact that the 1983 table has a 10% built-in margin, as you may recall from the construction of that table. That's why the reserves are almost the same.

In looking for another way to relieve an overfunding condition, we considered turnover rates. You can buy a copy of *Pension Plan Turnover Rate Construction* from the Society for $20. We found that turnover is much higher than in Harry Sarasson's tables from the 1960s. There is greater mobility of labor. You should be cautioned that when turnover is based on number of lives, the rates are 35–40% higher than when they're based on reserves. We believe they should be based on reserves.

We were concerned that during an economic downturn, the turnover rates might be much higher, so we broke down the study into two segments--the first four years and the last two years. During the last two years of the study, there was a recession and a lot of downsizing by employers. However, the committee was completely surprised to find that the turnover rates were two to three percentage points higher in the first four years, when the economy was good and employees had the opportunity to look for other employment.

There were several other characteristics of the study that you should keep in mind if you're going to do a study yourself. They're quite instructive. We found, for example, that turnover rates were 40% higher for females than for males. Because of the wealth of the data in the study, three to four million lives, some committee members used this database for a study comparing traditional plans with cash-balance plans. You can buy this study from the Society for $10. It just came out this past year and is titled, *A Benefit Value Comparison of a Cash Balance Plan With a Traditional Average Final Pay Defined-Benefits Plan*. Because this has been a controversial topic perhaps you'll find this of interest.