American Academy of Actuaries
Annual Meeting and Public Policy Forum

November 13–14, 2014

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Multiemployer Plan Reform Panel

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Multiemployer Plan Reform

- Moderator:
  - **Eli Greenblum**, Pension Practice Council, American Academy of Actuaries
- Panelists:
  - **Randy DeFrehn**, Executive Director, National Coordinating Committee for Multiemployer Plans
  - **Christopher M. Bone**, Policy, Research, and Analysis Department, Pension Benefit Guaranty Corporation (PBGC)
  - **Jean-Pierre Aubry**, Assistant Director of State & Local Research, Center for Retirement Research, Boston College

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Multiemployer Plan Reform

Randy DeFrehn

Executive Director, National Coordinating Committee for Multiemployer Plans

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Statutory Basis

- **Subject to numerous federal employee labor and benefit laws:**
  - ***The Labor Management Relations Act*** **of 1947 (Taft Hartley Act) requires plans to be operated by joint (labor-management) boards for the "sole and exclusive benefit" of plan participants**
  - ***Employee Retirement Income Security Act (ERISA)*** **of 1974 imposed vesting and pre-funding requirements, created Pension Benefit Guaranty Corporation to act as the safety net for failed plans and codified common law fiduciary responsibility of trustees**
  - ***Multiemployer Pension Plans Amendments Act (MPPAA)*** **of 1980 created concept of withdrawal liability and implemented the PBGC multiemployer guaranty fund**
  - ***Pension Protection Act*** **of 2006 – accelerated funding requirements in response to 2000 – 2002 recession; created certain status tests "zones" with specific rules for achieving funding targets**

What is a Multiemployer Plan?

- A plan of benefits created through collective bargaining requiring contributions by one or more labor organizations and more than one employer to a trust fund (as few as 2, but as many as several thousand employers)
- Multiemployer plans proliferated during and after WWII in response to wage and price controls
- Historically provided modest but regular retirement income to workers in industries characterized by highly mobile workforces who otherwise would never qualify under traditional rules

What is a Multiemployer Plan?

- Original funding was “pay as you go” (like Social Security) which provided flexibility to plans to respond to fluctuations in employment and funding
  - Good for Plans
  - Not so good for participants – infamous abuses
- ERISA’s pre-funding and vesting requirements represented next step in evolution.
- When the PBGC Multiemployer Guaranty Fund was created in 1980 there were approximately 2200 multiemployer defined benefit plans, that number has declined to about 1350; a decline that is attributable almost entirely due to mergers.

What is a Multiemployer Plan?

- They now cover approximately 10.4 million current and former employees and their surviving spouses in industries across the economy; an INCREASE from about 8.5 million in 1980
- MPPAA imposed an exit fee (withdrawal liability) on employers that leave plans with unfunded vested benefits
- Concept caused employers to maintain modest benefits until funded status improved but caused chilling effect for new employers
- Strong employment and robust markets caused funding to improve until focus shifted to other tax policies – Maximum deductible limits

What is a Multiemployer Plan?

- Contribution obligations in collective bargaining agreements limited options for plans – especially those whose trustees and bargainers were different

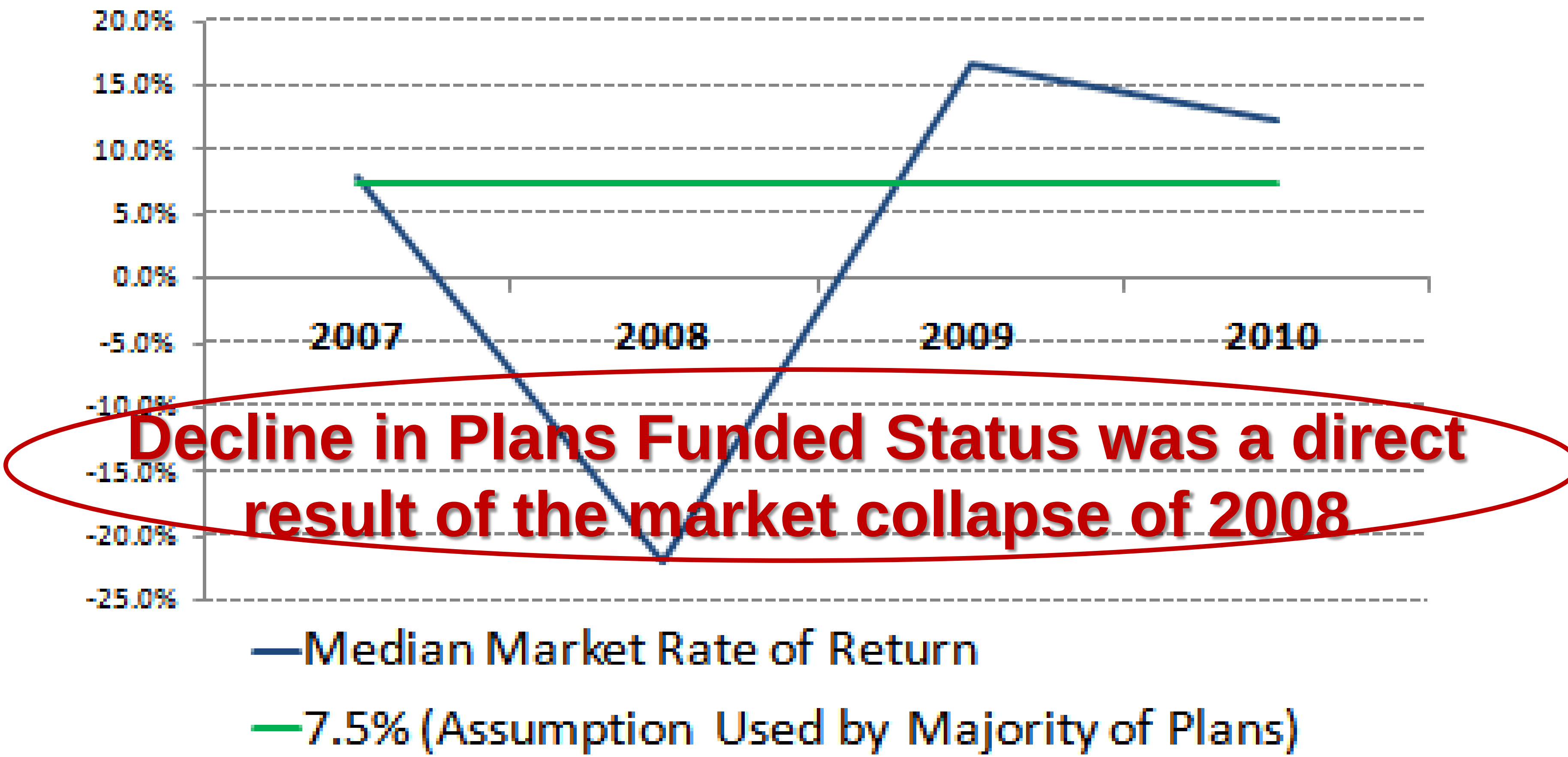
- In 80s and 90s approximately 75% of all plans had to raise benefits to raise the costs of plans to ensure contributions remained deductible to contributing employers due to <u>overfunding</u> pursuant to the Service's maximum deductible rules.

- The bursting of the ".com bubble" from 2000 to 2002 caused plans to lose 15% to 25% of their assets in the first "Once-in-a-lifetime" event of the millennium

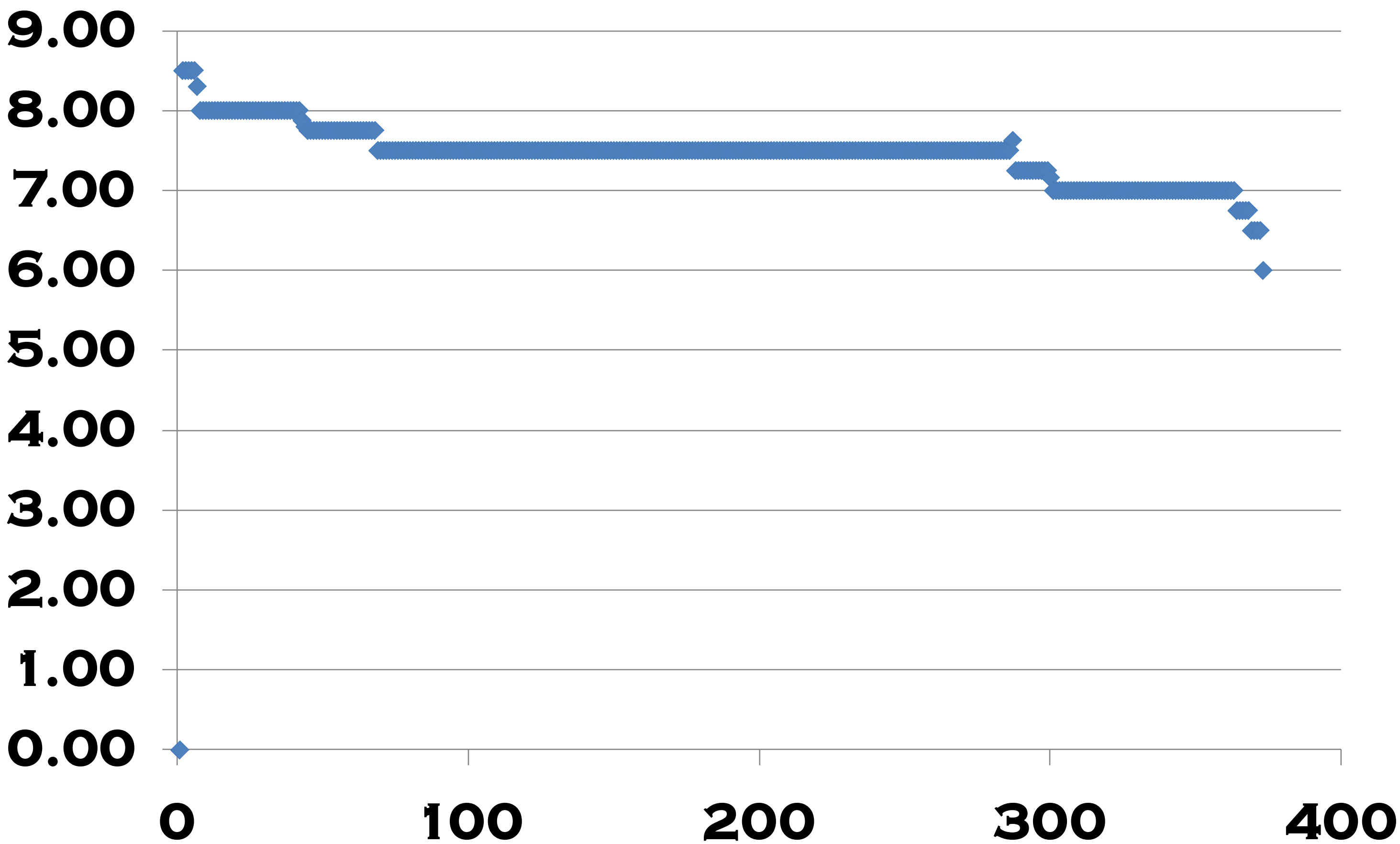
What is a Multiemployer Plan?

- Caused some plans to face funding deficiencies
  - Renewed employer concerns over unfunded liabilities
  - Additional contribution and excise tax exposure fueled efforts for reform – eventually became PPA
- Plans gradually began to return to funding health through 2007

Median Market Returns 2007 – 2010 Plan Years

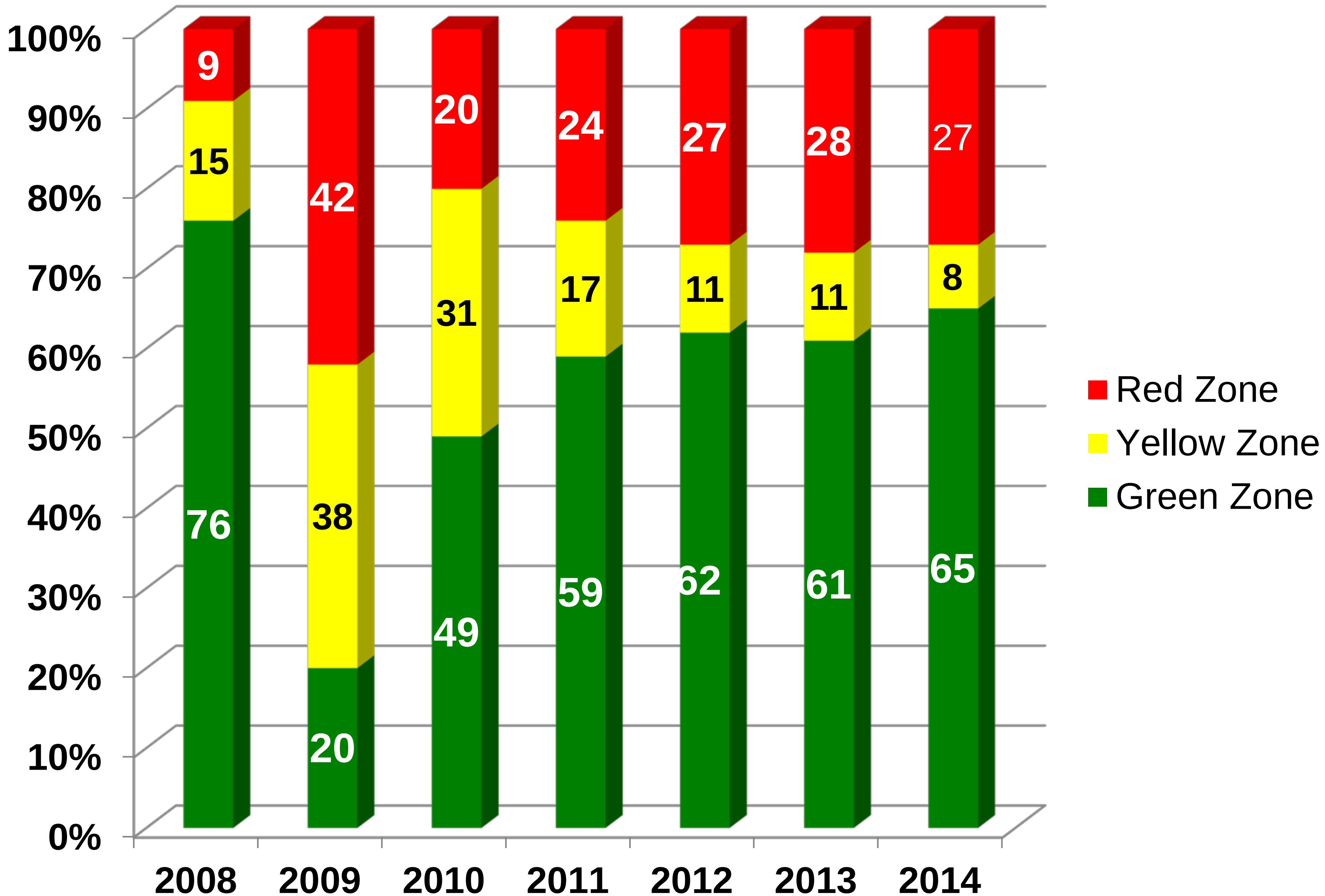


Assumed % Rates of Return



Number of Plans

Trends in Funding Zone Status 2008 - 2014



THE STATUS OF MULTIEMPLOYER PENSIONS

Jean-Pierre Aubry
Assistant Director of State and Local Research
Center for Retirement Research at Boston College

American Academy of Actuaries Annual Meeting
Multiemployer Plan Reform
Washington, DC
November 12, 2014

CENTER *for* RETIREMENT RESEARCH *at* BOSTON COLLEGE

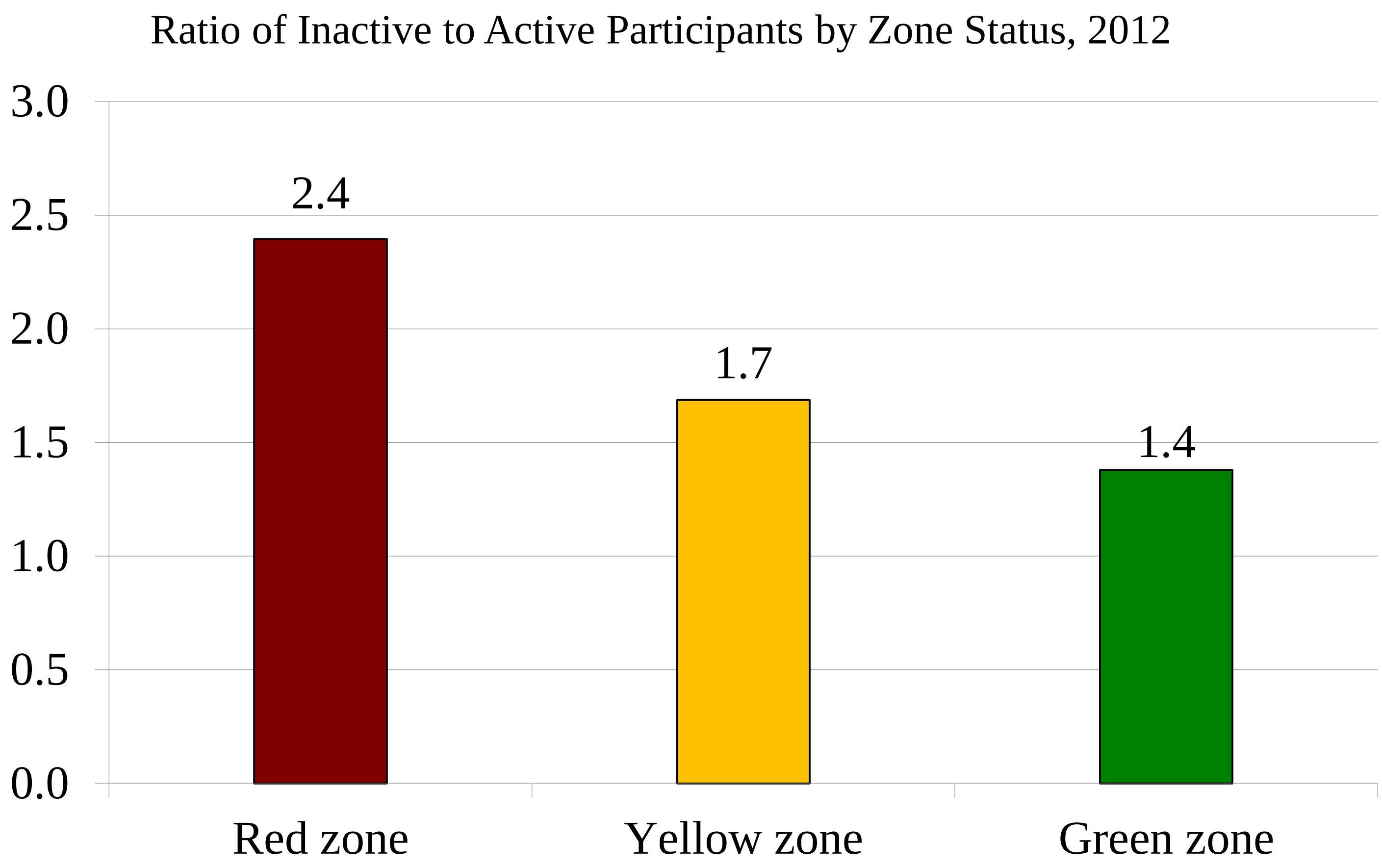
Characteristics of Plans by Zone

Funded Status of Multiemployer Plans by Zone Status, 2012

PPA category	Funded ratio (percent)		Unfunded liabilities (billions)	
	Current	Actuarial	Current	Actuarial
Red	37.1%	62.5%	$166	$65
Yellow	39.7	69.6	110	35
Green	51.9	86.4	210	40
All	44.9	75.9	486	140

Source: Alicia H. Munnell and Jean-Pierre Aubry. 2014. "The Financial Status of Private Sector Multiemployer Pension Plans." *Issue in Brief* 14-14. Center for Retirement Research at Boston College.

Characteristics of Plans by Zone



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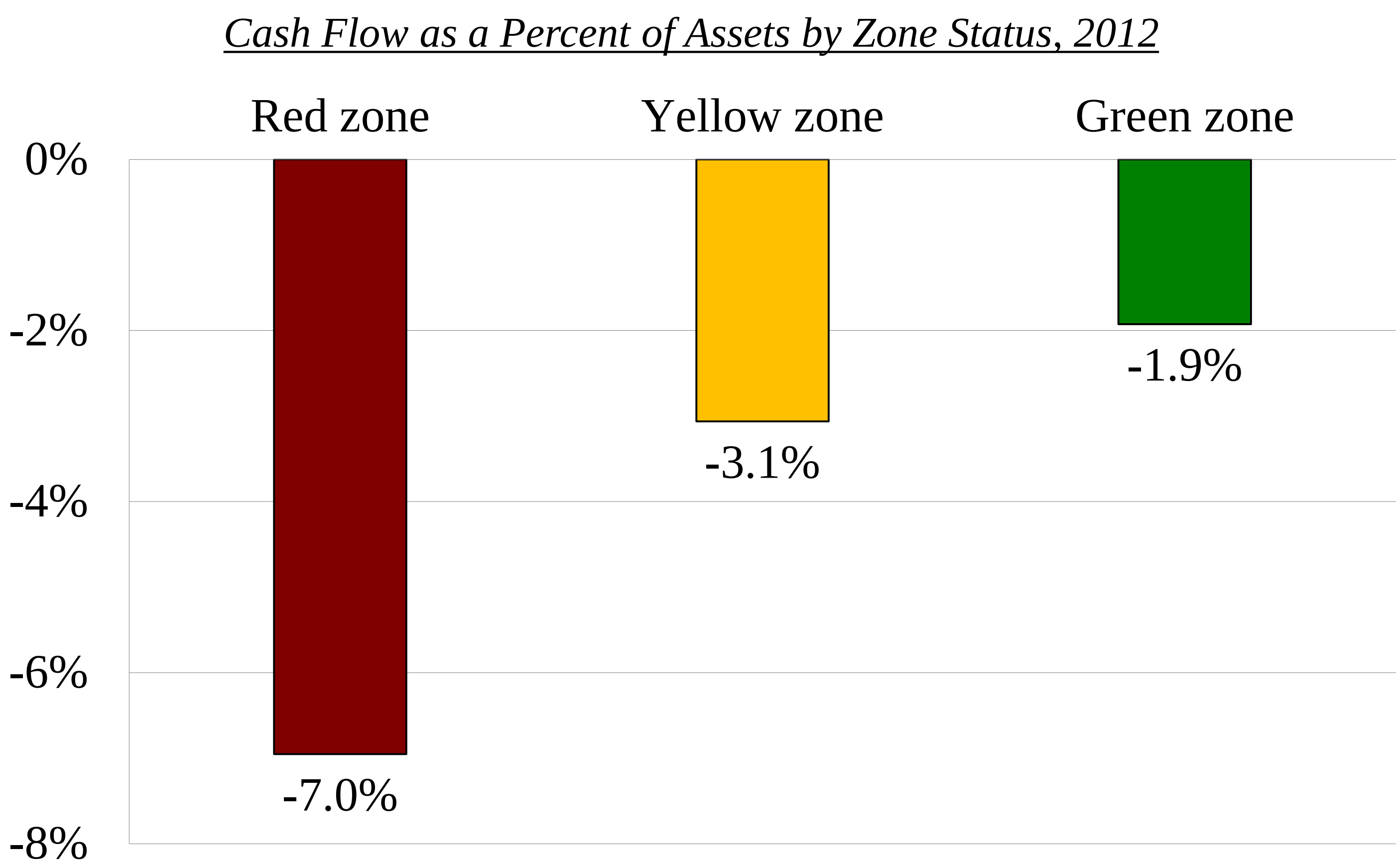

Source: Alicia H. Munnell and Jean-Pierre Aubry. 2014. "The Financial Status of Private Sector Multiemployer Pension Plans." *Issue in Brief* 14-14. Center for Retirement Research at Boston College.

Projected Exhaustion Dates for Multiemployer Plans

Estimated Distribution of Multiemployer Plan Exhaustion Dates by Zone Status, 2012

Zone	Estimated exhaustion date			
	0-10	11-20	21-30	Never
Red	11%	17%	8%	64%
Yellow	1	3	3	93
Green	1	2	1	96

Source: Alicia H. Munnell and Jean-Pierre Aubry. 2014. "The Financial Status of Private Sector Multiemployer Pension Plans." *Issue in Brief* 14-14. Center for Retirement Research at Boston College.

Actions Taken by Troubled Plans

Annual Growth of Contributions and Benefit Accruals per Active Worker

Zone status	Contributions (per active worker)		Benefit accruals (normal cost)	
	2001-2007	2007-2012	2001-2007	2007-2012
Critical: forestalling insolvency	7.7%	2.1%	7.5%	2.7%
Critical: ongoing	8.3	5.3	2.7	1.5
Endangered*	7.5	6.9	2.8	4.1

* United Mine Workers is excluded because its precipitous drop in normal cost makes the change in benefit accruals for all endangered plans negative in 2001-2007.
Source: Alicia H. Munnell and Jean-Pierre Aubry. 2014. "The Financial Status of Private Sector Multiemployer Pension Plans." *Issue in Brief* 14-14. Center for Retirement Research at Boston College.

Actions Taken by Troubled Plans

Percent of Plans Intending to Take Corrective Action by Zone Status, 2012

	Critical		
Corrective action	Forestalling insolvency	Ongoing	Endangered
Raised contribution rates	88%	94%	83%
Cut “adjustable benefits”	71	71	14
Reduce future benefits	58	40	30
Addendum: # of plans	75	174	145

Source: Alicia H. Munnell and Jean-Pierre Aubry. 2014. “The Financial Status of Private Sector Multiemployer Pension Plans.” *Issue in Brief* 14-14. Center for Retirement Research at Boston College.

Multiemployer Plan Reform

Christopher M. Bone

Policy, Research, and Analysis Department, Pension Benefit Guaranty Corporation (PBGC)

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Multiemployer Plans

Two Universes of Pensions

Single-employer

- Plan sponsored by one employer (or common group)
- *30 million people in ~23,000 plans*

Multiemployer

- Plan negotiated between union(s) and employer associations under a CBA
- *10 million people in ~1,400 plans*

PBGC
Protecting America's Pensions

Program Comparison

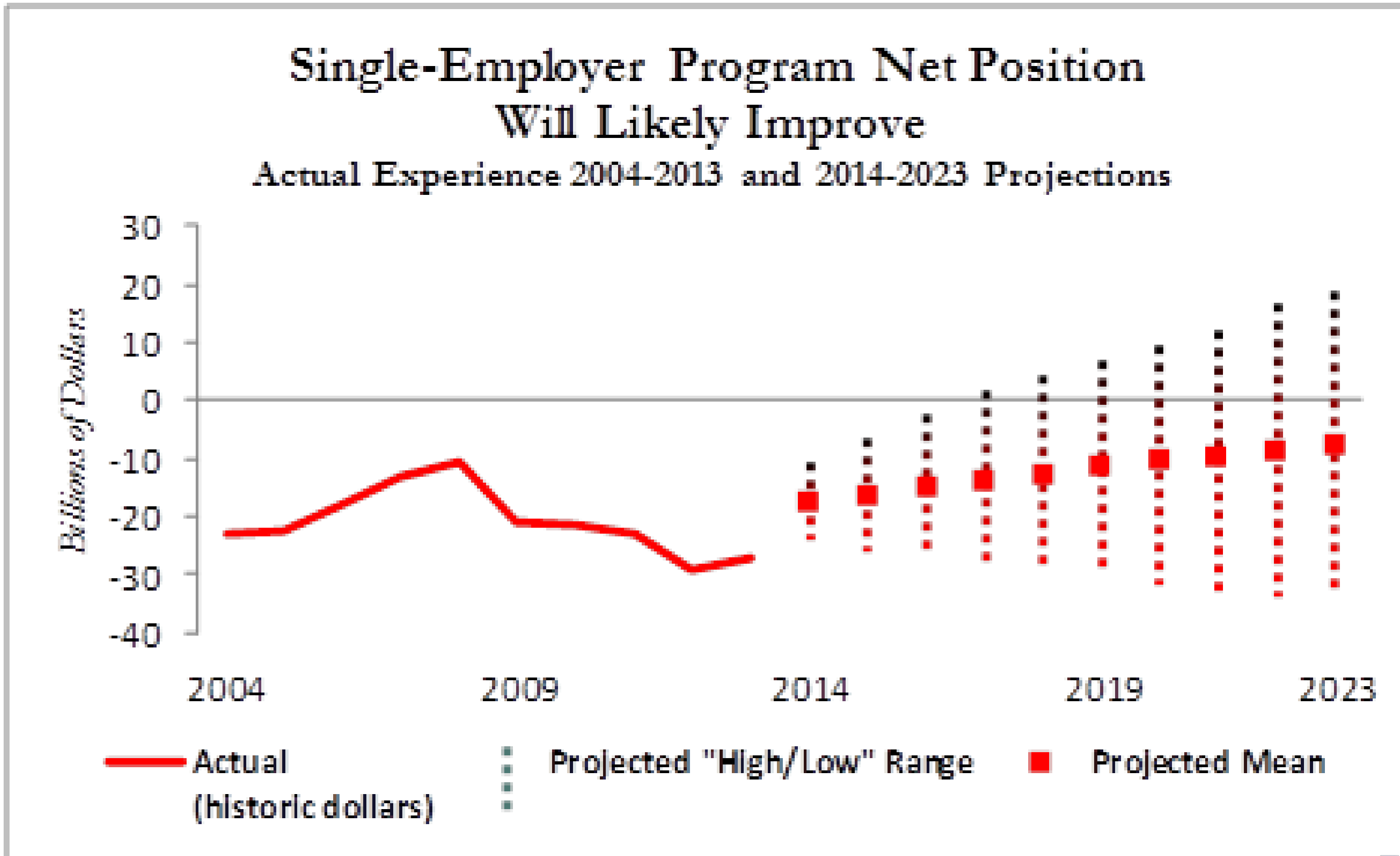
As of 9/30/2013 - $ in Billions*

	Single-Employer	Multiemployer
Obligations	$111	$10
Assets	$83	$2
Net Position	($27)	($ 8)
Premium Income	$3	$0.1
Participants	32 million	10 million
Plans	23,400	1,450
Insurable Event	Plan Termination	Plan Insolvency
Estimated 2012 Underfunding	> $400	> $400
2015 Maximum Guaranteed Benefit per Year	~$ 60,100 At 65, SLA	Two tier (100%/75%) Varies by service

PBGC
Protecting America's Pensions

* unless otherwise stated

Single employer plans are looking better, but program still not in surplus

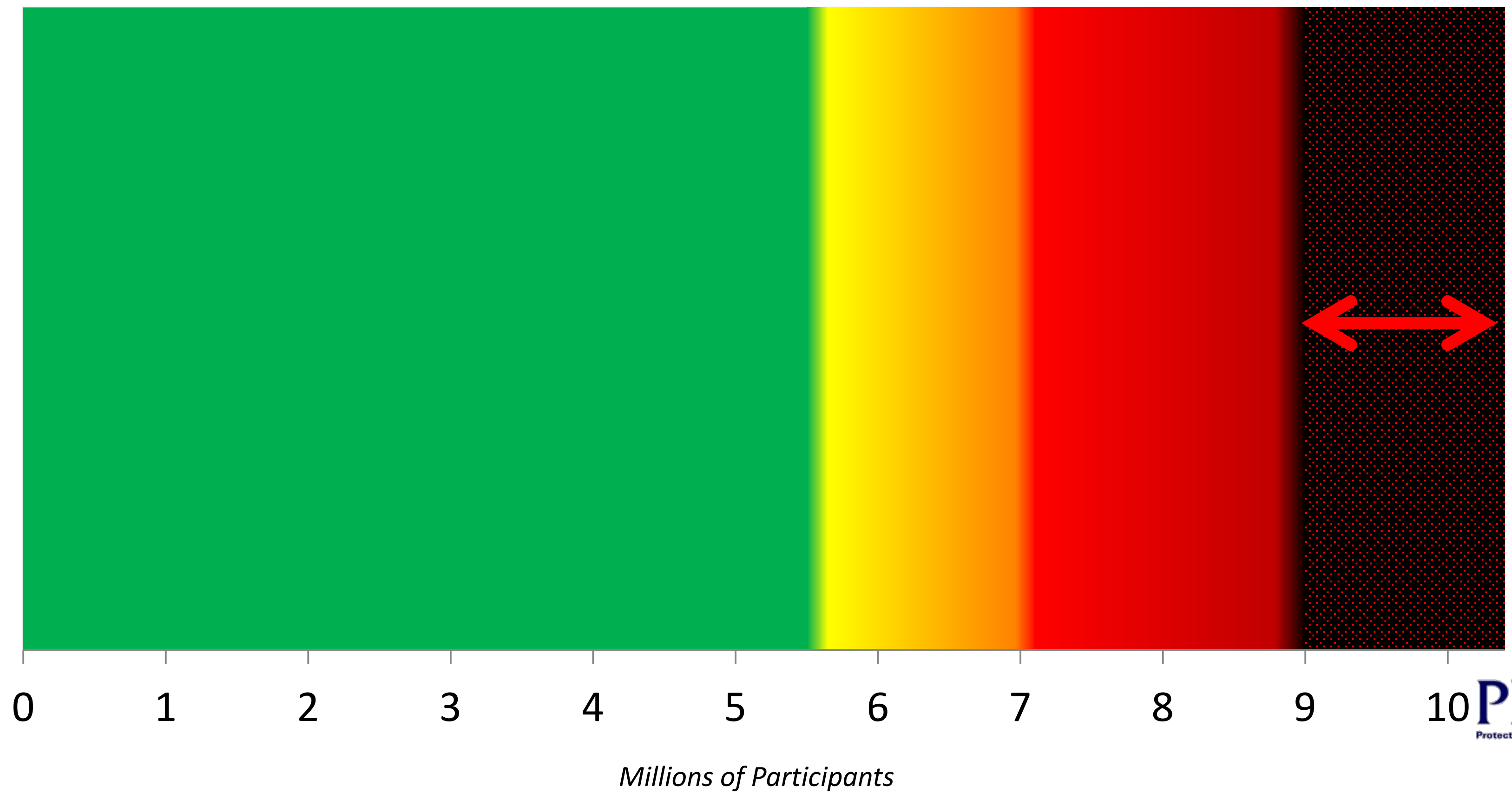


PBGC
Protecting America's Pensions

10+ Million in Multiemployer Plans

3+ Million in Red Zone Plans

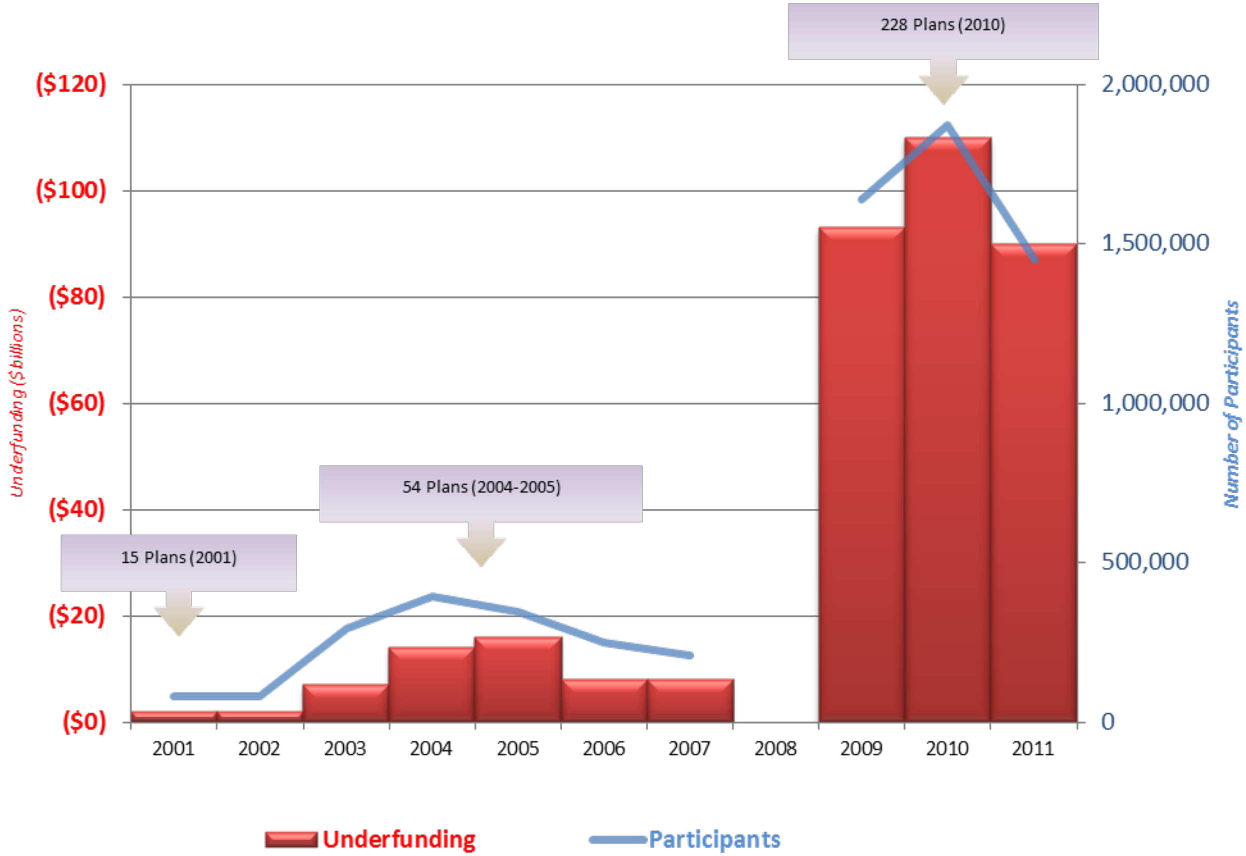
~1½ Million in Plans Likely to Fail



PBGC
Protecting America's Pensions

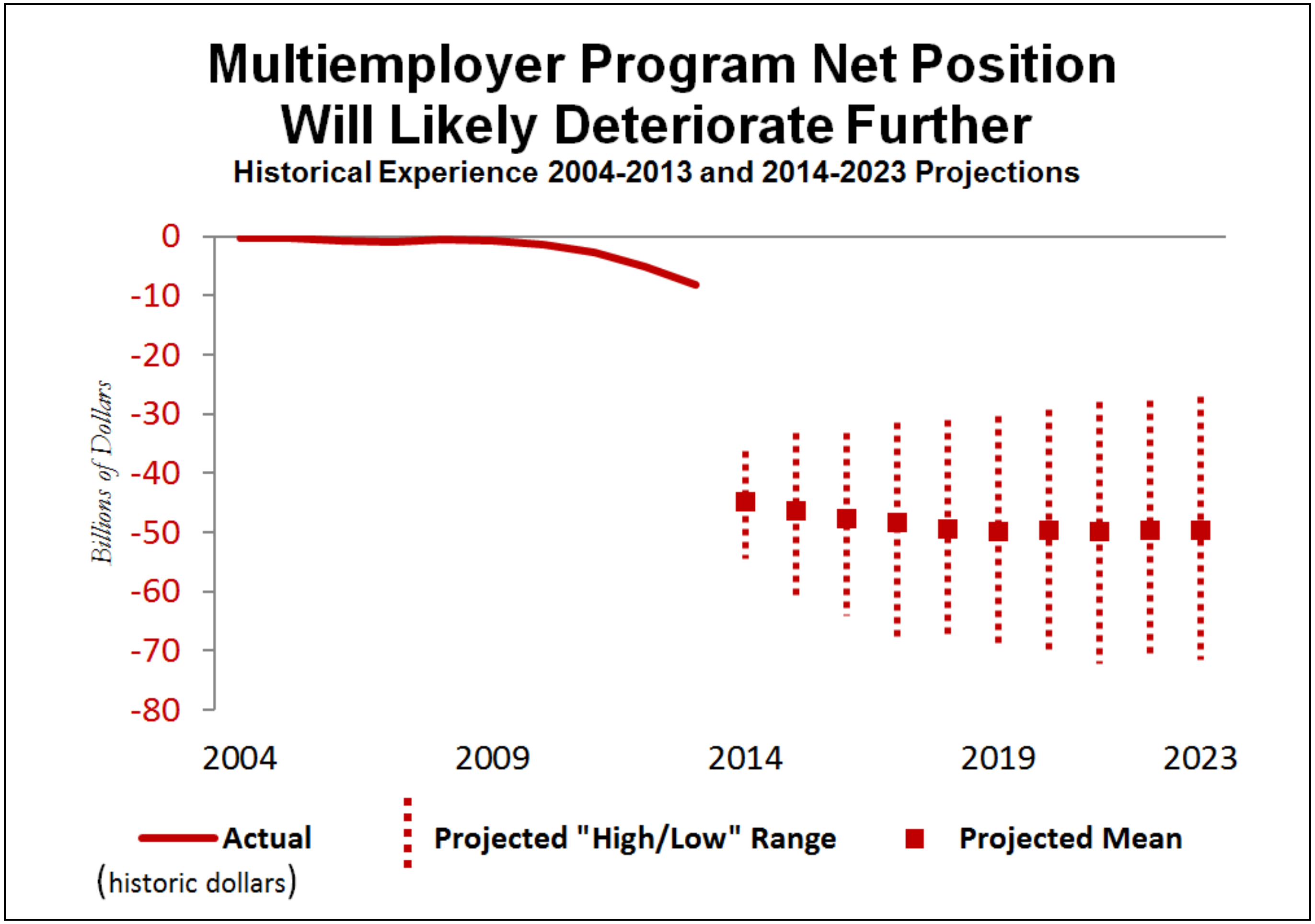
Significant part of Multiemployer plan system at risk of failure

Multiemployer plans covering almost 1.5 million people are *severely underfunded (<40% funded)*

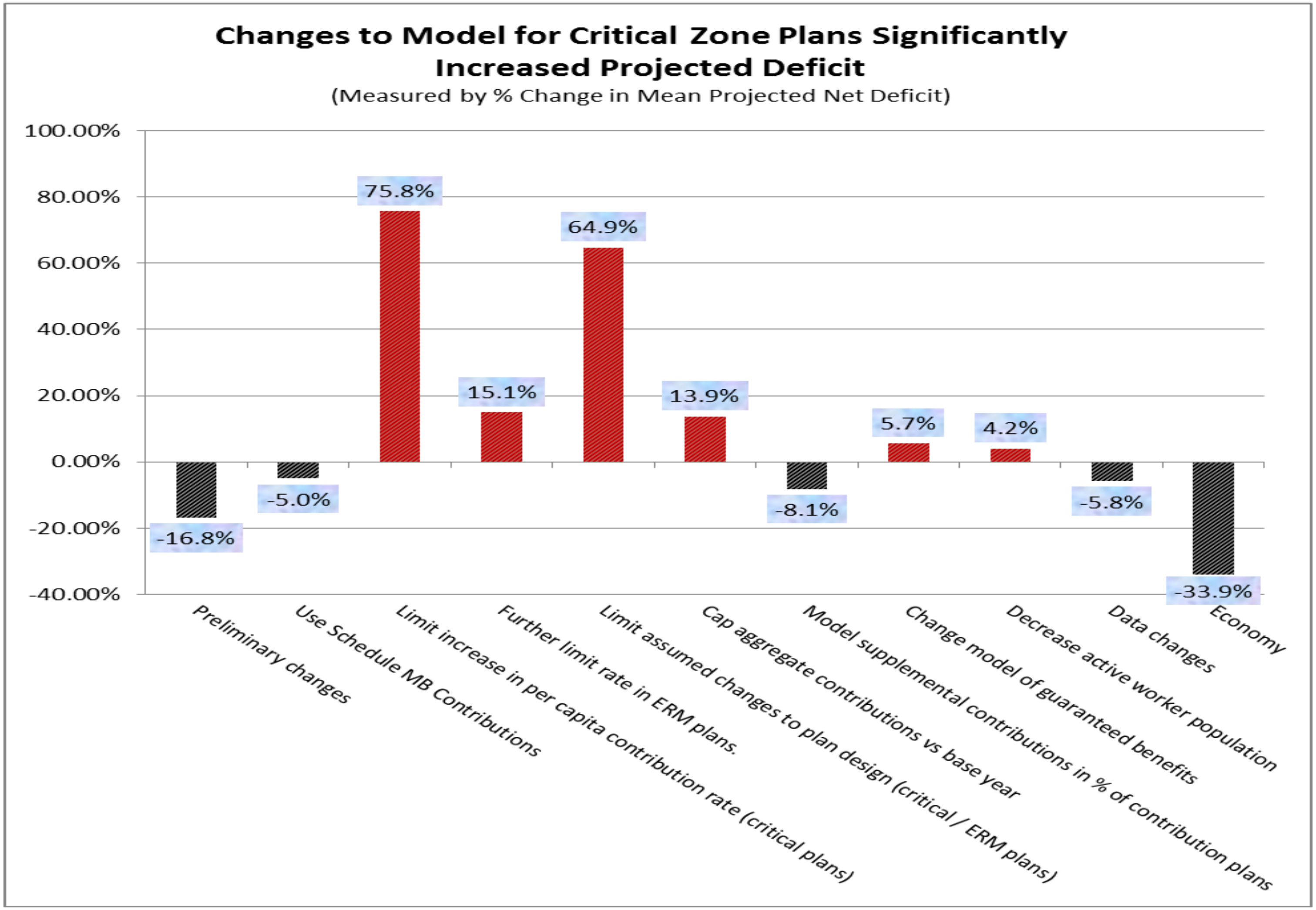


PBGC
Protecting America's Pensions

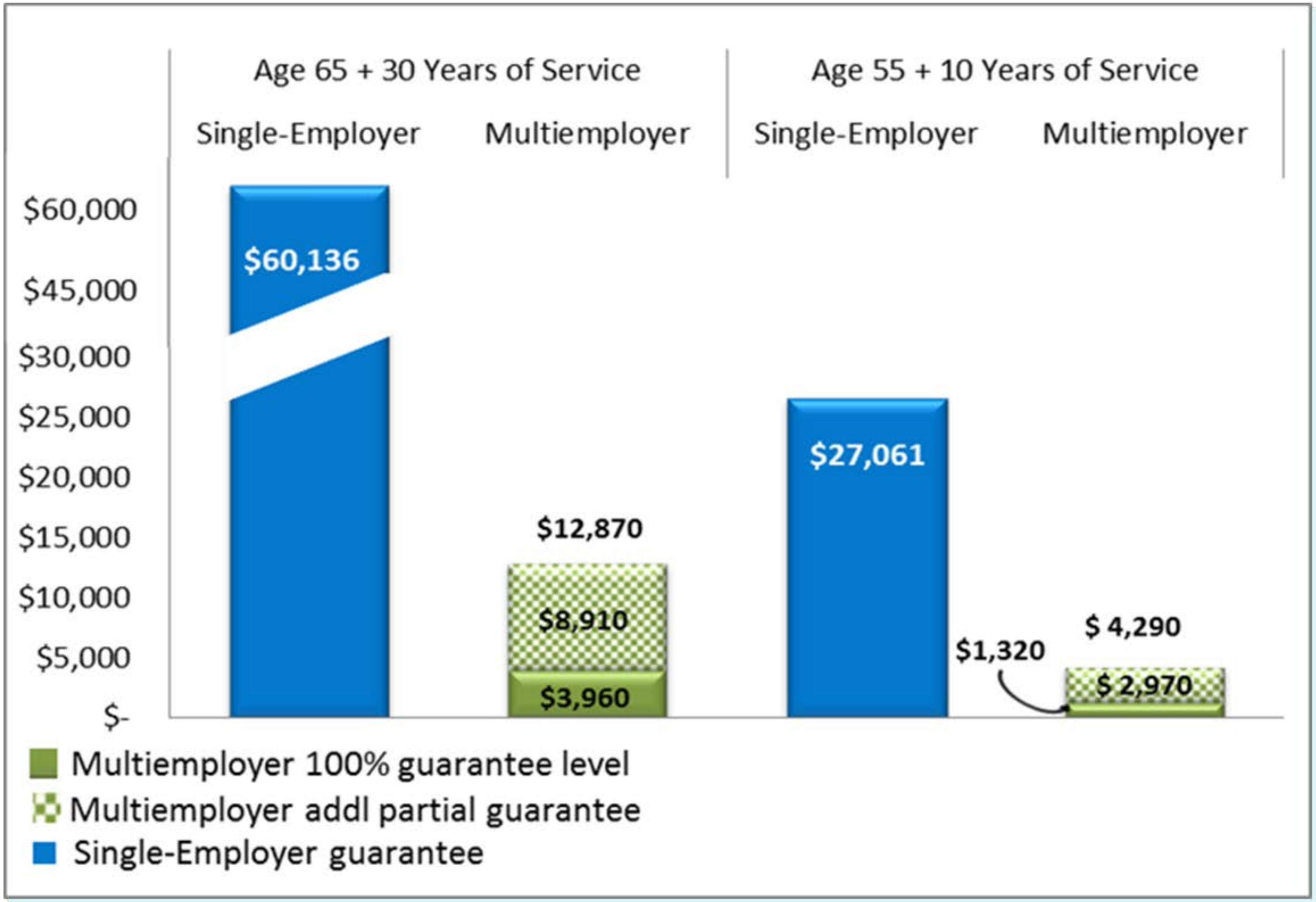
Until recently…
Multiemployer system was stable.



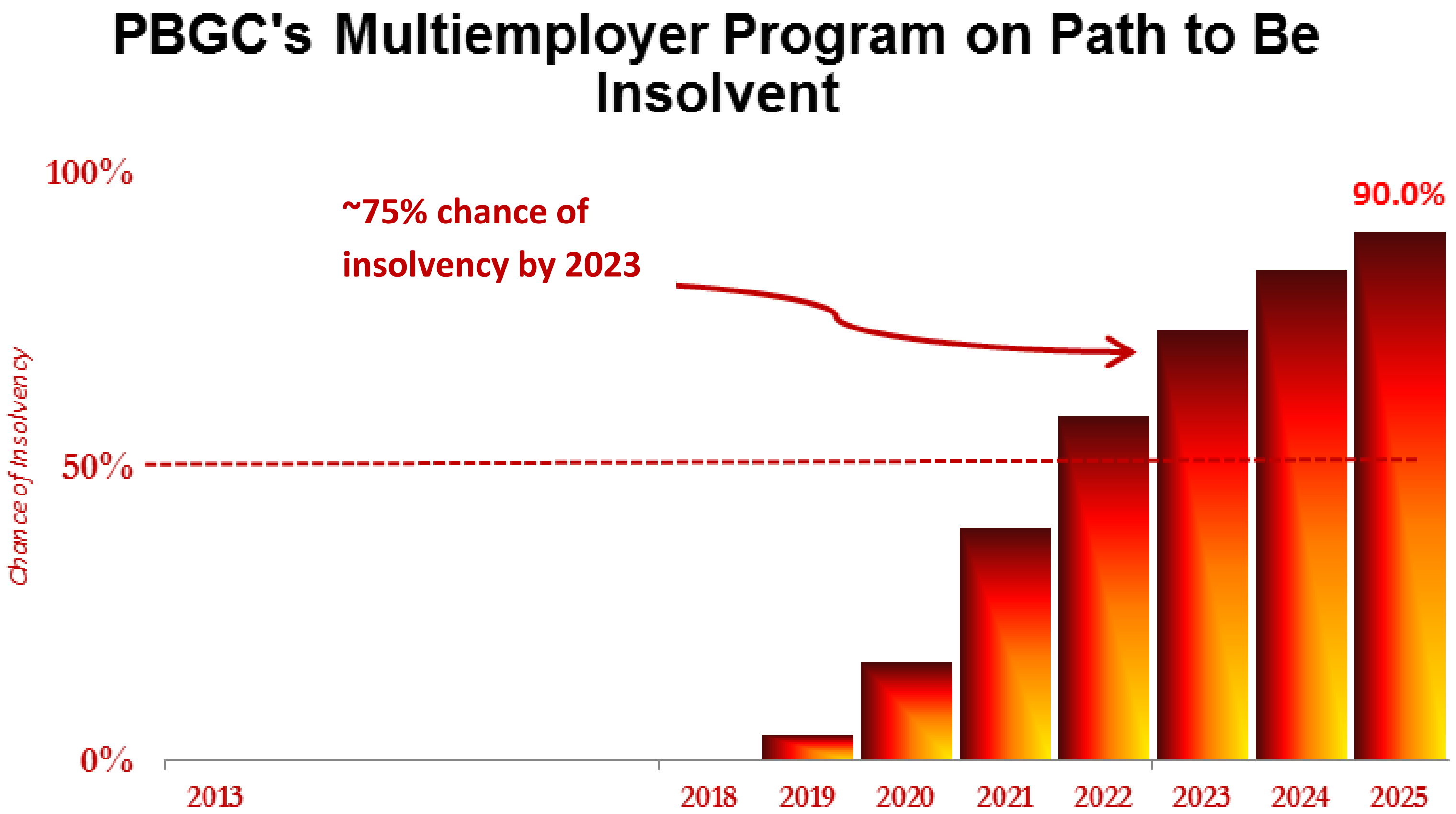
Now … despite economic recovery, plans' inability to recover drives a worsening picture.



PBGC guarantees are low…



and PBGC has insufficient funds even to pay current guarantees.



Q&A

Web Resources:

http://www.pbgc.gov/about/projections-report.html

http://www.pbgc.gov/about/projections-report/pension-insurance-modeling-system.html

Multiemployer Plan Reform

Randy DeFrehn (part two)

National Coordinating Committee for Multiemployer Plans

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Pressures for Reform Now

- General pressures to abandon DB Plans to reduce costs
- NEW Employer Concerns over W/L
  - shrinking access to essential credit markets and bonding capabilities resulting from
    - FASB' s New Financial Disclosure Requirements
    - Tighter Funding Rules from PPA
    - Dodd – Frank Tighter Lending rules
    - Credit Suisse, Rating Agency Critiques
- These factors have produced an inability to attract new employers resulting in a contracting pool of contributing employers
- Sunset of PPA Zone Rules in 2014

Commission Process

- **42 stakeholder groups spanning the multiemployer community met for approximately 18 months to arrive at a consensus on the course of action.**
- **Included labor and employer representatives, plan representatives, large employers and advocates from the building and construction, trucking, machinists, retail food, service, entertainment and mining industries**
- **All recommendations are voluntary and designed to provide additional tools to trustees to address their specific situations**
- **In concluding the process the group unanimously agreed they had achieved consensus on its recommendations**

Background

Core Principles

- Proposals must protect retirement income security for participants
- Proposals must reduce or eliminate the financial risk to the sponsoring employers

Pension Reform Proposals

- **Retirement Security Review Commission**
  - ***"Solutions Not Bailouts: A Comprehensive Plan from Business and Labor to Safeguard Multiemployer Retirement Security, Protect Taxpayers and Spur Economic Growth"***
  - **Extensive stakeholder engagement from the labor and employer communities addressed many of the fundamental structural issues facing multiemployer defined benefit pension plans**

Broad Categories of Recommendations

Preservation

- Includes technical enhancements to the PPA to strengthen plans that have regained financial stability and to facilitate others to get there

Remediation

- Designed to PRESERVE plans headed for insolvency and benefits above the levels payable by such plans under current law

Innovation

- New plan designs to improve benefit security by removing the disincentive for employers to remain in the system and new ones from joining

Preservation

Provisions to Strengthen the Current System

- **Primarily Technical Corrections to PPA Based on experience**
  - Allow Certain Yellow Zone Plans to Elect to Be in Red Zone
  - Extend certain red zone features to All Yellow Zone Plans
  - Ability to adjust benefits would remain limited to red zone plans

Provisions to Strengthen the Current System

- Establish permanent funding relief provisions fashioned after those enacted Post-PPA
- Exclude additional contributions required by Funding Improvement or Rehab plans from being subject to withdrawal liability
- Encourage Mergers and "Alliances"
- Allow plans to harmonize normal retirement age with Social Security

Remediation

Provisions For Deeply Troubled Plans
Current Rules

- The minority of plans (6 - 15% or approximately 90 – 200 plans) face inevitable insolvency
- There is no early intervention option
  - Benefits must be maintained until insolvency
  - Once assets are depleted benefits must be cut to PBGC maximum guarantee level
    - $12,870 per year for 30 Year employee who retires at age 65
  - Ability of PBGC to support even this benefit level is in doubt

PBGC Long-Term Outlook

- …We now project that, absent changes, our multiemployer program will be insolvent within 10-15 years….

FY 2013 PBGC EXPOSURE REPORT, PAGE 6

In Case of Guaranty Fund Insolvency:

"Retiree Benefits are reduced under the [current] guarantees and may be further reduced if Multiemployer Insurance Program Becomes Insolvent."

Source: ***Private Pensions – Timely Action Needed to Address Impending Multiemployer Plan Insolvencies*****, General Accountability Office, March 2013**

In Case of Guaranty Fund Insolvency:

- **If depleted by a large insolvent fund:**
  - **Benefits paid by PBGC would be reduced to *less than 10 percent of the guarantee level.***
  - **"In this scenario, a [35 year] retiree who once received monthly benefit of $2,000 and whose benefit was reduced to $1,251 under the guarantee would see monthly income further reduced to less than $125, or less than $1,500 per year."**
  - **Additional plan insolvencies would further depress already drastically reduced income levels.**

Source: *Private Pensions – Timely Action Needed to Address Impending Multiemployer Plan Insolvencies*, General Accountability Office, March 2013

Provisions For Deeply Troubled Plans

- **Commission Recommends that if :**
  - A plan has taken all reasonable measures to improve funding; and
  - Insolvency is still inevitable; and
  - It is possible to avoid insolvency and preserve benefits above the PBGC maximum guarantee level; then…

- **Then the rules which currently require benefit reductions at insolvency should be made accessible earlier and made more flexible to preserve plans that would otherwise fail and preserve benefits at a higher level**

Provisions For Deeply Troubled Plans

- **Key Considerations**
  - Early Intervention will allow some plans to survive for future generations
  - Preserving plans and benefits above PBGC guarantee is preferable to insolvency
  - Troubled plans may choose to use this tool based on their individual circumstances and philosophy

Provisions For Deeply Troubled Plans

- **Criteria for accessing Benefit Suspension Tool:**
  - **Insolvency projected within:**
    - **15 years**
    - **20 years if inactive to active ratio exceeds 2:1**
  - **Plan has taken all reasonable measures to avoid insolvency**
  - **After application of suspensions, *<u>the plan is projected to be solvent</u>***

Provisions For Deeply Troubled Plans

- **Suspension Limitations:**
  - Must be *no greater than necessary to avoid insolvency*
  - Benefits must be preserved at no less than 110% of PBGC guarantee
  - Any future benefit increases must be accompanied by a comparable restoration of suspended benefits

Provisions For Deeply Troubled Plans

- **Participant Protections**
  - Vulnerable Populations may be Excluded from suspensions (e.g. very elderly, disabled or survivors)
  - PBGC approval is required
    - Application must describe:
      - Measures taken to improve funding
      - Summary of proposed suspensions
  - Determination of Trustees to be given deference provided due diligence has been exercised

Provisions For Deeply Troubled Plans

- **Considerations in assessing due diligence:**
  - Contribution levels (past and current)
  - Level of benefit accrual (including prior reductions in rate of accrual)
  - Impact on solvency of the subsidies and ancillary benefits available to active participants
  - Compensation level of active participants relative to the industry
  - Competitive factors facing sponsoring employers
  - Impact of benefit levels on retaining active participants and bargaining groups

A Real World Example

A Case Study

- Midwest area construction plan
- Expected to become insolvent in 2029
- Contribution rate of $10 per hour
  - Increased from $5 in response to funding challenges
- Benefit accrual rate of $50 per year of service
  - Reduced from $100 several years ago
  - Other cutbacks made as part of Rehabilitation Plan

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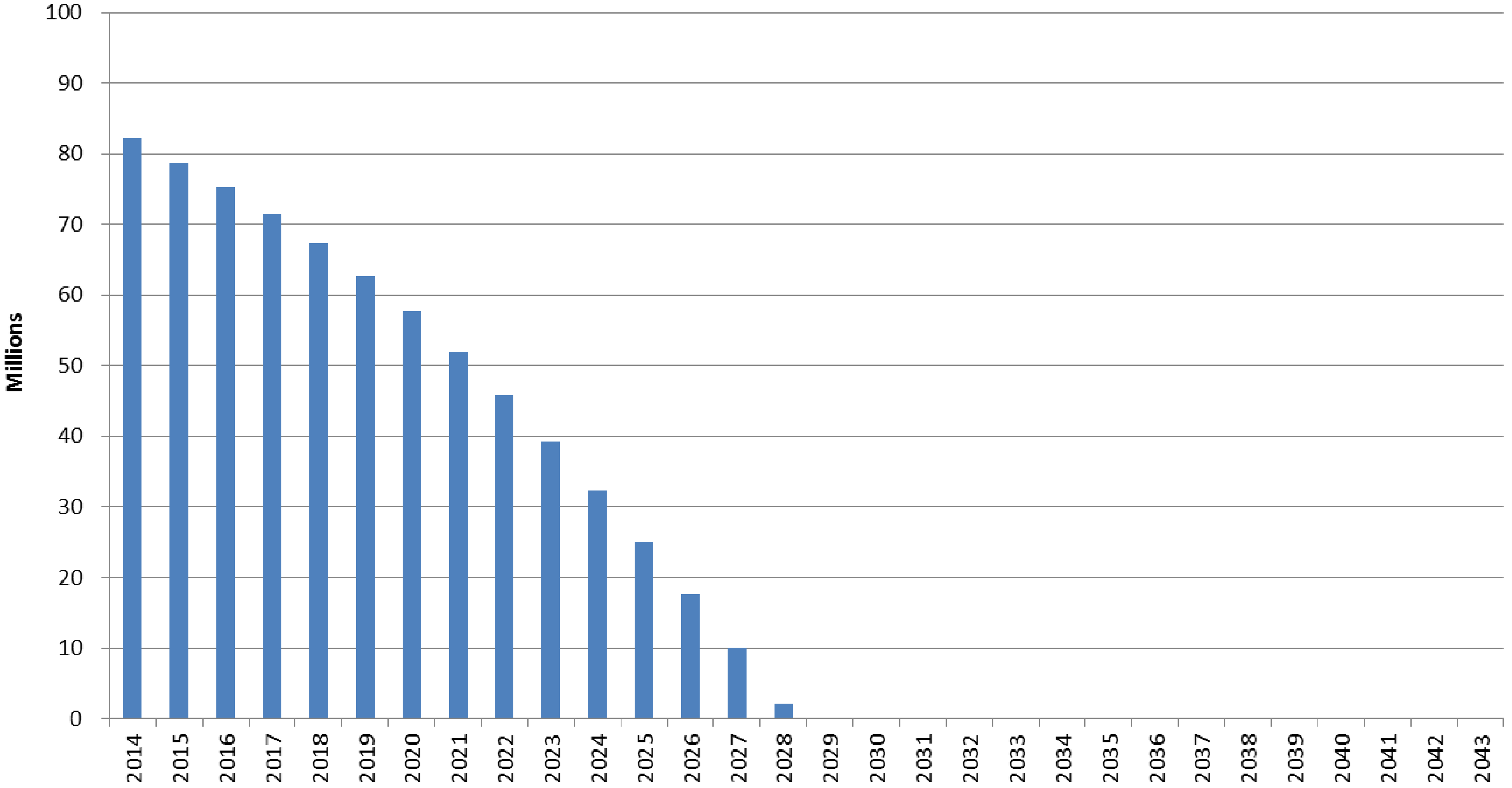
Retiree and Cash Flow Statistics

- Average retiree benefit of $1,700 per month
  - For service pensions, average benefit is $2,900
  - 25% of pensioners have benefits in excess of $2,500
- Total benefits paid are $20 million
- Total contributions are $10 million
- Market value of assets is $87 million
  - Expected asset decline of $4 million this year and accelerating

Projected Plan Assets with No Changes



Potential Benefit Suspension

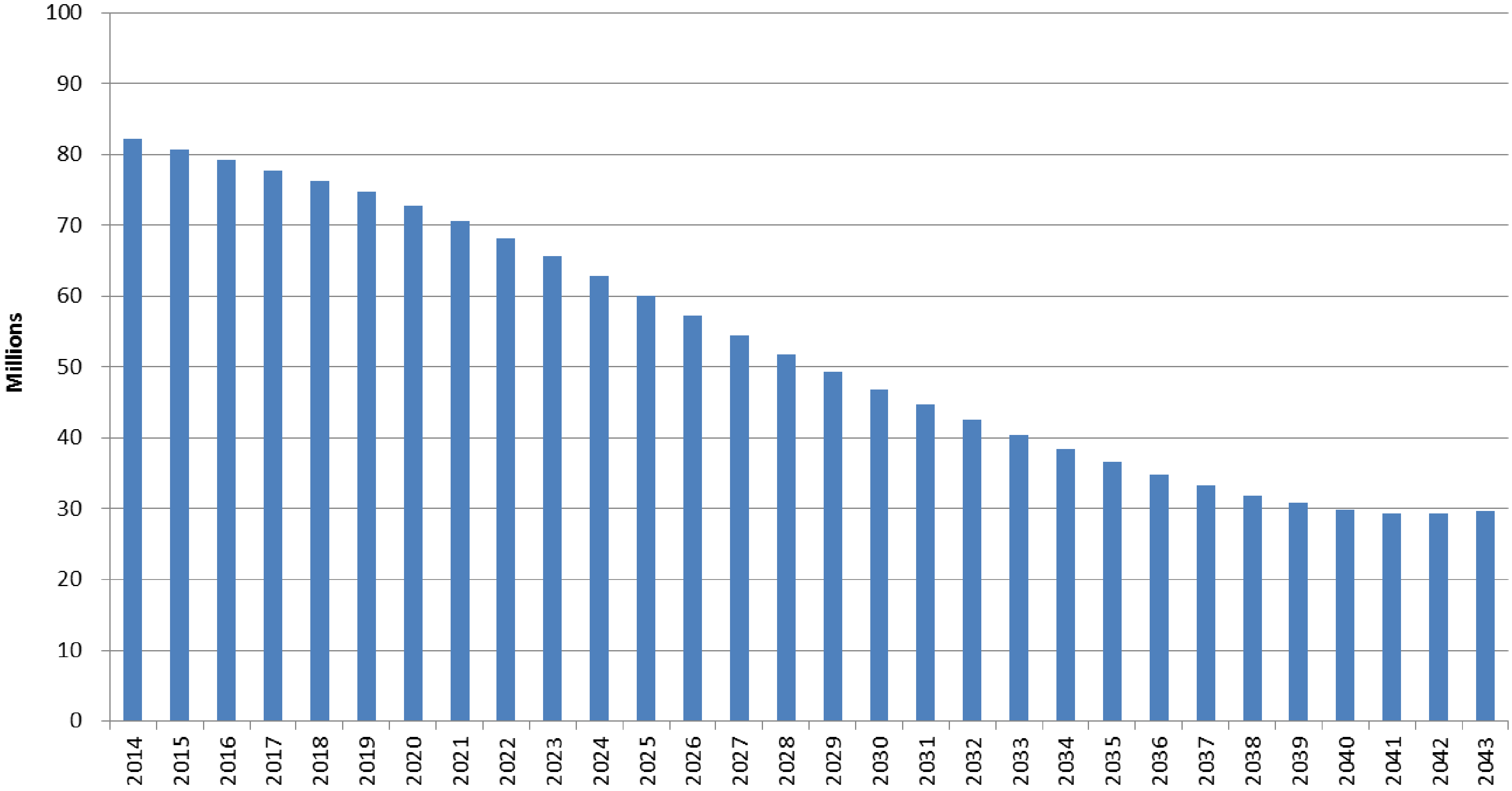
- Trustees asked: What is minimum reduction required across the board (actives, inactive vesteds and retirees) that would prevent insolvency?

- Answer: Approximately 10%

- PBGC guarantee would result in average benefit cut of nearly 50%, once the plan is insolvent

- After suspension, benefits much better than PBGC guarantee
  - Average benefit with suspension: $1,500
  - Average guarantee: $750
  - Service pension difference even greater
    - $2,600 vs. $1,100

Projected Plan Assets After Suspension



Innovation

Alternative Plan Design Structures

- Current Available Options Do Not Meet Needs of All Groups
  - Defined Benefit Plans –
    - Employers find market risk / Withdrawal liability unacceptable
    - Participants at risk of plan and PBGC insolvencies
  - Defined Contribution Plans
    - All risk rests with participant
    - Leakage
    - Mortality Risk
    - Very High Fees Relative to DB model
    - Highly inefficient vehicle for retirement security
- Parties should have ability and be encouraged to develop new flexible models

Alternative Plan Design Structures

- **Commission Recommendations**
  - Alternatives must provide regular retirement income and should retain current and attract new contributing employers
  - Promote creative plan designs
    - Innovation is encouraged – Flexible alternatives include, but are not limited to:
      - Variable DB plans
      - Composite Benefit Plans (similar to plans elsewhere) –
        - Adjustable Benefits
        - No Withdrawal Liability
        - Participant Protections Built In

Variable Defined Benefit Plan

- Generally fits current DB definition
- Is currently in use
- Comprised of two component parts
  - Floor Benefit
  - Variable Benefit
- Operates under Current Law

Variable Defined Benefit Plan

- Floor Benefit is determined using a low assumed rate of return (e.g. 5%)
- Variable Benefit is derived from earnings in excess of Floor
  - Can be increased in good years or reduced in years of poor investment performance but benefit cannot go below Floor Benefit Value
  - Participants are assigned "Shares"
    - Number of Shares are definitely determinable
    - Value of Shares is variable

Variable Defined Benefit Plan

- Employers remain subject to withdrawal liability as under current rules
- Likelihood of incurring liability greatly reduced through conservative management of investments
- Can be further reduced by purchase of annuities on retirement
- Covered by PBGC Multiemployer Guaranty Fund

Target (Composite) Benefit Plan

- Operates like, but technically ***it is not a defined benefit plan***
- Neither DB nor DC plans under current code definitions
- Designed as a better alternative to moving to current DC design

Target (Composite) Benefit Plan

- **Addresses Shortcomings of defined Contribution plans**
  - Benefits are paid as lifetime annuities
  - Longevity risks are Pooled
  - Ability to Negotiate Fees comparable to current DB fees
  - Asset diversification to enhance returns

Target (Composite) Benefit Plan

- Funding standards more conservative than current system – *requires funding at 120% of actuarial projected cost*
- Eliminates withdrawal liability
- Trustees have increased ability to adjust benefits incrementally to prevent funding distress
- Options depend upon plans' current and projected Funding levels
- Appropriate protections for vulnerable populations

Target (Composite) Benefit Plan

- Plan minimum contributions determined by plan actuary
- Diverse investments allow participation in market gains
- Builds in participant protections by removing obstacles to new employer participation

Target (Composite) Benefit Plan

- Funding adequacy determined by 15 year projection
- Benefit adjustments are required at various points based on current funding and 15 year projection
- Additional protections are possible through portfolio immunization and purchase of annuities

Target (Composite) Benefit Plan

- If a plan fails to meet the long-term funding requirements, Trustees are to take corrective actions based on hierarchy of adjustment options
- Self Correcting feature distinguishes this design from DB plan
- Since PBGC Guaranty Fund only insures DB plans, the Target (Composite) Plan would not be covered

Target (Composite) Benefit Plan

- As a last measure, in the event of a catastrophic event, the core (non-ancillary) benefits of pensioners can be reduced
- Participants protected against market volatility through projected funding targets
- Protections against reductions for vulnerable populations are permitted - as in deeply troubled plans - including PBGC oversight

Legislative Process and Status

"Why shouldn't the government bail us out?"

- **No consideration was given to the Pomeroy / Tiberi *Preserve Benefits and Jobs bill of 2010*, nor to the Casey proposal in the senate which provided for:**
  - **Broader definition of Partition, expanded merger authority, preservation of benefits**
  - **The backing of the PBGC by the "full faith and credit" of the government**
  - **Neither bill received so much as a hearing in a Democratically controlled Congress**

Legislative Process and Status

- Bipartisan support expressed by Committee and subcommittee leadership
- Staff briefings have been held for relevant House and Senate Committees of jurisdiction
- Six hearings have been held in the House
- Legislation being drafted for introduction
- Both labor and management groups have continued to register their support with their elected Representatives and Senators
- Sunset of PPA zone status rules at end of 2014 provides opportunity for passage of broader measure

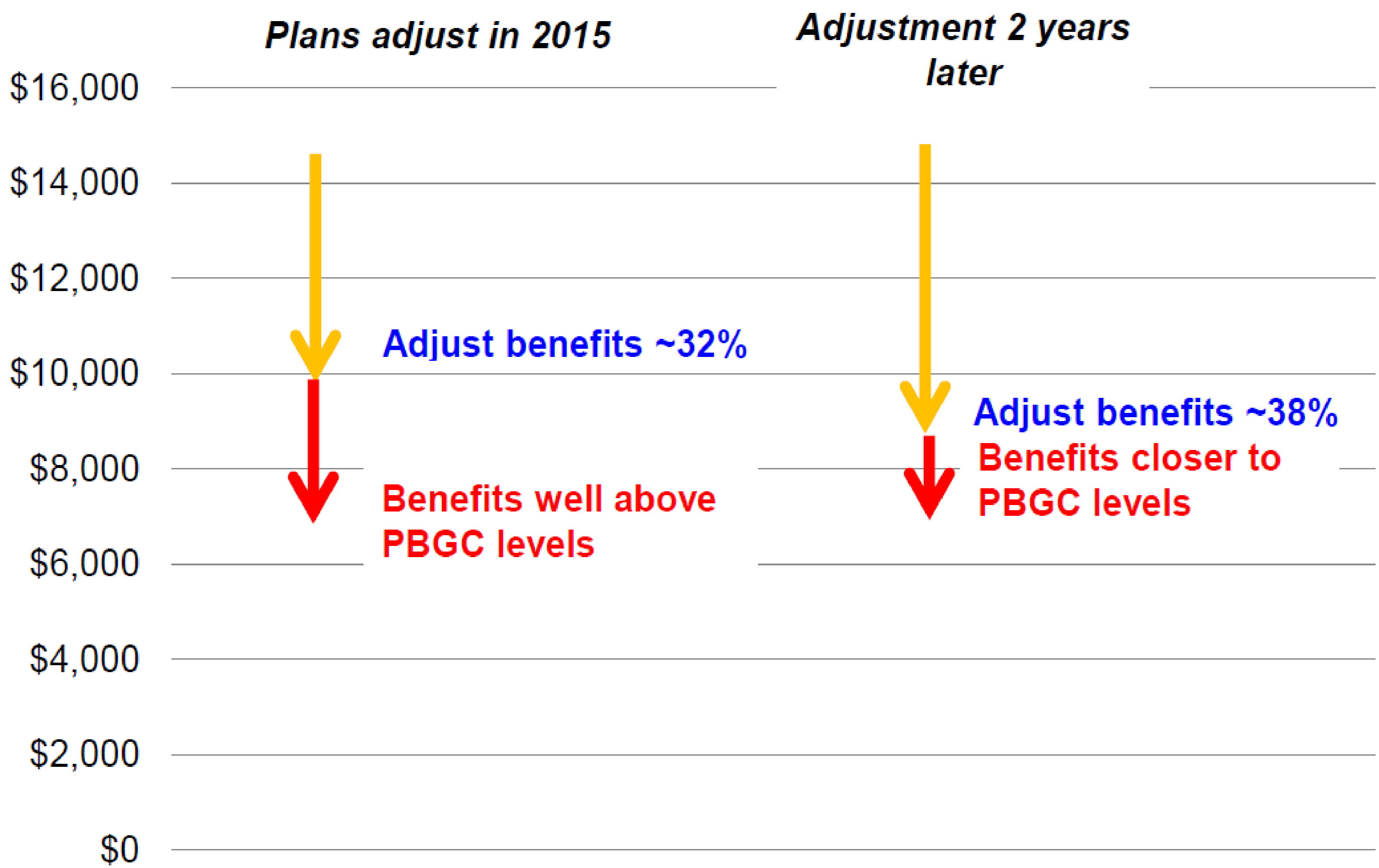
Opposition

- Some opposition has emerged:
  - Pension advocates:
    - AARP
    - Pension Rights Center
  - Limited labor opposition:
    - International Association of Machinists
    - International Brotherhood of Teamsters
    - United Steel Workers
    - Boilermakers

Opposition

- **Their solutions:**
  - Government Bailout
  - Loans from banks that received government assistance
  - Imposition of annual fee ($250) on all plan participants and pensioners to fund PBGC
  - Exponentially higher guaranty and premium levels
  - Higher priority in Bankruptcy
  - Special surcharge on contributing employers
  - Tax credits for contributions to support "Orphan" liabilities

Delaying reforms means greater benefit cuts & higher PBGC premiums



Source: PBGC

Illustration of Impact of Solutions Not Bailouts
60-Year Old Retiree

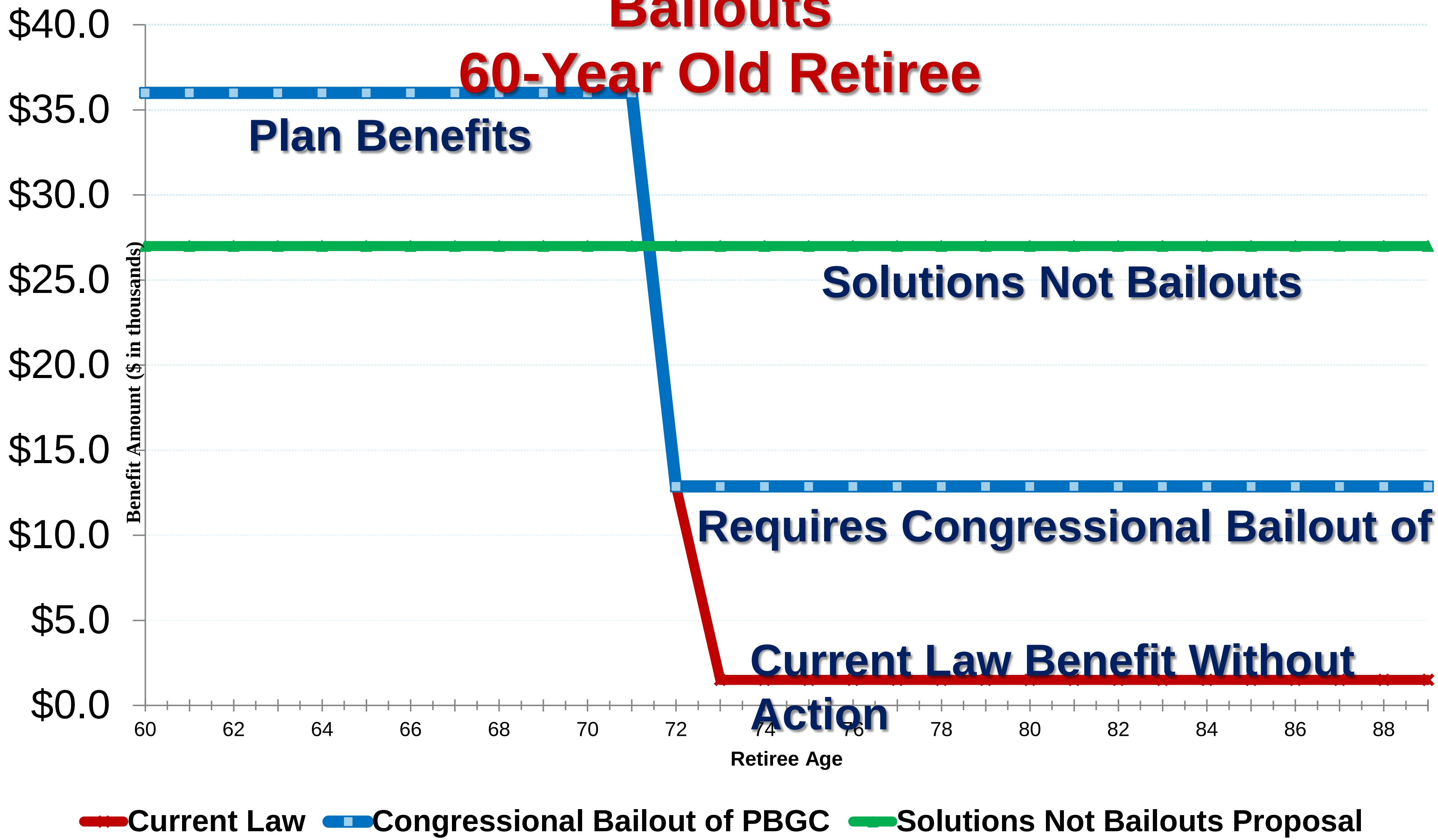


Illustration of Impact of Solutions Not Bailouts
70-Year Old Retiree

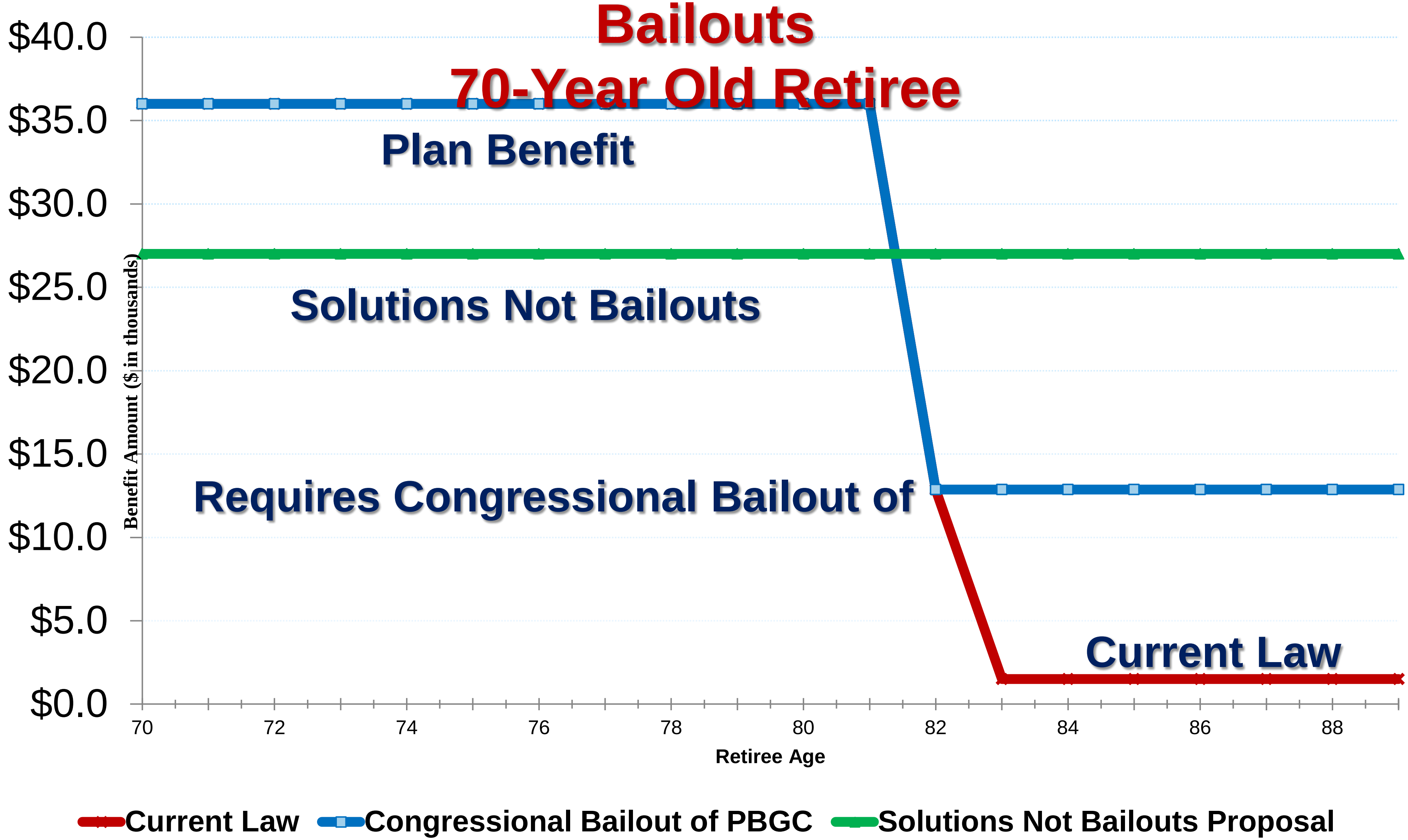
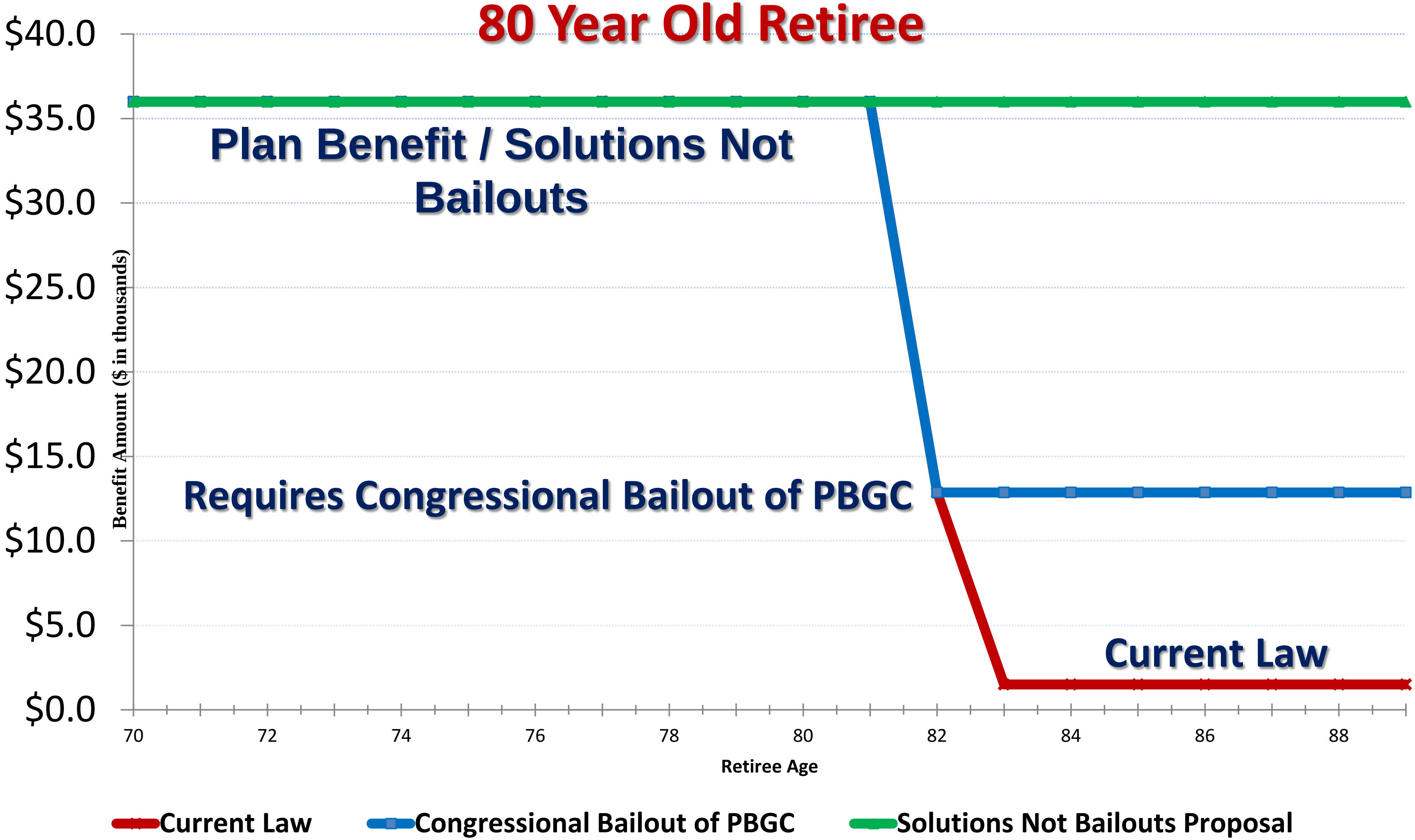


Illustration of Impact of Solutions Not Bailouts
80 Year Old Retiree



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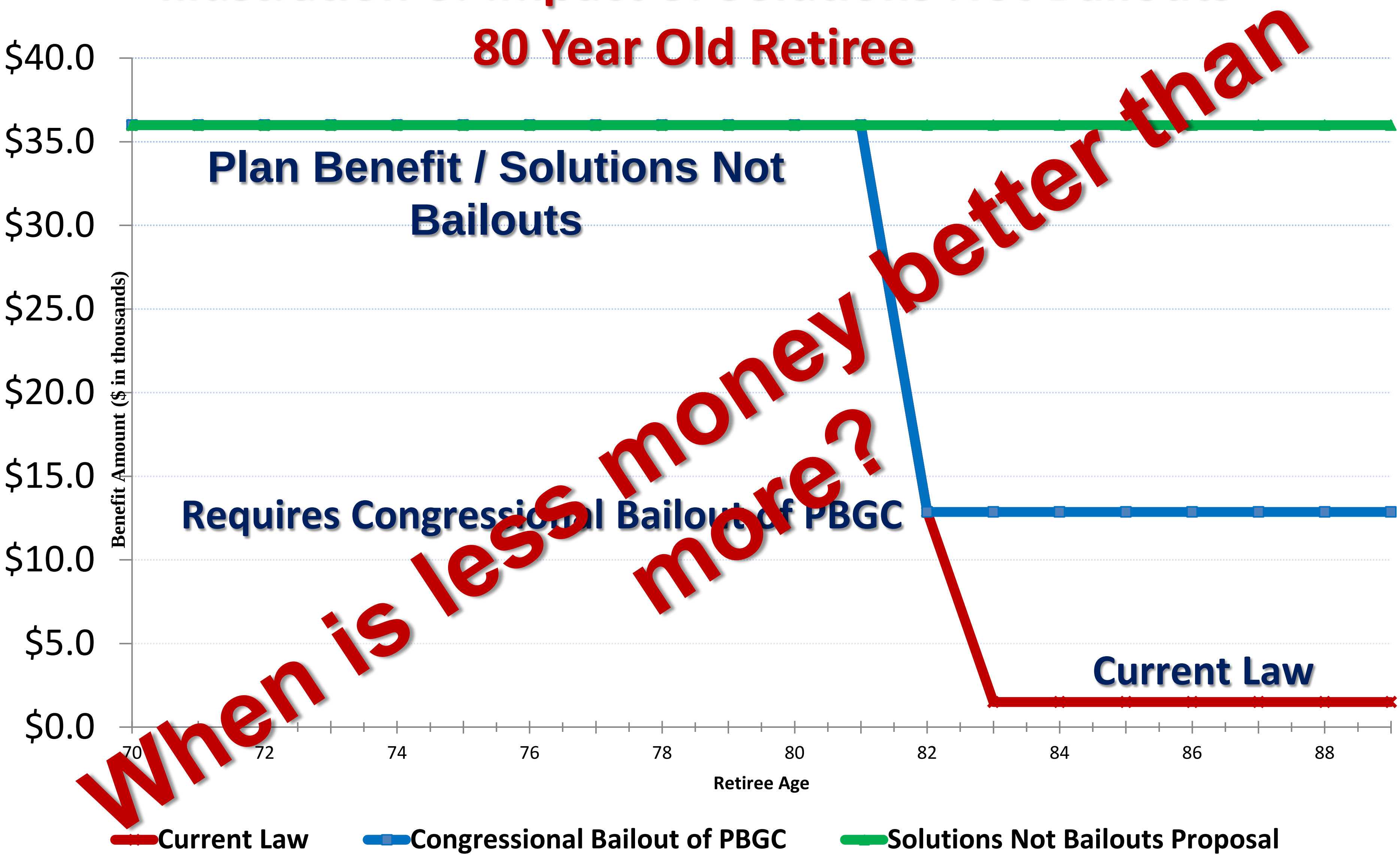
80 Year Old Retiree



Questions???

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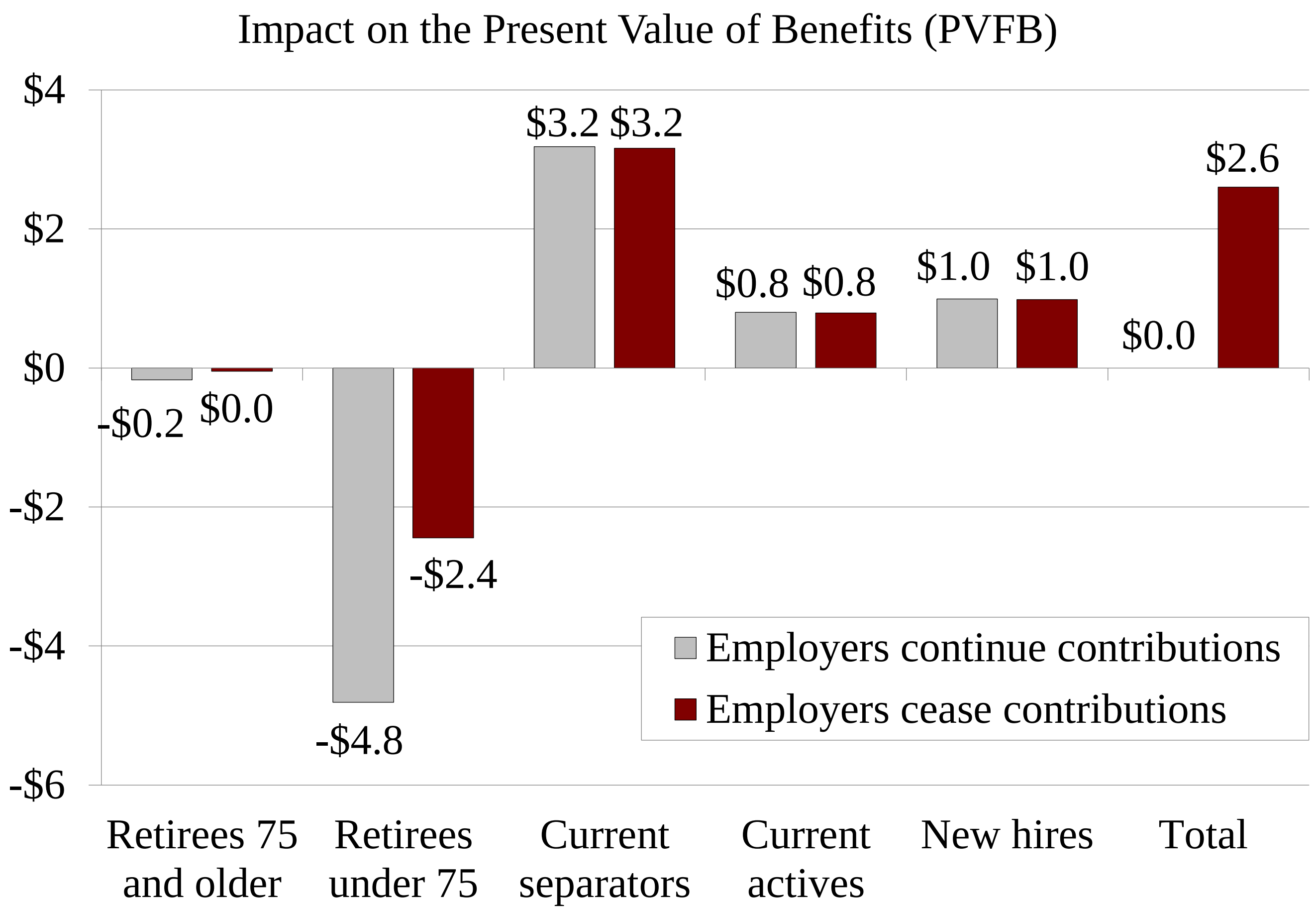
A proposal to spread the pain



Source: Alicia H. Munnell, Jean-Pierre Aubry, Wenliang Hou, and Anthony Webb. 2014. "Multiemployer Plans – A Proposal to Spread the Pain." *Issue in Brief* 14-17. Center for Retirement Research at Boston College.

A proposal to spread the pain

Impact on PVFB and Welfare, under Alternative Scenarios

Member type	Employers continue contributions		Employers cease contributions	
	PVFB	Welfare	PVFB	Welfare
Retirees				
Age 75 and older	-	No change	No change	+
Under age 75	-	No change	-	No change
Current separators	+	+	+	+
Current actives	+	+	+	+
New hires	+	+	+	+
Total	No change	+	+	+

Source: Alicia H. Munnell, Jean-Pierre Aubry, Wenliang Hou, and Anthony Webb. 2014. "Multiemployer Plans – A Proposal to Spread the Pain." *Issue in Brief* 14-17. Center for Retirement Research at Boston College.