



**Leo W. Gerard**  
International President

May 15, 2006

VIA FAX

Pension Conferees  
United States Congress  
Senate Committee on Finance  
Senate Committee on Health, Education, Labor and Pensions  
House Committee on Ways and Means  
House Committee on Education and the Workforce  
Washington, D.C.

Dear Conferee:

As you work to create a pension bill for 2006, I write to share the grave concerns of the United Steelworkers (USW) on an issue of importance to our members, namely, the treatment of contingent event or "shutdown" pensions in both H.R. 2830 and S. 1783.

While we have problems with other aspects of both bills, it is their cutback on shutdown pension rights – either by restricting their payment (House) or limiting their guarantee (Senate) -- that most hurts the current vested rights of hundreds of thousands of working Americans. Over the last several months, we have taken pains to explain to our affected members the workings of H.R. 2830 and S. 1783 on this point. In every case, our members become alarmed and angry that Congress would actually cut back, not simply on the form in which already earned pensions are to be paid, but on the amount and basic availability of them at all. What also strikes our members is that, for the first time since the passage of ERISA, Congress would consider eliminating PBGC protection for a single type of early retirement benefit.

You are certainly aware of the devastation of our industrial economy, the staggering loss of manufacturing jobs, and the hollowing out of our manufacturing middle class. While other areas of the economy have rebounded, the uncertainty for industrial workers unfortunately remains front page news – including stories involving GM, Ford, and Delphi to give just a few recent examples of large and potential plant shutdowns in the news.

And yet, provisions in both H.R. 2830 and S. 1783 will effectively curtail or eliminate historically guaranteed shutdown pensions. These pensions help senior workers survive sudden joblessness, they preserve a community's tax base, and they

can assist a company in its restructuring. For decades shutdown pensions have been used as a restructuring tool in the steel, copper, can, mining auto, tire and aluminum industries.

Today, tens of thousands of our members currently working at AK Steel, Alcoa, Allegheny Technologies, Bridgestone/Firestone, Cleveland Cliffs, Continental A.G., Cooper Tire, Goodyear, International Paper, Michelin (Uniroyal/Goodrich), Ormet, Rio Tinto, Timken, Titanium Metals, US Steel and other smaller companies across the country stand to lose a long-held and guaranteed benefit at one of the most precarious times in manufacturing history.

Certainly, the sponsors of H.R. 2830 are to be commended for their efforts to modify the impact of the original ban on shutdown pensions. However, the 80% rule in Section 103(a) of the bill does little to help most workers we represent in the industrial heartland. Our largest steel, aluminum and tire producers have relatively few plants. Thus, the closing of even a single plant can bring an otherwise well-funded plan (exclusive of shutdown liability) to below 80% and thus deprive workers of their long expected shutdown protection. The rule will also preclude payment of shutdown pensions in cases of "total company shutdowns" for the foreseeable future.

Unfortunately, S. 1783 contains two provisions that effectively eliminate the PBGC guarantee of shutdown benefits. The first, Section 404, treats each contingent event as a plan amendment (which is plainly not the case at all), so any shutdown benefits payable are subject to the five-year phase-in rule. The second, Section 405, provides that if a plan terminates while the sponsor is in bankruptcy, the termination date for purposes of the PBGC guarantee is deemed to be as of the filing date of the bankruptcy petition. Thus, any pension benefits resulting from a shutdown occurring during the bankruptcy are entirely unguaranteed because the participants were not eligible until after the "deemed" termination date.

**For the reasons stated above, the United Steelworkers strongly prefer the preservation of current law on shutdown pensions.** We appreciate the time that staff of some of the principal conferees spent with us in discussing alternatives or modifications to the current proposals in S. 1783 and H.R. 2830 and hope to continue a dialogue that can result in a satisfactory solution. Clearly, from the standpoint of the legitimate and long-standing expectations of participants, the best route is for the conferees to maintain current law for contingent event benefits.

Sincerely,



Leo W. Gerard  
International President

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