CHANGE TO WIN
Pension Issues for Consideration by the Obama Administration:

The growing population of older Americans and their financial well being has grave implications for the nation's economic future. Social Security, Medicare and Medicaid (especially its long-term care benefits) provide a foundation of retirement economic security to keep the vast majority of America's working and middle class from abject poverty. Upon that foundation, the pension and their inextricably related retiree health benefit programs sponsored by private and public sector employers have provided a second tier of protection for recent generations to retire with dignity. To protect the long-term interests of the American taxpayer it is crucial that the incoming Administration **clearly enunciate a renewed commitment to preserving the existing defined benefit pension and retiree health benefit system** and promulgating policies that encourage rather than obstruct or undermine the extension of such plans to broader populations. Such policies should include:

- **Reassert the public protection aspects of the mission of the PBGC** consistent with its statutory purposes which state:
    - "to encourage the continuation and maintenance of voluntary private pension plans for the benefit of their participants,
    - To provide for the timely and uninterrupted payment of pension benefits to participants and beneficiaries under plans to which this title applies, and
    - To maintain premiums established by the corporation …at the lowest level consistent with carrying out its obligations under this title."
- ERISA § 4002(g)(2) states that "The United States is not liable for any obligation or liability incurred by the corporation." We need **a statutory change in the PBGC's corporate backing** which is now the equivalent of the quasi-governmental mortgage corporations, to gain the full faith and credit of the U.S. government, thereby ensuring that the PBGC has sufficient resources to meet its statutory obligations.
- **The PBGC should be authorized and required to facilitate mergers of weaker plans** into stronger ones and granted explicit authority to use guaranty funds to make such mergers feasible.
- **Require that the benefit policies of federal agencies and the procurement policies for federal contracts let by and under the jurisdiction all agencies be consistent with this policy**. This should include support for retiree health benefits which are an integral part of retirement income security.
- Recognize that defined contribution plans are an accumulation of assets of their participants rather than the sponsoring organizations and require greater "democratization" of such plans through mandating employee representation in the management of such plans
    - **Grant Democratic Rights to Corporate Pension Fund Participants (legislative**): Unlike union sponsored "Taft-Hartley" pension funds and most public pension funds, neither defined benefit nor defined contribution plans sponsored by single corporations provide for any employee representation on their board of trustees. This has created enormous agency problems which frequently crop up through excessive fees, inadequate

contributions, conflicts of interest, etc. Participants in single-employer defined benefit and defined contribution plans should enjoy representation on their plans' board of trustees equal to that of employers.

- Reinstate the 1994 DOL Interpretative Bulletins concerning shareholder activism as an essential component of managing such plan assets and investment in economically targeted investments by rescinding the recent DOL opinions restricting such activities. Specifically:
    - **Rescind DOL's 2008 Guidance on ETIs and Proxy Voting.** In October 2008, the DOL issued two Interpretative Bulletins regarding the legal standards imposed on pension plan fiduciaries when considering investments in "economically targeted investments" and the legal standards regarding the exercise of shareholder rights and written statements of investment policies, including proxy voting policies or guidelines. The Bulletins—which incorporate language from DOL Advisory Opinions and Advisory Letters that had been solicited by the Chamber of Commerce and other right-wing groups—affects fiduciaries of employee benefit plans, including trustees, investment managers and others responsible for the management of employee benefit plans.
- **Changes must be made to the funding requirements of the PPA**. We fully support the objectives of the PPA to ensure that plans have sufficient assets to pay promised benefits when they are due. However, the recent financial crisis has demonstrated that as passed the Act contains an unnecessarily ambitious and unrealistic funding regimen that is too rigid to respond to rapid changes in the investment markets. This is true for both single and multiemployer plans.
    - **Plans with 4th Quarter plan years need special attention**
    - **Plans with previous amortization extensions granted under prior law need expedited assistance from the IRS** – Under the current rules both the plans and the services will spend unnecessary resources to come to an obvious conclusion that the current asset depletion was due to forces beyond the control of the plans.

Contact:

Patrick J Szymanski
General Counsel
Change to Win
1900 L Street, NW, Ste 900
Washington, DC 20036
202-721-6035 (direct)
patrick.szymanski@changetowin.org