



# **WESTERN STATES OFFICE AND PROFESSIONAL EMPLOYEES PENSION FUND**

## **B. Changes Effective January 1, 2013.**

The Board has now capped supplemental employer contributions under the Rehabilitation Plan (“2013 Rehab Plan”) at 80%, effective January 1, 2013. The Board determined that supplemental employer contributions under the 2010 Rehab Plan were too high to allow employers to continue to participate in the Plan. For example, before the 2013 change supplemental employer contributions increase 15% a year and top-out at 220% in 2024. The Board determined that there is a substantial risk of employer withdrawals, employers going out of business and possible mass withdrawal if supplemental employer contributions are not capped.

In making this decision, the Board reviewed multiple alternatives and factors, including: investment changes and possible returns; economic conditions; restructuring the Plan and possible mergers; and possible legislative and/or regulatory changes. In addition, the Board was briefed by the Plan’s actuary, investment consultant and legal counsel. The Board determined that keeping the current supplemental employer contribution schedule would result in the likely withdrawal of most, if not all, participating employers, possible employer bankruptcy filings and business failures. Thus, the Board determined that if the Board did not act, the 2010 Rehab Plan would likely increase the risk that the Plan would become insolvent in the near term.

Capping supplemental employer contributions is authorized under PPA, which allows the Board to base the rehabilitation plan on “forestalling insolvency” rather than emerging from critical status. After capping supplemental employer contributions at 80% under the 2013 Rehab Plan, the Plan’s actuary estimates that the Plan will have sufficient assets to pay benefits until approximately 2040. This estimate is based on all employers adopting the 80% supplemental contribution schedule with their next bargaining agreement and that all actuarial assumptions are met, including the Plan investments earning the assumed 7.25% investment return in 2013 and all future years. The Board will continue to review the rehabilitation plan each year and make adjustments and changes, as needed. If the economy rebounds and investment returns exceed the 7.25% assumed rate, the Board can go back to a reasonable measures rehabilitation plan where the Plan emerges from critical status.

Note: The Board did not change the default schedule under the 2013 Rehab Plan. The default schedule has 20% annual increments and tops-out at 275%.

Note: No employer is currently making supplemental employer contributions in excess of 80% and no employer is expected to exceed an 80% contribution percentage until early this coming summer. The Board decided to implement the 80% cap before any employer started paying more than the 80% cap.

## **C. What Happens if the Plan Becomes Insolvent?**

Plan benefits are insured or guaranteed by the Pension Benefit Guarantee Corporation (“PBGC”). The PBGC is a federal corporation established by Congress to insure pension benefits. The Board has been paying insurance premiums to the PBGC for all participants in

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order to provide participants benefit protections under this federal program. Should the circumstance of insolvency arise, the Plan will stay in place, employers will continue to make contributions and supplemental contributions and the Plan will start paying PBGC guaranteed benefits. The PBGC will provide additional funds to the Plan to help fund those benefits.

The level of PBGC guaranteed benefits are set by law and are based on participants' vested benefits. The PBGC guarantees a monthly benefit payment equal to 100 percent of the first \$11 of the Plan's monthly benefit accrual rate, plus 75 percent of the next \$33 of the accrual rate, times each year of credited service. This means that the PBGC's maximum guarantee is \$35.75 per month times a participant's years of credited service. Examples of how the PBGC guaranteed benefits are determined are provided as *Exhibit 1* to this notice.

The PBGC guarantees pension benefits payable at normal retirement age and some early retirement benefits are available. In calculating a person's monthly payment, the PBGC will disregard any benefit increases that were made under the Plan within 60 months before the earlier of the Plan's termination or insolvency (or benefits that were in effect for less than 60 months at the time of termination or insolvency). Similarly, the PBGC does not guarantee (1) pre-retirement death benefits to a spouse or beneficiary (e.g., a qualified pre-retirement survivor annuity) if the participant dies after the Plan terminates; (2) benefits above the normal retirement benefit; or (3) disability benefits not in pay status.

## **D. Employer Supplemental Contributions under the Revised Rehabilitation Plan.**

Employers that have already adopted the 2012 Rehab Plan will stay on the schedule they started with, but contributions will be automatically capped at 80%. A table showing the new 80% cap on supplemental contributions is attached as *Exhibit 2*.

Example 1: Employer adopted the 2012 Rehab Plan effective January 1, 2012. The employer stays on the rehabilitation plan schedule the employer started with, until the cap applies (see attached exhibit):

2012	48%
2013	63%
2014	78%
2015	80% - the cap applies for all subsequent years.

Example 2: Employer adopts the 2013 Rehab Plan effective July 1, 2013. At that point forward the 80% cap applies so the employer's supplemental contributions start at 80% and stay at 80%.

Attached as *Exhibit 3* are Questions and Answers which help explain the current situation.

For more information about this notice, you may contact:

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## EXHIBIT 1: PBGC BENEFIT GUARANTEE EXAMPLES

### Example 1.

Assume a participant has 10 years of credited service and a vested accrued monthly benefit of \$500. The PBGC guaranteed benefit is determined as follows:

- a. Determine the maximum PBGC accrual rate by dividing the vested accrued monthly benefit by years of credited service:

$$\frac{\text{Accrued benefit}}{\text{Credited service}} = \frac{\$500}{10} = \$50 \text{ maximum}$$

- b. Determine the PBGC guaranteed amount for a \$50 accrual rate.

(1) 100% of the first \$11 of benefit: = \$11.00

(2) 75% of the next \$33 of benefit: = \$24.75 (.75 x \$33)

Guaranteed amount: \$35.75 of the \$50 accrual rate

- c. Determine the PBGC guaranteed monthly benefit:  $\$35.75 \times 10 = \$375.50$

Conclusion: The Participant has an accrued benefit of \$500 a month. The portion of that benefit guaranteed by the PBGC is \$375.00. This means that the Participant's benefit is reduced to \$375.00/month. This is 75.1% of the Participant's original benefit.

### Example 2.

Assume a participant has 10 years of credited service and a vested accrued monthly benefit of \$200. The PBGC guaranteed benefit is determined as follows:

- a. Determine the maximum PBGC accrual rate by dividing the vested accrued monthly benefit by years of credited service:

$$\frac{\text{Accrued benefit}}{\text{Credited service}} = \frac{\$200}{10} = \$20 \text{ maximum}$$

- b. Determine the PBGC guaranteed amount for a \$20 accrual rate.

(1) 100% of the first \$11 of benefit: = \$11.00

(2) 75% of the next \$9 of benefit (\$20-\$11): = \$ 6.75 (.75 x \$9)

Guaranteed amount: \$17.75 of the \$20 accrual rate

- c. Determine the PBGC guaranteed monthly benefit:  $\$17.75 \times 10 = \$177.50$

Conclusion: The Participant has an accrued benefit of \$200 a month. The portion of that benefit guaranteed by the PBGC is \$177.50. This means that the Participant's benefit is reduced to \$177.50/month. This is 88.75% of the Participant's original benefit.

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## EXHIBIT 2: SUPPLEMENTAL EMPLOYER CONTRIBUTION SCHEDULE

### *2013 Revised Rehabilitation Plan (2013 Rehab Plan)* *Supplemental Employer Contribution Schedule*

The following Supplemental Employer Contribution percentages apply to collective bargaining agreements effective on or after November 25, 2009. PPA makes it unlawful for the bargaining parties to reduce employer pension contribution rates below the level of the pension contribution rates in effect as of March 31, 2009.

All employers are subject to a 10% surcharge contribution effective January 1, 2010. The surcharge continues until the Rehabilitation Plan is adopted.

<i>CBA Effective Date</i>	<i>1st year</i>	<i>2nd year</i>	<i>3rd year</i>	<i>4<sup>th</sup> &amp; later</i>
1/1/2012	48%	63%	78%	80%
2/1/2012	50%	65%	80%	80%
3/1/2012	52%	67%	80%	80%
4/1/2012	53%	68%	80%	80%
5/1/2012	55%	70%	80%	80%
6/1/2012	56%	71%	80%	80%
7/1/2012	58%	73%	80%	80%
8/1/2012	60%	75%	80%	80%
9/1/2012	62%	77%	80%	80%
10/1/2012	63%	78%	80%	80%
11/1/2012	65%	80%	80%	80%
12/1/2012	67%	80%	80%	80%
1/1/2013	69%	80%	80%	80%
2/1/2013	70%	80%	80%	80%
3/1/2013	72%	80%	80%	80%
4/1/2013	74%	80%	80%	80%
5/1/2013	76%	80%	80%	80%
6/1/2013	78%	80%	80%	80%
7/1/2013	80%	80%	80%	80%

Note: For any CBA effective date on and after 7/1/2013, the Supplemental Employer Contribution Percentage that applies is the ultimate maximum rate of 80%.

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## EXHIBIT 3: QUESTIONS AND ANSWERS

### Employer/Bargaining Unit Questions

1. An employer and a local entered into a new collective bargaining agreement effective January 1, 2011. The CBA states that the employer will make supplemental contributions pursuant the then current Rehabilitation Schedule, which will eventually exceed 80%. Do the bargaining parties have to amend the CBA to adopt the new Rehabilitation Schedule capped at 80%?

Answer: Yes, the parties need to adopt a side-letter agreement adopting the new schedule.

2. Assume the bargaining parties are currently bargaining a new CBA. What do they need to do to adopt the new schedule?

Answer: The parties need to adopt the new schedule in their CBA or in a side-letter.

3. Does the revised Rehabilitation Plan change the rules regarding when the default schedule applies?

Answer: No. The current rules regarding imposition of the default schedule continue to apply. The Board has previously issued a Rehabilitation Plan Contribution Policy dated December 1, 2011, which sets forth the rules on when the default schedule applies. A copy of the policy is available on the Plan's website: <http://www.wsp.aibpa.com> or from the plan administrator.

### Participant Questions

1. Is the Plan terminating?

Answer: No. The Plan is continuing to operate and will continue to operate in the event the Plan becomes insolvent. In that case, the PBGC will provide financial assistance to the Plan. The PBGC will not take-over the Plan administration. The Plan will continue as before, collecting contributions and paying guaranteed benefits.

2. Can the Plan still emerge from the red zone?

Answer: Yes. The Plan could emerge from the red zone or "critical status" depending upon a number of factors, including: a strong economic recovery; increased investment returns; the addition of new employers; action by Congress and/or regulatory agencies; etc. The Board will continue to review the Rehabilitation Plan each year and make appropriate changes.

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3. If the Plan becomes insolvent in the future, what happens to retiree benefits?

Answer: If the Plan becomes insolvent the law requires the Plan to reduce all benefits to the PBGC maximum guaranteed amount. Examples of how the maximum guaranteed benefits are determined are provided in the Notice. The reduction applies to current and future retirees. However, the reduction will not take place until the Plan is actually insolvent, which absent the improvements noted above are currently projected to be approximately 2040.