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# TEAMSTERS JOINT COUNCIL 40
## REPORT OF LEGAL COUNSEL
### SEPTEMBER 12, 2012

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As many of you know, many defined benefit pension plans are significantly underfunded and everyone is searching for a way to deal with the collapse of the defined benefits plans that protect an employee's retirement income. At the Teamsters Joint Council 40 monthly meeting on September 12, 2012, our attorney, Joseph J. Pass, brought to the attention of the delegates a unique way in which defined benefits plans are being protected and made attractive to new employers. For those plans which are underfunded and become unsustainable, solutions need to be found. New employers will not participate in underfunded defined benefit plans because of the risk of withdrawal liability, as well as contribution increases required by rehabilitation plans. These factors prohibit new employers from joining and existing employers wanting out. This dilemma also results in Union members forced to use larger pieces of their wage pie in order to maintain the current benefits.

Mr. Pass reported that in order to attract new employers and keep current employers, a new defined benefit plan can be created with a new withdrawal liability pool using what is known as a "direct attribution" method to calculate withdrawal liability. This will also allow current employers who are facing increasing payments to withdraw from the current plan, pay a withdrawal liability and re-enter into the new "direct attribution pool" as a transition employer. This hybrid plan requires a plan amendment that must be approved by the PBGC. Essentially, the plan allows current employers to negotiate with the trustees for withdrawal liability payments, and instead of the statutory 20-year repayment obligation, the trustees and the withdrawing employer can extend the payment schedule beyond the 20 years. They can also waive interest as well as accept a lump sum at a reduced value on the condition that the employer will join and remain in the new plan for a particular period with a caveat that if the employer withdraws during the repayment or agreed period, the withdrawal assessment "snaps back" to the statutory repayment period. This will keep the withdrawing employers on target for their payments, as well as putting them in a new defined benefit plan with the new "direct attribution pool" withdrawal liability. The newly created defined benefit plan will limit the withdrawal liability to only those employees that are the responsibility of a particular employer rather than a general liability pool. A newly created plan will have contribution rates based upon the work force's demographics and using more conservative actuarial assumptions.

In the end, in most cases where this has occurred, primarily in New England and the Central States, successfully transitioning employers pay less over time with two payments (the negotiated withdrawal payments and the lower post-transition contribution rates) than would have been paid had they continued participating in the single plan or had withdrawn without having an agreement with the Trustees for a longer pay period or the waiving of interest and/or discounts for lump sum payments.

Because of employers wanting relief, as well as out of defined benefit plans, this program will allow employers to reduce their liabilities while still protecting the employees' rights to continue participation in defined benefit plans.