

**Notice of Critical Status  
For  
Birmingham Plumbers and Steamfitters Local Union Number 91 Pension Trust Fund**

EIN: 63-0437949

Plan No. : 001

Date: April 30, 2010

Participants, Beneficiaries, Participating Unions and Contributing Employers:

The Pension Protection Act ("PPA" or "Act"), signed into law in 2006, is intended to improve the financial condition of pension plans. The Act implemented several safeguards as well as notification requirements to share more information about a Plan's "financial health" with participants and other interested parties directly related to the Plan.

**Plan's Status for 2009**

For the January 1, 2009 through December 31, 2009 Plan Year, the Plan's actuary certified to the U.S. Department of the Treasury and the Board of Trustees that the Birmingham Plumbers and Steamfitters Local Union Number 91 Pension Trust Fund ("Plan") was in endangered status ("Yellow Zone"). The Plan was in endangered status at that time because it was projected to have a minimum funding deficiency within seven years.

In accordance with Section 204(a) of the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), the Trustees elected to "freeze" the Plan's 2008 Plan Year Green Zone status and have it apply to the 2009 Plan Year.

**Plan's Status for 2010 – Red Zone**

On March 31, 2010, the Plan's actuary certified to the U.S. Department of the Treasury and the Board of Trustees that the Plan is in critical status (the "Red Zone") for the Plan Year beginning January 1, 2010. Federal law requires that you be notified of the funding status of the Plan and its classification of critical status ("Red Zone"). The Plan is considered to be in critical status because it has funding problems. More specifically, the Plan's actuary has determined that the Plan is projected to have a funding deficiency within five years. The present value of vested benefits for inactive participants is greater than the present value of vested benefits for active participants, and the normal cost plus interest on the unfunded actuarial liability calculated on a unit credit basis is greater than the projected contributions for the current year.

**Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires the Board of Trustees of pension plans in critical status to adopt a Rehabilitation Plan aimed at restoring the financial health of the plan. In addition to revising the plan's formula for future benefit accruals and making similar changes, as part of a Rehabilitation Plan, the law permits pension plans in the red zone to reduce, or even eliminate, benefits called "adjustable benefits." If the Trustees of the Plan determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions or adjustments. No reduction of adjustable benefits will reduce the level of a Participant's basic benefit payable at normal retirement

age. In addition, the reductions may only apply to Participants and Beneficiaries whose benefit commencement date is on or after April 30, 2010.

### **Adjustable Benefits**

The Plan offers the following adjustable benefits that may be reduced or eliminated as part of the Rehabilitation Plan:

- Disability benefits (if not yet in pay status)
- Early retirement benefit or retirement-type subsidy
- Subsidized Qualified Joint-and Survivor Annuity (QJSA) Pop-up Feature
- Reduce the 100% Pre-Retirement Survivor Annuity ("QPSA") to a 50% Pre-Retirement Survivor Annuity
- 60-Month Guaranteed Form of Benefit
- Lump Sum Pre-Retirement Death Benefit

### **Employer Surcharge**

Any Employer who fails to timely agree to a schedule of contributions authorized under the Rehabilitation Plan on or before May 30, 2010 will incur a surcharge. The surcharge is payable to the Plan to help correct the Plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an Employer is otherwise required to contribute to the Plan under the applicable collective bargaining agreement. A 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding Plan Year while the Plan is in critical status, until the Employer agrees to a collective bargaining agreement that implements the Rehabilitation Plan. The 5% surcharge is payable on contributions required for work performed on and after May 30, 2010 until December 31, 2010, and the 10% surcharge is payable with respect to contributions required for work performed after December 31, 2010 until a negotiated contribution rate that satisfies the Rehabilitation Plan goes into effect.

The surcharges will be disregarded in determining benefits and withdrawal liability, as required by the law.

### **What's Next**

The Rehabilitation Plan will be adopted by the Board of Trustees no later than November 26, 2010. Shortly after the adoption of the Rehabilitation Plan by the Trustees, a copy will be sent to Contributing Employers and the Union. Participants and Beneficiaries will receive a separate notice identifying and explaining the effect of any reductions or adjustments of benefits and may request a copy of the Rehabilitation Plan.

You will receive notices like this each year, letting you know of the Plan's progress in stabilizing its financial status. Since the funding of the Plan is influenced by economic and financial variables beyond the control of the Trustees (such as investment market volatility and changes in employment levels and/or the number of contributing employers), unexpected developments can affect the Plan's status and cause modification of the Rehabilitation Plan and the required corrective actions needed.

The Rehabilitation Plan and any recommended changes in benefits, contributions, or other Plan provisions will be communicated to all affected individuals and parties before any changes are made. However, as previously noted, no benefit changes will be included in the Rehabilitation Plan for any retiree or beneficiary currently in pay status (with benefits started before April 30, 2010).

### **Where to Get More Information**

For more information about this Notice, you may contact:

Birmingham Plumbers and Steamfitters Local Union Number 91 Pension Trust Fund  
3625 Ninth Avenue North  
Birmingham, AL 35222  
205-595-5151

We understand that legally required notices like this one can create concern about the Plan's future. We are working closely with our professional advisors to monitor the Plan's condition and develop strategies to improve the Fund's funding status and provide you with sound pensions.

Sincerely,

Board of Trustees

cc: Department of Labor  
Pension Benefit Guaranty Corporation

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