

# *Soft Drink & Brewery Workers Union, Local 812*

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## **RETIREMENT FUND**

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### **NOTICE OF CRITICAL STATUS**

#### **SOFT DRINK AND BREWERY WORKERS UNION LOCAL 812 RETIREMENT FUND**

**To: All Participants, Beneficiaries, Contributing Employers and Union Representatives of the Soft Drink and Brewery Workers Union, Local 812 Retirement Fund**

This is to inform you that on September 28, 2010, the plan actuary certified to the U.S. Department of the Treasury and also to the Soft Drink and Brewery Workers Union, Local 812 Retirement Fund, that the Fund is in critical status for the Plan Year beginning July 1, 2010. Federal law requires that you receive this notice.

#### **INTRODUCTION**

The Pension Protection Act ("Act"), signed into law in 2006, is intended to improve the financial condition of pension funds. The Act introduced several formal safeguards relating to funding, which, in simplest terms, is how much a pension plan has coming in, going out, and what is in reserve (or "in the bank") for future pension payments. The safeguards are intended to prevent future funding problems and correct those that have already developed.

The Act requires us to test the Fund annually to determine its official funding status. The federal law has adopted specific phrases to classify a fund's status at the time of the report. Funds that are labeled as "endangered," "seriously endangered" or "critical" must notify all fund participants, beneficiaries, unions, and contributing employers of the fund's status, as well as take corrective action to restore the fund's financial health.

#### **CRITICAL STATUS**

The plan is considered to be in critical status as of July 1, 2010, because it has funding problems. More specifically, the plan's actuary determined that the sum of the Plan's normal cost and interest on the unfunded benefits for the current Plan year exceeds the value of all expected contributions for the year. In addition, the present value of vested benefits of inactive participants is greater than the present value of vested benefits of active participants; and the Plan is projected to have an accumulated funding deficiency for Plan years beginning July 1, 2014. What this means is that by the 2014 Plan Year, contributions are not expected to be high enough to meet government standards for funding promised benefits plus those benefits that participants are currently earning.

#### **REHABILITATION PLAN AND POSSIBILITY OF REDUCTION IN BENEFITS**

The Act requires pension plans in critical status to adopt a rehabilitation plan designed to enable the plan to improve its funded position so that, over time, it will be able to meet the

statutory funding requirements. The law permits pension plans to reduce benefits called “adjustable benefits” as part of the rehabilitation plan. Adjustable benefits include:

- Plan benefits, rights, and features, including the 120-month guarantee, optional forms of payment (other than qualified joint and survivor annuities), and similar benefits; and
- Early retirement benefits or retirement-type subsidies.

If the Fund Trustees determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits will not reduce the level of a participant’s basic benefit payable at normal retirement such as a single life or qualified joint and survivor annuity. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 28, 2010. You will be notified at least 30 days before any benefit reduction is put into effect. But you should know that whether or not the Fund reduces adjustable benefits in the future, effective October 28, 2010, the Fund is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status.

The Rehabilitation Plan, which must be adopted before the end of May 2011, will consist of one or more “schedules” of recommended contribution increases and possible reductions in benefits. Local 812 and bargaining unit employers will be provided with these schedules for consideration in negotiations for new or renewed collective bargaining agreements. If the bargaining parties cannot agree to adopt one of these schedules, the law requires the Trustees to impose the default schedule for any bargaining unit in this situation. The default schedule will include any legally required reductions in the adjustable benefits, as well as any increase in employer contributions. The bargaining parties may also agree on an alternative schedule that may include less drastic or no reductions in benefits in addition to employer contribution increases.

#### **EMPLOYER SURCHARGE**

The Act requires that all contributing employers pay to the Fund a surcharge to bring the Fund into compliance with the Act’s funding rules. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Fund under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding year thereafter in which the Fund is in critical status.

#### **WHAT’S NEXT**

We understand that legally required notices like this one can create concern about the Fund’s future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Fund. With the assistance of the Fund’s actuary, counsel and other professionals, and working with the contributing employers and the Union, the Trustees will develop a rehabilitation plan that addresses these issues. As a final note, since the Fund is influenced by economic and financial variables beyond our control (such as market volatility and changes in employment and/or the number of contributing employers), unexpected

developments can affect the funding status of the Fund and any future actions that may be needed.

For more information about this notice or the Fund, please contact the Fund Office in writing at the address listed at the top of this letter. Please note that you have a right to receive a copy of the rehabilitation plan from the Fund after the rehabilitation plan is adopted by the Trustees.

Sincerely,

The Board of Trustees

Date: October 28, 2010

*As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.*