



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2839

Introduced 1/20/2006, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

New Act

Creates the Employee and Retiree Benefit Protection Act. Provides that unsecured claims for contributions to employee and retiree benefit plans, including health and pension benefits, arising from all past, present, and future obligations of an employer to fully fund those plans, have a higher priority in bankruptcy proceedings than the priorities set forth in the federal Bankruptcy Code. Provides that employee and retiree health and pension benefits provided to an employee or retiree shall be continued to be provided to the employee or retiree in the same manner and with the same benefits that would otherwise have been provided to that employee or retiree if the employer has not been subject to bankruptcy proceedings. Effective immediately.

LRB094 18518 RLC 53845 b

1 AN ACT concerning employment benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Employee and Retiree Benefit Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Employee" means a person employed by an employer and who
8 resides within the State of Illinois or who is employed in the
9 State of Illinois.

10 "Employer" means a person that employs one or more
11 individuals in the State of Illinois; however, "employer" does
12 not include any federal, State, or local governmental entity or
13 any school district.

14 "Health benefits" means benefits provided in accordance
15 with a plan under which an employer agrees or otherwise
16 undertakes to pay for or reimburse some or all of the costs of
17 health care products or services incurred by some or all of its
18 employees and retirees, regardless of whether those benefits
19 are provided by means of health insurance, a health maintenance
20 organization, or any other means, regardless of whether an
21 employee or retiree must pay co-payments, deductibles, or
22 contributions as a condition of coverage, and regardless of
23 whether the employee's or retiree's dependents or household
24 members are also covered under the plan.

25 "Pension benefits" means any benefits provided by an
26 employer under a pension plan as the term "pension plan" is
27 defined in Section 1002 of the federal Employee Retirement
28 Income Security Act, as now or hereafter amended, other than
29 benefits that are insured by the federal government and paid by
30 the Pension Benefit Guaranty Corporation.

31 "Retiree" means a person who was formerly employed by an
32 employer and who is eligible to receive health or pension

1 benefits, or both, from or through the employer on the basis of
2 having been employed by the employer at a plant, facility, or
3 other workplace located within the State of Illinois and having
4 met any additional qualifications established by the employer.

5 Section 10. Priority of claims in bankruptcy proceedings.
6 Notwithstanding Section 507 of the federal Bankruptcy Code to
7 the contrary, for an employer in bankruptcy under the federal
8 Bankruptcy Code, whether voluntary or involuntary, and who
9 before bankruptcy proceedings has provided its employees and
10 retirees with health or pension benefits, or both, the
11 following expenses and claims against that employer have
12 priority in the following order:

13 (1) First, administrative expenses, fees, and charges
14 as provided in Section 507 of the federal Bankruptcy Code,
15 as now or hereafter amended.

16 (2) Second, allowed unsecured claims for wages,
17 salaries, and commissions as provided in Section 507 of the
18 federal Bankruptcy Code, as now or hereafter amended.

19 (3) Third, allowed unsecured claims for contributions
20 to employee and retiree benefit plans, including health and
21 pension benefits, arising from all past, present, and
22 future obligations of the employer to fully fund those
23 plans, regardless of any discharge of obligations in
24 bankruptcy proceedings.

25 (4) Fourth and thereafter, the priorities shall be
26 those as established under Section 507 of the federal
27 Bankruptcy Code not otherwise covered by item (1), (2), or
28 (3) of this Section.

29 Section 15. Continuing obligation to provide health
30 insurance. Notwithstanding any provisions of the federal
31 Bankruptcy Code, the federal Employee Retirement Income
32 Security Act, or the federal Consolidated Omnibus Budget
33 Reconciliation Act to the contrary, employee and retiree health
34 and pension benefits provided to an employee or retiree shall

1 continue to be provided to the employee or retiree in the same
2 manner and with the same benefits that would otherwise have
3 been provided to that employee or retiree if the employer had
4 not been subject to bankruptcy proceedings. The bankruptcy
5 trustee shall preserve a sufficient amount of the assets of the
6 bankrupt employer to continue to pay for that coverage.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.