



Chapter 8

Retiree Health Benefits in the Coal Industry: A Final Solution to the High Cost of Easy Promises?

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§ 8.01. Introduction.

Sixty years ago, in the 1946 National Bituminous Coal Wage Agreement (NBCWA), the coal industry and the United Mine Workers of America (UMWA or Union) pioneered the concept of using a multiemployer plan to provide pension and health benefits to union members and their families. Nearly three decades later, the 1974 NBCWA transformed what had been the policy of the plan's trustees to provide health care benefits to retired UMWA miners on a pay-as-you-go basis into a contractual promise to provide benefits to retirees for life.¹

By the early 1990s, it was apparent that the declining number of companies contributing to the UMWA retiree plans could no longer shoulder the cost of the expansive collectively bargained health benefit program the Union had secured over the years for its retired members. The UMWA multiemployer plans' mushrooming deficits meant that the 120,000 UMWA retirees and dependents enrolled in those plans might lose their health benefits when the 1988 NBCWA expired on February 1, 1993. This led the Secretary of Labor to appoint an Advisory Commission in 1990 "to focus on health care issues arising from the 1950 and 1974 UMWA Benefit Plans and the effects of resolving these issues in the coal industry as a whole."² The impending crisis ultimately resulted in enactment of the Coal Industry Retiree Health Benefit Act of 1992 (Coal Act),³ the first and (to date) only time Congress has intervened to elevate a private-party contractual promise to provide retiree health benefits into a statutory obligation.

¹ As one commentator noted, "[r]etiree health benefits were a bargaining prize that apparently could be won or granted with no present sacrifice in wages or profits. Now the long-run consequences are becoming apparent." See Alain C. Enthoven, "Retiree Health Benefits as a Public Policy Issue," in *Retiree Health Benefits: What Is the Promise?* 3, 12-13 (1989).

² See Sec'y of Labor's Advisory Commission on United Mine Workers of America Retiree Health Benefits, *Coal Commission Report: A Report to the Secretary of Labor and the American People* [hereinafter cited as *Coal Comm. Rept.*] reprinted as pages 142-277 in *Coal Commission Report on Health Benefits of Retired Coal Miners: Hearing Before the Subcomm. on Medicare and Long-Term Care of the Senate Comm. on Finance*, 102 Cong., at 143 (1991) [hereinafter cited as *Senate Hearing*].

³ 26 U.S.C. § 9701-9722.

This chapter will examine how a commitment to provide lifetime health benefits evolved in the coal industry, and the complicated patchwork of single and multiemployer plans the parties and Congress have created to keep the promise alive. It will also review why the sweeping and highly controversial 1992 Coal Act did not provide a permanent solution to the UMWA retiree health care problem, and why in 2006 Congress intervened yet again to preserve benefits.⁴ Finally, it will examine whether the changes embodied in the 2006 Amendments, in conjunction with other recent developments, have put the question of funding UMWA retiree health benefits to rest, and what lessons the coal industry experience may offer to employers in other industries concerning how to avoid the high cost of easy promises.⁵

§ 8.02. Anatomy of a Promise to Provide Lifetime Health Benefits.⁶

[1] — The 1946 Krug-Lewis Agreement and the UMWA 1950 Welfare Fund.

In 1946 the UMWA called a nationwide strike in support of its collective bargaining demands for a change in the way health care was provided to coal miners. In response, President Truman issued an Executive Order authorizing Julius Krug, Secretary of the Interior, to seize the mines and negotiate a contract with UMWA President John L. Lewis. The historic Krug-Lewis agreement established the very first multiemployer welfare plans to be

⁴ Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, 120 Stat. 2922 (2006).

⁵ In the 1991 Senate Hearing, Senator Dave Durenberger described the crisis in funding UMWA retiree benefits as involving “a whole bunch of promises made to a whole lot of people back in the 1940s and 1950s when the cost consequences of those problems were totally unknown. Now that we see them they are so much bigger than we think they ought to be.” Senate Hearing at 16.

⁶ The story of how the promise of lifetime health care for UMWA retirees came about has been related in numerous articles and court decisions. A comprehensive review is contained in the Coal Comm. Rept., reprinted in 1991 Senate Hearing, at 167-181. *See also* Eastern Enterprises v. Apfel, 524 U.S. 498, 504-511 (1998); John R. Woodrum and Larry P. Rothman, “Proposals for Funding United Mine Workers of America Retiree Health Benefits: The Constitutional Dimensions,” 93 *W. Va. L. Rev.* 633, 638-45 (1991).