On The Move

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FIGHT FOR PENSION REFORM UNDERWAY

Local 234 and SEPTA have entered into negotiations over pension reform as provided for in the 2014 contract. There are many pension issues on the table, including an increase in monthly benefits, a cost of living allowance for retirees, pension funding adjustments and other reforms. Pressure from the Union already caused SEPTA to reform the SAM pension. If we are to succeed in negotiations, our members must remain united, strong and *knowledgeable* about the pension.

Over the past few months, leaflets have circulated on the property criticizing Local 234's pension plan. However, these leaflets are filled with misleading and inaccurate information about the plan, and since bad information leads to confusion and disunity in our ranks it can undermine the Union's leverage in negotiations. That's why we need to set the record straight.

ERISA, a federal law, does not cover public employee pension plans

Over and over again, these leaflets proclaim that under *federal law a member's children* are entitled to be beneficiaries in an employer sponsored pension plan and that our plan is in violation of this legal entitlement. Yet, the federal law most frequently cited to support the writer's claim has nothing to do with our pension, because it does not apply to public sector plans, and in addition, it does not require children to be pension plan beneficiaries in the private sector either.

The TWU/SEPTA pension plan is a defined benefit plan, the terms of which are *negotiated* between the Union and the Authority. A defined *benefit* plan is one that pays a guaranteed monthly benefit upon retirement, in contrast to a defined *contribution* plan (a 401k), which pays whatever the employee contributes, plus or minus, the return on their investments. Under our plan, a retiree can elect to designate his spouse as the beneficiary of his/her monthly pension benefit.

ERISA is a federal law adopted to safeguard retirement benefits and to establish national uniformity in employee benefit law. However, ERISA does not apply to public employer pension plans, it applies only to private sector plans. ERISA does not apply to the TWU/SEPTA Plan, because SEPTA is a public, not a private, employer. In addition, there is no Pennsylvania law similar to ERISA to govern our pension plan---*it's all a matter of negotiations*.

Retirees do not have the *legal right* to leave their pension to their children

According to the leaflet writer, retirees have a *legal right* to leave their pension benefits to their children, but the union took away this right in negotiations. The most recent leaflet states:

> 26 US Code Section 401 (a)(9)(E) gives us the right to a beneficiary; and Section 401(a)(9)(F) says how that money should be paid to children. So why are unmarried, divorced and widowed members of our union being denied their beneficiary rights…?

***Sadly, the leaflet writer got the facts and the law all wrong*:**

- First, Sections 401(a)(9)(E) and 401(a)(9)(F) of the Federal Tax Code are products of ERISA, therefore, *they do not apply* to the TWU/SEPTA Pension Plan.

- Second, Section 401(a)(9)(F) *does not give children beneficiary rights* under the law, even for private sector pensions. In fact, *there is no federal or state law that requires children to be eligible as beneficiaries under an employer sponsored pension plan.* Whether children are eligible to be beneficiaries is determined solely by the terms of the plan agreement, ***not the law*.**

Retirees who elect to provide pension benefits to a beneficiary must accept lower monthly pension payments

Under a defined benefit pension plan, *the retiree pays* for the beneficiary's pension coverage by accepting a lower monthly pension benefit. If a TWU member takes the spousal benefit, he/she must accept a *lower monthly payment* for themselves. The reduction in the monthly benefit is based on the age of the spouse and their life expectancy. The younger the spouse, the greater the reduction in the retiree's monthly benefits.

If a child could be named as a beneficiary, a retiree would have to accept a *huge reduction* in their monthly pension benefit to cover the child, because the child is bound to be much younger than his/her spouse. In other words, in defined benefit plans, the retiree, not the employer, is the one who pays to provide a monthly pension benefit to a beneficiary. Those without a beneficiary receive *a higher monthly pension payment*.

What is the Pension Benefit Guarantee Corporation ("PBGC")

According to the pension leaflets, the secretaries working at the union hall have their pension benefits insured by the Pension Benefit Guarantee Corporation. However, this insurance is the result of another *federal law* that does not protect the pension benefits of public employees. In addition, PBGC's insurance coverage only kicks in when a private pension plan is terminated, because the employer goes out of business altogether. And PBGC insurance does not provide dollar for dollar coverage. Just like ERISA, the PBGC has nothing to do with TWU's pension plan, but the poison pension leaflets try to mislead the members into thinking otherwise.

Our pension fund works just like the social security retirement system

One of the complaints voiced by some is that all the money contributed by members who are unmarried, divorced, or widowed goes *back to SEPTA* when they die. This is utter nonsense. If a divorced, unmarried, or widowed member dies, before or after retirement, their uncollected benefits stay in the pension fund, which is not SEPTA's money; this money benefits those members still in the plan. This is no different than social security benefits, for which we all pay 6.2% of our weekly incomes through the FICA tax. If you die without a spouse, your uncollected benefits stay in the social security trust fund. They are not returned to the government.

There is one thing that the leaflet writer got right: "It's easier to fool a person than it is to convince a person that they're being fooled." That's exactly the danger of the misinformation contained in these pension leaflets. Some members will be fooled and once fooled it will be much harder to convince them that they are being fooled. If we expect to win real pension reforms, we must all combat the crazy, ill-informed statements being made about our pension plan.