

Retirement Plan Protection

Utility Systems continue to provide meaningful retirement plans for their employees. By contrast, less than half of American workers have access to an employer sponsored retirement plan. The plans for those that do are often inadequate to enable an individual to retire with a sufficient level of retirement income.

It is therefore important that Utility workers receive the promised retirement plan benefit, whether from a traditional pension plan or some form of defined contribution plan. Unfortunately, that benefit is under pressure from a variety of sources.

Utility Systems may be sold, consolidated or their governing authority otherwise modified. New Boards may not value and thus may wish to substantially modify the retirement plan. During those events, the provisions of the current retirement system may or may not be honored. While the State of Tennessee has significant judicial decisions protecting Utility retirement plan rights, some issues have been moved to Federal courts where those protections are less assured. Private employer pension regulations may become an issue. How can reasonable steps be taken to protect Utility workers' retirement plan provisions?

USICG, in concert with legal counsel, has incorporated some protective covenants in its clients' retirement plans. Those provisions include, among others:

- Requiring full funding of the pension plan in the event of the sale of the Utility, with a definition of what that means and how it is to be calculated
- Preventing the plan from being terminated until all current participants have retired
- Vesting current employees in the rights and features of the current plan

Evaluate the protective provisions of your plan document and plan booklets to make sure that, as much as possible, plan participants can be reasonably assured that they will receive the retirement benefit that has been promised.

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