

**From:** [Rick Swinford](#)  
**To:** [Director - FASB](#)  
**Cc:** [Mike Swinford](#); [Ray Swinford](#)  
**Subject:** File Reference No. 1860-100  
**Date:** Thursday, October 21, 2010 11:37:46 AM

---

Suzanne Bielstein,

I have been recently made aware of two proposed rules that are being considered by the FASB. Our company asks that you take into consideration the potential financial impact that these may hold for companies such as ours. We are a financially stable company, but in order for us to fund upcoming projects, especially larger ones, we need access to credit. These two proposed rules would potentially not allow our company to gain access to credit when we deeply need it. See below the quotes from the letter we received by NECA. They are valid points and valid concerns.

*“The first proposal, Topic 450, covers “Disclosure of Certain Loss Contingencies,” that defines under what conditions an employer would need to disclose information relative to potential withdrawal liability assessments on financial statements. **NECA believes that withdrawal liability should only be disclosed when it has been incurred or will likely be incurred in the future.** Moreover, even though there is some disagreement among accounting and actuarial professionals as to when such withdrawal liability assessments will need to be disclosed, NECA believes that under no circumstances **should FASB expand the threshold to change the current reporting standard from “probable or reasonably possible” to “remotely possible.”**”*

*The second proposal, Topic 715-80, is the “Exposure Draft on Compensation-Retirement Benefits-Multiemployer Plans.” 715-80 is a **dramatic expansion of the reporting requirements** that employers contributing to multiemployer pension plans will need to disclose. Withdrawal liability is only one of the 81 new disclosures required under 715-80. Among the new criteria:*

*The amount that is required to be paid upon withdrawal from the plan, as of the most recent date available*

*Description of rehabilitation or funding improvement plans in effect or under consideration*

*Total assets and accumulated benefit obligations of the plan*

*Percentage of the company’s employees covered by the plan*

*Percentage of the active and retired participants of the plan employed by the company*

*Future trends in contributions, if known, including the extent to which a surplus or deficit may affect future contributions*

*There are several concerns with the proposals.*

*1. Misleading information – As much as NECA understands the need for greater transparency with respect to financial decision-making by crediting institutions, NECA believes FASB’s request for additional disclosures will produce **misleading and inaccurate** information.*

*a. Most withdrawal liability estimates will be **more than a year out-of-date** when financial statements are published.*

*b. The financial markets have been volatile; in the past two years, the S&P index*

returned -37% in 2008 and +26% in 2009.

c. **The 20-year cap on payments and likelihood of up-front payments make it unlikely that an employer will cover the full withdrawal liability assessment.**

d. Construction maintains a mobile, transient workforce. How would one of our employers report the number of actual and retired workers? At what point in time would such a calculation be made? Would this include anyone who ever worked for an employer?

2. **Inconsistent with National Public Policy – Over the past several years, Congress has passed laws aimed at strengthening employer-sponsored pension plans. Congress does not want to see these plans fail. Congress has passed laws to set out special rules (ERISA) for the construction industry with respect to withdrawal liability; FASB’s proposals should respect such public policy and not attempt to issue “one-size-fits-all” standards.**

3. **Withdrawal liability unlikely – FASB is requiring that every employer determine what their withdrawal liability would be and disclose such figures on financial statements even though the reality is that the employer has not and will not take those steps to cease contributing to a plan and “go non-union” within five years.**

4. **Cost and administrative burdens – The sheer volume of paperwork will place an unreasonable burden on employers. Employers will have to fund actuarial calculations for the number of defined benefit plans in which they participate. Plans will be burdened; actuaries are unlikely to have the resources to meet the demand of performing such calculations for plan participants. Withdrawal liability calculations are expensive to calculate. The cost of a withdrawal liability assessment will likely be the responsibility of the employer.**

5. **Inappropriate to disclose certain information – With respect to the 715-80 proposal, it would be inappropriate to comment on future strategies related to collective bargaining. For example, information related to funding improvement plans or rehabilitation plans that are under consideration could be proprietary in nature.**

**With regard to comments filed by signatory contractors, it is essential to respond by November 1st with opposition to FASB’s 715-80 proposal. Form letters will likely be discarded. Where appropriate, consult with your accountant and use the bullet points below to express your concern with the FASB proposal. Please emphasize the misleading information and cost and administrative burdens that will be placed on your company to comply with these new disclosures.**

**Talking Points (in addition to the points raised above):**

NECA supports FASB’s goal of maintaining transparency and establishing high accounting standards, but it is **opposed to providing misleading and inaccurate withdrawal liability information**. The inclusion of such misleading information, in the form of a new disclosure on an employer’s financial statement, will **negatively impact an employer’s ability secure a line of credit or a loan**. Such a disclosure will negatively impact the credit industry as it will reject loan applications from employers with these new disclosures that will now appear on financial statements when in reality, such an investment opportunity is one with a financially secure company.

Withdrawal liability assessments can be **misleading** because they represent a **snapshot** of a single moment in time and fail to reflect the long-terms nature of multiemployer defined benefit plans or other factors affecting plan funding such as **fluctuating stock market returns**.

Withdrawal liability assessments can be **expensive and will be an administrative burden**. A recent estimate from the NEBF indicates such an assessment could cost \$1200 and

*such an expense will likely be the responsibility of the employer. For employers participating in many multiemployer plans, this potentially represents a huge expense and administrative burden. Currently, over 10,000 employers participate in NEBF's plans. It is unlikely that actuaries will be able to handle the volumes of requests for withdrawal liability assessments.*

***NECA believes that withdrawal liability should only be disclosed when such an expense is likely to incur or intended to be incurred in the future. Under ERISA, and only if a defined benefit plan is underfunded, will there be any withdrawal liability assessed.***

***It is unlikely that an employer will cease contributing to a defined benefit plan and actually incur withdrawal liability.***

*At a time when the country is trying to come out of an economic recession, this represents an unnecessary restriction on the use of capital and an investment opportunity lost for the banking and investment industry. “*

I urge you to not follow through with your proposed changes, as this could potentially slow small business growth even more than it currently is. This would not be good for many small businesses around the country.

Regards,

Rick Swinford  
Vice President

A&R Electric  
1150 E. Elm Ave.  
Fullerton, CA 92831

(714) 578-8888 office  
(714) 578-8885 Fax