THE REGULATION OF COLLECTIVELY
BARGAINED HEALTH AND
WELFARE PLANS*

I. General

The official recommendations adopted by the Executive Council on May 4, 1955 consisting of twelve principles designed to provide affiliated unions "with the means and the authority to audit funds and apply remedies where there is evidence of a violation of standards." The report also includes recommendations for federal and state legislation to control abuses. The suggested federal legislation would require disclosure of financial operations of health and welfare plans to the Bureau of Internal Revenue as a prerequisite for tax deductions. Action suggested on the state level is mainly concerned with improvements in the insurance laws.


Although willful spoliation in union-management group insurance programs is not the rule, Mr. Bell points out some notable examples of mismanagement, such as those in Building Service Employees Local 32BJ and the Central States and Michigan Conferences of Teamsters. Abuses occur most commonly in the health and accident insurance funds. They include high commissions for procuring the account, excessive administrative fees, switching of funds ("twisting"), and kickbacks. The author believes that management supervision plus a spotlight of publicity (i.e. publication of administrative costs, insurance retentions, and commissions) would be as effective as detailed regulation.

Chamber of Commerce of the United States, Labor Relations and Legal Department. *State insurance laws affecting employee pension and

*Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.

Excerpts from replies to a Chamber of Commerce questionnaire to State Insurance Commissioners for the purpose of determining the degree of state control over welfare and employee benefit programs administered by either a labor organization or an employer. At that time most states had no provisions for such regulation.


The 1954 report, which was unanimously adopted by the convention, contains the official statement of policy on the administration of funds together with the findings and recommendations of the Committee regarding the standards which such funds should meet. The 1955 report offers a draft bill requiring compulsory disclosure of facts regarding funds to the Secretary of Labor with stiff penalties for non-compliance. The Committee stated its preference for federal over state regulation and stipulated that all funds, however administered, should be covered.


Helpful suggestions for the formulation of union welfare plans, especially for independent groups of trustees who take title to the fund payments and provide for the benefits. Since welfare trusts commonly involve the collective bargaining agreement, the trust agreement, and the insurance contract between the trustees and the selected insurance company (where no self-insured plan is contemplated), the author outlines the legal requirements and problems inherent in each of these contracts which must be accounted for in a fully legal welfare agreement. Also discussed is the impact of federal statutes.


Mr. Imberman asserts that management has too often abdicated its responsibility for health and welfare plans, thus allowing an entrance for racketeering. Such abuses, he argues, can be prevented most successfully by more active employer participation in fund administration, and not by legislation and government intervention.
Ziskind, David. "The law of employee benefit plans." _Washington University Law Quarterly_ (Washington University, St. Louis), April, 1955, pp. 105-216. $1.00.

Benefit plans resulting from collective bargaining rest on formal agreements. Mr. Ziskind points out the legal commitments incurred by a benefit plan due to these contractual and trust relationships. Also stated are the implications arising from statutory regulation.

II. LEGISLATIVE INQUIRIES AND ACTION

New York State. Laws, statutes, etc. Chapter 774, Laws of 1956. An act to amend the insurance law and the banking law in relation to the registration, examination and supervision of employee welfare funds and repealing subdivision 3 of Section 28 of insurance law. Approved April 19, 1956, effective September 1, 1956. Albany 1. Department of State. On request.

This law applies to jointly-administered plans only. Every covered plan must register either with the Superintendent of Insurance or Banks and file a report once a year in a form prescribed by the agency. The state agency must make an investigation once every five years, and may do so any time it deems necessary. Disclosure of such information to employers, labor organizations, and covered employees is at the discretion of the Superintendent. Insurance companies must furnish only such information to the trustees of the funds as to allow them to file the appropriate annual reports.


Report on union and employer welfare plans which embodies the findings and conclusions resulting from the investigations of the New York State Insurance Department. Background material, case study précis of maladministered plans, and summary findings from the Department’s questionnaires to unions, insurance companies, and employers are given. In order to correct impropriety and corruption and to guard against the dissipation of assets, regulation at the state level is suggested.


———, 83rd, 2d session. Committee on Education and Labor. _Investigation of welfare and pension funds;_ hearings . . . pursuant to


Transcripts of Congressional hearings into the state of collectively bargained health and welfare plans with a view to ascertaining the need for regulatory legislation.


Although control of abuses is necessary, the Subcommittee concluded that it is subsidiary to the major problem of improving the administration and stability of welfare and pension plans by setting up sound standards with a minimum of detailed regulation. The Subcommittee proposed a federal disclosure act as "a moderate and sound approach" leaving room for state action. Part 2 of the report presents information obtained through staff studies and public hearings concerning plans in the steel, auto, coal, clothing, electrical, trucking, and residential construction industries.


The administration bill, written by the Department of Labor and introduced by Senator Ives, requires annual reports to the Labor Department covering the financial activities of welfare funds and includes all plans, although the Secretary of Labor may exempt any which he finds need not be covered. He may also prescribe the form and content of the information to be disclosed as well as the extent of dissemination thereof. The bill does not preempt the field for the federal government.


Senators Douglas, Murray, and Ives propose legislation requiring plans covering 25 or more employees to register with the Securities and Exchange Commission, and those covering 100 or more workers to file detailed annual reports. This information would be disclosed to the beneficiaries of the plan and other interested parties. These regulations specifically apply to all funds, whether union, jointly, or employer administered.