

**International Union  
of  
Operating Engineers  
Local 132**

**My  
Savings**

**Saving  
for the  
future...**

**Annuity and Savings Fund  
Summary Plan Description**

2008 Edition

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This summary is available for you online at  
**[www.iuoe132.org](http://www.iuoe132.org)**

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## **Introduction**

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The International Union of Operating Engineers Local 132 Annuity and Savings Fund was initially established on June 1, 1990 with the purpose of providing Plan participants with supplemental income after their retirement.

### **About this Booklet**

We are pleased to provide you with this updated Summary Plan Description. This booklet defines and describes the Annuity and Savings Fund benefits. This booklet cancels and replaces all booklets and related material which you have been previously issued.

The International Union of Operating Engineers Local 132 Annuity and Savings Fund (“Plan”) provides retirement benefits to participating employees who are members of the local 132.

The Plan is an individual account pension Plan established as a multi-employer Plan under the collective bargaining agreement between the International Union of Operating Engineers Local 132 (“Union”) and each Employer who has signed such agreement. Your benefit is based solely on the amount of money in your individual account in the Plan.

### **Amendment and Interpretation of the Plan**

The Trustees are empowered to amend the Plan and the benefits provided hereunder from time to time as they in their sole discretion determine appropriate. Participants will be advised of any material modification to the Plan by notice forwarded to their last known address by first class mail, postage prepaid.

The Trustees are empowered to construe and interpret the Plan and this Summary Plan Description, and any such construction and interpretation adopted by the Trustees in good faith shall be binding upon the Union, Employers, Employees and Participants.

# The Plan, Participation and Contributions

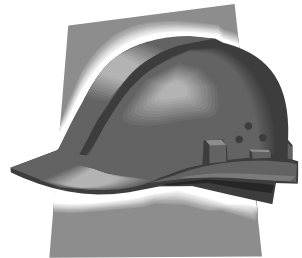
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## Type of Plan

The Plan is a multi-employer defined contribution Plan established pursuant to the collective bargaining agreement(s) between the Union and the participating Employers. The Plan is a profit sharing plan as defined by IRC section 401(a). It was originally established June 1, 1990 and has been amended to meet current law effective as of June 1, 2004

## Upon Becoming a Participant

If you were a Participant in the Plan immediately prior to June, 2004, you will continue to participate in the Plan. Otherwise, to become a participant in the Plan you must be an “eligible employee”.



An eligible employee is defined as an employee whose employment is governed by the terms of the collective bargaining agreement between the Union and the adopting employers. In addition, to being an eligible employee, you must complete one or more hours of work under the collective bargaining agreement.

However, if an employee is first hired as a non collectively bargained employee but subsequently become subject to the collective bargaining agreement and if he completes at least 1,000 hours of work in the twelve (12) consecutive month period commencing on his initial hire date then he will enter the Plan retroactively back to his initial hire date.

## The Effect of Military Service

If you are a re-employed Veteran, as defined in Chapter 43 of Title 38 of the United States Code, your Employer must make a contribution equal to the contribution that you would have received had you not been in uniformed service. However, your share of the net income (or loss) of the Trust, is ignored during such protected period of uniformed service. For the purposes of calculating the amount of the Employer contribution, your wages during such period will be computed as the amount that you would have received, but for your period of uniformed service. If your wages for this period is not reasonably certain, then the wages that you received for the twelve (12) month period immediately preceding your uniformed service period will be used for the purposes of calculating the employer contribution.

## Contributions Made to the Plan

Your Employer makes a flat dollar per hour contribution in the amount specified in the collective bargaining agreement. This contribution is allocated to each participant's Account based on hours worked.

Internal Revenue Code contains limitations on the amounts that can be contributed on behalf of each Participant in the Plan. If the limit is inadvertently exceeded, the excess will be reallocated in accordance with IRS rules. **Generally, these limitations will not apply to the Plan.** If you have any questions concerning the limitations, please contact the Trust Office.

You will receive a statement of your Account every three (3) months. This statement will indicate the Employer contribution(s) allocated to your Account during the reporting period as well as adjustments for any distributions, plan expenses and earnings or losses.

## How are my Contributions Invested?

You have the opportunity to give investment instructions for the assets and the balance in your individual account. The Fund offers a broad range of investment alternatives from which you can select, each designed with a specific investment objective.

In order to make informed decisions regarding the investment alternatives, you should take the time to review the information which is made available. You should also determine your financial goals and risk tolerance before making any investment decisions. Keep in mind, the fact that a particular investment alternative is available under the Fund should not be construed as a recommendation to invest in such option.

Should you not choose to direct how your individual account balance is invested, your balance will then be placed in the Trustee directed default fund, which is currently the Federated Capital Preservation fund (or Stable Value fund).

The plan operates in accordance with the requirements of the Employee Retirement Income Security Act of 1974 ("ERISA") Section 404(c), which provides that the fiduciaries of the plan may be relieved of liability for any losses which are the direct and necessary result of investment instructions given by the Participant or Beneficiary. The Fund is not responsible for any losses which result from your investment instructions.

## **What is a Terminated Participant?**

A “terminated participant” is any person whose employment with the Employer who is signatory to the collective bargaining agreement has been terminated, and such person is not employed in the United States in the same industry and in a trade, craft or job of a type covered by the Plan.

## **When will I Become 100% Vested in my Account?**

Any money contributed to your Account by an Employer, and any earnings thereon are 100% vested at all times.

## **My Rights to Benefits**

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### **What are my Rights to Benefits if I Retire?**

Every terminated participant who has attained age 65 (normal retirement age) shall, at his election, be entitled to receive the value of his Account in the Plan.

### **What are my Rights to Benefits Prior to Becoming a Terminated Participant?**

Any Participant who has had his Account for at least two Plan Years shall be given an option to remove either one-half ( $\frac{1}{2}$ ) or all of the Employer contributions and earnings that have accumulated in his Account during the single Plan Year that is two years prior to the date of the election. This option will be given on a one time irrevocable basis at the end of each applicable Plan Year. If the Participant elects not to remove either one-half ( $\frac{1}{2}$ ) or all of the applicable Plan Year's accumulations, the Participant may not elect in a subsequent Plan Year to remove any of the amounts that he previously elected to keep in his Participant's Account until he becomes a Terminated Participant, retires after attaining Normal Retirement, withdraws union membership, or dies.

Upon becoming a Terminated Participant, you will be given an option to receive all, or a portion of, the benefit in your account. Alternatively, you may also leave your account balance in the Plan until a later date.

## **What are my Beneficiary's Rights to Benefits Upon my Death?**

If the death of a participant occurs prior to receipt of his full benefit, the designated beneficiary shall be entitled to receive 100% of the value of the deceased participant's Account.

## **Who are my Beneficiaries?**

If you are married, your beneficiary shall be your spouse unless you are divorced or legally separated by court order. Alternatively, you may name a beneficiary other than the spouse, if the spouse waives the right to be beneficiary in favor of another named beneficiary and such waiver is notarized or witnessed by an authorized Plan representative. All beneficiary designations must be in writing on the forms provided by the Trustees. If there is no valid designation on file with the Trustees, the beneficiary shall become one of the following in order of priority:

- surviving spouse,
- participant's children per stripes,
- participant's surviving parents in equal shares,
- participant's estate

## **Distribution of Benefits**

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### **When will my Plan Benefits be Distributed to me?**

You will be entitled to Plan benefits annually on June 1<sup>st</sup>, for the single plan year which ended two years earlier and when you retire or withdraw union membership from I.U.O.E. Local 132, AFL-CIO.

### **How will my Plan Benefits be Distributed to me?**

All benefit payments shall be distributed as soon as administratively feasible under the terms of the Plan. The value of your Plan benefit is determined daily and is based upon the contributions that have been made on your behalf.

You should remember that the amount of your Plan benefit will depend upon your choice of investments as well as Plan expenses that are collected under the terms of the Plan. Investment gains as well as losses can occur. There are no guarantees of performance, and neither

the Plan administrator, Trustees, nor any of their representatives provide investment advice, insure or otherwise guarantee the value or performance of the investments you choose. You may direct the investment of your entire interest in the Plan.

All payments will be made at your election in one of three ways:

- The purchase of an annuity contract; or
- One lump sum payment in cash; or
- Cash payments in monthly, quarterly, semi-annual or annual installments over any period not exceeding ten (10) years.

**Distributions after Age 70½.** Regardless of any other rules hereunder, at any time after you attain age 70½, if you are not a terminated participant, as defined above, you may defer taking your distribution until you become a terminated participant. If you are a terminated participant after you attain age 70½, and you have elected to keep your Accounts in the Plan, you must begin receiving minimum distributions each year calculated in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the final Treasury Regulations thereunder.

### **Does the Fund have an Involuntary Payout Provision?**

Yes, on an annual basis the Plan Administrator will review the Fund's records and if you have no contributions reported upon your behalf for a period of at least one (1) year and your current balance is \$1,000 or less, the Fund will automatically issue you payment of your account balance.

### **Can my Benefits be Assigned or Transferred?**

In general, your interest in your Accounts and the interests of other persons entitled to benefits under the Plan may not be voluntarily or involuntarily assigned, sold or transferred and are not subject to the claims of any creditors.

However, the Trustees may be required by law to recognize obligations you incur as a result of court-ordered child support or alimony. The Trustees must honor a qualified domestic relations order ("QDRO"), which is a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your interest in the Plan to your spouse, former spouse, child or other dependent. If such an order is received by the Trustees, all or a portion of your Accounts may be used to satisfy the obligation. The Trustees will

determine the validity of any domestic relations order it receives in accordance with its Qualified Domestic Relations Order Policy.

### **May I Borrow Against my Account?**

No, the Plan does not permit loans.

### **May I Rollover or Transfer Amounts into the Plan from another Qualified Retirement Plan?**

No, the Plan does not accept transfers or rollovers from other qualified retirement Plans.

### **What Amounts may be Withheld from my Distribution?**

If you receive an eligible rollover distribution from the Plan, mandatory Federal income tax withholding of 20% of the amount distributed applies unless you elect a "Direct Rollover" of your distribution. A Direct Rollover is a payment by the Plan to an eligible retirement Plan specified by you, including an individual retirement account ("IRA"). Most distributions from the Plan, other than those required after age 70½ and certain death benefit distributions, are considered eligible rollover distributions. You will be advised by the Trustees at the time of the distribution whether it may be rolled over to another Plan or IRA.

### **When Do I Pay Taxes?**

Your Employer's contributions to the Plan are tax deductible to the Employer as of the date they are contributed to the Plan. However, the amount of that contribution that is allocated to your account is not taxable to you until you actually receive it from the Plan. Therefore, as long as you keep the money in the Plan, neither the amount contributed by the Employer on your behalf, nor the earnings thereon are taxable to you. However, you will have to pay income tax on the amount in your Account at the time you receive the money as a distribution from the Plan, unless you elect to directly roll it over to an IRA or a qualified Plan.

The Trustees can't legally give you tax advice. Accordingly, while the above is a correct summary of the general rules, it is necessarily incomplete. At the time you receive a distribution you will be given a statement of the tax laws prepared by the IRS, known as a Special Tax Notice. In addition, at the time you elect to receive a distribution from the

Plan, you should obtain individual tax advice because the tax laws are complex and subject to frequent change.

## Hardship Distributions

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The Annuity and Savings Fund is intended to provide you with a secure supplement to your retirement. However, situations may arise when you have an immediate and heavy financial need for money. Hardship Distributions allow you to access your account if you have incurred a Hardship as defined by the Plan.

When considering a hardship withdrawal, consult your tax advisor as the rules concerning federal income taxation of benefits are complicated. Please make sure you understand the tax consequences before you complete a Hardship Distribution Application.

### Can I Obtain a Hardship Distribution?

Participants can request a hardship distribution from the portion of their account balance that has been in their account for more than two (2) full calendar years preceding the calendar year of the request for the hardship distribution.

The minimum amount of money that can be withdrawn is \$500 and the maximum amount has to be equal to the amount necessary to satisfy the hardship request. The standard Federal withholding rate for hardship distributions is 10% of the distribution. However, you may instruct that additional tax be withheld to cover any additional tax that may be assessed by the IRS and/or the State in which you reside. It is your responsibility to pay any applicable tax that may be assessed as a result of receiving a hardship distribution. See IRS Publication 575 Pension and Annuity Income for additional information.

**All requests for hardship distributions must be supported by any bills and other necessary documents showing there is a hardship and the amount of money necessary to satisfy the hardship request.**

A “hardship” under this section shall be limited to one or more of the following:

- Unreimbursed medical expenses incurred by the Participant, his or her spouse or dependents;
- Purchase of a principal residence for the Participant;

- Payment of tuition for the next semester or quarter of post-secondary education for a Participant, his or her spouse, children or dependents;
- Expenditures to prevent eviction from a Participant's principal residence or foreclosure of a mortgage on the same;
- Funeral expenses of an immediate family member (spouse, child or parent) of the Participant;
- Amounts necessary to prevent the repossession of an automobile owned by the Participant if the automobile is necessary for the Participant to reach his or her place of employment;
- Payment of self-pay premiums and COBRA premiums under the International Union of Operating Engineers Local 132 Health and Welfare Fund.

### **What Rules Apply to Hardship Distributions?**

- You may receive a hardship distribution application from the Fund Office or any of the Union Offices. You may also receive an application directly from the Recordkeeper.
- Your spouse must consent in writing to a hardship distribution and such consent must be witnessed by a notary public or the Plan Administrator.
- Hardship distributions are subject to income tax, and may be subject to an additional 10% early distribution penalty if you are under the age of 59½.
- Hardship distributions may not be rolled over to an IRA or to another employer's retirement plan.

The Trustees have the sole and absolute discretion to determine whether you are eligible for a hardship distribution, the amount of any hardship distribution, whether the requirements for obtaining a hardship distribution have been satisfied and any other matter with respect to hardship distributions. The Trustees judgment in connection with hardship distributions is final and binding on all parties.

## **Claims Procedure and Appeals**

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### **How Do I Claim my Benefits Under the Plan?**

Generally, you need not make a claim for your benefits under the Plan. However, you and your beneficiary must keep the Trustees advised of the addresses at which each of you can be located. If the Trustees don't know your location when your benefits become payable, they will mail notification to the most recent address in their records. The Trustees will attempt to locate any missing Participant or beneficiary through the Social Security Administration or such other procedure as is required under applicable law; however, it is the obligation of the Participants, and their beneficiaries, to provide a change of address to the Trustees.

A Participant or other person (or an authorized representative) may file a written claim with the Trustees for any benefits to which they believe they are entitled.

### **What is the Claims Procedure Under the Plan?**

Within ninety (90) days after the receipt of a written claim, the Trustees will provide the claimant with written notice of their decision on the claim. If the claim is wholly or partially denied, the written notice of the decision will inform the claimant of:

- The specific reasons for the denial;
- The specific provisions of the Plan upon which the denial is based;
- Any additional material or information necessary to perfect the claim and reasons why such material or information is necessary; and
- The right to request review of the denial and how to request such review. If written notice of the decision is not given to the claimant within ninety (90) days, after the Trustee's receipt of a claim, the claim shall be deemed to be denied for purposes of the claimant's right to request a review of the denial.

### **How to Request a Review for a Denied Claim?**

Within sixty (60) days after the receipt of written notice of a denial of all or a portion of a claim, the claimant or his or her authorized representative may request a review of the denial by filing a written

request with the Trustees. The claimant's written comments on the claim may be submitted to the Trustees along with the review request.

Upon receipt of a request for review of a claim denial, the Trustees shall undertake a full and fair review of the claim denial and provide the claimant with written notice of its decision within sixty (60) days after receipt of the review request.

The written notice of the decision will inform the claimant of the specific reasons for the decision and the specific provisions of the Plan upon which the decision is based. If written notice of the decision is not given to the claimant within the initial period the claim shall be deemed denied on review. Except as may be otherwise required by law, the decision of the Trustees on review of the claim denial shall be binding on all parties.

## **Fund's Right of Recovery**

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The Fund has the right to recovery from any Participant, or any other individual or recipient of Plan benefits, any payments made as a result of misrepresentation, mistake or error, irrespective of the party causing such mistake or error.

## **Your Rights and Protection Under ERISA**

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As a participant in the Plan you are entitled to certain rights and protections under the ERISA. ERISA provides that all Plan participants shall be entitled to:

- Examine, without charge, at the Trustees office, all Plan documents, including copies of all documents filed by the Plan with the U.S. Department of Labor, such as detailed annual reports and Plan descriptions.
- Obtain copies of all Plan documents and other Plan information upon written request to the Trustees. The Trustees may make a reasonable charge for the copies.
- Receive a summary of the Plan's annual financial report. The Trustees are required by law to furnish each Participant with a copy of this summary annual report.
- Obtain, once a year, upon written request to the Trustees, a statement of the total benefits accrued under the Plan. This statement is provided free of charge.

In addition to creating rights for participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate the Plan, called "fiduciaries" of the Plan, have a duty to do so prudently in the best interest of you and other Participants and beneficiaries.

No employer or any other person may not fire you or otherwise discriminate against you in any way to prevent you from obtaining a Plan benefit or exercising your rights under ERISA.

If your claim for a Plan benefit is denied, in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the Trustees review and reconsider your claim.

Under ERISA there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within thirty (30) days, you may file suit in a Federal court. In such a case, the court may require the Trustees to provide the materials and pay you up to One Hundred and Ten Dollars (\$110.00) a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Trustees.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court.

If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees if for example, it finds your claim is frivolous.

The Trustees do not believe that it will ever be necessary for you to file suit in connection with the Plan. However, if you feel such action is necessary, the Plan's agent for service of legal process is the Trustees. Legal process may also be served on the Trustees.

If you have any questions about the Plan, you should contact the Trustees. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest Office of the Employee Benefits Security Administration of the U.S. Department of Labor listed in your telephone directory or the Division of Technical Assistance and Inquires, Employee Benefits Security Administration, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration of the U.S. Department of Labor.

# Important Information Required by ERISA

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**Name of the Plan:** International Union of Operating Engineers  
Local 132 Annuity and Savings Fund

**Type of Plan:** Multi-Employer Flat Dollar Defined Contribution  
Plan

**Union:** International Union of Operating Engineers  
Local 132, AFL-CIO

## **Trust Identification**

**Number of the Plan:** 55-0712315                      **Plan Number:** 001

**Plan Administrator:** The Plan is administered by the Board of Trustees (the "Trustees") appointed by the Union and the Employers who have signed the Collective Bargaining Agreement.

**Trustees of the Plan:** The Trustees hold Plan assets and issue benefit payments. The Trustees are as follows:

### **Union Trustees**

Ronald L. Burdette, Chairman  
I.U.O.E. Local 132 AFL-CIO  
606 Tennessee Avenue  
Charleston, WV 25362-0770

Tommy G. Plymale  
I.U.O.E. Local 132 AFL-CIO  
606 Tennessee Avenue  
Charleston, WV 25362-0770

### **Employer Trustees**

Robert Worcester, Secretary  
Construction Employers Assoc.  
of North Central WV, Inc.  
2794 White Hall Boulevard  
White Hall, WV 26554-8224

Eric Brown  
Brown's Excavating, Inc.  
55 Boat Club Drive  
Sistersville, WV 26175-9603

Legal process may be served upon one or more Trustees.

Benefits under the Plan are not eligible for insurance from the Pension Benefit Guaranty Corporation (the "PBGC"), because the PBGC does not insure this Plan which is a flat dollar defined contribution Plan, not covered by IRC section 412.

The Plan Year commences on June 1<sup>st</sup> of each year and ends on May 31<sup>st</sup>.





**I.U.O.E. Local 132**  
**Annuity and Savings Fund**  
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