A Hard Fight; A Partial Victory

ALPA's long campaign to enact pension reform.

In January 2003, ALPA's president, Capt. Duane Woerth, testified before a U.S. Senate subcommittee, trying to convince lawmakers to save US Airways pilots' pension plans.The airline had filed for bankruptcy protection and was seeking to terminate its employees' pensions because it could no longer afford to make required contributions. It was a bad time for the U.S. economy and the airline industry was certainly not immune.

Woerth compared the situation to that of the Great Depression. "Low interest rates and abysmal market performance have combined to create a pension funding crisis in the United States. Interest rates are at levels not seen since the 1960s, and stocks are experiencing their longest and deepest bear market since the Great Depression. Employers, and in particular airlines, are now required to contribute additional funding to pension plans when they can least afford to pay."

Although Woerth was hopeful then that Congress would eventually enact long-term pension relief, he was candid and forthright, saying that US Airways didn't "have time to wait for such long-term relief."

He was right. The bill for which he was testifying—S.119 offered by Sens. Arlen Specter (R-Pa.) and Rick Santorum (R-Pa.)—sought specific relief for US Airways and morphed into an amendment to the omnibus spending bill, which was eventually tabled because of Senate opposition. US Airways terminated its pilots' pension plan 2 short months later.

"A number of factors came together to create an extremely difficult situation for the airlines at that time," says Brendan Kenny, senior legislative representative in ALPA's Government Affairs Department. "A combination of low interest rates, a bad economy, the aftermath of the September 11 terrorist attacks, and the SARS epidemic resulted in what Capt. Woerth began referring to as the 'perfect storm.'"

A legislative odyssey

"After S.119 failed, we realized that we were going to need a much more comprehensive solution to the pension problems," says Kenny. "In March 2003, we got together with lobbyists from Delta, United, Northwest, and some of the other airlines that still had defined-benefit plans. We put together a piece of legislation called the Air Line Pension Act of 2003 (H.R.2719)."

That bill, introduced by Rep. Dave Camp (R-Mich.), would have allowed airlines to stretch out their deficit reduction contributions and give the airlines the relief they needed to keep from having to terminate their plans. It also provided for the re-establishment of the US Airways pilot pension plan. But H.R.2719 was an airline-only bill, and although more than 100 House members co-sponsored it, there

A Chronology of ALPA's Pension-Reform Efforts

Jan. 9, 2003—Sens. Arlen Specter (R-Pa.) and Rick Santorum (R-Pa.) offer S.119, a US Airways–specific bill to provide pension-funding relief. Capt. Duane Woerth testifies before Senate Appropriations Committee on S.119, which is later tabled on jurisdictional grounds.

July 14, 2003—Rep. David Camp (R-Mich.) introduces the Air Line Pension Act of 2003 (H.R.2719), an airline-industry–specific bill that calls for a 5-year moratorium on deficit reduction contributions, a 20-year amortization period for unfunded liability, and restoration of the US Airways pilots' defined-benefit plan.

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108th Congress (2003)

March 31, 2003—US Airways pilots' pension-plan terminates.

Oct. 8, 2003—The Pension Funding Equity Act of 2004 (H.R.3108) passes the House. The bill calls for a temporary replacement of the 30-year Treasury bond interest rate. It passes 397–2.

was tremendous opposition from the administration and Republican congressional leaders to any industry-specific legislation. The bill's sponsors were never able to move it on its own, but the momentum it gathered led to action on the Pension Funding Equity Act of 2004 (H.R.3108).

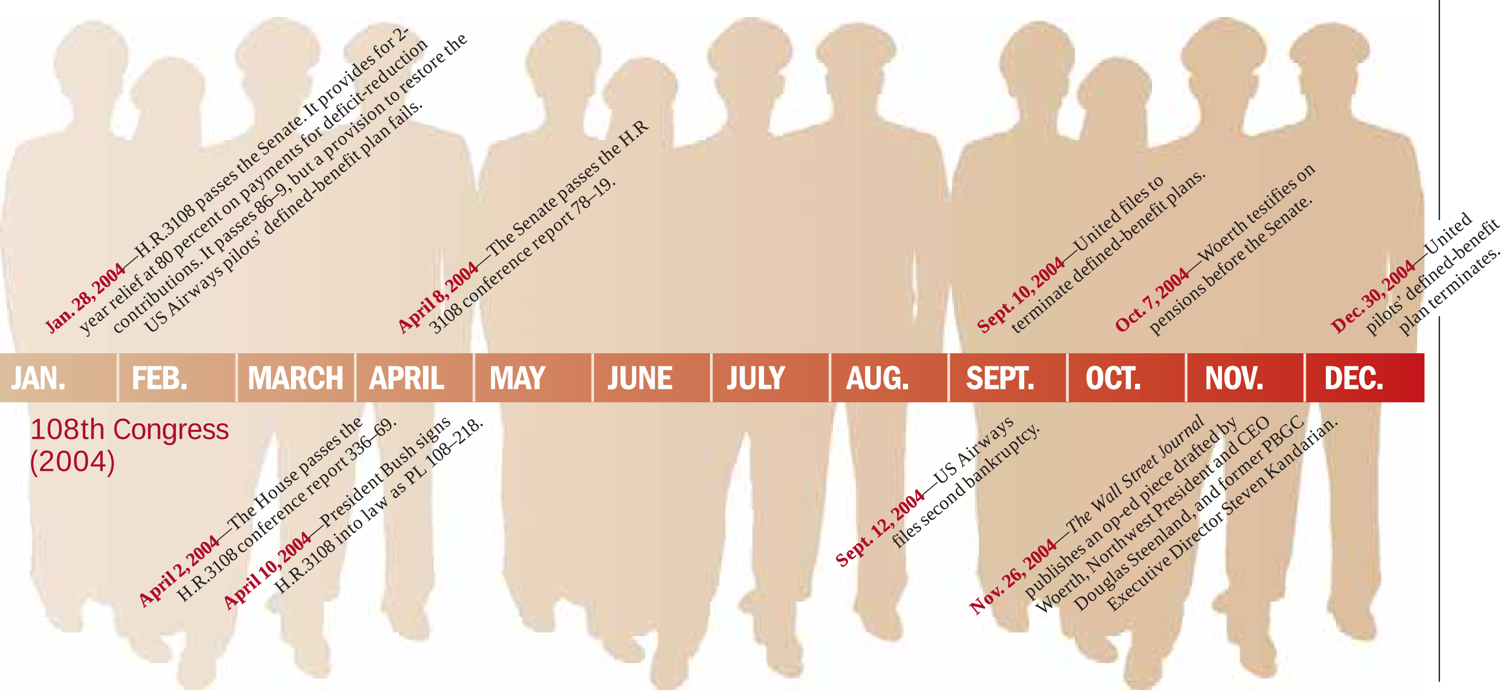
H.R.3108 called for a temporary replacement of the 30-year Treasury bond interest rate used to calculate funding of pension plans. The government had stopped issuing 30-year bonds, and the use of the 30-year Treasury bond rate was expiring. Congress either had to extend the use of the 30-year Treasury bond rate or come up with something else. The bill proposed a new measure—the corporate bond rate. H.R.3108 passed the House in October 2003.

The Senate did not take up H.R.3108 until January 2004, and it added a provision that gave passenger airlines and steel companies 2 years of relief from 80 percent of the additional contribution due to the deficit-reduction–contribution requirements. Specter's attempt—strongly supported by ALPA—to add a provision restoring the US Airways pilot pension plan failed. The overall bill passed 86-9. The House and Senate met in conference to work out the difference between the two versions of the bill and ultimately agreed to the Senate version.

The House passed the conference report on April 2, 2004, and the Senate followed on April 8 by a margin of 78–19. President Bush signed the bill into law on April 10, 2004. But the bill was a temporary measure, and ALPA continued pushing for a more permanent fix to the increasingly dire pension crisis. Later that same year, Woerth testified before the Senate Commerce Committee and called for a permanent solution. He also pushed the need for a permanent solution in an op-ed piece co-authored with the CEO of Northwest and the former executive director of the Pension Benefit Guaranty Corporation. The piece ran in *The Wall Street Journal.*

While working to save existing pension plans, ALPA recognized the need to secure some form of relief for pilots whose plans had already been terminated. In March 2005, Sen. Daniel Akaka (D-Hawaii), at the behest of ALPA and after meeting with Woerth, introduced the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act (S.685). This bill would have changed the PBGC rules so that pilots, who must stop flying at age 60, would not have their benefits actuarially reduced by the PBGC in a terminated plan. Instead, the bill would have allowed pilots—at age 60—to receive the benefit guarantees calculated as though they had reached the maximum age of 65. Rep. George Miller (D-Calif.) introduced a similar bill in the House, H.R.2926.

Once again, ALPA worked with airlines to craft a bill that would provide the necessary solution to save the remaining defined-benefit plans in the airline industry. As a result, Sens. Johnny Isakson (R-Ga.) and Jay Rockefeller (D-W.Va.) introduced the Employee Pension Preservation Act of 2005, S.861, on April 20, 2005. This measure would have allowed the air-



lines to amortize their unfunded pension liability over 25 years, using an actuarial interest rate for their defined-benefit plans, whether frozen or not. A companion bill, H.R.2106, was introduced in the House by Rep. Tom Price (R-Ga.) on May 4, 2005.

ALPA then launched one of the largest grassroots efforts in its history. ALPA members sent thousands of messages to both the House and Senate in support of these bills. Also during this time, Woerth testified before various committees of both the House and Senate, made numerous news media appearances, submitted editorials to news outlets around the country, and sent letters to congressional leaders to keep the pressure on for action on all of the airline-related pension bills.

Resulting directly from the efforts of ALPA—its members and staff—Sens. Charles Grassley (R-Iowa), Mike Enzi (R-Wyo.), Max Baucus (D-Mont.), and Edward Kennedy (D-Mass.) introduced the Pension Security and Transparency Act of 2005 (S.1783). This compromise bill included an airline provision that just gave passenger airlines a 14-year amortization period and did not include the Akaka language.

When the Senate considered S.1783 on Nov. 16, 2005, only two amendments were allowed, an Isakson / Rockefeller amendment that gave passenger airlines a 20-year amortization period and the Akaka amendment that gave pilots the ability to receive the maximum PBGC guarantee at 60 rather than 65. Isakson / Rockefeller passed on a voice vote, and the Akaka amendment passed by a vote of 58-41. This was quite a significant—although temporary—victory for the Association, as the administration and the Senate Republican leaders opposed the amendment.

In December 2005, the House passed the Pension Protection Act of 2005 (H.R.2830) by a vote of 294–132. The measure contained no airline-specific relief and was considered under a closed rule, meaning that no amendments were allowed.

Because significant differences existed between the two bills, a conference between the House and Senate was needed to reconcile them. Unfortunately, conferee appointment became entangled over petty partisan politics, and conferees were not appointed until March 2006. When the House did appoint its conferees, it passed a nonbinding motion to instruct its conferees to accept the Senate position on all the airline provisions. This was done by a vote of 265–158.

The conference dragged on throughout the spring and summer as other issues stole the spotlight. ALPA and its members continued their efforts, at both the grassroots and Washington levels, to urge conferees to incorporate both the Isakson and Akaka provisions in the final product. In addition, the House passed another motion to instruct its conferees on the airline provisions on July 25, by a vote of 281–139.

Unfortunately, negotiations between the House and Senate broke down. Republican House leaders then put together another pension bill, H.R.4, which included the above-mentioned airline relief, but no Akaka amendment. Rep. Miller offered a motion to recommit with specific instructions to accept the Akaka language, but it failed, largely along party lines. The House then passed H.R.4 on July 28 by a vote of 279–131 and the Senate followed on August 3 with a vote of 93–5.

The White House initially opposed the legislation, warning that President Bush would veto any measure that contained industry-specific provisions, such as those for the troubled airline industry. But ALPA lobbied lawmakers aggressively, and after months of intense closed-door negotiations on Capitol Hill that often

A Chronology of ALPA's Pension-Reform Efforts (continued)

109th Congress (2005)

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March 17, 2005—Sen. Daniel Akaka (D-Hawaii) introduces the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act (S.685).

April 20, 2005—Sens. Johnny Isakson (R-Ga.) and Jay Rockefeller (D-W.Va.) introduce the Employee Pension Preservation Act of 2005 (S.861), which calls for amortization over 25 years of unfunded liability and a hard or soft freeze.

May 4, 2005—Rep. Tom Price (R-Ga.) introduces the Employee Pension Preservation and Taxpayer Protection Act of 2005 (H.R.2106), a companion bill to S.861.

June 7, 2005—Woerth testifies on pensions before the Senate Finance Committee.

June 15, 2005—Rep. George Miller (D-Calif.) introduces the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act (H.R.2926), a companion bill to S.685.

June 22, 2005—Woerth testifies on pensions before the House Aviation Subcommittee.

Sept. 14, 2005—Northwest and Delta file for bankruptcy.

Sept. 28, 2005—Sens. Grassley, Enzi, Baucus, and Kennedy introduce the Pension Security and Transparency Act of 2005 (S.1783).

Nov. 16, 2005—The Senate passes S.1783 with two amendments: the Isakson bill (S.861) and the Akaka bill (S.685). It passes 97–2.

Dec. 15, 2005—The House passes the Pension Protection Act of 2005 (H.R.2830), which was considered under a closed rule, meaning that no amendments were allowed. The bill contains no airline-specific relief. It passes 294–132.

seemed on the brink of collapse, administration officials eventually acquiesced to the will of the House and the Senate. On August 17, President Bush signed the bill into law.

"Our pension-reform initiatives are the largest legislative efforts ALPA has ever undertaken," says Woerth. "Pilots from Aloha, Delta, Northwest, United, and US Airways all worked very hard for this legislation, which, if it had passed in 2003 or 2004, would have no doubt saved those pensions as well. Now, three years later, we only have a few defined-benefit plans left, and most of those are frozen. Justice delayed is truly justice denied. While I am grateful for what we have finally achieved, I am also disheartened knowing what could have been saved. But there is still work to be done. ALPA has not, and will not, give up on achieving success on the Akaka amendment."

Finally, pension reform—a partial victory

The Pension Protection Act of 2006 (H.R.4), designed to protect the retirements of approximately 44 million Americans, is the most extensive revision of pension laws since the 1970s.

The new law strengthens funding requirements for companies that offer traditional defined-benefit pension plans, while also giving them relief from large deficit-reduction contributions that had been due immediately under the Employee Retirement Income Security Act (ERISA). The law will give most companies 7 years to catch up on plan contributions, although companies with severely underfunded plans will have to make accelerated payments. Funding provisions of the law will not take effect until 2008.

Companies must also pay increased premiums to the PBGC to ensure that the federal government's pension insurer has sufficient funds to absorb any terminated plans. The PBGC has amassed a $23 billion deficit over the last several years as a result of pension-plan terminations. The agency says that U.S. pension plans are currently underfunded by as much as $450 billion.

The new law also has airline-industry–specific provisions that give passenger airlines even more time to comply with funding requirements. Airlines that have frozen their defined-benefit plans, as Northwest and Continental have done with their pilot plans, will have 17 years to fund their defined-benefit plans and will be allowed to use an interest rate of 8.85 percent to calculate what the companies owe. Airlines that have not frozen their plans will get 10 years to fully fund their plans.

The law comes far too late for many. More than 700 U.S. pension plans have collapsed in the past 5 years. Airline workers have been especially hard hit—pilots at US Airways, United, Aloha, andDelta have had their pension plans terminated. Delta moved to terminate its pilots' pension plan just as lawmakers were putting the finishing touches on the new pension-reform legislation.

"Losing their pensions was extremely painful for US Airways pilots," says Capt. Jack Stephan, US Airways Master Executive Council chairman. "There was a lot of anger, some if it directed at ALPA. But ALPA worked with us every step of the way, against considerable White House opposition, to promote and encourage a legislative solution. Unfortunately, the legislative process didn't work in time."

The road to H.R.4 has been a long and difficult one. Nobody knows this better than ALPA's national officers, pilot group leaders, and ALPA's Government Affairs and Retirement and Insurance Departments. Pension reform has been a top priority of the Association for more than 3 years now, but it has been a struggle all the way.

—*Gavin Francis, Staff Writer*