

# **Bond Case Briefs**

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## **San Jose Pension Crush Spurs Bid to Ease California Pacts.**

If Chuck Reed were a private employer and saw his pension costs triple in 10 years, he could cut future benefits as allowed under a federal law known as the Employee Retirement Income Security Act.

Reed, though, is mayor of San Jose, California, and the law doesn't cover the public employees he oversees. Their pensions are treated as a contract between the government and worker. While cities are allowed to make changes for new hires, union representatives say that future benefits promised to existing workers can't be modified.

The result is that San Jose, the home of Silicon Valley giants Cisco Systems Inc. (CSCO) and EBay Inc. (EBAY), spent almost one third of its general fund on pensions last year, the highest among the 25 most populous U.S. cities, according to Morningstar Inc. (MORN) Reed, a 65-year-old Democrat, is leading a statewide voter initiative to allow changes in future benefits for existing employees as unions fight to preserve the current rules.

"The statewide measure allows us to begin to deal with the cost of skyrocketing pension and retiree health-care costs," Reed said in an interview. "If you look at what we've done so far, it doesn't solve the problem."

San Jose, a city of 983,000 that is California's third-largest, has been forced to make deep cuts in basic services as its retirement costs soared to \$245 million in 2012 from \$73 million in 2002. The city's pension and retiree health-care liability is almost \$3 billion, according to Reed, who was first elected in 2006.

### **Changes Approved**

San Jose voters last year approved retirement changes requiring new employees to pay 50 percent of the plan's total cost, or about twice as much as current employees. Workers already on the city's payroll could keep their existing plans by increasing their contributions or keep their costs steady by choosing a plan with more modest benefits.

Unions including the San Jose Police Officers' Association and the San Jose Retired Employees Association sued to block the change. The case is pending.

Reed's ballot initiative would amend the California constitution to give local governments the power to negotiate changes to existing employees' future pension or retiree health care, while protecting benefits they've already earned.

"What they're trying to do is overturn decades of case law, Supreme Court decisions and change the California constitution to allow public employers to either change, cut or eliminate public employees' pensions in the middle of their career," said Dave Low, executive director of the California School Employees Association and chairman of Californians for Retirement Security, a coalition of public employees and retirees.

"It's a vested right," Low said.

## Rhode Island

Rhode Island enacted pension changes in 2011 that will delay retirement for state employees and offer them 401(k)-type savings plans that don't provide guaranteed benefits. Union leaders sued to prevent the measure from taking effect.

"In talking with other mayors around the state, everybody would benefit from having clear authority to be able to negotiate changes for future benefits for work yet to be performed for current employees," Reed said of his ballot measure.

Mayors Pat Morris of bankrupt San Bernardino, Tom Tait of Anaheim and Bill Kampe of Pacific Grove are backing the plan. Santa Ana Mayor Miguel Pulido dropped out as a formal supporter and was replaced by Vallejo Vice Mayor Stephanie Gomes. Opponents include Oakland Mayor Jean Quan and San Francisco Board of Supervisors President David Chiu.

## 'Threatens' Teachers

Also assailing the plan are the California Public Employees' Retirement System, the largest U.S. public pension, and the California State Teachers' Retirement System, the second-biggest U.S. public pension contending with a \$70 billion unfunded liability.

The proposal "threatens the retirement security of existing and future educators, who have provided many years of service to California's students," Jack Ehnes, the teacher pension's chief executive officer, said in a statement.

Reed said cities can continue to cut services and raise taxes, make employees pay more, cut benefit payments to retirees or cut benefits for current employees.

"None of those is fair, so it is better to talk about changing expectations of future accruals for future work," Reed said.

California municipalities have limited ability to boost revenue. They can't impose higher sales taxes without going to voters, and the state caps real-estate levies at 1 percent of a property's most-recent sales price. The collapse of the housing market eroded tax dollars for many cities in the wake of the recession.

## 'Not Sustainable'

"It's not sustainable for cities to attempt to provide an appropriate level of health, safety and welfare services and have a significant portion of their general fund go for employment and pension costs," Karol Denniston, a partner specializing in municipal restructuring at the San Francisco office of Schiff Hardin LLP, said in an interview.

Among potential obstacles to Reed's plan is California Attorney General Kamala Harris. Unions were her second-largest source of campaign contributions when she won her office in 2010, according to data compiled by the National Institute on Money in State Politics, a nonpartisan group based in Helena, Montana.

Harris is responsible for writing the title and summary of the initiative before it's circulated for signatures to qualify for the ballot. Most voters never read more than the title and summary of the text, according to the Denver-based National Conference of State Legislatures.

## 'Pro-Citizen'

"You have to hope for an attorney general who is pro-citizen and impartial the way an attorney general should be, and they should not be worried about who funds their campaign," said David Crane, a public policy lecturer at Stanford University near Palo Alto and a former special adviser to former Republican Governor Arnold Schwarzenegger.

Harris hasn't taken a position on any initiative, Nick Pacilio, a spokesman for her, said by e-mail. Governor Jerry Brown, a Democrat, doesn't comment on ballot measures, spokesman Evan Westrup said.

Reed said he anticipates unions will try to block signature gathering. The measure needs more than 807,000 petition signers to qualify for the ballot. Low, of Californians for Retirement Security, said he expects to discourage signature-takers.

"We generally try to keep voters informed," Low said. "Where the signature gatherers are out there, we would probably want to at least have an opportunity to clarify for the voters what they're signing."

By Alison Vekshin - Nov 28, 2013 9:00 PM PT