

Bond Case Briefs

Municipal Finance Law Since 1971

Bankrupt California City Fighting for Right to Withhold Pension Payments.

When this bankrupt, working-class city took the unprecedented step in 2012 of stopping its required pension contributions — arguing that it could not otherwise make payroll — other financially stressed California cities took notice: Could San Bernardino defy Calpers, the powerful agency that administers the state's huge pension system?

The resistance ended last year when the city resumed its payments. But now, with a mayor who swept into office last month promising to deal once and for all with skyrocketing pension costs, San Bernardino is in another fight with Calpers that could embolden other municipalities seeking relief from crippling payments to the nation's largest public pension system.

"We are under the microscope, no question about it," said Carey Davis, 61, the mayor. "San Bernardino took a different approach in bankruptcy as related to pensions, and everybody is waiting to see how it comes out."

At issue is the \$17 million in back payments and penalties that San Bernardino failed to make between declaring bankruptcy in August 2012 and resuming payments in July. Calpers has maintained that it is owed in full. But now in bankruptcy negotiations, the city is hoping to pay only a fraction of that, arguing that the city's creditors must all share in the bankruptcy pain. The amount may be small, given the system's assets, but if San Bernardino gets a reduction, the precedent could be huge, opening the door to other struggling municipalities using bankruptcy law to justify delaying or withholding payments to the pension system.

"This city has taken on the 800-pound gorilla, which is Calpers," said Ron Oliner, a lawyer for the San Bernardino Police Officers Association, which represents the city's uniformed officers. "Everyone in California is watching San Bernardino, and everybody in the nation is watching California."

Calpers has for many years resisted all efforts to allow cities, for whatever reason, to stop making their required payments. (Federal law allows bankrupt companies to slow them greatly.) While agreeing that "significant progress has been made in the mediation," Rosanna Westmoreland, external communications manager for Calpers, said the pension system's hands were largely tied by statutes mandating that all the pension system's participants make their full contributions on time and that no workers' benefits be reduced. "It is the law," she said.

The problem is that it remains unclear whether, in cases like this, federal bankruptcy law trumps state pension laws. A federal judge hearing the Detroit bankruptcy case ruled, for instance, that federal laws took precedence in that case, so the benefits of city workers in Detroit could be reduced in defiance of state law. But Calpers has insisted that this does not apply to the situation in California, an assertion that may be tested in court, if the mediation provides no solution.

"With Vallejo and Stockton and other cities, everybody is looking at pensions and those obligations,"

said Rikke Van Johnson, who, with 10 years in office, is one of the few remaining veterans on the City Council. “We’re all in the same boat. Some of us are just in a little deeper.”

Even before a recent wave of municipal bankruptcies hit California, the California Public Employees’ Retirement System, known as Calpers, had also insisted that under state law, no local government or public agency could reduce the benefits of current workers or retirees.

[View Full Story from The New York Times](#)

APRIL 21, 2014

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com