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## Bloomberg: Detroit Seeks Creditor Votes With 'Divide and Conquer.'

Detroit's "divide-and-conquer" campaign to build support for its plan to shrink $18 billion in debt with a recent series of creditor accords may put pressure on holdouts to settle before a bankruptcy judge decides to push it through, lawyers following the case said.

"'Divide and conquer' does seem to be the strategy that the city is pursuing, which is often a fear of creditors," said George South, an attorney with DLA Piper LLP in New York, alluding to how the city has methodically reached agreements with individual creditor groups in its quest to resolve the biggest municipal bankruptcy in U.S. history by year's end.

Under a proposal announced April 15, Detroit's emergency manager, Kevyn Orr, agreed to pay retired city police officers and firefighters their full monthly pensions. Hours later, the pension system for general employees, such as city hall clerks and street workers, said it, too, had settled with Orr.

Those accords followed an agreement last week that would pay investors who hold unlimited general obligation bonds 74 percent of what they are owed. Holders of limited GO bonds would get only 15 percent under Orr's debt-adjustment plan.

Today, Orr will ask U.S. Bankruptcy Judge Steven Rhodes to approve a disclosure statement explaining the debt-adjustment plan to creditors and to send the plan out for a vote. Should Rhodes approve the requests, creditors would have May and June to vote. Rhodes would hear arguments on the plan in July.

### 'Freight Train'

Trying to pick off creditors one deal at a time is an often-used strategy in bankruptcy, said Dale Ginter, a lawyer who represented creditors in Vallejo, California's bankruptcy case. The strategy works by pushing creditors to compromise before a company or city can build up enough support to convince a judge that any remaining holdouts should be overruled, he said.

"We use the phrase, 'The confirmation freight train coming down the track,'" Ginter said. "The judge has a natural inclination, if there is any way possible, to confirm a plan supported by creditors. The remaining objectors can get run over, even if they feel they have strong legal arguments on their side."

The strategy does carry some risks, though.

"With every deal you make, it becomes more difficult to settle with the remaining creditors because they want at least as much," said Ginter, with Downey Brand LLP in Sacramento, California. "And if they don't get it, you end up giving them an argument for unfair discrimination," when the plan goes before a judge for approval.

## ‘Unfair Discrimination’

The “unfair discrimination” standard in federal bankruptcy law typically requires similar creditors to be paid the same. In response to divide and conquer, creditors often “try to form alliances, when possible,” South said.

South and Ginter aren’t involved in Detroit’s bankruptcy.

Under the tentative agreements announced April 15, police and firefighters would get their full monthly pensions instead of being asked to accept a 6 percent cut, while pensions for general workers would fall by 4.5 percent instead of 26 percent, according to a person familiar with the talks.

The city confirmed the general employees’ offer in the latest version of its disclosure statement, filed last night.

Detroit entered bankruptcy in July, saying it couldn’t meet financial obligations and provide essential services. Since then, the city and creditors including bond insurers, public pension systems and unions have negotiated over cuts.

## Art Shield

State political leaders and a group of foundations have promised to give the city $816 million to bolster its two underfunded pensions, but only if it can win support from employees and shield the city-owned artwork housed at the Detroit Institute of Arts from being sold to pay creditors.

About 30,000 retired city workers and current employees will be asked to vote on the deal. To lock in the money, a majority of those voting in each employee group must approve the city’s plan, and that majority must hold two-thirds of the claims of those voting.

Should enough retirees reject the plan, general workers would see their pension cut by about one-third and police and firefighters by 14 percent.

No matter how many deals Detroit makes to trim debt, it will still need to get creditors, especially police officers and firefighters, to support a longer-term plan if the city is to recover, said Jim Spiotto, a bankruptcy attorney with Chapman Strategic Advisors LLC.

“The debt adjustment is not curing the problem,” Spiotto said. Boosting investment in the city, to improve services and attract businesses, “is the real solution,” he said. “The adjustment just gives you more breathing room.”

By Steven Church  Apr 17, 2014 5:37 AM PT

The case is In re City of Detroit, 13-bk-53846, U.S. Bankruptcy Court, Eastern District of Michigan(Detroit).

To contact the reporter on this story: Steven Church in Wilmington, Delaware atschurch3@bloomberg.net

To contact the editors responsible for this story: Andrew Dunn at adunn8@bloomberg.net Stephen Farr, Fred Strasser

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