Bond Case Briefs

Municipal Finance Law Since 1971

NYT: Pensioners in Detroit Rejoice, Though Deal Is Far From Done.

DETROIT — The relief was palpable.

"My pension is my life," Thomas Berry, a retired police detective, said on Wednesday, reacting to tentative deals that were struck between Detroit, the city's pension funds and a retirees' group that would mean no cuts to his current pension checks, though a reduction in annual cost of living increases. "I'm O.K. with that," Mr. Berry said, "because a month ago, we were going to lose everything."

A day after Detroit scaled back from the large pension benefit cuts it had once been proposing, the bankrupt city fended off charges from some that it had simply caved in to retirees in ways that could come back to haunt it. But it also felt the elation of many of its current and former employees who for months had feared a more dire outcome.

"It's a quantum leap forward from what the pensioners were being offered, that's for sure," said Douglas C. Bernstein, a bankruptcy lawyer at the firm of Plunkett Cooney in Bloomfield Hills, Mich., who is not involved in the pension negotiations. "I'm pretty sure that the judge will require them to show that this deal is in fact affordable."

How it happened is the story of an effort to protect as much as possible the workers and retirees who have been the backbone of the city's working and middle class. The deal was eased by a decision to project better pension fund returns because of the stock market's performance last year, and fears by the workers' negotiators that if they did not accept the agreement the terms would get worse.

"This is not so much a settlement as a reinstatement; it's a complete and total capitulation to retired pensioners to secure their plan support," said Stephen Spencer, a financial adviser to the Financial Guaranty Insurance Company, one of Detroit's more than 100,000 creditors.

The city's public shift in its posture on pensions this week seemed sudden and puzzling to some who wondered how a city could suddenly afford so much more than before.

As recently as two weeks ago, Detroit officials, who say the city's unfunded pension liabilities amount to $3.5 billion of the city's $18 billion in debts, had revised their estimates of how pensions might be cut, and at that point the cuts threatened to go even deeper than in their earlier proposals.

Because of differences in funding levels in the city's two pension funds, retired firefighters and police officers had been expected to see cuts between 6 and 14 percent, while other retirees were told to prepare for cuts between 26 percent and 34 percent.

"Ultimately, in any bankruptcy, it's about negotiating and positioning," said Craig A. Barbarosh, a bankruptcy lawyer from Katten Muchin Rosenman who is based in Costa Mesa, Calif. "All along

discussions were going on."

Mr. Barbarosh represents a few creditors in the case but is not involved in talks over pensions.

The city gained flexibility, in part, by agreeing to assume a higher rate of investment return by the funds themselves. Projecting a rate of return is an essential part of fiscal policy, but experts often debate what is both realistic and sustainable for public pensions, and the federal bankruptcy judge in the case will be the ultimate arbiter. The city initially factored in rates of 6.25 percent and 6.5 percent for the two funds, but eventually agreed that the funds could be presumed to do better — 6.75 percent — because of an improved outlook based on the funds' 2013 performance as compared with 2012.

In addition, the city has factored into the new agreement a separate, unusual deal that would save the collection of the Detroit Institute of Artsand would add more than $800 million to the pensions with money from charitable foundations and the state, which has yet to approve the funds.

"This is a dynamic process that changes day by day," said Bill Nowling, a spokesman for Kevyn D. Orr, the emergency manager who is leading Detroit through its bankruptcy and who filed a revised plan with the court on Wednesday for Detroit's exit from bankruptcy. "As we get more information — good or bad — we adjust."

On the other side, for the retirees and their negotiators, there was pressure to accept a deal for fear that a better one might not come along, and that this one might soon be pulled from the table.

The offer certainly had its downsides for retirees. Some would see cuts to their pension checks as high as 4.5 percent, would probably lose cost of living increases entirely, and say they expect vastly diminished health care benefits.

Steven W. Rhodes, the federal bankruptcy judge in the case, has urged all parties to negotiate in recent days. Judge Rhodes ruled last December against the pension funds, which had argued that the state's Constitution protected them from cuts. But he was also solicitous in allowing groups of ordinary retirees and workers to come before the court to argue that their benefits should be retained.

Some of the city's financial creditors have been asked to accept 15 cents on the dollar for debts owed them, and the arrangement with retirees was seen by some as yet another sign that Detroit leaders were leaning in favor of Main Street over Wall Street as they searched for a way to resolve their $18 billion in debt and remake the city.

Not all retirees here were pleased with the tentative arrangement. Some say any pension cuts are unacceptable and object to seeing retired firefighters and police officers receive better deals than other workers.

"I did my part," said Connie Lewis, who retired after 28 years as a 911 operator and supervisor and could expect to see a 4.5 percent cut to her payments. "Now not only do they want to take back what I've already earned, but they want to make it appear like it's my fault."

Uncertain, so far, is what a court-appointed committee of retirees and city union leaders, who were still negotiating with the city, think of the deal. But many seemed mainly surprised — and relieved.

"It's a big burden lifted off your shoulders that now, after working all these years, you don't have to fight for your pension, that you already worked for, that was promised to you," said Roslyn Banks, a retired Detroit police sergeant, who was sitting with other police retirees when she heard the news.

“There was clapping and shouting,” she said.

Jon Bozich, a Detroit firefighter who retired after 35 years with the department, said the possibility of pension cuts had been stressful, and had left him wondering how the burden could be shifted to retirees who had managed with relatively low pay, difficult conditions and Detroit’s abundance of arsons.

Of the new plan, Mr. Bozich said: “I think it will be approved overwhelmingly. Everybody was anticipating a lot worse. Everyone knew we’d have to take some cuts. The arguments were over how severe.”

In the end, though, Judge Rhodes must decide whether the city’s plans go forward. Not only will he consider whether the plan is fair to all parties, bankruptcy experts said, but he will look at whether it will truly leave Detroit leaders with a city and pensions they can afford.

By STEVEN YACCINO and MONICA DAVEYAPRIL 16, 2014

Steven Yaccino reported from Detroit, and Monica Davey from Chicago.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com