

# **Bond Case Briefs**

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## **Rauner's Dangerous Talk of Chicago Schools Bankruptcy.**

Bankruptcy, as one lawyer familiar with the legal process puts it, works best as kabuki theater.

The actors get all gussied up in outlandish outfits—some as samurai warriors with scary swords and scarier faces. Everyone postures and gestures and engages in exaggerated argument. In the end, they're hopefully all frightened enough that they've worked out a compromise rather than pulling the trigger on Chapter 9.

I sure hope Gov. Bruce Rauner knows it's theater. And I hope that his political foes—particularly in organized labor—know that theater sometimes echoes reality as Chicago Public Schools heads down the horrid path to fiscal collapse.

CPS has been making lots of news lately, almost all of it bad. Even before CEO Barbara Byrd-Bennett was ensnared in a federal corruption probe, the agency faced a \$1.1 billion hole for the budget year that begins July 1, a hugely underfunded pension plan and tough negotiations with the Chicago Teachers Union.

Rauner's seeming solution: bankruptcy. "The state has a crisis. The city has a crisis. I'm concerned that (CPS) is going to have to go bankrupt," he told attendees at a school conference April 14. "Bankruptcy code exists to help the organization get out of financial trouble. There's a reason for the bankruptcy code."

The governor has his allies in pushing for a state law that would allow local governments to declare bankruptcy and bust those union contracts Rauner so detests. "I'm not saying it's a good thing, but it ought to be an option," Rockford Mayor Larry Morrissey says. "Sometimes it's better to let a court work it out."

But even Morrissey considers actually doing the deed "a last resort." Others liken it to opening Pandora's box—risky in the extreme.

"It's like yelling fire in a crowded theater," says Bill Brandt, a municipal finance expert who until last month was chairman of the Illinois Finance Authority. "Look at Detroit," which just came out of bankruptcy. "People aren't flocking (to invest) there. . . . You need to use a rifle shot in negotiations, not a cannon."

Civic Federation President Laurence Msall echoes the point. "In every case around the country, the cost of government has gone up and the quality of services has gone down" after bankruptcies, Msall says. "And the risk of contagion is high" as other local governments have to pay more to finance debt, he adds, pointing to research that Detroit's neighbors now pay as much as half a percentage point more to borrow than they should.

Others draw a distinction between private companies, which usually can fire their entire workforce with relatively minor harm to the larger society, and institutions such as schools, which can't just drop math instruction this year because it's unprofitable.

For reasons like that, veteran Chicago bond lawyer James Spiotto suggested in recent state House testimony, government bankruptcy is rare—fewer than 700 cases nationwide since the Depression, only six involving schools. “Chapter 9 is not a solution to the problems of a financially troubled (government). Rather, Chapter 9 is a process” to bring about compromise, he testified.

In that vein, the Civic Federation is pushing a plan to create a state oversight board that could intervene in distressed cases and use its expertise to help local governments come up with a way to solve their problems short of bankruptcy.

Does Rauner get that? Does he understand that scaring unions to the table may be good and effective theater, but actually pushing CPS or other governmental units into bankruptcy might blow up with lots of collateral damage?

No one seems to know. One source familiar with Rauner’s ways likens him to the “Animal House” character who has a devil perched on one shoulder and an angel on the other, each urging him to take different steps. Rauner’s dislike of unions is so deep he may have lost objectivity.

On the other hand, should the Illinois Supreme Court rule out any real changes when it decides a case soon governing the state’s troubled pensions, extreme actions might be necessary. And that’s no stage play.

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GREG HINZ

April 18, 2015