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History Not a Guide for Possible Chicago Public Schools Bankruptcy.

Only four school districts have declared Chapter 9 bankruptcy in the past 62 years, and two of those abandoned the process, says a municipal bankruptcy expert asked about the possibility of Chicago Public Schools doing the same.

CPS, the nation's third-largest school district, faces a nearly \$1 billion budget deficit and the possibility of staying closed in the fall if the state fails to pass a budget.

Rather than compromise with legislators over education funding, Gov. Bruce Rauner has publicly supported a bill introduced by Rep. Ron Sandack that would allow Illinois school districts and other local units of government access to Chapter 9 of the federal bankruptcy code.

James Spiotto, managing director of municipal finance consulting firm Chapman Strategic Advisors LLC in Chicago, points out that only four school districts have filed for Chapter 9 out of 322 total filings since 1954. He adds that two of those dismissed their cases in favor of other resolutions.

"The reason for that is there are better methods that states have developed to deal with troubled school districts," Spiotto said.

"School districts are so important to the economy, the community and the citizens that states have developed mechanisms to monitor, supervise, provide oversight, and if necessary, change the superintendent or board."

He explains that the San Jose School District in California filed for Chapter 9 in 1983, after a contract dispute with teachers that resulted in an arbitration award that the school district couldn't afford.

The school district used the process to resolve the dispute and dismissed the bankruptcy without a plan of debt adjustment less than a year later.

Spiotto says Richmond Unified School District in California filed for Chapter 9 in 1991, and announced that it would close several schools. But after students' parents filed a lawsuit to prevent the closings, the state legislature gave the school district \$29 million to bridge its gap in funding.

The school district hired a new superintendent and dismissed the bankruptcy without a plan of debt adjustment later that year. It also changed its name to West Contra Costa School District.

Spiotto contends that the other two school districts that have filed for Chapter 9 in the past 60 years - Copper River School District in Alaska and Chilhowee R-IV School District in Missouri - are too small to serve as examples for larger, urban school districts like CPS that may consider bankruptcy.

He says that Copper River only had 511 students and six schools when it filed for Chapter 9 in 1986. The school district rejected the teachers' union contract because it couldn't pay salaries, but in the

plan of debt adjustment, the salaries were frozen and significantly reduced.

Spiotto adds that Chilhowee R-IV filed for Chapter 9 in 1992, after five former teachers won a \$200,000 judgment against the school district. The school district only had an annual budget of \$650,000 at that time.

“Chapter 9 really just deals with debt adjustment,” Spiotto said. “Chapter 9 cannot interfere with the property, government and affairs of the municipality, which can be a school district, without the consent of the school district. So the school district would still control its operations.”

“Since you don’t reach issues of operations, you don’t reach issues of academics and performance and achievement,” he added. “Those are other critical issues, so Chapter 9 really is not a holistic approach for a school district.”

Spiotto contends that major school districts should instead consider state-sponsored resolution mechanisms rather than bankruptcy. For example, he says, California allows state takeover of school duties with an appointed administrator and enables the school district to receive emergency loans from the state general fund.

In Ohio, he says, an academic distress commission helps school districts develop a recovery plan when their academic performance is low. The commission can reassign or appoint school administrators, terminate contracts and develop budgets.

Spiotto points out that Illinois takes a different approach. The Illinois State Board of Education can take control of troubled school districts in cities of less than 500,000 inhabitants, but that obviously doesn’t apply to CPS.

“They are separate from any oversight, or setting up a physical oversight panel to review them, which other school districts do have in Illinois,” Spiotto said. “Because of the separateness of Chicago Public Schools, it’s left to the control of the city.”

Spiotto suggests that Illinois set up an oversight authority for CPS that could help the school district with its funding. The authority would provide interim financing and determine what is affordable for the school district, recommend to the legislature additional tax sources or increases in tax limits and ensure that academic achievement continues to improve.

Ted Dabrowski, vice president of policy at the Illinois Policy Institute, points out that the State Board of Education has taken over a few failing school districts, including East St. Louis and North Chicago, but the results have been mixed.

“The biggest issue is that you have one large bureaucracy stepping in to take the place of another bureaucracy,” Dabrowski said. “While that might fix some of the financial problems, it doesn’t really address the true question, are they helping student outcomes and are we seeing better education for children?”

While Chapter 9 bankruptcy might temporarily improve CPS’ finances, Dabrowski also contends that Mayor Rahm Emanuel and the Chicago Board of Education have not made tough decisions on how to use taxpayer money more efficiently and properly provide funds for school programs and teachers’ salaries and pensions.

“I would say that a state takeover will only help when there is pension reform and when the Chicago Teachers Union is forced to back off of its unrealistic claims and demands,” he said.

Spiotto says despite the “theater that you read about in the newspapers,” he wouldn’t rule out CPS and the teachers reaching a resolution for the sake of students and the community.

“They work through the problems,” Spiotto said. “That is the best solution. And if they need help from the state, that could help them bridge the financial problems that school districts obviously find themselves in from time to time.”

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BY AMANDA ROBERT

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