

San Bernardino Commits to Mediation ‘Outline’

by Joel R. Glucksman on September 17, 2013

One week after a U.S. Bankruptcy Judge ruled that the city of San Bernardino is eligible to seek protection under the provisions of Chapter 9 municipal bankruptcy, city officials committed to preparing an "outline" by October 15 when they enter into discussions with creditors and a mediator.

The city will be required to enter into payment negotiations with the California Public Employees' Retirement System (CalPERS) and other creditors to expedite a restructuring plan, and the ongoing battle over pension rights is expected to take several months to resolve. City officials are expected to propose a plan that greatly reduces pension benefits for retirees and existing workers, despite CalPERS' assertion that the state constitution fully protects and prioritizes pension rights. CalPERS is currently the city's largest creditor.

Bankruptcy Judge Meredith Jury said that the October deadline to propose an outline is designed to streamline the process.

"The primary purpose (of Wednesday's hearing) was because the answers that I was getting from the city about when it might have some kind of draft, terms sheet ... were not satisfactory to the court," said Jury, according to the San Bernardino Sun. "I was hoping to move quicker."

Jury also noted that she would not place any restrictions on which topics could be discussed during the mediation process, giving creditors and city officials more flexibility in reaching a potential resolution. In addition, the timeline may also give residents the ability to provide their input at city council meetings, particularly as essential public services are in jeopardy.

A similar fight is brewing in Detroit, which is currently facing challenges to its bankruptcy eligibility from creditors as well as significant opposition to its plan to reduce pension benefits. As the war over pension rights intensifies, upcoming rulings on cities' obligations to honor these benefits will be uniquely impactful on future municipal bankruptcy cases.