

Court rules California city can halt pension payments

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A federal judge's ruling in California has cleared the way for sweeping attacks on the pensions of the state's 1.6 million public employees.

A federal judge in Riverside ruled against the California Public Employees Retirement System (CalPERS) in its suit against the city of San Bernardino.

In what the Sacramento Bee referred to as a "watershed moment" for CalPERS, the court rejected the state-run pension system's various arguments that San Bernardino should be forced to resume payments immediately, in spite of the city's bankruptcy status.

San Bernardino ceased monthly payments of \$1.7 million to the fund during the summer. In August, facing a \$46 million dollar deficit, the city filed for bankruptcy.

CalPERS has faced mounting obstacles in recent years. Despite many "underperforming investments" the fund is now seeking to hire 86 new personnel at an average of \$190,000 each, for jobs that it says are "mission critical."

CalPERS has come under criticism from sections of the media for its large payroll, which includes 25 financial managers, earning between \$250,000 and \$400,000 dollars per year.

"CalPERS has more consultants than the city has employees," Paul Glassman, the city's bankruptcy attorney said.

A previous court ruling on Stockton, another California city that filed for bankruptcy, held that the city could reduce payments to retirees and that the court would have no power to stop the city from doing so. The ruling asserted that pensions do not take priority over regular financial obligations, such as payments to bond holders.

This ruling sent a clear message: the courts will

uphold the interests of the wealthy few against the hard won pensions of the working class.

While the court ruled against CalPERS in the latest case, it did so on the condition that San Bernardino restructure its finances and resume payments next year. Judge Meredith Jury claimed that San Bernardino was justified in seeking bankruptcy protection, but that the city must use the intervening time to get its finances in order.

"If you don't have some concept now, you better start thinking about it because it's inconceivable to me that you don't have some outlines of where you're going," she said.

These municipal bankruptcies, however, are being produced by the objective crisis affecting the capitalist system as a whole. They are not merely the result of bad stewardship by local elected officials. An adequate "concept" of how to right the city's finances cannot overcome deterioration of economic conditions.

Stockton and Vallejo had opted to avoid a costly legal confrontation with the state pension fund, cutting payments to creditors instead. The San Bernardino ruling therefore sets a new precedent, opening the way for more California cities to escape their obligations to the pension fund by filing for bankruptcy.

While San Bernardino has given indications that it will attempt to resume payment in one year's time (at the end of 2013), the ruling still opens the door for other cities to cease or delay payments. The rapid deterioration in economic conditions since 2008, and the determination of the ruling class to make the workers pay for the crisis, insure that CalPERS will face a rising tide of challenges to its claims on municipal funds.

CalPERS had advanced a number of arguments described by California legal analysts as "extremely

aggressive and novel". The fund has made the constitutional claim that the Supremacy Clause – which mandates that state courts follow federal law when there is a conflict between state and local statutes – does not apply to pensions, and that the fund is an "arm of the state," enjoys police power. Historically, funds like CalPERS have carried a certain "institutional weight," being viewed both as major financial investors and as guarantors against workers' militancy.

The decision in Riverside points to the fact that legal measures are not sufficient to defend workers' pensions. If CalPERS, a massive state organization worth hundreds of billions, cannot protect workers' pensions, then no pensions or benefits can be considered secure.

CalPERS' extensive linkages to the capitalist market render it extremely vulnerable to financial volatility and determine its reactionary political orientation. CalPERS has large investments in equity firms, whose activities are essentially criminal and destructive. CalPERS has invested heavily in Advent International, a "buyout firm." Effectively, CalPERS is transferring part of the gains won by workers into the hands of firms which plunder the working class.

The crisis of CalPERS is in essence a struggle over the surplus value created by workers, stored in the form of pensions. The US ruling class, and the legal system it controls, have sent an unmistakable message that these funds are not sacred. Under crisis conditions, they can be torn up as quickly as any other financial assets.

In seeking to stem the tide of pension "restructuring" by bankrupt municipalities through legal means, CalPERS is fighting a losing battle. The attack on pensions is part and parcel of the international assault on workers, driven inexorably forward by the crisis of global capitalism. CalPERS will face more bankruptcies and more unfavorable rulings. The defense of pensions, and of economic security for all, requires an independent political struggle by the working class.



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