

# California governor strikes deal with the Labor Department over transit pensions

**Gabriel Black****23 September 2013**

Earlier this month, Governor Jerry Brown of California orchestrated an emergency agreement with the federal government that will restore \$1.6 billion in public transit grants that had previously been revoked due to a dispute over Brown's 2012 pension reform. The deal will make California transit workers temporarily exempt from Brown's sweeping pension "reform."

For months, the US Department of Labor (DOL) and the Brown administration had been in negotiations over the legality of the governor's 2012 pension plan. The DOL, in tandem with transit unions in California, argued that the pension plan spearheaded by Brown was illegal for certain workers because it did not involve bargaining between the state and unions. The basis of their argument is the 1964 Urban Mass Transportation Act, a federal bill that allows for transit grants to states. This bill has a provision that protects transit worker pensions from being changed outside of negotiations with the unions.

The discussions between California and the DOL broke down in early September. The federal government immediately cut off \$54 million in grants to public transit. In addition, the remaining \$1.6 billion owed to California in mass transit grants would have been withheld. This indefinite moratorium on federal transit grants would have jeopardized thousands of construction and transit jobs around California. In addition, various public transit construction projects would have come to a halt.

Brown and California lawmakers brokered an emergency deal that exempts transit workers from the pension overhaul through 2014. The federal government, in turn, will re-certify California as having complied with the law and allow the remaining grants to flow to the state in 2013 and 2014.

This window of time will allow California to challenge the Department of Labor in court. Eventually a judge will decide whether transit workers can be forced to accept pension reforms without some form of "collective bargaining." Since it involves the relationship of state and federal law, this case may be important for larger battles over pensions, such as the bankruptcy of Detroit, Michigan and Stockton, California.

Far from being a concession to transit workers, this "California v. Federal" drama is a temporary pause that allows for a negotiation within the ruling class about how relevant unions are in the attack on workers' pensions. The transit unions are, in addition to the federal action, suing the state. They fear losing relevancy and seek a role in the system. They do not fundamentally oppose the essence of the governor's reactionary legislation.

The essence of this legislation, which was backed by Democrats and Republicans, is an attack on a worker's right to a good retirement. It changed the new public worker retirement age from 55 to 67. The law also altered pension contribution rates so that new workers would pay a larger share of their income into their pension fund. In addition, pensions will now be calculated on the average compensation during the last three years of pay. (See "California Governor signs pension 'reform' bill")

Brown received crucial support from the unions for this legislation. Yvonne Walker, president of California's largest state employee union, the Service Employees International Union (SEIU) Local 1000, applauded Brown. She said that the proposals "provide a good starting point for a new conversation about retirement security for all Californians, especially as California and the nation struggle to untangle the mess

caused by Wall Street's financial malpractice."

While the pensions and retirement age for workers hired after January 2013 have been changed, workers hired before that date will have their fates decided some time before 2018. An essential part of Brown's reform was the guarantee that the SEIU and other unions would get a say in negotiating these pension reforms for pre-2013 hires. By holding a seat at the table, the SEIU and other unions will make it appear as though workers are being represented while simultaneously helping to sell cuts to its own membership.

The SEIU supports the measure because it fears for its own existence. Organizations like the AFL-CIO have seen their membership plummet, putting into question the six-digit salaries of top union bureaucrats. Despite their posturing, employers and unions agree: the crisis of the profit system requires that workers sacrifice for the bosses' benefit.

While the SEIU has openly gone along with Brown, unions like the Amalgamated Transit Union (ATU) have positioned themselves as opponents of certain features of the plan. Their stance, however, is not a fundamental opposition to pension "reform". They have token criticisms of the attack on workers, however their concern is maintaining a role in the process. Like the SEIU, they want to ensure a place at the bargaining table while maintaining attacks on workers' livelihoods.

Dave Low, chairman of the union coalition "Californians for Retirement Security," said, "We simply cannot stand for imposing additional retirement rollbacks on millions of workers *without bargaining*" (emphasis added). Low added that the union would "continue to act as partners with taxpayers in finding solutions to help rebuild our state's working class."

The ATU and other unions that criticized certain features of Brown's pension legislation were elated when the Department of Justice intervened on their behalf. The ATU said: "We are pleased that Governor Jerry Brown proposed legislation to exempt transit agency employees from PEPRA [California Public Employees' Pension Reform Act] for up to 14 months, while preserving the state's ability to challenge the DOL decision in state court. This will bring California into compliance with federal transit law and allow future grants to proceed."

The DOL's decision signaled that the ATU will

likely have an expanded role in the deal-making process.

The ATU's hostility to a political struggle by the working class is also demonstrated in a slew of sell-out contracts that they have pushed for, as well as strikes they have betrayed in the past year. In the Bay Area, the ATU shut down a mass transit strike without any gains, and earlier this year the ATU surrendered to New York Mayor Michael Bloomberg, leaving 9,000 New York bus drivers to suffer through devastating cuts and layoffs.



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