Judge backs Stockton, California bankruptcy plan ending retiree health care payments

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A federal bankruptcy judge on Thursday approved a restructuring plan for Stockton, California that will eliminate health care benefits for 2,400 retired city workers and their families. The plan also imposes a regressive sales tax hike, slashes already meager public services and spins off public assets to Wall Street bondholders.

The inland city of 300,000 residents, about 80 miles east of San Francisco, was hard hit by the collapse of the housing market in 2007-08. The city responded by cutting $90 million from its general fund, laying off 30 percent of its fire department and 43 percent of its non-uniformed workforce. It filed for Chapter 9 bankruptcy protection in June 2012, making it the largest municipal bankruptcy in the US until Detroit followed suit a year later.

Earlier this month, Judge Christopher Klein ruled that the city could cancel its payments to the state's public employee pension fund even though California's state constitution has some of the strongest pension protections in the US. Following the lead of the federal judge in the Detroit bankruptcy case, Klein ruled that US bankruptcy laws trump state constitutions, and that pensioners were no different than any other "unsecured" creditor.

Judge Klein reasserted this Thursday, saying that if Stockton officials had gone that route they could have reduced or cancelled payments to the California Public Employees' Retirement System (Calpers) without being forced to pay off the remainder of its $1.6 billion in obligations as required by California law. "Bankruptcy is all about the impairment of contracts," Judge Klein said. "That's what we do."

However, Democratic Party officials in the city did not seek to reduce pension payments in the restructuring plan. Instead, they imposed brutal cuts in health care benefits by reducing their $544 million obligation towards lifetime retiree health care benefits to a one-time payment of $5.1 million. The 99 percent reduction will force retirees—whose pension income averages $24,000 a year and who do not qualify for Social Security—to pay impossibly high out-of-pocket costs for medical insurance.

The $5.1 million is to be paid out in lump sums ranging from $460 to $14,000, according to a union-affiliated retiree committee, which said that this was "not enough to cover even one year of premiums for replacement health insurance and for many retirees." One municipal worker, who retired after 39 years on the job, filed a declaration with the court saying that she will now pay 52 percent of her annual income for health care treatments.

The decision to forestall a frontal attack on pensions was the result of intense negotiations between the Democratic Party and city and state unions. As in Detroit, the unions approved the establishment of a court-appointed official retirees committee in order to treat all retirees as a single "class" in the bankruptcy proceedings. The unions prefer this legal maneuver because they generally do not have the legal authority to "represent" retirees and negotiate away their benefits, and could therefore be subject to lawsuits from rank-and-file workers.

In June, the 13-member Official Retirees Committee, appointed by the Office of the United States Trustee, agreed to the gutting of retiree health care. The lump sum, the agreement declared, "will be the sole payment of claims of lost future retiree medical benefits and will be made when the City's Plan of Adjustment goes into effect." The court, with the full assistance of the unions, then blackmailed workers into voting for the plan in a thoroughly antidemocratic vote.

The main official criticism of the city's plan came from various investors. Franklin Templeton Investments sued last year, charging that city officials were favoring pensioners and discriminating against it by offering a settlement that gave the global financial company only a small fraction of what Stockton owed it.

The investment firm hired Michigan consulting firm Conway MacKenzie, a major player in the political conspiracy to rob pensioners in the Detroit bankruptcy case, to argue that supposedly overly generous pensions were eating up the city's budget and would have to be reduced by more than 60 percent.

After Judge Klein ruled that health care claims were "unsecured" debts, the city filed a revised plan slashing the medical benefits of retirees. The new plan also transformed the bonds held by two Franklin mutual funds into "secured" debts backed up by two public golf courses and a park. On Thursday, the Judge ruled that Franklin Templeton, whose investments are backed by bond insurers, would get $4 million out of its $36 million claim. Meanwhile, bond insurer Assured Guaranty holds the $40 million collateral for the building that is going to be the new City Hall.

Throughout the bankruptcy procedure, the unions made clear that they had imposed and would continue to impose painful concessions on the workers. In a court filing answering Franklin Templeton's assertions, the Stockton City Workers Association, the firefighters and operating engineers union, approvingly cited statements from city officials boasting of the cuts imposed on workers. "The City's recent labor agreements made substantial cuts to compensation and benefit packages for current employees, including eliminating their future retirement health coverage (worth approximately $26,000 per employee per year), requiring current employees to pay 100% of the employee share of their CalPERS contribution (7-9% of salary), and imposing compensation reductions that varied, but averaged 10% to 33%, of which 7% to 30% was in pensionable income reductions that would impact future pensions as well as current income."

The chief consideration of the unions in accepting all of these cuts was not defending the pension rights of Stockton workers or the nearly 600,000 state, municipal and school district employees and their dependents who currently receive monthly pension checks. Instead, the $200 billion CalPERS fund, the largest pension fund in the US, is a massive investment vehicle that gives union officials significant business and political connections and opportunities.

The unions are instead collaborating with Democratic Governor Jerry Brown to go after pensions in a different way. Brown has called for the "reform" of state and local government pension systems, demanding that workers pay a larger share of their retirement costs, supposedly to shore up the systems. "One thing we know for sure under constitutional law," Brown told reporters in 2011, is "the employer can require higher contributions, and that is the most immediate and the biggest change that will make our pension plans more solvent."

Rather than imposing this unilaterally as the Republicans have generally sought, the Democrats in Stockton and other cities, along with Governor Brown, have imposed these higher pension contributions and other concessions through the unions.

If many California cities are cash starved, it is not because of overly generous pensions, but because of decades of cuts in state and federal funding and tax concessions to wealthy individuals and big corporations. California currently has the largest number of billionaires (111) of any state in the country.