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APRIL 5, 2013 AT 12:13 PM

EM's biggest task: Tackling Detroit's pension obligations

Orr can expect tough fight to trim legacy costs; state constitutional provisions complicate job

BY MIKE WILKINSON THE DETROIT NEWS 50 COMMENTS



Kevyn Orr can reduce health-care benefits, but changing pensions would be a tougher fight. (Daniel Mears / The Detroit News)

Detroit — Pensions and retiree health care could be on the table during Detroit's restructuring, prompting worry among the city's 30,000 current and former city workers that Emergency Manager Kevyn Orr may try to cut their benefits.

It's a fear rooted in reality because Orr has the power to make drastic changes, and retiree benefits are among the biggest bills for a city that is nearly \$15 billion in debt, has a \$327 million accumulated general-fund deficit and will be unable to pay nearly \$2 billion in debt payments over the next five years.

"It's a concern," said Reggie Amos, who retired from the Detroit Fire Department in 2009. "That's why I keep my thumb on the pulse of Detroit."

Orr has until mid-May to submit a preliminary restructuring plan to state officials. Among his options are changing labor pacts and restructuring the city's debt, including pension and retiree health care obligations.

Orr can reduce health care benefits, but changing pensions would be a tougher fight.

Michigan law allows him to replace board members of Detroit's two systems if auditors determine they are underfunded — and there's vast disagreement about their financial soundness.

Changing pension benefits would require a ruling from a bankruptcy judge — and there's no consensus on whether a court order could trump the Michigan Constitution that protects pension benefits.

Either way, officials with the pension systems expect a fight.

"We know (change) is coming," said Matt Gnatek, president of the Police and Fire Retirement System.

The outcome could be huge to both the retirees and the city's financial health. More than 8,000 former police officers and firefighters draw pensions, which averaged nearly \$30,000 last year. Another 11,970 former city workers or their spouses draw pensions that average \$19,600 a year, according to recent audit figures.

All of them are also entitled to city-paid health care, which cost the city more than \$177 million last year.

Last year, pensions cost the city 30 cents for every dollar it spent on payroll. The systems oversee roughly \$7 billion in investments, but some haven't performed well of late.

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Pension investments are expected to grow about 8 percent per year. The police and fire system's investments lost 4.3 percent for the fiscal year that ended June 30, 2012, and without a "remarkable" recovery, the city may have to spend more to fund the system, according to a March report by actuarial firm Gabriel Roeder Smith & Co.

Orr has said he intends to sit down with all stakeholders and wants to avoid a costly bankruptcy filing, but observers expect he will look at the costs of the city's work force and retirees.

"An emergency manager is going to have to find savings wherever he can find them," said Douglas Bernstein, a Bloomfield Hills attorney and expert on municipal bankruptcy.

Officials with the general retirement system declined comment.

'Setting up a showdown'

Orr may not be able to alter retiree pensions alone, but he could change retiree health care whose annual cost to the city is nearly as large as the gambling taxes paid to the city each year by its three casinos.

A recent report by Michigan State University economics professor Eric Scorsone estimated the city faces \$4.9 billion in future retiree health care costs — equal to nearly 40 percent of the retiree health care liabilities facing all Michigan municipalities.

Former city officials have tried to reduce costs, with former Mayor Kwame Kilpatrick — now awaiting sentencing on multiple corruption charges — slashing benefits in 2006. But that move prompted a lawsuit and a settlement that maintained health care but forced retirees to pay more in premiums, co-pays and deductibles.

"Maybe the emergency manager has the power to negotiate a contract, but not to negotiate a court order," said Ed Wertz, a former president of the Retired Detroit Police and Fire Association.

Should Orr decide the city's woes can only be solved in U.S. Bankruptcy Court, he could try to put pensions on the table, along with health care and the city's debt, much of it borrowed to plug previous deficits.

The Michigan constitution protects benefits, and it's unclear whether a bankruptcy judge could be persuaded to rule otherwise. In California, two cities going through bankruptcy had different results — Stockton continues to make full payments to its pensions, while San Bernardino has stopped.

Because municipal bankruptcy is relatively new, the issue likely will have to be decided by higher courts, Bernstein said.

"In law, nothing is a sure thing," he said. "We're setting up a showdown over what takes precedence — a bankruptcy judge or a state's constitution."

Changing pension benefits may be difficult, but Orr also could try to scrap the governing boards of the retirement systems — giving him more influence in their investment strategies.

State law allows emergency managers to do so if an actuary decides they are less than 80 percent funded. This week, Pontiac's emergency manager proposed trimming that city's pension board from 11 members to five.

But there's disagreement about the health of the Detroit funds. The Police and Fire Retirement System claims it is funded at 102 percent, while the General Retirement System says it is at 83 percent.

A recent report commissioned by the city from New Jersey actuarial firm Milliman found the funding of both systems was far lower: 50 percent for the police and fire system and 32 percent for the general system for the fiscal year that ended June 10, 2010.

The report labeled its conclusions as "very rough preliminary guesstimates," but faulted the systems for counting \$1.4 billion the city borrowed in 2005 to shore up its pension obligations as assets.

The report also suggested the pension boards are too pessimistic about how long retirees may live and too optimistic about intended rates of return.

A separate audit, required annually by the state, suggested the true market value of fully one-quarter of the police and fire pension fund's assets can't be determined. The pension funds' own actuaries, though, have concluded both are in fine shape.

Separately, the funds have faced allegations they lost more than \$84 million because of corruption by board members and staffers.

Former board members Jeffrey Beasley of the General Retirement System and Paul Stewart of police and fire were charged with using their positions to enrich themselves. Ron Zajac, formerly the attorney for both funds, was charged with participating in a bribery and kickback scheme. He has denied the allegations.

Gnatek, the fire and police fund president who said he ran for a spot on the board to clean up the mess, said the current board is doing its job.

"We're a different board. We've hired a new staff," Gnatek said. "We've cleaned house."

Workers brace for pain

Gnatek said he expects Orr to thoroughly review the pensions. What might happen is far less clear. But he and Amos said they believe current city



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employees will bear the brunt of changes.

"They're the ones who are really going to take the hit," Amos said.

Already, changes in how pensions are calculated have lowered potential pensions. Employees are paying more into the system and expecting less. The pensions of newer city employees could be 10 percent smaller than their predecessors.

With Orr now ruling City Hall, it could mean even greater pain. But how much is unknown.

"That's the frustrating part. It's 'wait and see,' " said Gnatek, a 38-year-old sergeant. Like many still working, he wonders what his future holds.

"I hope there's something left when I retire."

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Mark Durfee · Top Commenter · Being Annoying at NosylNc

Now we come to the gorilla in the room. City pensions and health care, I earned mine as did the every other city employee who has worked more than 10 years for the city. Looking at the figures quoted in the article of \$30,000 and \$20,000 + group health care doesn't sound extravagant to me. Granted I was fired and retired when my back was broken so my pension does not come close to the \$20,000 mark but what I do get, though stagnant, does help me live, pay taxes to the state, city and, bills every month.

Unfortunately this earned benefit was taken in lieu of pay raises and benefit increases because the union members knew that the city finances were sliding, but always we were told that the Mayor of the time and the City Council had it all under control and that by taking a give back contract things would be better in the future... [See More](#)

Reply · 32 · Like · April 4 at 11:37pm



Michael J Guss · Top Commenter · U of M-Dearborn 1986/Detroit College of Law

10 years "earns" a for life pension----by whose accounting?

Reply · 18 · Like · April 5 at 4:00am



Mark Durfee · Top Commenter · Being Annoying at NosylNc

It takes 10 years to vest, not earn in full. I should have made that clearer. It takes 30 years to be fully vested. If you quit or lose your job before 10 years you get nothing. The private sector before the time of 401's it was a standard 5 years.

Reply · 13 · Like · April 5 at 4:11am



Carl Palmateer · Top Commenter

In the military if you don't do the full time you don't get a dime.

Reply · 8 · Like · April 5 at 5:06am

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Rhonda Fuller · Top Commenter

Welcome to the world Democrats have created. If not bankruptcy in name, it's bankruptcy in fact. The same is true for the federal government, run solely by Democrats in 2008 through 2010. What makes you think a city, a county, a state, a national government can escape bankruptcy or virtual bankruptcy when it spends more money than it takes in. It can't tax people 100 per cent, although that's what Democrats would love to do to persons with incomes above a certain level, which they would decide upon. They would however exempt themselves, or create loop holes for themselves and friends, which is the way it works in governments that transform themselves into socialist/communists models from a capitalist model. Detroit is a perfect example of Democratic malfeasance, though they will never accept the responsibility nor will the media do its job to expose them. As with all crooks and bad actors, the Democrats see themselves as good people. Where their notion of good comes from, I don't know because they don't believe in God. So it must be Orwellian in nature: what is bad is good. Or, Shakespearean: there is no good or bad, but thinking makes it so.

Reply · 19 · Like · April 5 at 3:35am



R David Romano · Top Commenter

May the hand of God help those retirees and future retirees that are about to lose their dignity as well as their earned pensions at the hand of republicants

- Simply a republicant utopia ~ ~ ~ the devastation of the weak

rdr

Reply · 9 · Like · April 5 at 3:49am



R David Romano · Top Commenter

May God help the weak seniors that the republicants are about to destroy.

Reply · 7 · Like · April 5 at 3:50am



Scott Daniel · Top Commenter · Michigan State University

Rhonda, your statement is so full of BS, I'm not sure where to start. First of all, someone's political affiliation has zero to do with their belief in God. It appears that you see the world in purely black and white terms. But, I'm here to let you in on a little secret: there are lots of other shades in between. I voted for President Obama twice, yet I don't consider myself a Democrat. In the past, I voted for Clinton, Bob Dole, George HW Bush and George W. Bush (once, anyway). Despite all of those choices, good and bad, my belief in God and the Bible as his living word hasn't changed. As for the City of Detroit, a lot of factors have led to its decline and to lay all of it at the feet of the Democrats is the height of intellectual laziness. Grow up.

Reply · 22 · Like · April 5 at 4:27am

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Steven Silber · Top Commenter · Walsh College

Start by trimming the politicians' pensions and bennies!

Reply · 19 · Like · April 4 at 10:09pm



Rick Hamilton · Top Commenter · Huntington Beach, California

Trim???????????????? Cut it off.

Reply · 6 · Like · April 5 at 7:58am



Gerald Kent · Top Commenter · Works at Semi-retired/self employed

The city pension and benefits is part of what attracted me out of the entrepreneur business, accepting a lower wage than other builders made. As an inspector, which is the top tier of skilled labor, I was expected to maintain a higher certification than the best carpenters and contractors had. I drew 6-7 million dollars, collected, and another 25 million in accounts receivable (they would not collect--???) for the city, with a spotless career. I earned and paid for my bennies. You can't have 'em back.

Reply · 2 · Like · April 5 at 11:07am



Chirag Shah · Top Commenter

Good luck trying to keep them, no one is saying you didn't negotiate them and earn them but there's no money there. Just like private companies that had to cut previously agreed upon bennies, so to will the public sector, there should be no state or taxpayer bail out.

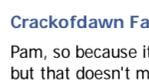
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Pam Csatari · Northville, Michigan

As someone who's spouse at about age 54 experienced a 50% slash in pension, plus we now pay \$600 plus a month for healthcare (yes, he is a union member) - all due to a corporate bankruptcy and buy out by another company - I resent people who are in the public sector harping about this. The private sector has been dealing and living with these issues for more than 10 years. I can't afford your rich benefit packages anymore.

Reply · 12 · Like · April 5 at 6:28am



Crackof Dawn Farms · Top Commenter · Ortonville, Michigan

Pam, so because it happened to me it better happen to you. How selfish and greedy. yes it sucks it happened to you, but that doesn't mean we should all pay because of your misfortune. Instead we should be standing side by side helping each other. People like you are what makes employers happy. Attacking your own. AT some point we rich the bottom then what. We all fall into the hole you fell in and the employer wins. Will you be happy then? Your reasoning is sadly pathetic and selfish

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