

MICHIGAN AFSCME COUNCIL 25
LEGISLATIVE REPORT
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OUTSOURCING

Michigan AFSCME continues to push for Civil Service rule changes that would give us back the right to fight costly outsourcing of our jobs. But we still have only 2 of the necessary 3 votes to make a change as the Chair of the Commission continues to avoid making a commitment. The next meeting of the Civil Service Commission will be December 18th at 10 am at the Capitol Commons Center, 400 S. Pine Street, Lansing (lower level Rm. A.)

This rule change is more important than ever. The “Teapublicans” in the House and Senate continue to push hard for privatization and have included language in the budget to require more and more RFPs including a specific requirement in the area of MSI clothing operation and economic incentives to local government to privatize services. A bill has even been introduced that would prohibit government from doing *anything* that a private company can do. We have recently found an Request for Information seeking juvenile justice providers who can take over all of the most serious offenders in order to outsource the unique services provided by our members at Maxey Training School. Recent years have seen repeated efforts to close all state run juvenile justice facilities have come close and there is no let up on the part of those who want to reward their corporate friends. The current rule does not take into account the quality or even the amount of services provided. It goes without saying that anyone can under bid if they are held to no standards, no proper level of staffing and no amount of service. The resulting failures only give the privateers the opportunity to demand higher and higher remuneration after low balling the initial bid.

This has been demonstrated repeatedly at the Grand Rapids Home for Veterans where our residential aides appeal was lost on a 2-2 decision of the Board. Two votes insisted that quality is not a factor that the staff is to even consider in the CS-138 process under Standard D. A showing of cost savings is all that is required regardless of the quality of the services purchased! Quality, they argued is the responsibility of the Administration and the Legislature. We have submitted hundreds of complaints from residents, families and co-workers in regard to J2S staffing levels and poor service to our veterans but those complaints have fallen on deaf ears.

Grand Rapids Home for Veterans

Representative Brandon Dillon (D-Grand Rapids) recently received reports of 37 cases that had been resolved when he requested this information of the Department. We are cross checking to see which cases were omitted by the Department.

Sen. Colbeck’s Appropriations Subcommittee continues to request specific resolution on the issues we have raised concerning Vet’s care by J2S personnel and the Department continues to promise resolution but have provided little details. It is clear the members of the subcommittee are becoming increasingly impatient with the slowness of the response.

Prison Food Service

Over 300 AFSCME members jobs were eliminated effective next Sunday as the Snyder Administration continues to implement outsourcing of their jobs. Michigan AFSCME appealed the decision of the CSC staff and demonstrated that if comparison with state cost and private costs were compared on an apples-to-apples basis, our delivery was less expensive than the bid proposed by ARAMARK. The Administration had to engage in contorted gymnastics to appease their Teapublican allies in the Legislature to come up with a revised bid from Aramark to meet the Standard D requirements. Yet, citing extremely limiting language in CSC rules and regulations, the CSC staff again rejected our appeal. The result was only reached by using outdated state employee costs and decreased private sector performance. CSC staff is reading the rules to say that if a private company provides a bid – no matter how understaffed or understocked – that purports to cost less than what the state paid the year before the bid, the private corporation wi Ans. Further this is true even if the state is contemplating other money saving efforts on the public sector side. The State Personnel Director refused to stay the decision pending our appeal to the full Civil Service Commission even

when requested to do so by a bipartisan bicameral group of legislators. I have attached the correspondence to this report.

At AFSCME's request, the Michigan State AFL-CIO has created a multi-union task force to develop and coordinate efforts to fight outsourcing. We are preparing for continued pressure on the Civil Service Commission, continued publicity on the damage of outsourcing, and social media efforts. In addition, we are preparing for an anticipated assault in the next budget process.

PRISON FOOD OUTSOURCING LIKELY TO SEE ROCKY START

Aramark's launch is likely to be rocky tomorrow as they have only acquired 70% of the necessary staff to take over prison food operations and most of those new workers have not yet been trained. AFSCME staff acquired the following report that was put out to all prison wardens on December 3rd:

"The following is the eighth weekly report that is being sent to all Wardens to ensure staff knows what is happening with the transition of the privatization of Food Service by Aramark. Wardens please share this information with your staff especially your Food Service, Warehouse and Maintenance Staff.

If you have any questions or concerns, please relay them to Kevin Weissenborn and Dewayne Burton.

"Aramark Staffing Information

Aramark staff will be at all facilities to observe operations beginning Tuesday, December 3, 2013. They (Aramark) will be at the facilities in this capacity until they officially take over food service operations on Sunday December 8, 2013.

The Aramark Food Service Directors have been asked to contact their facility Wardens and designated training contacts. The Aramark Foodservice Directors are being asked to do this so that they may make arrangements to complete their Computer Based Training (CBT) and to assist the facility trainers in scheduling the rest of the Aramark staff's training. This method was chosen so that the facilities will have a contact person at the facility versus working with an Aramark staff person out of Pennsylvania.

Currently Aramark has hired approximately 70% of the staff needed for the privatization contract. In some facilities the numbers are as low as only 1-2 staff hired. It should be noted that Aramark will continue their hiring processes beyond the opening date of December 8th in order to build a "pool" of qualified employees for potential future vacancies.

In addition, Aramark will utilize Transition Support Managers (Managers from other States and Correctional Contracts) to cover staffing shortages. These Support Managers will remain with the project until proper staffing levels are achieved. These individuals have been identified on the Facility Entrance Authorization reports that have been sent out over the past several days.

"Aramark Staff Computer Based Training (CBT)

The computer based training for Aramark staff is running behind due to password/login issues. It was discovered in order to login to facility training terminals a user ID and password was required. Aramark does not want their hourly staff (line staff) to have access to MDOC computers and applications. As a result of this, it is not fiscally sensible to give these nearly 400 staff (hourly line staff) State of Michigan Accounts simply to do Computer Based Training.

The alternative was to identify the computer laboratories around the state that could be utilized for Aramark's computer based training. The labs have the ability to allow users to sign on with generic user names and passwords such as student1, student2, etc. There are labs located in places such as the FOA Office in Troy Michigan, FOA Office in the City of Flint, the Ionia and Jackson Training complexes. In addition there are a number of facilities that have computer labs located in them. As a result of these findings, the Department of Technology Management and Budget (DTMB) has issued generic passwords at the facilities with computer labs for Aramark staff to complete their computer based training.

“There are seven facilities that do not have labs in them so an alternate computer training method was required. For the seven facilities without computer labs (ability to use generic logins/passwords) Aramark will send laptop computers to these facilities and their staff will complete the required training using the training disc versus the intranet. Note: Aramark cannot hook these training computers up to our network. These computers will be used for training purposes only and will be without network functions).

- The seven facilities that don't have computer labs are; Central Michigan, St. Louis, Marquette, Newberry, Pugsley, Alger, and Kinross (Kinross can train at Chippewa).
- In addition, Saginaw (1 lab computer), Gus Harrison (2 lab computers), and Macomb (2 lab computers) have been identified as not having enough laboratory computers. As a result, laptops have been ordered by Aramark to complete their training in the same manner as the seven facilities previously identified.

“Aramark's Computer Based Training will start this week and continue over the next few weeks. Aramark will have Support Transition Managers to assist in covering operations while Aramark staff complete their training.

Meal Tracking Reports

“Dewayne Burton recently sent out a report explaining how the mealtrack application works. In this report, Dewayne explained why it is essential that all meals are entered into the mealtrack report. It has recently been reported by Automated Data Security Systems (ADSS) that all facilities are not accounting for all meals served by scanning or manually entering identification numbers. It is important that all facilities cease this practice and ensure all meals are documented in the meal track system.

Aramark Employment Opportunities

“Aramark is continuing to hold job fairs throughout the state utilizing Michigan Works Offices. Aramark is asking that all current MDOC staff that is interested in working for Aramark to apply online at www.workacs.com

Inventory

“This is a reminder that we need to continue to deplete the food and non-food supply inventories. In addition, the facilities have been working with their respective Regional Business Offices in compiling a list of small ware inventories. These inventories will document what was in use on December 8, 2013 (the date Aramark takes over). Examples of items listed on this inventory are cups, bowls, pots and pans. It is crucial that these inventories be accurate because the MDOC (State of Michigan) owns this equipment and it will remain the property of the State in the event the contract would end.

“In addition, a food inventory will be completed. The accuracy of this inventory is also crucial because Aramark will purchase the food that is on hand and the value associated with this inventory will be credited to the MDOC on future billings submitted by Aramark.

Food Service Launch Date Resource Room

“On December 8, 2013 there will be a resource room located in Central Office. This room will be staffed by Project Manager Dewayne Burton, Contract Compliance Inspector Kevin Weissenborn, and Aramark Regional Vice President Michael Flesh. This room is being provided so that staff from the MDOC and Aramark can address foodservice problems and concerns. (There will be more specific information related to this topic in the future).

“Also, nine Aramark District Managers are being authorized to take their cell phones (for a two week period) into facilities to stay in contact with their operations Vice President. (There will be more specific information related to this topic sent to you in the near future).

Contract Compliance Monitors

“The eight Food Service Contract Monitors have been selected. These staff will start making contact with facility Wardens starting December 9, 2013. In addition a Contract Monitor Manager position has been established to supervise the eight contract monitors. Interviews for this position will be taking place in the near future.

Aramark’s Train-the-Trainer Session

“On Thursday November 21, 2013 Aramark’s Managers (line staff trainers) attended training at the Southern Peninsula’s Jackson Training Complex. These Aramark staff received training from facility staff, ADSS staff, MDOC Fire Safety staff person and Sanitarian.

“The subjects covered were security items, grievances, misconducts, manifest, prisoner payroll, classification process, mealtrack training, OMNI, DAS, fire safety, chapter 12 (caustics), sanitation, National School Lunch Program and MDOC Food Service metrics. In addition, these staff was provided with manuals that contained sample documentations to refer to at a later date if the need arises.” (underline emphasis mine)

DETROIT BANKRUPTCY PUTS PUBLIC EMPLOYEE PENSIONS IN JEOPARDY

Judge Rhodes ruling admitting the City of Detroit to bankruptcy and holding that employee pensioners are nothing more than “unsecured creditors” despite Michigan’s constitutional guarantee of public pensions is a blow to all public employee pensions. Michigan AFSCME is appealing his ruling.

In addition, AFSCME is reviewing the possibility of a change in federal law allowing the federal Pension Benefit Guarantee to provide protections to public plans as it currently does for private sector plans.

We are also participating in a public relations effort through the Coalition for A Secure Retirement to bring to the public information on the importance of defined benefit plans.

CIVIL SERVICE IMPASSE PANEL REPORTS

The Civil Service Impasse Panel has made its recommendations to the State Civil Service Commission which is expected to vote on it at their December meeting (see above for time and place).

Major components of the panel recommendation include:

- extension of the reduced health care plan which was put into effect for those hired after 2010 to all employees;
- ½ of one percent one time payment in 2014;
- 2% wage increases in 2014 and 2015;
- continuation of union security pending the decision of the Michigan Supreme Court.

SCHOOL “REFORM”

Education Achievement Authority codification has been moved from the Senate Education Committee, where it did not have sufficient votes for passage, to the Senate Government Operations Committee. Senate action is possible next week. In the meantime, other school “reforms” changing the method of evaluation system have stalled in the House Education Committee.

A bill is moving through the legislature that would make nearly all school employees “mandatory reporters” of child abuse and neglect. Currently only teachers and administrators are “mandatory reporters.” Mandatory reporters are required to report to the Child Protective services incidents of child abuse and neglect. Failure carries criminal penalties. Most of our members now make such reports to their supervisors who then report to the CPS. The additional reporting requirements are good public policy but it will take effort to inform workers of when and where reporting is necessary. Therefore, at our request the bill has been amended to delay its effective date until 180 days (6 months) after its enactment.

COURT OF CLAIMS LATEST STEP IN MANIPULATION

The Legislature has passed and Governor Snyder has signed into law a bill designed to stack the deck in court rooms in the State’s favor whenever it, a state official or a department, commission or agency of the State is sued. We generally expect judges to be impartial. And to make sure there is a level of fairness in the process, judges in individual cases are generally picked by a blind draw. For the last forty years, money damage cases against the State have been submitted to an Ingham County Circuit Judge by blind draw. But the Governor and Republican Legislature has not been happy with all of those decisions. It’s just not enough of a sure thing! So a bill was rushed through the Legislature that requires that any action against the State, any state official (like the Governor) or any state department, agency or commission must be heard by one of four hand-picked judges of the Court of Appeals – chosen by the 7-2 Republican majority on the State Supreme Court. The uproar from bench and bar and a barrage of negative publicity did result in a more evenly divided group of appointees – two Court of Appeals Judges who were appointed by Governor John Engler and two who were appointed by Governor Jennifer Granholm. However, there is no guarantee of such fairness in the future.

Governor Snyder and the rest of the Republicans know that many of their decisions are unpopular and some are even of questionable legality. So they have spent the last three years stacking the deck. This is just the latest example of the abuse of power since the Governor and both Houses of the Legislature (as well as a majority of the State Supreme Court) have landed in the hands of one political party. Let’s take a look at their efforts:

- Concentrate Wealth: There has never been a time in U.S. history in which so few have controlled so much of the wealth of the nation. This is not the result of free markets but rather market rigging around the country, especially here in Michigan. One of the first acts adopted when the Republican Party took control was to change Michigan’s tax policy to favor the wealthy. Businesses received an 83% cut in state taxes – that amounts to a gift of \$1.8 BILLION. Oh sure, they promised to use this money to create jobs but that has not materialized. So, the State made up the money by taxing the pensions of seniors, cutting homestead property tax credits for the middle class and reducing tax credits for the working poor.
- Blame local government and public employees: After drastically cutting financial support from local government and schools, they criticized them for not being able to pay their bills and passed legislation that took away your right to elect school boards and local government. Their solution: force them into receivership allowing the Governor to appoint an emergency manager to run things his way.
- draw district lines to preserve power: Even though over ½ the people in the State voted for Democratic State Representative candidates in the 2012 election, the Republicans maintained control of the House with 59 of the 110 votes. When the Oakland County Reapportionment Commission adopted an Oakland County commission plan that gave both parties a chance to win a majority, the Legislature quickly passed a law that

moved the reapportionment decision from the County Reapportionment Commission to the Republican controlled Oakland County Board of Commissioners. The bill applied to Oakland County only.

- Ignore the voters: When the people of the State voted overwhelmingly to overturn the Emergency Manager Law, Republican lawmakers took less than a month to pass another one that was virtually identical to the one YOU REJECTED.
- Allow wealthy corporations to buy their legislative agendas: Instead of creating good jobs, businesses use those huge tax cuts to buy influence. The United States Supreme Court ruled, in Citizens United, that corporations have a First Amendment right to spend whatever amount they want to elect candidates they favor (or who favor them). So it's off to the races with some of the most expensive campaigns in history.
- Block any opposition from participating in the process: Here is the big one. The Republicans do not like people or organizations who disagree with their agenda, so they are constantly finding ways to keep them out of the process. This has resulted in legislation which:
 - allows free riders to eat up union resources by refusing to pay even fair share fees for the contracts and contract enforcement they enjoy (calling it "right to work");
 - prevents school employees from paying union dues through payroll deduction to make sure unions spend money on collection rather than education;
 - prevent political donations from being collected through payroll deductions from workers (but not from being collected in corporate board rooms).

MEDICAID EXPANSION

The failure of the Michigan Senate to give immediate effect (by 2 votes) to Medicaid Expansion earlier this year continues to play havoc with people's lives. This is complicated by the failure of the Snyder Department of Community Health to complete work on the waivers required by Michigan's unique act. The Department had indicated that the waivers were "ready to go" when the Legislature acted three months ago even without the new bill going into effect and that they were prepared to accept Medicaid applications in anticipation of the new law. Both proved to be untrue. The waiver was only filed last week and the Department has not yet begun to take applications. People with incomes between 100 and 133 percent of the federal poverty level are left with uncertainty as they cannot yet apply for Medicaid but may be eligible for federal subsidies at healthcare.gov. People between 35% and 100% are not even eligible for subsidies and will have to wait for the Department to act.

ATTACHMENTS

See attached.

Detroit Retirees Vow To Fight For Pensions

DETROIT - Detroit retirees promised to take their fight to the U.S. Supreme Court if need be to protect their benefits after U.S. Bankruptcy Judge Steven Rhodes ruled Tuesday that Detroit can reorganize under Chapter 9 bankruptcy and can do so by including city pensions as part of that restructuring.

Protestors outside the federal courthouse in Detroit were angry that Mr. Rhodes had not heard their protests and did not rule that the pensions were sacrosanct.

But he said in ruling from the bench that it was exactly the protestors' position that pensions could not be touched that gave credence to the city's argument it had tried to negotiate an agreement before filing for bankruptcy.

After the long-anticipated ruling, retiree groups and their attorneys, though, held to that position that their benefits could not be touched.

"We're going to continue to pursue all our options," Sharon Levine, an attorney for the retiree groups, said.

Ms. Levine said the retirees planned to have an appeal filed as early as Tuesday (Mr. Rhodes said he would not stay his order pending such a filing), but would also continue to work with the city.

"We hope to be able to participate in the plan of adjustment negotiations," she said.

Mr. Rhodes said the bankruptcy filing was a chance for a new start for the city.

"The city cannot legally increase tax revenues," he said. "Nor can it reduce its expenses without affecting public health and safety."

In setting the groundwork for his ruling, Mr. Rhodes spent substantial time recounting the city's woes including population losses (68 percent since 1950) and corresponding job and revenue losses, the percentage of current revenues going to debt service (38 percent), the number of violent crimes (15,200 last year) and the police clearance rate (18 percent), and the number of fires (11,000 average each of the last 10 years, with more than half of those in vacant buildings).

Attorneys for the city said a restructuring plan should be presented by March 1, as Mr. Rhodes had earlier requested. They said a plan by the end of the year, as he requested after issuing his order, was not practical.

It was not clear Tuesday, though, whether that plan would include cuts to pension benefits. Detroit Emergency Manager Kevyn Orr, who will lead the effort to develop a restructuring plan, did not say Tuesday what his plans are for pensioners.

Some of the protestors said indications were benefits could be cut by as much as half as the city tries to reduce its outstanding debt, which Mr. Rhodes pegged at about \$18 billion.

In addition to the sheer size of the debt, Mr. Rhodes said the debt service, estimated at 38 percent of the city's revenues, was another reason for allowing the bankruptcy.

Mr. Rhodes found that the state constitutional provision on pension benefits, which prohibits the state from impairing or diminishing them, is not a substantially different protection than that given any other contracts.

"Pension rights are contract rights under the Michigan Constitution," he said. "If the Michigan Constitution were meant to give higher or exceptional protection (to pensions) that language would not have referred to pension benefits as a contract."

He agreed that the state does not have the authority to impair contracts.

"The state of Michigan itself cannot provide for the adjustment of pension debts or any debts," he said. "These prohibitions, however, do not apply in the federal bankruptcy court."

He said any contingency the governor might have included in his letter authorizing the bankruptcy that would have tried to protect the pension benefits would have been invalid.

But he said he would not "consider lightly" any plan that would reduce pension benefits as part of the city's restructuring.

"No one should interpret this holding that pension rights are contract rights ... to mean that this court necessarily will confirm any plan of adjustment that would impact pension rights."

And if pensions are reduced, provisions need to be made to ensure those pensioners are supported. "The court implores those who administer our social safety net ... to focus greater attention on the real human needs that will arise from this bankruptcy," he said.

Mr. Rhodes also gave a hint where he might fall if the city's plan includes selling art from the Detroit Institute of Arts. "When considering selling an asset, the (city) must determine that the asset is truly unnecessary," he said, adding that any attempt to use such sales to balance the city's budget would have merely forestalled the inevitable without changes to revenues or expenses.

Mr. Rhodes rejected various state and federal constitutional challenges to both the bankruptcy law and the emergency manager act ([PA 436 of 2012](#)). The Ingham Circuit Court decision to the contrary on PA 436, because it came after the bankruptcy was filed, violated the automatic stay on any court proceedings against the city and so was void, he said.

Creditors were correct in arguing that the bankruptcy filing was a foregone conclusion when the emergency manager was appointed to the city, but he said that should have been expected given the condition of the city's finances.

City creditors, including the pension funds, had argued the city had not tried to negotiate a debt settlement in good faith and so should not be allowed to enter bankruptcy.

Mr. Rhodes agreed, finding that the negotiations the city had sponsored were better characterized as presentations and that the plan the city had released to creditors did not provide them enough information to create counter-offers, a hallmark of a negotiation.

"The city cannot announce that the meetings were not negotiations and then assert to this court that the meetings were good faith negotiations," he said.

But he said the city, in its current position, did not have to negotiate. With the size of its debt and the number of creditors (more than 100,000), he said the city could not be expected to try to negotiate.

"The sheer size of the debt and number of creditors makes negotiations impracticable," he said.

And he said the retiree position that benefits were untouchable further discredited the idea of negotiations.

"It is impracticable to negotiate with a group of creditors that assert that their positions are immutable," he said.

Mr. Rhodes discredited the creditors' position that Mr. Orr was appointed with the expectation that he would file for bankruptcy.

"Yes, it was, for a long time," he said of bankruptcy for the city as a foregone conclusion.

He said city officials reacted as many whose organizations are headed for bankruptcy: "They often wait longer to file bankruptcy than is in their best interests."

But he chastised Mr. Orr and other city and state officials who had denied that bankruptcy was a foregone conclusion. "It avoids the very delay, and worse, the very suspicion and bad feeling, that resulted here," he said of being upfront about the need for bankruptcy.

Mr. Rhodes' written opinion was expected to be available Wednesday.

Detroit Bankruptcy Ruling Could Have Broader Effect

DETROIT - Those fighting the Detroit bankruptcy said Tuesday's ruling allowing the city to reorganize under Chapter 9 could have long-term consequences for the state and the nation.

"I think this is a very scary day," Sharon Levine, an attorney for the retiree groups, said after the ruling. "The state Constitution that protects workers' pension benefits can be taken away."

The ruling, she said, could apply to not only Detroit, but to other cities in Michigan, and potentially others in the nation, considering seeking bankruptcy protection.

"Working people across Michigan are appalled by today's ruling in the Detroit bankruptcy case. Taking from retirees who already make do with very little will not fix the city and sets a dangerous precedent for our entire state," the Michigan State AFL-CIO and the Metro Detroit AFL-CIO said in a joint statement. "Make no mistake about it, this ruling sends a clear signal that if you work hard and earn a fair pension, a governor with a radical, right-wing, political agenda can use the federal bankruptcy court as a tool to rob you of everything you earned."

[Governor Rick Snyder](#) agreed that the ruling was a call to action, but for a different reason.

"Today, the federal court allowed Detroit to stay on the path toward a brighter future. A future where streetlights work and ambulances respond quickly. A future where crime and blight shrink, and where jobs and investments surge," he said in a statement. "We are confronting fiscal realities that have been ignored for too long. Today's decision will allow Detroit to regain its financial footing and spark investments in key areas that will improve the quality of life for all residents and encourage growth and investment."

Mr. Snyder won on virtually every major point contested at the eligibility trial.

Democrat Mark Schauer, who will likely face Mr. Snyder at the ballot box next November, also said the decision meant a time of rebuilding for the city.

"As the bankruptcy restructuring plan advances, Gov. Snyder and Kevyn Orr have a responsibility to uphold Michigan's Constitution by protecting hard-earned retiree pensions over Wall Street creditors," he said in a statement. "Moreover, I would

strongly urge Gov. Snyder to empower Mayor-Elect Duggan to lead the city's day-to-day turnaround efforts. It's time for Detroiters to lead Detroit."

Legislators also called for working with the city.

"The success of Michigan depends on the success of Detroit, and I look forward to supporting the city restructuring in a way that leads to sustainable prosperity," House [Minority Leader Tim Greimel](#) (D-Auburn Hills) said in a statement. "However, I disagree with the judge allowing innocent retirees to pay to protect Wall Street bond holders, and I hope he lives up to his promise to only approve a plan of adjustment that is fair and equitable."

Jerome Goldberg, another attorney for the retiree groups, argued the legal battles were largely over. "What it says is people better mobilize," he said of Tuesday's ruling. "The question is whether retirees are going to mobilize in sufficient numbers" to prevent the city from including their benefits as part of the restructuring.

The Michigan Municipal League said the filing shows the failure of recent state fiscal policies.

"The ruling is a stark reminder and affirmation of the critical need for the Legislature, Gov. Snyder, and local elected officials to work together to develop a policy plan and vision for the future of Michigan's cities, where the vast majority of jobs and economic, cultural and educational activity occurs in our state," Municipal League President Jacqueline Noonan, mayor of Utica, said in a statement. "It is a reminder of the need to fix the state's broken municipal finance system, under which the Legislature and governor have taken about \$6 billion in funds that, by state law, were supposed to go to local governments as statutory revenue sharing, including to the city of Detroit."

Though Ms. Levine talked only of the next step, there were many in the protests outside the federal courthouse in Detroit talking of the case making its way to the U.S. Supreme Court for final resolution on the issue.

Of key concern, Ms. Levine said, is the lack of federal insurance protection for municipal pensions. "So if these people lose their pensions, there's no safety net," she said.

Gail Turner, vice president of the Retired Detroit Police Members Association, said she and her fellow former officers also do not have the Social Security and Medicare benefits that other employees do because for much of current retirees' careers, those fields were not required to pay into that system.

"I thought when I retired two years ago the fight was over," Ms. Turner said, arguing the ruling was just the beginning of the legal battle on the issue.

[Attorney General Bill Schuette](#) said he would also be joining the legal battle, with plans to file an amicus brief supporting the idea that the Michigan Constitution does not allow pension benefits to be changed, even under a bankruptcy filing.

"Everyone knows Detroit is bankrupt. I agree with Judge Rhodes' decision that the City of Detroit is eligible for bankruptcy," Mr. Schuette said in a statement. "However, I am deeply disappointed by Judge Rhodes' analysis that pensions may be impaired. I will continue to aggressively defend pensions and Article 9, Section 24 of the Michigan Constitution as this case proceeds to the confirmation stage of the bankruptcy process, at which time we can thoroughly review any plans for potential legal action involving pensions."

Gongwer, 12-3-13

Editorial: Snyder must uphold state's constitutional protection of Detroit pensions

December 5, 2013 |



Pickers, many of them American Federation of State, County and Municipal Employees retirees, protest outside the Federal Courthouse in Detroit on Tuesday. / Tammy Stables Battaglia/Detroit Free Press

By The Detroit Free Press Editorial Board

It's your state, Governor.

And that means Detroit's problems are your problems.

Detroit emergency manager Kevyn Orr sees no way to restructure the city's debts and liabilities without cutting pension benefits, and U.S. Bankruptcy Judge Steven Rhodes ruled Tuesday that the state's constitutional protection for pensions doesn't carry any weight in federal court.

But if the \$3.5 billion Detroit owes its pension funds, and the payments it makes to retirees, is reduced, thousands of senior citizens will be left with depleted resources and few options.

It's unacceptable.

The City of Detroit made promises to its workers, promises it can no longer keep. And in 1963, the residents of Michigan chose to approve a constitution that protected pensions.

Gov. Rick Snyder took an oath to uphold that constitution. And now he must. That's the thing about oaths. You have to keep them, even when it's difficult, or inconvenient. Or not politically expedient.

Michigan Attorney General Bill Schuette knows it — he's said he'll support the state constitutional protection for pensions, and is planning to file a state court appeal to Rhodes' ruling that the bankruptcy court need not honor that protection.

Schuette needs Snyder's backing.

Rhodes' ruling doesn't invalidate the state's constitutional protection of pensions, as some have suggested. Think of it as parallel legal universes: In federal bankruptcy court, Rhodes affirmed a power that court has always had — the ability to alter contracts. But in the world of the state, for state officials bound to uphold Michigan's laws, the constitution holds the same power it did before Rhodes' ruling.

But if Schuette is unsuccessful in his appeal, Snyder must step in. Even if that means picking up the tab for Detroit's pension debt.

The governor has displayed a relentlessly, grindingly positive attitude toward the city of Detroit, speaking frequently about the importance of the city to the state and to the region.

But he's mealy-mouthed when asked what, exactly, he will do to help Detroit.

Snyder says the city must be rebuilt, that Michigan is the comeback state and that Detroit is an integral part of Michigan.

Yet when it comes to pledging to help in any kind of meaningful, tangible way, Snyder dodges. No bailout for Detroit. No financial help for the city, not even for pensioners already in, or on the edge, of poverty.

These pensioners are Michiganders.

Orr has said he doesn't plan to ask Snyder for help, that the kind of money it would take to plug the hole in Detroit's pension funds isn't available, even at the state level.

That's a false argument.

To save Detroit's most vulnerable pensioners, the state doesn't need to cut a \$3.5-billion check, and that's something both Orr and Snyder are savvy enough to know.

The amount the city owes its two pension funds is disputed — Orr's analysts say \$3.5 billion, the funds say \$644 million. Any cuts to that debt would apply only to the unfunded portion of the pension systems' assets. But Detroit retirees can't afford to lose much. The average general system retiree's benefit is less than \$20,000 a year. For police and fire retirees, it's about \$34,000. These same retirees will have to absorb increased health care costs, starting March 1, as the city alters those benefits.

Orr has talked about creating “tiers” of pensioners, but it’s unclear, as of yet, what he means by that. It’s not difficult to envision that cuts could be softened for Detroit’s oldest, poorest pensioners. Or that the state could issue bonds, backed by state resources and by the revenue Orr hopes to reclaim.

There are options, and in the months ahead, Snyder and Orr have to choose an option that serves all Detroiters, who are, after all, Michiganders.

This is no trivial matter. If Snyder blows through a constitutional obligation — enshrined in the very document that gives him the authority to govern — or comes up with a cowardly way to avoid it, it would de-legitimize his authority as the state’s chief executive, and make him into the “dictator” his harshest critics already believe him to be.

Imagine the outrage if a governor simply chose to assign no meaning to other parts of the state Constitution — like the equal protection clause or free speech provisions. It wouldn’t be tolerated, and nor should any notion of ignoring the constitutional obligation to honor public pensions.

This is a test of Snyder’s leadership, a measure of his ability to win a potentially unpopular fix in order to fulfill a constitutional promise.

Here, he has to think bigger than party or special interest, bigger even than his own legacy.

He needs to think about the law of the land, and what damage he could do to us all if he tosses it aside.



THE EDUCATION RECORD 2010-2013

\$1 BILLION CUT IN STATE AID: School districts across the State have been forced into financial distress by more than \$1 Billion in cuts to local school districts since Governor Snyder came to office. Those cuts are the result of nearly \$2 billion in business tax cuts. The rest of the gift to wealthy corporations was “paid for” by taxing YOUR pensions, cutting YOUR tax deductions (like the homestead property tax credit and the state’s earned income tax credit) and cutting other essential services.

EMERGENCY MANAGEMENT: Every Governor promises to be the “education governor”. Governor Snyder has proven to be the Anti-education Governor. To avoid blame for the financial distress he created, he rammed through the legislature the power to take over school districts that he put in financial distress. Over 50 school districts are facing financial emergencies. The State has taken over four school districts (four have emergency managers and 1 – Pontiac – has a “consent agreement”). Two others, including East Detroit, are “under review.”

SCHOOL DISSOLUTION: Cuts were so steep that two school districts have been dissolved completely and merged with neighboring districts. While bond holders and banks were protected, employees were left out in the cold. Union sponsored amendments to give displaced workers priority in hiring at the absorbing districts were met with slurs by Rep. Lisa Posthumus Lyons, the Chair of the House Education Committee, who referred to workers who wanted to remain employed as “pigs” and “hogs”.

COST OF MEDICAL INSURANCE: Ignoring local control, the Legislature has enacted a LIMIT on what public employers can pay on health insurance for their employees. Any cost over that, YOU PAY. Insurance companies, doctors, hospitals, drug companies can charge what they want so be prepared to force your employer to shop for the best deal.

EXPIRED CONTRACTS: Want to fight for better wages or benefits? Better hurry. A new law requires that if your contract expires before a new one is signed YOU HAVE TO PAY all increased health care costs and YOU LOSE any step increases! Does that apply to those on the other side of the bargaining table? Sorry, that UNION proposed amendment was defeated.

PAYROLL DEDUCTION: The Legislature decided that paying union dues should be as DIFFICULT FOR YOU as possible (probably because unions fought the above changes in law) so they passed a law that said YOU must find another way.

“BEST PRACTICES”: The last three budgets have given gifts to school districts that the state thinks are doing a good job. These are referred to as “best practices grants.” Do school districts get rewarded for better classes or cleaner schools? No they get rewarded if they outsource YOUR JOB!

