

THE ZAPPIA LAW FIRM

A PROFESSIONAL CORPORATION

— Labor & Employment Law —

SPECIAL DOUBLE UPDATE

PUBLIC SECTOR EMPLOYERS

October 2, 2014

CITY OF STOCKTON CAN PULL OUT OF CALPERS AND CUT \$1.6 BILLION IN UNFUNDED PENSION LIABILITIES

Yesterday, a US Bankruptcy Judge held that the City of Stockton, may pull out of CalPERS and restructure \$1.6 billion in unfunded pension liabilities. This ruling, while not binding on other courts, will weigh heavily on other distressed California cities, including Vallejo and San Bernardino (which have also filed for bankruptcy protection), because they are also facing lopsided balance sheets and runaway pension debts. The City of Stockton filed for Chapter 9 bankruptcy protection on June 28, 2012.

If the City cuts ties with CalPERS, it would face a 10-figure termination liability for the payment of accrued pension benefits, secured by a lien over its assets. The judge's ruling, however, held that CalPERS' lien could be erased, as is typical in bankruptcy proceedings. This action would turn CalPERS into an unsecured creditor, although it would not be responsible for making up the resulting shortfall in benefit payouts.

The judge set an October 30 hearing to deliver a confirmation ruling on the plan. We will keep you apprised.

Stockton Ch. 9 Judge Rules Cities Can Cut Pensions, Law360 (October 2, 2014) Andrew Scurria
<http://www.law360.com/employment/articles/583031>

PUBLIC SECTOR EMPLOYERS / LABOR LAW

GOVERNOR BROWN VETOES AB 2126

APPEALS RE AB 646 SINGLE-ISSUE FACT FINDING SHALL PROCEED

On Tuesday Governor Brown vetoed Assembly Bill 2126, which would have made mediation mandatory and expanded the scope of factfinding under the Meyers-Milias-Brown Act (MMBA).

In his veto message the Governor stated in pertinent part:

“To the Members of the California State Assembly:

I am returning Assembly Bill 2126 without my signature.

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This bill would amend the MMBA to provide that mediation in the collective bargaining process may be invoked by one party, rather than requiring both parties to mutually declare impasse and request mediation as required under current law. The bill would also specify that fact finding is not limited to disputes over a new memorandum of understanding but also applies when negotiations reach impasse over issues within the life of the contract.

This measure is premature because a key issue it raises is currently pending before two separate courts of appeal. I would like to get the benefit of the courts' reasoning before I take any action on a bill of this type.”

Click here to see Governor Brown's veto message.

http://gov.ca.gov/docs/AB_2126_Veto_Message.pdf

Our firm is lead counsel in *County of Riverside v. Public Employment Relations Board; Service Employees International Union, Local 721*, Court of Appeal Case No. E060047, one of the 2 matters pending before the court of appeal.

The briefing schedule for our matter is as follows:

1. Appellants' (PERB and SEIU) opening briefs are due on October 6, 2014.
2. Our client's (County of Riverside) opening brief is due on January 5, 2015.

Our appeal covers additional issues including: (1) the constitutionality of AB 646 as an unlawful interference with the governing body's ability to manage its budget and employee compensation; and (2) the propriety of the denial of PERB's anti-SLAPP motion brought against the County's legitimate Superior Court Writ challenging PERB's decision on factfinding.

The other matter is *San Diego Housing Commission v. Public Employment Relations Board*, Court of Appeal Case No. D066237.

The briefing schedule in this matter has not yet been assigned.

Please click the following link to view our Special Update from November 2013 when we received our first favorable rulings in this matter.

<http://www.zappialawfirm.com/wp-content/uploads/2014/07/Special-Update-Nov-19-2013-AB-646-Factfinding.pdf>