Detroit pension proposal would push workers, retirees into 401(k) plan, shut out new employees

BY COREY WILLIAMS, THE ASSOCIATED PRESS SEPTEMBER 27, 2013

FILE - In this July 19, 2013 file photo, state-appointed emergency manager Kevyn Orr, right, and Michigan Gov. Rick Snyder, give a news conference in Detroit. Orr is proposing to close the city's pension plans to new employees by the end of 2013 and move the city to a 401(k)-style system that has become the norm in the private sector. (AP Photo/Carlos Osorio)

DETROIT - Hoping to stanch some of the red ink flowing from Detroit, its emergency manager is riling the workforce with a proposal to close the city's pension plans to new employees by the end of the year and move the city to a 401(k)-style system that has become the norm in the private sector.

Detroit's underfunded obligations of about $3.5 billion for pensions and $5.7 billion for retiree health coverage are part of the city's $18 billion debt load and a major reason emergency manager Kevyn Orr filed for bankruptcy protection in July.

Now, he wants to end pensions for new employees and freeze benefits to about 18,000 members. Non-taxable annuity savings will be closed to new employees and no future contributions would be accepted after Orr's proposed Dec. 31 "freeze date."

Non-vested active system members also will be frozen out by Dec. 31.

"They took my wages and now they're trying to take my pension," said Mike Mulholland, vice-president of American Federation of State, City and Municipal Employees. "All of our people are saying 'what are they doing to us?'

"We've already given concession after concession, and now to be asked to give up more and be put in a defined contribution plan ... they want to force us to take something where we have no security when we retire."

Orr's pension plan has to be approved by Michigan Treasurer Andy Dillon and is one of the strongest challenges to unions in the one-time organized labour stronghold.

It also is likely to continue the parade of court challenges by union leaders who say changes to pensions and bargained health care benefits violate Michigan's Constitution.

But Orr counters that federal bankruptcy law trumps state law.

James McTevia, a Detroit-area turnaround expert, said he is not aware of a previous ruling on the matter, but adds it's clear what Orr is trying to do.

"He is following the natural process for a reorganization," said McTevia, of McTevia and Associates. "That sets up a mechanism to make changes to the entity's debt structure. If the city doesn't have the money to pay (into the pensions), what difference does the law make? If the city can't do it, it can't do it. That contract has to be rejected and another contract has to be entered into."

A draft of the pension proposal was given last week to the General Retirement System, which represents about 20,500 active and retired city workers. AFSCME Council 25 spokesman Ed McNeil said unions have not received the draft.

In it, the city also would contribute five per cent of the base pay of non-uniformed workers to the 401-type pension plan. Overtime, bonuses and longevity pay will not be factored into compensation as they have been in the past. The city will make no contributions to a deferred compensation plan in which participant contributions and earnings on retirement money are tax-deferred.

A separate plan for police and fire retirees still is being worked on and has not been presented to that pension system, said Bill Nowling, a spokesman for Orr.

"But it will be similar" to the General Retirement System plan, Nowling said.

The police and fire system has nearly 12,700 members.

The pension systems, city unions and individual retirees are fighting Orr in bankruptcy court. They don't believe he has proved Detroit is insolvent and complain that he hasn't bargained in good faith.

Mary Estell, a retired Department of Public Works employee, receives a pension of about $2,300 per month after 32 years with the city. She realizes the likelihood of getting more is unlikely.

"At this point, there is nothing we can do," Estell said of Orr's pension plan. "The city doesn't have any money, so we won't get any increase. If the bankruptcy doesn't go through, then maybe there's a chance we will get an increase in the future."

Orr's plan does not say how much would be saved, according to a draft of the proposal.

A spokeswoman for the pension system says officials still are studying the plan. "It really just caught us completely off guard," said Tina Bassett. "It was the first time we saw it."

But any changes could take as long as two decades to make a dent in how Detroit's long-term debt is structured, according to Michael Sweet, a bankruptcy attorney with Fox-Rothschild.

Moving from a defined benefit to a defined contribution plan "isn't going to change the savings tomorrow," Sweet said. "Kevyn Orr is working on all sorts of different things. One is to address the short term issues and deal with the longer term imbalance of the budget."

Private companies long ago starting shedding plans that relied heavily on employer contributions in favour of those where workers decide how much of their pay they want socked away. As cities and states continue to buckle under the pension and health care liabilities, elected leaders are pushing for similar changes.

"Something has to be done because the pensions are extremely expensive and with the aging demographic, those costs just keep going up," said Deidra Krys-Rusoff, a portfolio manager with Ferguson Wellman, an Oregon-based capital management firm.