

AB 506 – CALIFORNIA GOVT. CODE § 53760 *ET SEQ.*

Labor-sponsored bill became effective January 1, 2012. Requires either mediation or a fiscal emergency prior to a “local public entity” such as a city being authorized by the State to file a chapter 9 bankruptcy case.

Mediation, the preferred alternative:

Local public entity must notify “interested parties” of the commencement of the mediation process.

Interested parties include creditors holding in excess of \$5 million of noncontingent debt, parties to contracts (such as labor contracts) that might be rejected in a bankruptcy case and an association of retirees.

The local public entity and the interested parties then attempt to jointly select a mediator. If no agreement, the local public entity provides five candidates and a majority of the interested parties may strike up to four. The one remaining becomes the mediator. If more than one name is not stricken, the local public entity may choose among the remaining candidates.

The mediation then proceeds over the next 60 days unless agreement is reached sooner. It may be extended an additional 30 days if requested by the local public entity or a majority of interested parties.

During the mediation, the parties are required to act in good faith and to share documents and financial data, all of which is subject to confidentiality rules.

Fiscal emergency:

Mediation may be avoided or the process stopped prior to completion if the local public entity declares a fiscal emergency.

Declaration must be made by majority vote at a noticed public hearing by the governing board (such as a city council).

Declaration must include findings that the financial state of the local public entity jeopardizes the health, safety or well-being of its residents absent chapter 9.

Must also find that the local public entity is or will be unable to pay its obligations within the next 60 days.