

Federal bankruptcy not allowed for Oregon counties

Curry County Reporter - Wednesday, March 28, 2012-Page 1

By: Joel Summer

http://www.currycountyreporter.com/news/story.cfm?story_no=8420

Municipal bankruptcy under Chapter 9 of the federal Bankruptcy Code could be a powerful tool to Curry County in getting out from under some of its obligations like exorbitant payments due to the Public Employees Retirement System – if only it was available.

But it's not.

Oregon is one of about half the states in the U.S. whose municipalities (including counties) cannot file for bankruptcy under Chapter 9.

The reason is that in order for a municipality to file for Chapter 9 the municipality must be specifically authorized by state law to file for bankruptcy.

"This authorization must be in writing and cannot be merely inferred from a municipality's general enabling statute," said Amber Hollister of the Governor's Office of General Counsel.

Oregon, Alaska, Delaware, District of Columbia, Georgia, Hawaii, Illinois, Indiana, Kansas, Maine, Maryland,

Massachusetts, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming do not authorize municipalities to file for federal bankruptcy protection.

New York does allow counties, cities, towns, and villages to file for bankruptcy but no other districts. Colorado allows special districts to file for Chapter 9.

Connecticut requires the "express prior written consent of the governor." There are other states like Washington and Idaho that allow some municipalities under some circumstances to file.

The only kind of special districts that are allowed to file for bankruptcy in the state of Oregon are irrigation and drainage districts (ORS 548.705).

This means that other districts also do not have the authority to file for bankruptcy including such 'financially challenged' districts as the Curry Health District.

The only states with full and unlimited authority for municipalities to file under the federal Bankruptcy Code are Alabama, Arizona, Arkansas, California, Florida, Kentucky, Nebraska, North Carolina, Ohio, Oklahoma, and South Carolina.

Jefferson County, Alabama, which includes the state's largest city Birmingham, filed for bankruptcy as the result of a \$3 billion failed sewer deal. Recently Stockton, CA has threatened to file for Chapter 9 bankruptcy as well.