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NEWS RELEASE

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IMPLEMENTING VOTERS' WILL ON PROPOSITION B BEGINS NOW

San Diego, CA: Now that Proposition B has been approved by the voters, the challenge is to actually put the measure into effect, City Attorney Jan Goldsmith, Council President Tony Young and Council President Pro Tem Kevin Faulconer said at a news conference Thursday.

Goldsmith outlined a five-point plan that addresses pending lawsuits against Proposition B, begins efforts to create a 401(k)-style defined contribution plan for new employees and invites the City's six labor unions to the negotiating table to work on a fair implementation plan.

One of the City's goals is to avoid a lengthy delay of the kind that happened with a voter-approved 2006 charter amendment to implement managed competition for City services. That was stalled by litigation for nearly four years.

"The election is over. Proposition B has passed and it is time to begin implementing the voters' will. We want to enforce pension reform envisioned under Proposition B in a way that is legal and treats employees fairly," Goldsmith said. "It's time to get to work."

Goldsmith acknowledged that five cases have already been filed aimed at invalidating Proposition B, including one by the Public Employment Relations Board (PERB), and that those cases can take time to wind through the courts. The City has filed this morning a 46-page Petition to the Court of Appeal asking that the Court take direct jurisdiction of all five cases, bypassing a year or more of litigation (discussed below).

Goldsmith said litigation is not the answer.

"We don't think there's merit in those cases. The best they could achieve is some delay and a lot of attorney fees," said Goldsmith. "I think we'd be more productive working together to figure out ways to implement Proposition B in a fair manner."

Council President Tony Young agreed.

"The voters have handed us a mandate and now the city needs to move forward in a thoughtful and diligent manner to implement a 401(k)-style retirement plan for some of its workers," Young said.

Council President Pro Tem Kevin Faulconer said: "San Diego voters clearly want a system that is fair to employees and affordable for taxpayers. San Diegans expect results. We must implement Prop B without delay."

Lani Lutar, President & CEO of the San Diego Taxpayers Association, said it was important to be proactive.

"SDCTA applauds the City Attorney's office on behalf of all City taxpayers for taking proactive measures so we can start realizing savings from Prop. B as soon as possible," Lutar said. "We cannot afford a delay with costly lawsuits. Money spent on legal matters reduces funding for badly needed City services, just the opposite of what Prop. B is intended to achieve."

Goldsmith on Thursday outlined a five-point plan intended to implement Proposition B as swiftly as possible while complying with legal requirements.

1. Directly petition the Court of Appeal

Local labor unions and PERB have already filed a combined five cases against the City seeking to invalidate Proposition B. The process to resolve the suits could take many months, if not years as they slowly wind their way through an administrative process at PERB that is biased and political. Eventually, all five cases would be decided by the Court of Appeal.

To minimize the time needed to move forward with Proposition B, our office filed this morning a direct petition to the Court of Appeal asking them to bypass PERB and render a decision on the merits in all five cases. A copy of the 46-page petition is available.

The direct appeal process is rarely used and completely within the Court of Appeal's discretion. Most recently, the direct appeal process was used by the California Supreme Court in rendering a decision on legislation eliminating redevelopment agencies.

2. Freeze hiring until defined contribution plan is in place

Proposition B requires that new employees (except police officers) initially hired after its effective date be provided a defined contribution plan. That effective date depends upon the Secretary of State's certification, but it is anticipated to be mid-July to early August. At that point, the City must have in place a defined contribution plan if it wants to hire new employees.

"When Proposition B takes effect, it becomes part of our City Charter which is essentially our Constitution," said Goldsmith. "Although I'm sure some will object, the bottom line is that we will insist upon complying with our City Charter, as we have done since the day I took office."

3. Begin now to implement 401(k)-style defined contribution plan for some workers

Our office has been working on the outline of a new defined contribution plan. A detailed legal opinion on implementing the defined contribution plan has been distributed to the City Council and Mayor and is available for public review. This is a supplement to our January 10, 2011 [legal opinion](#) freezing "pensionable pay" that can be found on our website.

We believe that an interim plan can be adopted before Proposition B takes effect, subject to more work on a permanent version. We will suggest that the City retain an actuary and benefit expert to assist. The roadmap for arriving at the plan or plans is different depending on the type of employee:

- A. Unrepresented employees: The City can adopt a new defined contribution plan for new hires who are not represented by a labor union without meeting and conferring. Our office will have a draft for discussion in open session of the City Council on June 11. The City can adopt a plan by the time Proposition B takes effect.

- B. Represented employees: Before a new defined contribution plan is adopted, the City by law must meet and confer with its labor unions. If the City and unions cannot reach agreement and must go through an impasse process, including the new "fact-finding" process, it is certainly possible that the City would not have in place at least an interim defined contribution plan by the time Proposition B takes effect. We want to make an effort to have one in place. The City Council will meet in closed session on June 11 to discuss labor negotiations with regard to represented employees.

4. Invite labor unions to meet and confer

Today, we sent to each of our six labor unions an invitation to meet and confer on implementing Proposition B.

5. Invite labor unions to resume "global" pension settlement discussions

Today, we have also sent to each of our six labor unions invitation to, again, engage in "global" pension settlement discussions.

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