

CITY OF SAN DIEGO

Proposition B

(This proposition will appear on the ballot in the following form.)

PROP B

AMENDS CITY CHARTER TO ADD GOOD CAUSE REQUIREMENT FOR CERTAIN TERMINATIONS OR SUSPENSIONS OF DEPUTY CITY ATTORNEYS. Shall the Charter be amended to establish a good cause requirement for the termination or suspension of Deputy City Attorneys who have served continuously for two years or more, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriations?

This proposition requires approval by a simple majority (over 50%) of the voters voting on the proposition.

The proposed charter amendment follows the arguments.

OFFICIAL TITLE AND SUMMARY

AMENDS CITY CHARTER TO ESTABLISH A GOOD CAUSE REQUIREMENT FOR CERTAIN TERMINATIONS OR SUSPENSIONS OF DEPUTY CITY ATTORNEYS.

Amends the City Charter to establish a good cause requirement for the termination or suspension of Deputy City Attorneys who have served continuously for two years or more, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel.

CITY CLERK'S IMPARTIAL ANALYSIS

The voters of the City of San Diego created an independently elected City Attorney as part of the adoption of a City Charter in 1931. However, the Charter does not specifically address the role of the Assistants and Deputy City Attorneys (DCAs) who work under this elected individual. These positions serve "at will," meaning at the pleasure of the City Attorney. Assistants are appointed by the City Attorney to fulfill a management role within the office. DCAs provide specific legal services to the City and practice in such areas as Civil Litigation, Civil Advisory, Labor, Neighborhood Prosecution, Domestic Violence and General Criminal.

This ballot measure would amend the Charter of the City of San Diego to establish a good cause requirement for the termination or suspension of DCAs who have served continuously for two years or more, except that any DCA may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel. It will also specify a maximum number of Assistants that the City Attorney may appoint at any time.

FISCAL IMPACT STATEMENT

Potential savings as a result of this ballot measure are undetermined; however, the recruitment and retention of attorneys may improve the operating efficiencies in the Office of the City Attorney. The average salary of attorneys may increase over time as the average length of service to the City increases, but the estimated increased salary cost is unknown. The change to the City Charter limits the number of Assistant City Attorneys to six from no limit.

ARGUMENT IN FAVOR OF PROPOSITION B

Proposition B protects taxpayers by ensuring the City Attorney's office remains an independent and non-political watchdog. The City Attorney's office should never be used to further an elected official's political agenda. Legal advice should always be based upon the law, not politics.

Led by the current City Attorney, Proposition B has broad support because it helps **keep our attorneys independent and saves taxpayer money.**

A 2008 Grand Jury report revealed that 124 of 135 lawyers left the office under the previous City Attorney, taking with them valuable institutional knowledge and experience. After months of detailed investigation, the Grand Jury concluded that the near 100% turnover rate significantly harmed the City and **called for reforms.**

The loss of experienced lawyers also resulted in greater reliance on expensive outside counsel. Those costs skyrocketed annually from \$4 million to over \$10 million.

During the past two years, the office has been rebuilt into a quality law firm. With an emphasis on training, quality control and experience, the **reformed** City Attorney's office has practiced law, solved problems, won key lawsuits and helped avoid mistakes. Deputy city attorneys now act as watchdogs without risk of losing their jobs. And, with less reliance on outside counsel, those costs have been reduced nearly in half.

Proposition B ensures the reformed City Attorney's office will be preserved well into the future. It protects the City and future deputy city attorneys from political pressure, while maintaining quality standards. After a two year probation period, deputy city attorneys can be fired for ethical lapses or poor legal work, but not for telling the truth, speaking up to prevent an illegal act or for giving proper legal opinions.

A "YES" vote for Proposition B protects taxpayers by ensuring the City Attorney's office remains an independent and non-political watchdog.

JAN GOLDSMITH, City Attorney
City of San Diego

GEORGE SCHAEFER, President
San Diego Deputy City Attorneys Association

TODD GLORIA, Councilmember
City of San Diego, District Three

CARL DeMAIO, Councilmember
City of San Diego, District Five

ARGUMENT AGAINST PROPOSITION B

No argument against the proposition was filed
in the office of the City Clerk.

PROPOSED CHARTER AMENDMENT

The portions of the charter to be added are underlined and the portions to be deleted are printed in ~~strike-out~~ type.

Section 30: Removal of Unclassified Officers and Employees

Officers and employees in the unclassified service appointed by the Manager or other appointing authority not under control of the Manager, with the exception of Deputy City Attorneys, may be removed by such appointing authority at any time.

Appropriate rules and regulations shall be promulgated to establish procedures as may be necessary by which the dismissal provided for in this article shall be processed and effectuated. Procedures relating to the termination, suspension, and layoffs of Deputy City Attorneys as provided in Section 40 shall be established in compliance with the Meyers-Milias-Brown Act.

With the exception of Deputy City Attorneys, ~~Nothing~~ contained herein shall be construed as in any way limiting the authority and power of the Manager or such other appointing authority not under the control of the Manager to remove any such unclassified officer or employee appointed or employed by them and any order effecting said removal shall be final and conclusive.

Section 40: City Attorney

At the municipal primary and general election in 1977, a City Attorney shall be elected by the people for a term of seven (7) years. A City Attorney shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter.

Notwithstanding any other provision of this Charter and commencing with elections held in 1992, no person shall serve more than two (2) consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding the office of City Attorney prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission, which shall have its own legal counsel independent of the City Attorney. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter. The City Attorney may appoint no more than six Assistant City Attorneys and four other assistants, who shall serve at the pleasure of the City Attorney and may be removed by the City Attorney at any time.

No Deputy City Attorney, who has served continuously as a Deputy City Attorney in the Office of the City Attorney for two years or more shall be terminated or suspended without good cause, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in the Office of the City Attorney.

To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

PROPOSED CHARTER AMENDMENT (Continued)

It shall be the City Attorney's duty, either personally or by such assistants as he or she may designate, to perform all services incident to the legal department; to give advice in writing when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of the City Attorney by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each approval of the form or correctness thereof; to preserve in the City Attorney's office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in the City Attorney's office copies of all written opinions he or she has furnished to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his or her successor in office.

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

The City Attorney shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption.

The City Attorney shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

The salary of the City Attorney shall be fixed by the Council and set forth in the annual appropriation ordinance, provided that the salary of the City Attorney may not be decreased during a term of office, but in no event shall said salary be less than \$15,000.00 per year. In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office until the next regular municipal election, at which time a person shall be elected to serve the unexpired term. Said appointee shall remain in office until a successor is elected and qualified.

Section 117: Unclassified and Classified Services

Employment in the City shall be divided into the Unclassified and Classified Service.

(a) The Unclassified Service shall include:

[subsections (1) through (9) no change in text]

(10) Not more than six All-Assistant City Attorneys, and all Deputy City Attorneys, and four other assistants in the Office of the City Attorney.

[subsections (11) through (17) no changes to text]

[subsections (b) and (c) no change in text]