



San Diego City Attorney Mara W. Elliott

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Appellate Court Upholds Pension Reforms *PERB decision on Proposition B is annulled*

An appellate court has affirmed the legality of the pension-reform measure Proposition B, ruling that the citizen-sponsored initiative was not subject to meet-and-confer obligations before the City Council placed it on the June 2012 ballot.

The unanimous decision by the Fourth District Court of Appeal annuls an earlier decision of the Public Employment Relations Board. That decision would have nullified the cost-saving effects of the Comprehensive Pension Reform Initiative, which was supported by roughly two-thirds of the electorate.

In its erroneous decision, PERB held that the City Council broke the law because it did not meet and confer with City labor unions before putting the citizen-sponsored initiative on the ballot for a public vote. PERB said the Council had a meet-and-confer obligation with its employee groups because City officials, principally then-Mayor Jerry Sanders, supported the measure.

The appellate court said that while it is undisputed that Sanders and others in City government provided support to the proponents to develop and campaign for the measure, PERB was wrong to indicate that their support as individuals changed it to a government-sponsored initiative.

Therefore, the court ruled, "PERB erred when it found Sanders and the San Diego City Council committed an unfair labor practice by declining to meet and confer over the CPRI before placing it on the ballot."

The court held that Sanders' advocacy for the measure was protected under California statutory law and the First Amendment of the U.S. Constitution.

"This case has statewide significance in affirming Californians' constitutional right to direct democracy," City Attorney Mara W. Elliott said. **"In defending Proposition B, we protect the power of our citizens to participate in and guide their government."**

Mayor Kevin Faulconer said the victory makes Proposition B "the law of the land."

"The taxpayer protections and savings Proposition B generates are important, so I'm glad to see it upheld as the law of the land," Faulconer said. **"Today the court protected the clear will of the voters, reaffirming our ability to carry out the reforms in Prop B. This citizens' initiative gave City Hall new tools to bring stability to San Diego's financial problems, and this ruling means we don't have to turn back the clock on pension reform. I would like to thank City Attorney Mara Elliott, the City Council**

which supported this appeal, former City Attorney Jan Goldsmith and the initiative's proponents for fighting to ensure the people's voice is heard."

The case was handled for the City by Deputy City Attorney Walter C. Chung and Deputy City Attorney M. Travis Phelps.

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