

Q&A w/CPF RE: Proposition B  
By Jesse Conner

1. The recent ruling doesn't quite invalidate prop. B but paves the way for the lower court to possibly do so. As a union president what are your thoughts on this ruling and the future of prop. B?

Although, the recent CA Supreme Court ruling on Proposition B (**Boling et. al. v. Public Employees Relations Board**) is a big victory for San Diego City Firefighters and Labor across the State, there are some misconceptions as to what that victory means.

This case does not deal with the legality of pension reform but instead was based upon respect for the law. Specifically, the primary issue in the case was the City's duty to "meet and confer " with it's collective bargaining agencies on subjects of wages, hours and other terms and conditions of employment as required under the Meyers-Milias-Brown Act. San Diego City Leaders, at the time, failed to meet and confer under the guise that Proposition B was not a City action but solely a citizen's initiative even though it was spearheaded by the Mayor. Our lawsuit has since evolved into two main issues. The first is on the legality of the City's actions. The second is on the solution that would correct the City's action which is also known as the remedy.

The Public Employee Relations Board (PERB) was the first to hear our case. PERB ruled that the City's actions were illegal and suggested what they believed to be a fair remedy to make the employee groups whole. That decision was appealed to the Fourth District Court of Appeals who then overturned PERB's decision. Since the Appellate Court ruled in favor of the City, they reasoned that no remedy was necessary and therefore did not issue a ruling on the remedy suggested by PERB. We appealed that decision to the California Supreme Court. The Supreme Court unanimously overturned the Appellate Court decision and confirmed that the City of San Diego had in fact acted illegally by ignoring their duty to meet and confer. Furthermore, the Court asserted that PERB is the subject matter expert in matters pertaining to the MMBA and therefore should be given deference unless grossly negligent in their ruling. That's similar to the referee's ruling on the field in football. Unless there is compelling evidence otherwise, the Referee's decision or PERB's decision in this case should stand. As a union president, I see this reaffirmation by the CA Supreme Court as a significant victory for Labor because the Fourth District Court of Appeals decision would have substantially weakened both PERB and the MMBA. Since the Appellate Court did not issue a ruling on the remedy, the CA Supreme Court ordered it to do so. We are hopeful that the Appellate Court will now heed the instruction from the higher Court to give PERB's decision on remedy great deference and rule consistent with the suggested make whole remedy. That ruling will likely end up back in the CA Supreme Court for final determination.

2. What efforts did local labor groups put into continuing the fight to challenge prop. B? Was this a united effort? If so, was that an important factor to success?

The efforts of San Diego City Labor Groups to reach amicable resolution in this matter started long before any complicated and expensive Court action. Six years ago, when this

problem began, we requested to meet and confer with the City to work collaboratively on a mutually beneficial solution just as we have always done in the past. Those requests went unanswered so we were forced to take legal action to protect the rights of our members and to preserve long-standing labor law in California. Unfortunately, politics and personal agendas took precedence over facts and law for ex-Mayor Jerry Sanders and ex-Councilmember Carl DeMaio who led the misguided City effort. The ensuing fight was a combined effort of San Diego City Firefighters L145, San Diego Municipal Employees' Association, San Diego American Federation of State, County and Municipal Employees L127 and Deputy City Attorneys Association. We've spent six years and almost a million dollars of our members money to ensure that justice prevails. Along the way, we have received the support of IAFF and approximately fourteen other large labor associations throughout the State of California in the form of Amicus Briefs. While the final outcome in this case has yet to be determined, standing united has allowed us to be successful each step of the way in our fight thus far.

3. DeMaio has vowed to vigorously fight any changes to prop. B. What is the local 145 and other local labor groups doing to prepare for this? Or is the fight over after the ruling?

Carl DeMaio's opinions and ideas are better suited for the entertainment value they provide on his radio talk show rather than effective governance in the real world. Even though the California Supreme Court has ruled that the City of San Diego broke the law, the leaders responsible for that illegal action refuse to accept reality and will continue to lobby for wasting taxpayer dollars to defend their poor decisions. The City of San Diego has already requested the California Supreme Court to review its decision and issue substitute findings. The City has also advanced a First Amendment violation claim in the case so that they can ultimately appeal to the United States Supreme Court. Both of these delaying tactics are unlikely to succeed. This will draw out the resolution of Proposition B and likely cost the taxpayers significantly more money.

Regardless of the outcome, we expect that pension attacks will continue to occur in our City as well as across the Country by a handful of self-serving politicians. Although this situation has been unfortunate for San Diego, it has allowed us to collect significant evidence that supports why eliminating pensions is actually harmful not only to public safety but also by increasing costs to the taxpaying citizens.

Fortunately, the majority of San Diegans understood Carl DeMaio's personal agenda and have prevented him from doing further harm to the City by selecting his opponents in his campaigns for Mayor and Congress. Carl DeMaio is now attempting to climb back into relevancy by leading an effort to repeal the unpopular gas tax. Whether you are for or against the gas tax, make no mistake, Carl DeMaio is no friend to public safety and his politics will be harmful to your citizens.

4. Why is it important for every firefighter to be aware of this case and what happened in San Diego?

San Diego is the 8<sup>th</sup> largest City in America and our elected leaders stripped hard earned pensions from firefighters, albeit illegally. If it can happen in our City, it can happen

anywhere. It's important for every firefighter to be aware of this case so that they can prevent similar, harmful, legislation from being enacted in their own communities.

Proposition B has been destructive to public safety here in San Diego due to the unintended but very real consequences. The loss of a pension system also meant that our new firefighters lost employer death and disability benefits. The City had planned to privatize this benefit under the belief that it would be cheaper. It was not. The private sector quotes the City received to insure firefighters against death and career ending injuries were cost prohibitive. It turned out that the City had already been utilizing the most cost-effective method by administering the program through its own pension system.

The loss of pensions and death/disability benefits combined with historically low pay has turned San Diego into a training ground for other Fire Departments. When we travel and meet other firefighters, we now routinely hear the words, "We just hired a couple firefighters who came from San Diego". People who want to be firefighters will accept jobs here, get top notch training, get tremendous experience and then leave to work somewhere else for more competitive wages and better benefits for their families. The recruitment and retention issues, which resulted from Proposition B, cost the taxpayers a significant amount of money as we must now constantly hire and train new personnel.

5. [Finally what words of wisdom do you have for firefighters that work in municipalities where pensions are being attacked?](#)

Although the San Diego City Firefighters are hopeful for a positive outcome in this case, we are still a long way from the finish line. If there is one piece of advice we can give to other firefighters, it would be to get involved, stay involved and remain united. Political attacks on our hard-earned benefits are not new and will continue to happen. Although many of us would prefer to focus on firefighting and stay out of politics, that would be detrimental to the future of our profession. We have to work with our elected officials, educate them and support those leaders who support public safety. It's not always convenient for our firefighters to get out and walk districts but it is such a critical part of the big picture. It allows us to engage directly with the voting public and combat underhanded political messaging by communicating the facts. If it's only the union officers from a local jurisdiction carrying this message, it may not have a big impact. If we stand united and get our firefighters out in our City as well as in our neighboring Cities, we will have a tremendous impact. There is a lot of wisdom in the old adage that an ounce of prevention is worth a pound of cure. For San Diego City Firefighters, we find ourselves six years out from Proposition B, without a final outcome and after having spent a significant amount of money on legal bills. We truly understand the value of a strong ground game up front. Good luck brothers and sisters! Please call us if we can be of assistance in your fight against a pension attack.