

Here are the news clips for RPEA



MEMORANDUM
August 6, 2018

TO: RPEA
FROM: Marketplace Communications
RE: Daily Media Clips

Following are today's news clips:

DATE	PUBLICATION	TITLE & LINK	AUTHOR
/02/2018	KPBS	State Supreme Court Rules Against San Diego Pension Reform https://www.kpbs.org/news/2018/aug/02/state-supreme-court-rules-against-san-diego-pensio/	Andrew Bowen
/02/2018	AP News	State Supreme Court sides with union over San Diego pensions https://apnews.com/db3348dafa06464d822b149ded8e8002/State-Supreme-Court-sides-with-union-over-San-Diego-pensions	Sudhin Thanawa
/02/2018	Messing, Adam & Jasmine	Big Win for San Diego Unions Against Former Mayor's 2012 Pension Initiative http://majlabor.com/big-win-for-san-diego-unions-against-former-mayors-2012-pension-initiative/	Editor
/02/2018	Fox	State Supreme Court rules against San Diego pension cuts https://fox5sandiego.com/2018/08/02/state-supreme-court-rules-against-san-diego-pension-reform/	Editor
/02/2018	San Diego Union-Tribune	Supreme Court rules San Diego skipped key legal step in taking pension reform to voters	David Garrick

		http://www.sandiegouniontribune.com/news/politics/sd-me-pension-ruling-20180802-story.html	
/02/2018	San Diego Union-Tribune	Editorial San Diego's pension mess just got a lot messier. Now what? http://www.sandiegouniontribune.com/opinion/sd-pension-reform-supreme-court-20180802-story.html	Editor
/02/2018	ABC	San Diego pension battle heads to lower court https://www.10news.com/news/san-diego-s-prop-b-for-pension-sent-to-appeal-court	Editor
/02/2018	Court House News	Court: San Diego Mayor Broke Rules in Bid for Pension Reform https://www.courthousenews.com/court-san-diego-mayor-broke-rules-in-bid-for-pension-reform/	Bianca Bruno

State Supreme Court Rules Against San Diego Pension Reform

Thursday, August 2, 2018

By **Andrew Bowen**, **City News Service**

Aired 8/2/18 on [KPBS Midday Edition](#)

State Supreme Court Rules Against San Diego Pension Reform

GUEST:

Dan Eaton, partner, Seltzer Caplan McMahon Vitek

[Transcript](#)

The state Supreme Court Thursday ruled that a San Diego citizens' initiative that cut back city employee pensions was illegally placed on the ballot, and ordered an appeal court to consider a remedy.

Proposition B, initially approved by voters in 2012, eliminated guaranteed pensions for new city employees, except police officers, and replaced those benefits with 401(k)-style retirement plans.

In 2015, one of the city's largest public sector unions challenged the benefit system, alleging former Mayor Jerry Sanders and other officials illegally placed the measure on the ballot without conferring with labor groups. The Public Employees Relations Board ruled with the union, but the state's Fourth District Court of Appeal reversed the decision in April 2017.

Now, the appeal court's decision is overturned.

"We reverse the Court of Appeal's judgment and remand for further proceedings to resolve issues beyond the scope of this opinion," wrote Associate Justice Carol A. Corrigan in Thursday's decision, in agreement with the other five justices.

In a statement, San Diego Mayor Kevin Faulconer, who supported pension overhaul as a city councilman, said the court's decision doesn't change the fact that more than 65 percent of voters supported the initiative.

"My administration will work closely with the city attorney's office on the direction provided by the Supreme Court. The public mandate for reform is as valid now as it was when Proposition B passed in 2012, and I will insist that taxpayers continue to be protected as we move forward," he said.

The court ruled that although it was a citizens' initiative, Sanders' support of Prob B as policy warranted engagement with the unions under the Meyers-Milias-Brown Act, which gave city and county employees the right to collective bargaining in 1968.

Governing bodies "or other representatives as may be properly designated" need to engage with unions "prior to arriving at a determination of policy or course of action," according to the act.

Sanders had previously said he supported the measure as a private citizen, not a public employee. The Supreme Court ruled that Sanders did use the power of his office to push the initiative, however.

"He consistently invoked his position as mayor and used city resources and employees to draft, promote and support the Initiative. The city's assertion that his support was merely that of a private citizen does not withstand objective scrutiny," Corrigan wrote.

In a statement, Sanders, now president and CEO of the San Diego Regional Chamber of Commerce, said further court action will be closely observed.

"Proposition B has been a resounding success that has allowed the city to reinvest in neighborhood services and public safety. It was critical to turning around the

city's finances at a time when the City was facing massive deficits, devastating cuts to core city services and downgrades in the city's bond rating," he said.

In overturning the Public Employees Relations Board ruling in 2017, the appeal court took an "unduly constricted view of the duty to meet and confer," according to the Supreme Court ruling.

The Supreme Court ruled that the appeal court address an "appropriate judicial remedy" for the illegal placement of the initiative on the ballot.

The Public Employees Relations Board had previously ruled the city must pay employees "for all lost compensation" related to lost pension benefits, which would cost millions of dollars.

State Supreme Court sides with union over San Diego pensions

SAN FRANCISCO (AP) — In a win for public employee unions, the California Supreme Court on Thursday said San Diego's mayor should have met with representatives for city workers before the city placed a measure on the 2012 ballot that cut workers' retirement benefits.

The court ruled unanimously that then-San Diego Mayor Jerry Sanders was so involved with the ballot measure that he was obligated to confer with union officials about it. The measure approved by voters — Proposition B — imposed a six-year freeze on pay levels used to determine pension benefits unless a two-thirds majority of the City Council voted to override it. It also put new hires, except for police officers, into 401(k)-style plans.

The court did not invalidate the San Diego ballot measure and undo the cuts approved by voters. Instead, it sent the case back to a lower court to arrive at a solution.

"We will vigorously fight any attempt to modify or overturn any part of Prop B," said former San Diego City Councilman Carl DeMaio, who authored the measure.

He said any decision by the lower court to change or reverse the proposition would be appealed.

State law requires government officials to confer in good faith with public employee unions about wages and other terms of employment. San Diego argued that the pension measure was sponsored by local residents, so it was exempt from the state requirement.

But the Supreme Court said Sanders used the powers and resources of his office to play a major role in promoting the measure.

“Here, Mayor Sanders conceived the idea of a citizens’ initiative pension reform measure, developed its terms, and negotiated with other interested parties before any citizen proponents stepped forward,” Associate Justice Carol Corrigan wrote for the court. “He relied on his position of authority and employed his staff throughout the process.”

The decision hampers efforts to pursue changes to government pensions by ballot initiative, which can be the only way to achieve reform because unions control the political levers of city government, said Chuck Reed, the former mayor of San Jose who has warned about the dangers of unfunded pension debt. He backed a pension measure that passed in San Jose in 2012 that cut benefits for new hires.

Reed said he met with union leaders dozens of times about his pension proposal, so Thursday’s ruling would not have posed a threat to that measure. But he said the ruling will “make it more difficult for individual councilmembers or individual mayors to help the citizens’ initiatives.”

The justices overturned a lower court ruling that could have further diminished the requirement that cities and counties meet with unions before cutting the benefits of government workers, said Michael Zucchet, general manager of the San Diego Municipal Employees Association, which challenged the ballot measure.

“You do have to talk to employees before you do them dirty,” he said.

The Supreme Court signaled it was ruling narrowly, noting that the “line between official action and private activities undertaken by public officials may be less clear in other circumstances.”

Big Win for San Diego Unions Against Former Mayor's 2012 Pension Initiative

PUBLISHED ON: 02 AUG, 2018

California Supreme Court Reiterates Deference Due to PERB Decisions in Labor Matters and Rejects Ruse By Former Mayor to Evade Meet-and-Confer Responsibilities

Today, in ***Boling v. PERB*** the California Supreme Court issued a unanimous decision favoring the challenge by public employee unions to a 2012 pension measure in San Diego.

The basic facts are that former San Diego Mayor Jerry Sanders, fearing that he could not command a majority of the City Council to support putting his anti-pension measure on the ballot and seeking to avoid the obligation to meet and confer over the measure if they did, put forward a pension measure in his “citizen” capacity, as opposed to as mayor. The measure forced all new City employees except for new police officers into 401k retirement plans instead of defined benefit plans. The City refused to meet and confer over the initiative, which was approved by voters overwhelmingly in the June 2012 primary election (on the same day as former San Jose Mayor Chuck Reed’s ill-fated pension reform measure – Measure B).

The Supreme Court rejected the ruse of Sanders and the City that because Sanders was purportedly acting as a citizen there was no bargaining obligation. As the Supreme Court described, Sanders conceived of the initiative, developed its terms, negotiated with proponents and then used the powers of the Mayor’s office to promote it. He even signed ballot arguments in favor of the measure as “Mayor Jerry Sanders.”

The Court did not find this a particularly close call: “Allowing public officials to purposefully evade the meet-and-confer requirements of the MMBA by officially sponsoring a citizens’ initiative would seriously undermine the policies served by the statute.” And it concluded: “when a local official with responsibility over labor relations uses the powers and resources of his office to play a major role in the promotion of a ballot initiative affecting terms and conditions of employment, the duty to meet and confer arises.”

In reaching this decision the Court reiterated that, while courts ultimately decide what statutes mean, they must still defer to PERB's interpretations of California labor laws such as Government Code section 3505.

Takeaway: Public entity pension reform measures remain fraught with legal pitfalls. Measure B in San Jose was a disaster – but San Jose realized it quickly and started to repair the damage in 2015 and 2016. Even in San Francisco, where November 2011 Proposition C passed with union support, a significant part of the Proposition was invalidated in the *Protect Our Benefits* decision.

This San Diego litigation took six years to reach the Supreme Court, after proceedings before PERB. PERB ruled that the election should be invalidated but that only a court could do that. The Supreme Court has returned the question of the remedy to the Court of Appeal. San Diego runs the very real risk that a court may ultimately – i.e., several years from now – invalidate the 401k benefits and order all post-2012 employees restored to the pre-existing defined benefit plan (San Diego's charter city retirement system was not subject to PEPRAs).

State Supreme Court rules against San Diego pension cuts

POSTED 12:32 PM, AUGUST 2, 2018, BY [CITY NEWS SERVICE](#), *UPDATED AT*

SAN DIEGO — The state Supreme Court Thursday ruled that a San Diego citizens' initiative that cut back city employee pensions was illegally placed on the ballot, and ordered an appeal court to consider a remedy.

Proposition B, initially approved by voters in 2012, eliminated guaranteed pensions for new city employees, except police officers, and replaced those benefits with 401(k)-style retirement plans.

In 2015, one of the city's largest public sector unions challenged the benefit system, alleging former Mayor Jerry Sanders and other officials illegally placed the measure on the ballot without conferring with labor groups. The Public

Employees Relations Board ruled with the union, but the state's Fourth District Court of Appeal reversed the decision in April 2017.

Now, the appeal court's decision is overturned.

"We reverse the Court of Appeal's judgment and remand for further proceedings to resolve issues beyond the scope of this opinion," wrote Associate Justice Carol A. Corrigan in Thursday's decision, in agreement with the other five justices.

In a statement, San Diego Mayor Kevin Faulconer, who supported pension overhaul as a city councilman, said the court's decision doesn't change the fact that more than 65 percent of voters supported the initiative.

"My administration will work closely with the city attorney's office on the direction provided by the Supreme Court. The public mandate for reform is as valid now as it was when Proposition B passed in 2012, and I will insist that taxpayers continue to be protected as we move forward," he said.

The court ruled that although it was a citizens' initiative, Sanders' support of Prob B as policy warranted engagement with the unions under the Meyers-Milias-Brown Act, which gave city and county employees the right to collective bargaining in 1968.

Governing bodies "or other representatives as may be properly designated" need to engage with unions "prior to arriving at a determination of policy or course of action," according to the act.

Sanders had previously said he supported the measure as a private citizen, not a public employee. The Supreme Court ruled that Sanders did use the power of his office to push the initiative, however.

"He consistently invoked his position as mayor and used city resources and employees to draft, promote and support the Initiative. The city's assertion that his support was merely that of a private citizen does not withstand objective scrutiny," Corrigan wrote.

In a statement, Sanders, now president and CEO of the San Diego Regional Chamber of Commerce, said further court action will be closely observed.

"Proposition B has been a resounding success that has allowed the city to reinvest in neighborhood services and public safety. It was critical to turning around the

city's finances at a time when the City was facing massive deficits, devastating cuts to core city services and downgrades in the city's bond rating," he said.

In overturning the Public Employees Relations Board ruling in 2017, the appeal court took an "unduly constricted view of the duty to meet and confer," according to the Supreme Court ruling.

The Supreme Court ruled that the appeal court address an "appropriate judicial remedy" for the illegal placement of the initiative on the ballot.

The Public Employees Relations Board had previously ruled the city must pay employees "for all lost compensation" related to lost pension benefits, which would cost millions of dollars.

Supreme Court rules San Diego skipped key legal step in taking pension reform to voters

The Supreme Court has ruled that Proposition B, supported by former Mayor Jerry Sanders, at podium, and current Mayor Kevin Faulconer, left, was placed on the ballot illegally. (Union-Tribune file)



David Garrick

The [California Supreme Court](#) ruled on Thursday that San Diego's six-year-old pension cutbacks were not legally placed on the ballot because city officials failed to negotiate with labor unions before pursuing the measure.

The ruling, which could cost the city millions, overturned an appeals court ruling last year that had upheld the cuts.

The Supreme Court ordered the appeals court to take the case back and evaluate the state labor board's conclusion that 4,000 employees hired since pensions were eliminated must receive compensation that would make them financially whole.

While the unanimous ruling stopped short of reversing the cuts, it essentially ordered the appeals court to invalidate the ballot measure that imposed those cuts.

The ruling directs the appeals court to enact "an appropriate judicial remedy" for the city's failure to follow all of the legally required steps before placing the measure on the ballot.

The only way to do that, attorneys for the city's labor unions said, would be to invalidate the ballot measure and nullify the pension cuts.

The ruling vindicates claims by city labor unions that then-Mayor [Jerry Sanders](#) needed to engage in labor negotiations before pushing the Proposition B pension measure onto the ballot in 2012.

The measure, which was approved by more than 65 percent of city voters, replaced guaranteed pensions with 401(k)-style retirement plans for all newly hired city employees except police officers.

Sanders maintained he supported the measure only as a citizen, not as mayor, and therefore negotiations with unions weren't required.

The Supreme Court disagreed in its ruling, concluding Sanders was obligated to meet with the unions before placing the measure on the ballot because he used his power and influence as mayor to support the measure.

"Sanders supported the signature-gathering campaign," the court said in the ruling, which was written by Justice Carol Corrigan. "He touted its importance in interviews, in media statements, and at speaking appearances."

Sanders said by phone on Thursday that his actions were based on legal advice he received, and that he still doesn't believe he acted improperly. But Sanders also said he should have handled things differently.

"If I had it to do all over again — and if I had better advice — we probably would have done meet and confer (labor negotiations)," he said.

San Diego is the only city in California to discontinue pensions for new hires, so the ruling could have an impact across the state as other city and county governments consider pension cuts and how they can be legally enacted.

Supporters of Proposition B have said they may place a similar measure on a future ballot if the cuts are eventually nullified.

In Thursday's ruling, the Supreme Court emphasized that it wasn't taking a position on pension cuts.

"We are not called upon to decide, and express no opinion, on the merits of pension reform or any particular pension reform policy," the ruling said.

The ruling reinstates a 2015 decision by the state labor board that also concluded the city was legally required to conduct labor negotiations before placing Proposition B on the ballot.

In that decision, the labor board ordered San Diego to make employees hired since 2012 whole by compensating them for the loss of pensions and paying them interest penalties of 7 percent. Estimates of how much that would cost the city have ranged from \$20 million to \$100 million, depending on a variety of factors.

The labor board, formally known as the Public Employment Relations Board, couldn't invalidate the ballot measure because that power is reserved for state courts.

When the appeals court overturned that decision last year and ruled the city had acted legally when placing the pension cuts on the ballot, the appellate judges didn't evaluate the proposal to make employees whole because it seemed unnecessary.

The Supreme Court, however, ordered the appellate court on Thursday to evaluate the proposal to make employees whole and to take judicial steps to reverse Proposition B because the city skipped a key legal step when placing it on the ballot.

Supporters of Proposition B on Thursday issued news releases saying that the Supreme Court's ruling didn't invalidate the measure or reverse the pension cuts.

Ann Smith, an attorney for the Municipal Employees Association labor union, said by phone on Thursday that those supporters are misreading the ruling.

"They're out to lunch," she said. "The Supreme Court is telling the appeals court you should add the judicial remedy of invalidation because that's the only

outcome that's consistent with the Supreme Court's binding conclusion that the city violated the law."

Courts, however, have typically been reluctant to nullify ballot measures that are citizen's initiatives.

Mayor Kevin Faulconer issued a new release on Thursday afternoon noting that the ruling leaves Proposition B in place until the appeals court acts.

"San Diego pension reform remains the law of the land and today's Supreme Court decision keeps Proposition B in full force and effect," the mayor said. "My administration will work closely with the City Attorney's Office on the direction provided by the Supreme Court."

A spokesman for City Attorney Mara Elliott said she wouldn't be commenting on the ruling on Thursday.

Former Councilman Carl DeMaio, who helped write Proposition B, said he was pleased the Supreme Court didn't overturn the city's pension cuts, but added that still might occur.

"Taxpayers must be very concerned by what may happen next," he said in a news release. "Specifically we are concerned that the Supreme Court ruling opens the door for the lower court to consider a yet-undefined 'remedy' for the so-called violation of the city of San Diego's duty to meet and confer on pension changes before implementing them."

DeMaio said the remedy could be as small as a fine for not meeting and conferring, or as big as overturning part or all of Proposition B. DeMaio vowed to appeal any remedy prescribed by the appeals court to the Supreme Court.

Based on the labor board proposal that the city make employees whole, the actuary for the city's pension system estimated in late 2015 that it would cost the city \$20.1 million for 1,600 employees hired without pensions at that point. But the number of employees hired without pensions has increased to more than 4,000 since then, more than doubling the city's potential cost.

In addition, new demographic studies showing the city had been underestimating life expectancies for its retirees prompted city pension officials to significantly increase the projected cost of pensions in 2016.

The labor board recommendation, however, said the city could count against its costs the many millions it has contributed to 401(k)-style retirement plans for those workers.

Because of the particularly strong performance of the stock market since 2012, those retirement plans are worth more than expected. That could make the city's costs relatively minimal.

Employees would also be required to contribute to pensions created retroactively for them, further reducing the city's costs.

The state labor board ruling didn't recommend any changes for a separate element of Proposition B, a five-year freeze on pay raises for city employees that expired June 30. The pay freeze was not part of the labor board ruling because the city's labor unions agreed to it during negotiations with then-Mayor [Bob Filner](#) in 2013.

Editorial |

San Diego's pension mess just got a lot messier. Now what?

Then-San Diego Mayor Jerry Sanders discusses the campaign victory for Proposition B in 2012. Behind him are then-City Councilman Kevin Faulconer and T.J. Zane, then president of the Lincoln Club of San Diego. (Sean M. Haffey/The San Diego Union-Tribune)



[The San Diego Union-Tribune Editorial Board](#)

Then-Mayor [Jerry Sanders](#) really threw himself into the campaign for Proposition B in 2012, a citizens' initiative that overhauled San Diego's public employee pension system by substituting 401(k)-style plans for defined benefit pensions. Now his campaigning has thrown San Diego into turmoil.

Mincing no words in [a long-awaited ruling](#), the [California Supreme Court](#) said Thursday that Sanders violated a state law called the Meyers-Milias-Brown Act by not negotiating with city labor unions before he "pursued pension reform as a matter of policy while acting as the city's chief executive officer." Sanders had argued he did so as a private citizen, but the court laid out a thorough case for why he actually did not. How utterly embarrassing.

ADVERTISING

Fortunately, the ruling didn't invalidate San Diego's crucial pension reforms, and clearly limited the impact Sanders' violation could have on other initiatives in which elected officials are involved statewide. But the court sent the case back to an appellate court for "judicial remedy," raising huge questions about whether the reforms — approved by two out of three San Diego voters in 2012 and unique in the state — would survive and how much — [\\$20 million?](#) [\\$100 million?](#) — the city might have to cough up to remedy the violation. No one knows.

Unfortunately, there has been no analysis of what it might cost if an estimated 4,000 city workers hired without pensions since July 2012 get retroactive pensions and potential interest and penalty payments, or of how the city might unwind even part of the new retirement plan. City officials need to order that fiscal study without delay to know their risks.

Current Mayor [Kevin Faulconer](#) has his work cut out for him. One likely scenario is that city officials and union leaders may have to negotiate pay and benefits anew in coming months, although the court will dictate any remedy's timing. Faulconer and his staff need to undertake any negotiations honestly with unions but also fairly for taxpayers. Like cities across California, San Diego is staring at a pension tsunami that threatens to erode public services as benefits eat up more and more money.

The high court's ruling leaves not only great uncertainty but also great stains on the legacies of the public officials involved in San Diego's 2012 campaign, only starting with Sanders and then-City Attorney Jan Goldsmith, who advanced the legal strategy that negotiations weren't necessary. Then-councilmen Faulconer and Carl DeMaio also deserve criticism for going along with this strategy. Any could have urged city leaders to hold the negotiations that unions repeatedly said were needed.

You'll hear the argument now that such negotiations would have taken too long and could have forced the city into a watered-down plan. Baloney. City politicians could have taken a page out of their own playbook when in 2006 they forged ahead with a managed competition ballot measure over union objections after negotiations that lasted only weeks.

The San Diego Union-Tribune Editorial Board is as loud a voice for pension reform as there is in California. We have championed it for years, and articulated why it's so essential: government at every level has overpromised the pension benefits it can reliably provide its unions without having to reduce services like parks, libraries and public safety. The pension tsunami is here already, with lavish defined benefits for retirees who are living longer and longer.

We wanted this ruling to go the city's way and [had found hope](#) in the argument pension reform proponents made that Sanders campaigned as a citizen, not as mayor. But now that the court has eviscerated that argument, it's clear that it was [destined for failure](#) from the get-go. Sadly, that's the only thing that's clear about city worker pensions now.

San Diego pension battle heads to lower court

2:13 PM, Aug 2, 2018

5:14 PM, Aug 2, 2018

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In 2015, one of the city's largest public sector unions challenged the benefit system, alleging former Mayor Jerry Sanders and other officials illegally placed the measure on the ballot without conferring with labor groups. The Public Employees Relations Board ruled with the union, but the Fourth District Court of Appeal reversed the decision in April 2017.

Now, the appeal court's decision is overturned.

"We reverse the Court of Appeal's judgment and remand for further proceedings to resolve issues beyond the scope of this opinion," wrote Associate Justice Carol A. Corrigan in Thursday's decision, in agreement with the other five justices.

A city spokesperson couldn't be reached for comment.

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In overturning the Public Employees Relations Board ruling in 2017, the appeal court took an "unduly constricted view of the duty to meet and confer," according to the Supreme Court ruling.

The Supreme Court ruled that the appeal court address an "appropriate judicial remedy" for the illegal placement of the initiative on the ballot.

The Public Employees Relations Board had previously ruled the city must pay employees "for all lost compensation" related to lost pension benefits, which would cost millions of dollars.

The 401(k)-style system was originally intended to save taxpayers money by reducing future pension liabilities. Approved by 65 percent of voters, the system was the first of its kind among California municipalities.

Court: San Diego Mayor Broke Rules in Bid for Pension Reform

August 2, 2018 BIANCA BRUNO

SAN FRANCISCO (CN) – The California Supreme Court on Thursday reversed a lower court decision upholding San Diego's pension reform ballot measure, finding the city's former mayor skirted meet-and-confer rules with labor unions and used his influence to push the citizen's initiative.

In a 29-page [ruling](#) by Justice Carol Corrigan, the state Supreme Court found former San Diego Mayor Jerry Sanders engaged in unfair labor practices when he

refused to meet and confer with union representatives for city employees while at the same time using his influence to sponsor a citizen's initiative for pension reform.

Proposition B, overwhelmingly passed by voters in 2012, replaced pensions for new city employees with 401(k)-style retirement benefits. Only newly hired police officers were grandfathered into the old pension plan.

The Public Employment Relations Board previously found Sanders' failure to meet and confer with union representatives before the measure was put on the ballot violated the Meyers-Milias-Brown Act – which gives public sector employees the right to collective bargaining – and constituted an unfair labor practice.

But last year, the Fourth Appellate District [rejected](#) that contention and found Sanders did not violate meet-and-confer requirements.

In Thursday's opinion, Justice Corrigan detailed how Sanders wanted to pursue pension reform through a citizen's ballot initiative after concluding the City Council was unlikely to put the measure to voters. He held a press conference at City Hall announcing Proposition B which was attended by then-City Attorney Jan Goldsmith and former city councilmember – and current mayor – Kevin Faulconer.

Sanders formed a campaign committee to raise money for the proposed initiative and his chief of staff monitored the committee's activities, keeping track of fundraising and expenditures. The mayor's office released press releases on the matter. He also discussed the ballot measure during his January 2011 state of the city address, according to Corrigan's summary.

But Sanders maintained he was acting “in the public interest” as a “private citizen” when he engaged in his pension reform efforts and was not subject to meet-and-confer requirements.

The state's high court rejected that argument, finding based on the undisputed facts “Mayor Sanders had an obligation to meet and confer with the unions.”

The meet-and-confer requirement “is an important feature of state public employee labor relations law, and one that places a relatively ‘minimal’ burden on a local agency's governing functions,” Corrigan wrote for the court.

Furthermore, the appeals court “failed to give PERB's statutory interpretation the deference to which it was due.”

She added, “Under the facts presented here, Sanders pursued pension reform as a matter of policy while acting as the city's chief executive officer.

“He consistently invoked his position as mayor and used city resources and employees to draft, promote, and support the initiative. The city’s assertion that his support was merely that of a private citizen does not withstand objective scrutiny.”

The high court remanded the case was remanded to the appellate panel, advising the judges there to address the appropriate judicial remedy for the city’s violation of meet-and-confer requirements.

Proposition B remains in effect, though it could be tossed by the appellate court.

A spokesman for Mayor Kevin Faulconer did not immediately return a request for comment.