

Bond Case Briefs

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Boling v. Public Employment Relations Board

Court of Appeal, Fourth District, Division 1, California - March 25, 2019 - Cal.Rptr.3d - 2019 WL 1323465 - 19 Cal. Daily Op. Serv. 2691

City filed petition for writ relief from Public Employment Relations Board (PERB) determination that city was obliged under Meyers-Milias-Brown Act to “meet and confer” with union for city employees before citizen-sponsored city pension reform initiative, which had been championed by mayor, could be placed on ballot.

The Court of Appeal annulled the PERB decision. The Supreme Court granted review, upheld PERB’s finding that mayor’s actions violated city’s obligations, and remanded for determination of appropriate judicial remedy.

On remand, the Court of Appeal held that:

- Procedural regularity of initiative could only be challenged in quo warranto proceeding;
- Compensatory remedy imposed by PERB was outside scope of PERB’s authority; and
- Cease-and-desist remedy imposed by PERB was also outside scope of PERB’s authority.
- PERB decision affirmed as modified.

Procedural regularity of initiative regarding compensation of city employees could only be challenged in quo warranto proceeding, where voters adopted initiative, initiative had taken effect, and validity of initiative potentially depended on whether Meyers-Milias-Brown Act wholly or partially preempted citizens’ initiatives on matters within Act’s scope of bargaining.

Remedy imposed by Public Employment Relations Board (PERB) for city’s failure to comply with requirement of Meyers-Milias-Brown Act to meet and confer with city employees’ union, before citizen-sponsored city pension reform initiative, which remedy ordered city to make employees whole for lost compensation, encroached upon law unrelated to Act and thus was outside scope of PERB’s competence; remedy essentially invalidated the initiative by rendering it perpetually ineffectual, question of validity of initiative was novel and complex, and initiative was presumptively valid.

Remedy imposed by Public Employment Relations Board (PERB) for city’s failure to comply with requirement of Meyers-Milias-Brown Act to meet and confer with city employees’ union, before citizen-sponsored city pension reform initiative, which remedy required city to meet and confer with unions before placing any citizens’ initiative on ballot that involved matters within Act’s scope of bargaining, exceeded authority of PERB; remedy assumed that instant initiative or any future similar initiative was subject to Act’s procedural requirements even though that question was novel and complex, and remedy was not sufficiently tailored to city’s violation of Act.

Issue of whether alleged exclusion of initiative proponents from administrative proceedings before Public Employment Relations Board (PERB), regarding city’s violation of Meyers-Milias-Brown Act in failing to meet and confer with city employees’ union prior to placing pension reform initiative on

ballot, was moot on review of PERB decision, where reviewing court had determined that initiative's validity was required to be decided in separate quo warranto proceeding, proponents had been afforded opportunity to express views on initiative's validity both before PERB and throughout judicial review proceeding, and there was no further practical or effectual relief court could provide proponents at instant juncture.