

Bond Case Briefs

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BALLOT INITIATIVES - CALIFORNIA

Boling v. Public Employment Relations Board

Court of Appeal, Fourth District, Division 1, California - April 11, 2017 - Cal.Rptr.3d - 2017 WL 1326317 - 17 Cal. Daily Op. Serv. 3502

City filed petition for writ relief from Public Employment Relations Board (PERB) determination that city was obliged to “meet and confer” with union for city employees before citizen-sponsored city pension reform initiative could be placed on ballot.

The Court of Appeal held that:

- City has no obligation to meet and confer before placing a duly qualified citizen-sponsored initiative on the ballot;
- Initiative was not a de facto governing-body-sponsored ballot proposal under “statutory agency” principles;
- Mayor’s support of city pension reform initiative could not be imputed to city council under doctrine of actual authority;
- Mayor did not have apparent authority to act on behalf of city council when proposing and campaigning for city pension reform initiative; and
- City council did not ratify mayor’s acts.

In light of the language of the Meyers-Milias-Brown Act and the clear distinction between voter-sponsored and city-council-generated initiatives, a city has no obligation under the Act to meet and confer before placing a duly qualified citizen-sponsored initiative on the ballot because such an initiative does not involve a proposal by the “governing body” nor could produce an agreement regarding such an initiative that the public agency is authorized to make.

City pension reform initiative was not a de facto governing-body-sponsored ballot proposal under “statutory agency” principles that could have triggered meet-and-confer obligations under the Meyers-Milias-Brown Act, despite role of mayor, who was also city’s lead collective bargaining negotiator, in proposing a similar reform; mayor was not statutorily delegated the power to place a city council-sponsored ballot proposal on the ballot without obtaining approval from the city council, and mayor did not obtain any such approval.

Mayor’s support of city pension reform initiative could not be imputed to city council under doctrine of actual authority, for purposes of rendering citizen-sponsored initiative a city council-sponsored initiative which triggered meet-and-confer obligations under the Meyers-Milias-Brown Act, where city council did not actually authorize mayor to act on its behalf to formulate and campaign for the initiative, nor did mayor believe he was acting or had the authority to act on behalf of the city council when he took those actions.

City mayor did not have apparent authority to act on behalf of city council when proposing and campaigning for city pension reform initiative, and thus initiative, which was actually proposed by private city citizens, was not a city council-sponsored initiative which triggered meet-and-confer obligations under the Meyers-Milias-Brown Act, where city council did not do or say anything that

could have caused a reasonable city employee to believe that mayor had been authorized to act on city council's behalf, and mayor had not committed any wrongful act on behalf of city council.

City council did not ratify mayor's acts in promulgating and supporting city pension reform initiative, and thus agency theory did not apply and citizen-sponsored initiative was not actually a city council-sponsored initiative which triggered meet-and-confer obligations under the Meyers-Milias-Brown Act; council's failure to disavow or repudiate mayor's conduct was meaningless, as mayor's conduct was not an unfair labor practice and council did not take any formal vote to ratify his conduct, and council was required to place initiative before the voters and could not ignore election result by refusing to accept the benefits once the initiative passed.