S242034

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

CATHERINE A. BOLING; T.J. ZANE; AND STEPHEN B. WILLIAMS,

Petitioners,

v.

PUBLIC EMPLOYMENT RELATIONS BOARD,

Respondent,

CITY OF SAN DIEGO; SAN DIEGO MUNICIPAL EMPLOYEES ASSOCIATION; DEPUTY CITY ATTORNEYS ASSOCIATION, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, LOCAL 127; AND SAN DIEGO CITY FIREFIGHTERS LOCAL 145

Real Parties in Interest

After a Decision of the Court of Appeal, Fourth Appellate District, Division One, Consolidated Case Nos. D069629 and D069630

PETITIONER AND REAL PARTY IN INTEREST CITY OF SAN DIEGO'S COMBINED ANSWER TO PETITIONS FOR REVIEW BY RESPONDENT PUBLIC EMPLOYMENT RELATIONS BOARD AND THE REAL PARTIES IN INTEREST UNIONS

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ATTORNEYS FOR PETITIONER AND REAL PARTY IN INTEREST
CITY OF SAN DIEGO

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TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF CALIFORNIA:

The City of San Diego (City) submits this Combined Answer respectfully requesting this Court deny the Petition for Review filed by the California Public Employment Relations Board (PERB) and the Petition for Review filed by San Diego Municipal Employees Association, Deputy City Attorneys Association, American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, and San Diego City Firefighters Local 145 (hereinafter referred to collectively as "Unions") which seek review of the Decision of the Court of Appeal, Fourth Appellate District, Division One, published in Case No. D069626 (consolidated with Case No. D069630), *Boling v. Public Employment Relations Board*, 10 Cal. App. 5th 853 (2017) (hereinafter referred to as "Opinion" or "Opn.").

I. INTRODUCTION

The facts of this case presented PERB with unique questions of law in numerous areas outside of PERB's expertise. PERB's ruling, that a citizens' initiative could be been deemed "impure" because of a public official's support, and thus negate the will of the electorate, was a novel decision. Accordingly, the Court of Appeal correctly rejected PERB's contention its decision must be affirmed, even if potentially legally incorrect, because the "proper" standard of review was clearly erroneous. The Court of Appeal appropriately applied this Court's holding in *Yamaha Corp. of America v. State Bd. of Equalization*, 19 Cal. 4th 1 (1998), that the deference given to an administrative agency's statutory interpretation is fundamentally situational, and because the issues to be decided were purely legal based on undisputed material facts, the proper standard of review was de novo. The Opinion correctly recognized that it is the judiciary – not

PERB – that ultimately must decide the "purity" of a duly certified citizens' initiative.

Applying the rules of statutory construction, the Opinion also properly interpreted Government Code sections 3504.5 and 3505 in relation to the undisputed facts of the case. The Court of Appeal correctly determined PERB's attempts to nullify the Citizens' Pension Reform Initiative (CPRI) by finding Mayor Jerry Sanders (Sanders) was acting as an agent of the City when supporting a citizens' initiative was misguided. It was undisputed the City Council did not propose the CPRI, and the City's Mayor does not have the power to unilaterally propose or decide to submit an initiative to the electorate on behalf of the City, that authority rests solely with the City Council and is nondelegable.

A long line of cases clearly hold that citizens' initiatives are not subject to procedural requirements that might otherwise be imposed on government body action, like the meet-and-confer process of the MMBA. PERB and the Unions' attempt to expand the MMBA's meet-and-confer obligations to citizens' initiatives would unconstitutionally infringe upon First Amendment rights and limit the people's reserved initiative power.

Therefore, for the reasons contained herein, the City, respectfully requests that this Court deny PERB and the Unions' Petitions for Review.

II. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

A. Competing Pension Reform Concepts

In early November 2010, Councilmember DeMaio released his "Roadmap to Recovery," which included a proposal to replace defined benefit pensions with a 401(k) style plan for all new hires and a freeze on pensionable pay for five years. (XVI AR 193:004103-94.)

On November 19, 2010, Sanders announced he would seek to place an initiative on the ballot to eliminate defined benefit pensions for all but safety (police, fire and lifeguard) new hires and offer a 401(k) style plan. (XVIII AR 195:004745-49.) Sanders and Councilmember Faulconer met with business leaders of the Lincoln Club, San Diego County Taxpayers Association (SDCTA) and Chamber of Commerce to describe their pension reform concept. However, they were "lukewarm" to the Sanders' concept and preferred DeMaio's plan. (XV AR 192:003801:25-3802:2.) They told Sanders his concept was not "tough enough" and did not save enough money, and they only wanted one initiative to go forward. (XIII AR 190:003481:2-22; XIV AR 191:003575:2-9.) On December 17, 2010, the SDCTA voted to adopt pension reform principles including a 401(k) plan for new hires. (XXIII AR 200:005769.)

On January 12, 2011, Sanders announced in his State of the City address that "acting as a private citizen" he would "soon bring to the voters an initiative to enact a 401(k) style plan that is similar to the private sector's and reflects the reality of our times." (XVIII AR 195:004823.) In early March 2011, the SDCTA and Lincoln Club determined that DeMaio's plan was more in line with their pension reform principles and they informed Sanders that they were prepared to move forward with or without his input or support. (XVI AR 191:003575:2-9.) A series of meetings ultimately took place between supporters of the competing proposals.

B. The Citizen Proponents Initiative – the CPRI

The CPRI was drafted not by attorneys paid for by the City, Sanders, or the campaign committee formed to support the Sanders' pension reform concept, but by a private law firm – Lounsbery Ferguson Altona & Peak – which was hired by the SDCTA. (XIII AR 190:003482:13-19; XV AR 192:003994:13-3995:11.) The CPRI (XIX AR 196:005013-21) differed in

many key respects from Sanders' concept and contained many components Sanders expressly opposed. (XIII AR 190:003482:22-24.)

On April 4, 2011, the Citizen Proponents,[1] the official proponents of the CPRI, whom PERB found were not agents of the City or Sanders (XI AR 186:003088-89), presented their notice of intention to circulate petitions to place the CPRI on the ballot. (XIX AR 196:005009, 5012.) Sanders did not run the campaign for the CPRI, it was run by the head of the Lincoln Club, Citizen Proponent T.J. Zane. (XIII AR 190:003491:21-3492:10; XI AR 186:003089.) Sanders did not attend any strategy sessions. (XIII AR 190:003491:26.) While he did enthusiastically support the CPRI and mentioned it in some speeches, no evidence showed he had any control over signature gathering or its ultimate passage.

On September 30, 2011, Citizen Proponent Zane delivered the petition sections and signatures to the City Clerk and attested they contained at least 94,346 valid signatures. (XVI AR 193:004065.) They were forwarded to the San Diego County Registrar of Voters (SDROV) to officially verify the signatures, and on November 8, 2011, the SDROV certified the CPRI petition had received a "SUFFICIENT" number of valid signatures requiring it to be presented to the voters as a citizens' initiative. (XX AR 197:005164.)

On December 5, 2011, the City Council passed a resolution of intention (R-307155) to place the CPRI on the June 5, 2012 Presidential primary election ballot, as required by law. (XVI AR 193:004067-69.) And on January 30, 2012, fulfilling its ministerial duty under then Election Code section 9255(b)(2), the City Council enacted Ordinance O-20127 which placed the CPRI on the June 5, 2012 Presidential primary election ballot as

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[1] "Citizen Proponents" refers to Petitioner/Real Parties in Interest, Catherine A. Boling, T.J. Zane, and Stephen B. Williams

Proposition B. (XVI AR 193:004071-89.) The CPRI was ultimately approved by 65.81% of the City's voters. (XVI AR 193:004094-96.)

C. The Unions Demand to the City to Meet-and-Confer *Over the CPRI*

On July 15, 2011, the San Diego Municipal Employees Association (SDMEA) wrote to Sanders demanding that the City had an obligation under the MMBA to meet-and-confer over the CPRI. (XIX AR 196:005109.) SDMEA's letter informed Sanders that they would treat the CPRI as his "opening proposal." (*Id.*) The City Attorney's Office responded that the City had no meet-and-confer obligations because there was no legal basis upon which the City Council could modify the CPRI if it qualifies for the ballot, rather, the Council needed to comply with the Elections Code and place the CPRI on the ballot if it met the signature and procedural requirements set forth therein. Accordingly, the City declined the Unions' multiple requests to meet-and-confer over the CPRI. (*See* XX AR 197:005115-17, 5151-5155.)

D. Unfair Labor Practice Charges and Initiation of PERB Action

On January 19, 2012, SDMEA filed an Unfair Practice Charge (UPC) with PERB over the City's refusal to bargain over the CPRI because the City claimed it was a "citizens' initiative" and not the "City's initiative." Three other City employee unions, the DCAA, Firefighters Local 145, and AFSCME Local 127, also filed UPCs with PERB, and embraced the allegations of the SDMEA UPC.

On January 31, 2012, SDMEA filed a request for injunctive relief with PERB, which PERB granted. (II AR 4:000246-249.) PERB then filed a superior court action seeking to enjoin the City from placing CPRI on the ballot, but was rejected. *San Diego Municipal Employees Ass'n. v. Superior*

Court, 206 Cal. App. 4th 1447, 1452-53 (2012). After PERB administrative hearings were scheduled, the City sought a stay in superior court. After the trial court granted the City's stay, SDMEA pursued writ relief. *Id.* at 1454-55. The Court of Appeal concluded the stay was improper and it was vacated. The Court of Appeal returned the case to PERB jurisdiction solely on the basis of SDMEA UPC's claim that the CPRI was not a true citizen-sponsored initiative but was instead a "sham" device employed by the City using "strawmen" to circumvent the MMBA. *Id.* at 1460, 1463; Opn. at p. 42, n.33.

E. PERB's Decision

A PERB Administrative Law Judge (ALJ) conducted four days of administrative hearings in July 2012. (VIII AR 147:002303-13; IX AR 148:002315-423; 150:002428-74.) On February 11, 2013, the ALJ issued his Proposed Decision finding the City violated the MMBA by failing to meet-and-confer with the Unions over the CPRI. (X AR 157:002613-75.)

On December 29, 2015, PERB issued its Decision affirming and adopting the ALJ's Proposed Decision with minor modifications. (XI AR 186:002979-3103.) It abandoned the "sham"/"strawman" theory. Instead, it concluded the City violated the MMBA when it refused to meet-and-confer over the CPRI, based on theories of statutory agency and common law agency principles. (XI AR 186:003005.)

The PERB Decision admitted it did not purport to resolve the constitutional issues raised by the City, and acknowledged "the City raises some significant and difficult questions about the applicability of the MMBA's meet-and-confer requirement to a pure citizens' initiative." However, it concluded "those issues are not implicated by the facts of this case," and therefore, chose not to address them." (XI AR 186:003006.)

F. Writ for Extraordinary Relief and Court of Appeal Opinion

On January 26, 2016, the City filed a timely Petition for Writ of Extraordinary Relief seeking to annul PERB's Decision. The Citizen Proponents also filed their own Petition. The Court of Appeal issued the writ of review on August 17, 2016, and oral argument took place on March 17, 2017.

The City's and Citizen Proponents' Petitions were consolidated for purposes of opinion and on April 11, 2017, the Court of Appeal's Opinion was issued. The Opinion granted the writ petitions and annulled PERB's decision concluding that the meet-and-confer obligations under the MMBA have no application when a proposed charter amendment is placed on the ballot by citizen proponents through the initiative process, but instead apply only to proposed charter amendments placed on the ballot by the governing body of a charter city.

Both PERB and the Unions filed rehearing petitions which were denied. Thereafter, each filed individual Petitions for Review.

III. WHY THE PETITIONS FOR REVIEW SHOULD BE DENIED

A. The Court of Appeal Correctly Applied a De Novo Standard of Review Pursuant to *Yamaha Corp. of America* as the Material Facts Were Undisputed and PERB's Determination the CPRI Was Not a "Pure" Citizens' Initiative Turned Nearly Entirely on the Application of Legal Principals Outside of PERB's Expertise

PERB contends the Court of Appeal's Opinion should be reviewed because it created a conflict regarding the proper standard of review that should be applied when an appellate court considers PERB's interpretation of statutes within its jurisdiction. PERB claims the "clearly erroneous"

standard of *Banning Teachers Ass'n v. PERB (Banning)*, 44 Cal. 3d 799 (1988) should have been applied, as opposed to the "de novo" standard of review the Court of Appeal found was applicable pursuant to *Yamaha Corp. of America v. State Bd. of Equalization (Yamaha)*, 19 Cal. 4th 1 (1998).

PERB's argument for application of the clearly erroneous standard of review is overly simplistic and ignores the glaring differences between *Banning* and the case at issue. The *Banning* Court was only addressing a pure labor relations issue that clearly fell within the Education Employment Relations Act (EERA), an area unquestionably within PERB's expertise. *Banning*, 44 Cal. 3d at 804-05. *Banning* determined the Court of Appeal's application of a per se rule that parity agreements were illegal, in part to spare the reviewing court the task of having to examine claims on a case-by-case basis, deprived PERB "of its statutory function to investigate, determine, and take action on unfair practice charges to effectuate the policy of the EERA" and therefore failed to provide PERB's interpretation the deference to which it was entitled. *Id.* at 805.

The instant case is nothing like the situation in *Banning*. It is undeniably unique, presenting a confluence of numerous areas of law outside of PERB's expertise. *Id.* at pp. 43-44, emphasis added. Accordingly, the Court of Appeal looked to *Yamaha* for guidance as to the appropriate standard of review. The Opinion correctly construed *Yamaha* as recognizing that in our system of government, "it is the judiciary – not the legislative or executive branches – that is charged with the final responsibility to determine questions of law" and the weight to be accorded to an administrative agency's interpretation is "fundamentally situational." Opn. at p. 26. "The standard for judicial review of agency interpretation of law is the *independent judgment* of the court, giving *deference* to the

determination of the agency *appropriate* to the circumstances of the agency action." Opn. at p. 24 (quoting *Yamaha*, 19 Cal. 4th at 8 (italics in original)). An agency's expertise or comparative interpretative advantage over the reviewing court is a major factor to what level of deference and agency's interpretation should be provided.

Here, PERB's Decision nullified the effects of the CPRI based on its conclusion that the CPRI was not a citizen sponsored initiative, but rather a governing body sponsored initiative subject to the MMBA. The Court of Appeal Opinion noted, such a determination rested nearly entirely on PERB's application of the interplay among the City's charter (and Sanders' powers and responsibilities thereunder), common law agency principles, and California's constitutional and statutory provisions governing charter amendments. Opn. at p. 43. PERB's Decision "did ***not*** turn upon the resolution of material facts (to which the deferential "substantial evidence" standard would apply)[2] or upon PERB's application of legal principles of which PERB's special expertise with the legal and regulatory milieu surrounding the disputed legal principles would warrant deference."[3]

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[2] In an attempt to create a conflict, PERB incorrectly claims that the Court of Appeal applied a de novo standard of review to PERB's factual findings. PERB Petition for Review, at pp. 32 and 36.

[3] The Opinion also correctly determined that when the material facts are undisputed, as they were in this case, the question of the existence of a principal agent relationship is a matter of law to be decided by the courts. Opn. at p. 44 n. 34 (citing *Kaplan v. Caldwell Banker Residential Affiliates, Inc.*, 59 Cal. App. 4th 741, 745 (1997); *see also Troost v. Estate of DeBoer*, 155 Cal. App. 3d 289, 299 (1984) (noting that if the essential facts are not in conflict the question of the existence of an agency relationship is a question of law). Accordingly, PERB's claim that the Opinion created a direct conflict with *Inglewood Teachers Ass'n v. PERB*, 227 Cal. App. 3d 767 (1991) is incorrect, as *Inglewood* did not involve a situation where the material facts were undisputed.

Therefore, following *Yamaha's* circumstantial approach, the Court of Appeal correctly applied a de novo standard of review as PERB lacks the requisite expertise and holds no comparative advantage over the Court of Appeal with regards to interpreting "the constitutional or statutory scheme governing initiatives" or "common law principles of agency." (Opn. at p. 44.) In fact, giving PERB deference regarding its determination of whether a citizens' initiative is "pure" or "impure" would conflict with this Court's determination that it is the solemn duty of the courts (not PERB) "to jealously guard the precious initiative power, and to resolve any reasonable doubts in favor of its existence." *Legislature v. Eu*, 54 Cal. 3d 492, 501 (1991). Furthermore, PERB's Decision acknowledged "the City raised some significant and difficult questions about the applicability of the MMBA's meet-and-confer requirement to a pure citizens' initiative," however, it concluded "those issues are not implicated by the facts of this case," and therefore did not address them and invited the parties to raise them with the court. (XI AR 186:003006.) Thus, PERB invited de novo review.

The Opinion does not create any conflict with *Banning* because the cases are completely distinguishable. Accordingly, contrary to PERB and the Unions' claims this Court's review is not necessary or warranted.

B. The Court of Appeal Opinion Did Ultimately Determine PERB's Decision Was Clearly Erroneous

Regardless of the standard of review applied, the Opinion ultimately correctly concluded that based on the undisputed facts the legal conclusions underlying PERB's Decision were erroneous. When the material facts are undisputed and a Court is presented with a pure question of law, whether a legal conclusion is classified as "erroneous" or "clearly erroneous" is a

distinction without a difference. A legal conclusion based on an undisputed set of facts is either right or wrong.

Here, the Opinion concluded "PERB's fundamental premise – that under agency principles Sanders' support for the CPRI converted it from a citizen-sponsored initiative on which no meet-and-confer obligations were imposed into a City Council-sponsored ballot proposal to which section 3504.5's meet-and-confer obligations became applicable – is legally erroneous." Opn. at pp. 65-66.

C. The Court of Appeal Opinion Correctly Concluded the MMBA Meet-and-Confer Obligations Did Not Apply to the CPRI

i. Meet-and-Confer Requirements Apply Only to a Charter Amendment Proposed by the Governing Body

There are only two ways to accomplish a charter amendment, (1) a proposal by a citizens' initiative, or (2) a proposal by the "governing body." Cal. Const., art. XI, § 3(b); *see also Hernandez v. County of Los Angeles*, 167 Cal. App. 4th 12, 24 (2008). When an amendment is proposed via a citizens' initiative and the requisite percentage of registered voters sign the initiative petition, the "governing body" has no discretion to do anything but place the duly qualified initiative on the ballot. *See Save Stanislaus Area Farm Economy v. Board of Supervisors*, 13 Cal. App. 4th 141, 148 (1993) (noting that local governments have a purely ministerial duty to place certified initiatives on the ballot). The Opinion noted "the evidence was undisputed (and PERB did not conclude to the contrary)" that the CPRI qualified for the ballot as a citizens' initiative, and it was also undisputed the City's "governing body" did not propose the CPRI. Opn., at p. 42.

PERB's Decision itself concluded the Citizen Proponents were *not* agents of the City. (XI AR 186:003088-89.)

Applying the rules of statutory construction, the Court of Appeal correctly concluded the MMBA meet-and-confer obligations did not apply to the CPRI, a duly certified citizens' initiative that was not proposed by the City's governing body – the City Council. Government Code section 3504.5(a) states, in pertinent part, "the governing body of a public agency . . . shall give reasonable written notice to each recognized organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation **proposed to be adopted *by* the governing body** . . . ." (Emphasis added.) Again, it is undisputed that the CPRI was not proposed to be adopted by the governing body. Rather, it was the petition signers – the citizens – that proposed the CPRI to be adopted.

Since the City has no option but to place a duly certified citizens' initiative on the ballot unchanged, requiring meet-and-confer under the MMBA would be pointless, and "the MMBA is not to be construed to require meaningless acts." *American Federation of State etc. Employees v. County of San Diego*, 11 Cal. App. 4th 506, 517 (1992).

ii. The Court of Appeal Opinion Follows Well Settled Law That Citizens' Initiatives Do Not Trigger Procedural Requirements Such as Those Contained in the MMBA

The Court of Appeal Opinion noted courts have ***repeatedly*** held that procedural requirements that apply to government body action are inapplicable to citizens' initiatives. Opn. at 31-35 (citing *Tuolumne Jobs & Small Business Alliance v. Superior Court*, 59 Cal. 4th 1029, 1035-37 (2014); *DeVita v. County of Napa*, 9 Cal. 4th 763, 785 (1995); *Building*

Industry Ass'n v. City of Camarillo, 41 Cal. 3d 810, 823-24 (1986); *see also Native American Sacred Site and Envtl. Protection Ass'n v. San Juan Capistrano*, 120 Cal. App. 4th 961, 968 (2004) ("[I]t is plain that voter-sponsored initiatives are ***not*** subject to the procedural requirements that might be imposed on statutes or ordinances proposed and adopted by a legislative body, ***regardless of the substantive law that might be involved.***") (Emphasis added).[4] Accordingly, the Opinion is in line with well-established law and does not warrant review.

iii. PERB and the Unions' Interpretation of Section 3505 Ignores Fundamental Principles Governing the Charter Amendment Process and Limitations Established by the City's Charter

PERB and the Unions interpretation of Government Code section 3505, which would deem Sanders' actions in supporting the CPRI, to have been those of the City Council, thereby somehow converting the CPRI into a government-body-sponsored initiative is misguided.

Their statutory agent theory continues to ignore the fact that while under the strong mayor form of government Sanders was the City's designated labor negotiator, he did not have statutory authority to act independently on such matters. The City Charter provides that all legislative powers of the City are vested in the City Council as the City's legislative body. San Diego Charter §§ 11, 270(a). And such legislative power may not be delegated, it can only be exercised by a majority vote of

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[4] At oral argument the Unions admitted that the City was obligated to place a duly certified citizens' initiative on the ballot without change, however, they contend the City was somehow obligated to meet-and-confer over a potential competing ballot measure. In light of such admission, the Unions never explain how PERB's decision which nullifies the effects of the CPRI could be upheld.

the City Council. *See* San Diego Charter §§ 11.1, 15, 270(c); *see also Kugler v. Yocum*, 69 Cal. 2d 371, 375 (1968) (noting legislative power may not be delegated). The evidence was undisputed that Sanders did not have the authority to make decisions on labor relation matters except first having gained the approval of the City Council. (XII AR 186:002983 and 3080, noting the Unions did not dispute the Mayor must obtain prior approval of all initial bargaining proposals including ballot proposals.)

Furthermore, the cases PERB and the Unions cite to in support of their argument are distinguishable from, and inapplicable to, the present situation. *See* PERB's Petition for Review, at pp. 42, n.15; Unions' Petition for Review, at pp. 23-24, nn.6-7. They do not in any way support PERB's Decision to nullify the effects of a duly certified citizens' initiative based on Sanders' support. The referenced cases do not involve any form of legislative conduct which pursuant to express charter limitations could not permissibly be delegated.

iv. Applying PERB and the Unions' Interpretation of Section 3505 to the Undisputed Facts of the Present Case Would Violate Constitutional and State Statutory Rights

PERB and the Unions' interpretation of Government Code section 3505 is also improper as it would impermissibly violate Constitutional and State statutory rights. Such an interpretation ignores the fact that Sanders, as well as any public official, has a fundamental First Amendment right to petition the government for redress and express his views on "matters of public concern." *Pickering v. Bd. of Ed. of Tp. High School Dist. 205*, 391 U.S. 563, 574 (1968); *Connick v. Myers*, 61 U.S. 138, 145-46 (1983).

The First Amendment embraces and protects "the liberty to discuss publicly and truthfully all matters of public concern without previous

restraint or fear of subsequent punishment." *Meyer v. Grant*, 486 U.S. 414, 421 (1988). Courts afford political speech – such as participating and supporting an initiative petition – the highest level of protection. *Id.* at 422 (noting advocating for an initiative petition is "core political speech" and describing the First Amendment protection of such to be "at its zenith"). Elected officials, such as Sanders, actually have a duty to inform the public on matters of public concern. *See Bond v. Floyd*, 385 U.S. 116, 136-37 (1966) (holding elected officials "have an obligation to take positions on controversial political questions"); *see also Wood v. Georgia*, 370 U.S. 375, 394 (1962).

An interpretation of Government Code section 3505 which would require Sanders to meet-and-confer with the Unions before being able to express his opinion on a matter of public concern or before he could support an initiative petition would amount to an unconstitutional prior restraint.

PERB and the Unions' interpretation of Government Code section 3505 would also run afoul of State law. Government Code section 3203 states, "[e]xcept as otherwise provided in this chapter, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, *no restriction shall be placed on the political activities of any officer or employee of a state or local agency.*" (Emphasis added.)

Regarding ballot measures specifically related to wages, hours, retirement and working conditions, Government Code section 3209 states: *Nothing in this chapter prevents an officer or employee of a state or local agency from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of officers or employees of such state or local agency*, except