

SLLO must restore binding arbitration after judge overturns 2011 Measure

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San Luis Obispo has been ordered to restore binding arbitration under a ruling issued last week by a state administrative law judge.

The ruling, dated Feb. 28, could upend a decision by San Luis Obispo voters in 2011 to repeal binding arbitration as a way to negotiate wages and benefits by the city's police and fire unions.

The city received the ruling Monday.

"I hope that there can be a reasoned discussion and this will not turn into a divisive community or organizational issue as it has in the past," City Attorney Christine Dietrick said.

The City Council will meet in closed session Monday to discuss its options, which include appealing the decision, negotiating a settlement or accepting the order.

The ruling is the result of a claim filed by the San Luis Obispo Police Officers Association in October 2011 with the Public Employment Relations Board, which oversees collective bargaining statutes with cities.

The police union has been engaged in a contentious battle with the city since the City Council decided to seek voter approval to change the way the city bargains with public safety employees — undoing a binding arbitration rule that stipulated a third-party authority would decide on issues of pay, benefits and working conditions if an agreement couldn't be reached between public safety unions and the city. Binding arbitration took effect in 2000 after voters overwhelmingly approved it.

Now the city uses existing state and local procedures to settle contract disputes. When those procedures have been exhausted, the city may last, best and final offer.

The claim alleged that San Luis Obispo used unfair labor practices by placing two measures on the ballot in August 2011. During a special election that month, an overwhelming 70 percent of San Luis Obispo voters passed two ballot measures: Measure B overturned binding arbitration, while Measure A allowed the city to remove a city charter section that required voter approval before retirement benefits for future employees could be reduced.

Administrative Law Judge Valerie Pike Racho, a PERB employee, ruled that the city violated the Meyers-Milias-Brown Act, which governs labor and management relations in local government, when it "failed and refused to meet and consult with the POA" over the city's proposed ballot initiative, Measure B.

In all, 7,723 people voted for Measure B to repeal binding arbitration, and 2,905 voted to keep it.

In Racho's ruling, the city was not found to have violated labor laws by putting Measure A on the ballot. Measure B, however, was ruled to be in violation of those laws.

Alison Berry Wilkinson, the union's attorney, said the union's end goal wasn't to overturn the election but to hold the city accountable for the laws that it felt were breached leading up the election.

"We had to hold the city accountable for making sure it follows the law," Wilkinson said, adding that the police officers association tried repeatedly to meet with city officials before the measure was put on the ballot.

"The city failed voters by rushing to the ballot without complying with the law," Wilkinson said. "The voters expressed clearly their opinion about binding arbitration, but the city still has to follow the law, and that is what the judge says."

John Grady, a San Luis Obispo resident and financial planner, was outraged by the decision.

"This is an assault to the voters," Grady said. "We voted, we spoke and then to have that taken away? I am in disbelief."

"If voters can put binding arbitration on the city charter, we should have the right to take it off," he added.

The ruling could have larger implications as the City Council decides how to proceed with the renewal of a half-cent sales tax increase planned for the November ballot. Residents approved Measure Y, the sales tax increase, in 2006, but it's set to expire in March 2015.

The city has been criticized in the past for its use of those funds. During the campaign for the half-cent sales tax, the city promised capital improvements and additional police officers to patrol neighborhoods but instead used the money to backfill the general fund.

A conflux of factors, including a binding arbitration settlement with police officers that left the city scrambling to find millions of dollars it had not budgeted and a downturn in the economy, led to some of the increased revenue being used to backfill the city's general fund.

In 2008, an arbiter awarded police officers a 30 percent raise, and dispatchers a 37 percent raise, for the period of 2006-09.

Grady said the recent ruling would likely influence how residents would vote on a future sales tax measure.

"It was that cost to the city that woke voters up," Grady said. "To take the control away from our personnel and give it to some person in Sacramento or wherever an arbitrator may be isn't right. Who is running the city then?"

The City Council will hold a special closed-session meeting to discuss the ruling at 9 a.m. Monday in Council Chambers at 990 Palm St. Public comment will be taken at the start of the meeting.

[PERB Proposed Decision](#) by [The Tribune](#)

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