



# San Diego City Attorney Jan I. Goldsmith

## NEWS RELEASE

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Contact: Gina Coburn, Communications Director: (619) 533-6181

### **KEY COURT DECISION RENDERED ON SAN DIEGO RETIREE HEALTH BENEFIT**

**San Diego, CA:** The City of San Diego has won a key Superior Court ruling that the City's retiree health benefit is not a vested right for employees (the decision is attached) and that the benefit can be changed without approval of employees as required for changes in retirement benefits under City Charter section 143.1. The ruling applies only to employees, not retirees who already receive the benefit. About half of the City's \$1.3 billion projected unfunded liability for retiree health is due to benefits offered to employees hired by the City before 2005 who may be affected by this ruling. The benefit was eliminated for employees hired after 2005.

The Superior Court ruling is in line with a federal court decision won by the City in late 2009 regarding vested rights. This is the first court decision on the section 143.1 issue and the first state court to weigh in on the vested rights issue.

San Diego City Attorney Jan Goldsmith stated that, although the ruling is a clear win for the City, state labor laws require good faith negotiations to change the current defined benefit retiree health plan for employees. He also pointed out that the losing parties can appeal and that the decision was a "test" case not legally binding on all labor unions, which may raise other legal and factual arguments.

"This decision brings an opportunity and a choice," Goldsmith said. "We can either continue litigating this issue for years through the appellate courts or we can resolve retiree health by coming together on a reasonable plan that will save taxpayers hundreds of millions of dollars," said Goldsmith. "This court ruling offers an opportunity to get results."

The decision by Superior Court Judge Ronald S. Prager on Thursday holds that retiree health is not a vested benefit, but a term and condition of employment, which can be changed through labor negotiations:

"Plaintiffs' contention that retiree health benefits are a benefit under the Retirement System does not square with the fact that benefits are solely funded by the City, that the provision of retiree health benefits was optional, and that courts have held that such benefits are not vested pension benefits."

Judge Prager also held that City Charter section 143.1, requiring employee approval through a vote before benefits under the retirement system are changed, does not apply to retiree health because it is not a benefit under the retirement system: "[A] plain reading of [the Charter] shows that retiree health benefits are separate, additional benefits to be provided at the option of the City." ###