



---

# San Diego City Attorney Jan I. Goldsmith

---

## NEWS RELEASE

**FOR IMMEDIATE RELEASE**  
**January 27, 2014**

Contact: Tom Mitchell, Communications Director:  
[tmitchell@sandiego.gov](mailto:tmitchell@sandiego.gov), (619) 533-4782

### **Court of Appeal Orders San Diego Retiree Health Decision Published as Precedent Setting Decision**

**San Diego, CA:** Earlier this month, the San Diego City Attorney's office won its third court decision that the City's retiree health benefits offered to employees are not "vested" and may be changed as any other term and condition of employment. The ruling, which is attached, affirms the first state appellate court decision on the issue. The previous decisions were won in federal court and at the state court trial level. The Court of Appeal ordered this case published; meaning this case is now citable as legal precedent on the issue of whether retiree health benefits are vested. (Ruling attached)

The decision is of statewide significance as it can be used as guidance for other cities and the State of California. According to a report from the State Controller, the retiree health benefit unfunded liability for the state is \$42.1 billion, nearly as much as the \$45.5 billion pension debt. That figure does not include the unfunded liability of local governments for retiree health benefits which is billions more. A discussion of retiree health benefit issues can be found at the website Calpensions: <http://calpensions.com/2013/12/02/retiree-health-bigger-budget-bite-than-pensions/>

In the case of San Diego, in 2011, following the City's success in federal court and shortly after the City's success in the state trial court, the City and its labor unions entered into an MOU that reduced benefits and achieved estimated savings exceeding \$700 million over 25 years while allowing for the City to negotiate further savings in the future. Had plaintiffs been successful in this lawsuit, it might have affected the 2011 agreement and the possibility of future savings.

In holding for the City, the court of appeal stated that retiree health benefits are not pension benefits that are constitutionally protected, but "are additional benefits that are provided at the option of the City" and the law "does not mandate that these benefits be included in the City's retirement system." The court rejected plaintiff's reliance on the fact that retiree health benefits are in the nature of pension benefits because they are provided during retirement: "The retiree health program is not a benefit under the retirement system merely because it is enjoyed during retirement."

"San Diego has been in the forefront of reform and our office has successfully defended them all and will continue to aggressively defend these reforms," said City Attorney Jan Goldsmith. "Our office took a firm position that retiree health benefits are not vested and could be changed. I think it is clear that the courts agree with us that the City was well within its rights to reduce benefits and could negotiate further savings in the future if it chooses to do so."

###

---

Recent City Attorney media releases can be accessed on the San Diego City Attorney's home page located on the Internet at <http://www.sandiegocityattorney.org>

**1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220**