



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

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CITY ATTORNEY OPINION: IF VESTED, RETIREE HEALTH BENEFITS MUST BE CONTRIBUTORY

San Diego, CA: The City Attorney's Office has issued a Legal Opinion (attached) concluding that if the City's retiree health benefit for employees is a vested retirement benefit, it would fall within the requirement of Charter section 143 that it must be "a contributory plan, the City contributing jointly with the employees affected thereunder." The Legal Opinion then goes on to discuss the procedural mechanism under which a contributory plan could be implemented.

Last year, the United States Court of Appeals for the Ninth Circuit held that San Diego's retiree health benefits were not vested retirement benefits for current employees and changes could be negotiated. The City Attorney's Office issued an opinion in January, 2010, consistent with the ninth circuit decision. City labor organizations disagree with that decision and take the position that retiree health benefits are vested, threatening litigation in state court.

"This new legal opinion assumes (for purposes of legal analysis) the labor organizations are right. Under that scenario, we conclude that our City Charter would still require employees to contribute to the retiree health system. They have never done so in this city," said City Attorney Jan Goldsmith.

The issue came up during a debate on KPBS radio on September 8, 2010, between MEA President Michael Zucchet and Mr. Goldsmith. Mr. Zucchet and Mr. Goldsmith disagreed on whether retiree health benefits for City employees are vested benefits. At the end of the debate, however, Mr. Goldsmith pointed out that if retiree health benefits are, in fact vested benefits, the City Charter requires employees to contribute toward paying for the benefit which they are not doing:

"I will tell you that if Mike is correct, that this is part of the retirement system and, wow, can't be changed and all that. Our retirement system on our charter is contributory. That means that we both contribute, employees and employers. Up to this point for retiree health, it's only been the employer who's paid."

<http://www.kpbs.org/news/2010/sep/08/city-san-diego-retiree-health-benefits/>

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