

## **CALIFORNIA**

### **State's highest court says Caltrans can use private contractors**

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Friday, April 13, 2007

The state Supreme Court upheld California transportation officials' authority to use private contractors rather than state employees for engineering jobs Thursday, a ruling that could steer substantial amounts of a voter-approved, \$19.9 billion transportation bond to the private sector.

A November 2000 initiative, Proposition 35, repealed laws that had allowed California to turn to contractors only when qualified state employees were unavailable or private companies could save the state money, the court said in a unanimous ruling.

It was a victory for an industry group that sponsored Prop. 35 and a defeat for a state employees union that has fought to limit the scope of the measure. Their long-running battle took on new urgency in November when voters passed the transportation bond, Proposition 1B.

"Today's unanimous ruling reaffirms the will of the voters and opens the door to speedy project delivery," said Paul Meyer, executive director of Consulting Engineers and Land Surveyors of California, which backed the initiative. "It takes away a legal cloud which has existed over the use of private engineers."

Gov. Arnold Schwarzenegger called the ruling "a great victory for commuters and taxpayers." He said in a statement that he would work with the Legislature to authorize "public-private partnerships to allow for more projects and the faster construction of those projects."

But Bruce Blanning of Professional Engineers in California Government said the ruling was narrow and did not resolve the question of whether legislators could impose new restrictions on private contracting. He said his union was sponsoring a bill, scheduled for its first hearing Monday, that would require all inspection of construction projects to be done by public employees.

"There have been no projects delayed by a lack of engineers, public or private," Blanning said.

Bay Area projects that will be funded by the November transportation bond include carpool lanes for Interstates 80 and 580 and U.S. 101 and a fourth bore for the Caldecott Tunnel. The nonpartisan legislative analyst's office has said Caltrans needs 4,800 more engineers to work on projects statewide.

The engineers union has called for increased state hiring, but Meyer's organization, a trade association for private engineering firms, says private contractors would be available more quickly and could save the state money in the long run because their employers would pay their benefits.

Meyer said about 10 percent of Caltrans engineering work is done by contractors, compared with an average of nearly 60 percent for transportation agencies in other states. He said other California agencies have been more willing than Caltrans to enlist the private sector since Prop. 35 passed.

The engineers union argued that Prop. 35, which did not expressly repeal state laws limiting private contracting, merely authorized the Legislature to set up a contracting system and did not require one. The court disagreed Thursday, saying the initiative, a state constitutional amendment, had nullified all laws that interfered with the use of contractors.

The case is Professional Engineers in California Government vs. Kempton, S139917.

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#### Online resources

To read the state Supreme Court decision, go to:

[links.sfgate.com/ZCT](http://links.sfgate.com/ZCT)

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This article appeared on page **B - 3** of the San Francisco Chronicle