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Decision a blow to unions

State's top court upholds initiative, allowing companies a bigger slice of public works jobs.

By Peter Hecht - Bee Capitol Bureau
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Ending a five-year legal battle, the state Supreme Court awarded a major victory to private engineering firms Thursday by affirming California's right to outsource potentially billions of dollars in public works projects.

In a unanimous ruling, the court upheld Proposition 35, an initiative approved by voters in 2000 that allowed private engineers and architects to work on state infrastructure projects.

The court ruling also rejected a 2002 lawsuit and subsequent appeals by the 10,000-member Professional Engineers in California Government. The public engineers group had argued that Proposition 35 didn't repeal state civil service restrictions against private contracting.

The decision figures to open up the public works construction market with California suddenly flush with \$42.7 billion in infrastructure bond money approved by voters last year for new highways, schools, levees, housing and parks.

Nearly \$20 billion is earmarked for highway projects under 2006's Proposition 1B.

An industry group, Consulting Engineers and Land Surveyors of California, got Proposition 35 on the ballot in the hope of making lucrative state contracts available to private engineers, architects and consultants. But private contractors were stymied as the initiative faced legal challenges.

"Today's ruling takes away a big legal cloud," said Paul Meyer, executive director of the consulting and engineering group, which represents 1,200 private firms.

"Now there is as high a stamp of approval for using consultants (on state projects) as one can ask for."

"State agencies will now have new tools to deliver projects promptly," he said.

"With all this infrastructure money, the state will need all the public and private engineers they can get their hands on."

Gov. Arnold Schwarzenegger applauded the court ruling in a statement calling the decision "a

great victory for commuters and taxpayers."

"This decision will allow for the Strategic Growth Plan to be implemented more quickly ... and helps ensure that the \$20 billion in transportation funds passed by voters last November will bring traffic relief to commuters faster and more cost-effectively," Schwarzenegger said.

The governor pledged to work with "the entire Legislature" to promote public-private construction partnerships "to allow for more projects and faster construction."

But Bruce Blanning, executive director of Professional Engineers in California Government, said the court decision could entice the state to dole out lucrative engineering contracts to private firms when public engineers can do the work more cheaply.

"Our concern is that outsourcing this work costs twice as much as having state employees do it," Blanning said. "A considerable amount of that bond money will be wasted."

Blanning said the Supreme Court ruling still leaves authority with the Legislature to authorize or reject private contracts. And he argued that the state can pass new laws restricting private contracting as long as they don't conflict with Proposition 35.

For example, the public engineers' group is sponsoring a bill by Assemblyman Pedro Nava, D-Santa Barbara, that would restrict state highway inspection work to state employees.

The state engineers' 2002 lawsuit against Proposition 35 was inspired by the state Transportation Department awarding highway inspection projects to private firms.

John Sullivan, president of a private business advocacy group, Civil Justice Association of California, hailed the Supreme Court for answering "seemingly endless litigation" over the 2000 initiative.

"The Californians who voted yes on Proposition 35 ... wanted to put designers and equipment operators to work, not lawyers," Sullivan said in a statement.

"Finally, that's going to happen."

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