



## Sanity Prevails in California

Insights

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It's true: the California appeals court struck down a particularly nutty employment law, one which required anyone who bought a Los Angeles supermarket to retain the prior owner's employees. The California Supreme Court is due to review the decision.

### Hire Them Or Else

We have written about this law before (see, "*Judge Strikes Down Controversial Ordinance*," Retail Update, Fall, 2007). The law was passed in the wake of a successful union campaign against a number of Los Angeles grocery-store chains, including Albertson's. When Albertson's subsequently decided to leave the L.A. market, the union apparently feared that whoever bought the stores might not want to retain all of the Albertson's workforce. And the fear was not without reason: when a new owner buys an underperforming facility, replacing management and some workers is often the first step towards turning the place around. The union apparently feared that these new employees would erode its support at the former Albertson's stores.

The Los Angeles city council rode to the rescue, passing an ordinance that covered all supermarket-sized stores, and that required a "transitional retention period upon change of ownership, control, or operation of grocery stores" to preserve the "vital workforce" of "[e]xperienced grocery workers . . . ." Translation: the new owner of a supermarket has to retain the former owner's rank-and-file employees, whether they were any good or not.

The ordinance required the new owner to hire from the pool of employees who worked at the store prior to the change in control, based on seniority. The new employer was required to: 1) retain the employees for 90 days after the store is operational and open; 2) provide each employee with a written performance evaluation at the end of the 90-day period; and 3) "consider" offering continued employment to each employee whose performance was satisfactory. Workers could sue for violation of the ordinance and seek reinstatement, back and front pay, lost benefits, and attorneys' fees.

### The Real Agenda

Conveniently, the ordinance provided that a collective-bargaining agreement with a union would supersede the ordinance's requirements. A Los Angeles County Superior Court judge struck down the ordinance on equal-protection grounds. Now the California appellate court has upheld the lower court's decision, ruling, among other things, that the law impermissibly infringed on federal labor law.

As we noted in our earlier stories about this ordinance, the fear was that other local governments with a pro-union bent would pass similar laws. That hasn't happened, thankfully, and if the California appeals court decision is upheld, we're hopeful that it won't in the future.