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## El Paso Mayor Fighting Ouster Over Gay Rights Counts Legal Bills

By DAVID MILDENBERG

Feb. 9 (Bloomberg) — Mayor John Cook has amassed \$250,000 in debt fighting for his job in El Paso, the sixth-biggest Texas city, after casting a decisive vote to reject a ban on benefits for same-sex partners of municipal workers. The move sparked demands for his recall.

Cook, 65, faces a special election after he backed repeal of a law passed by voters in November 2010 that limits benefits such as health insurance to city employees, legal spouses and dependent children. Texas doesn't permit same-sex marriage.

Opponents led by Pastor Tom Brown of El Paso's Word of Life Church petitioned for the recall targeting Cook and the City Council members who sided with him in overturning the ballot measure, designed to protect "traditional family values." Brown helped lead support for the initiative that created the law. Its passage prompted a lawsuit by a city police union.

"Pastor Brown was more than happy to throw everyone else under the bus in his zeal to go after homosexuals," said Ron Martin, president of the El Paso Municipal Police Officers Association. "The pastor figured out of that if you removed insurance benefits just for same-sex couples it would be unconstitutional, but if you removed them for everybody who wasn't in a traditional marriage, then it was OK."

### Rare Move

Cook is the only big-city mayor in the U.S. to face a recall because of issues tied to the debate over same-sex marriage, at least in recent years, said Leslie Graves, publisher of the Ballotpedia website in Madison, Wisconsin, which tracks elections, and Paul Guequierre, a spokesman for the Washington-based Human Rights Campaign Inc. The nonprofit organization advocates equal treatment of same-sex partners by employers.

"Government should not be using tax dollars to endorse a social agenda," Brown said Feb. 6 by telephone. The 2010 ballot measure, which also affected retirees, foster children and other nonfamily dependents of municipal employees, passed 55 percent to 45 percent, with about 20,300 voting in favor. In June, Cook joined four council members to repeal it in a 5-4 vote.

"Once they overturned what the people had decided, that was a cause for a recall," said Brown, whose website includes an article entitled "Homosexuality: Its cause and cure." He said the council betrayed the will of the people. "The highest civil right that all of us possess is the right to vote, and our City Council took away our right to do that."

### Costly Vote

An April 14 recall election may cost as much as \$1.3 million, City Clerk Richarda Momsen said. That's about 38 times the estimated \$34,000 cost of providing benefits to the domestic partners of 19 unmarried workers who were affected by the law.

No one actually lost their benefits as a result of the ballot initiative, Momsen said.

Cook, the mayor of the city of more than 649,000 residents since 2005, is scheduled to leave office in July 2013 because of term limits. He said he opposed the ballot measure as unfair.

“El Paso was the first city in the Deep South states to pass an ordinance prohibiting discrimination based on skin color,” he said by telephone. “With that history behind us and being a very tolerant community, it was very discouraging to have citizens misled in passing an ordinance they didn’t really understand.”

The dispute may hurt the image of El Paso, where one of its two New York Stock Exchange-listed companies, Western Refining Corp., is moving more than half its corporate staff to Tempe, Arizona. The city’s economy may benefit from the projected addition by 2013 of about 21,000 soldiers at Fort Bliss, which is the nation’s fastest-growing U.S. Army base, according to municipal estimates.

### **Unusual Cause**

“The typical reason for a mayoral recall is a tax issue, like in Omaha or Miami-Dade, or some sense of mayoral failure,” said Graves, who is also president of the Lucy Burns Institute in Madison, a nonprofit organization that sponsors Ballotpedia. Omaha Mayor Jim Suttle survived the January 2011 recall vote.

Almost half of the 151 state and local officials facing recalls last year were kicked out, including Miami-Dade County Mayor Carlos Alvarez, who had favored a property tax increase, said Joshua Spivak, a senior research fellow at the Hugh L. Carey Institute for Government Reform at Wagner College in New York. Nine quit before the recall was held, he said.

El Paso, which is closer to Los Angeles than the Louisiana state line, is culturally more similar to cities in New Mexico and Arizona, said Chuck Smith, deputy executive director of the nonprofit Equality Texas in Austin, the state capital. The organization opposes discrimination based on sexual orientation.

### **Uncharacteristic of City**

“For this to be happening now is incongruent with the history of the city,” Smith said. “It’s embarrassing to the city that it has escalated to this level.”

El Paso gained fame during the 1966 National Collegiate Athletic Association’s men’s basketball championship game in which Texas Western College, now known as the University of Texas at El Paso, upset top-ranked University of Kentucky with an all-black starting lineup, an NCAA first. Kentucky brought an all-white team to the game, which inspired “Glory Road,” a 2006 Walt Disney Co. movie, and a 2000 book, “And the Walls Came Tumbling Down: The Basketball Game That Changed American Sports,” by Frank Fitzpatrick.

The conflict over the ballot measure deepened last year as Cook sued to block the recall because some signatures to support it were gathered in churches, which he contended was improper. That prompted a countersuit by Brown. Both are pending.

### **Church Activism**

“This is a blatant matter of abusing the rights of church officials to be involved in local affairs,” said Joel Oster, a lawyer in Kansas for the Alliance Defense Fund, a Scottsdale, Arizona-based group that represents religious organizations. “We are excited about this case because of the precedent that could be established.”

Brown and allies who don’t share his religious views were stunned by the repeal of the 2010 ballot measure, said Ignacio Padilla, a former council member and recall organizer.

“We resented highly the fact that the mayor and four City Council people thought they knew better than what the people had voted for,” said Padilla, 68, a substitute teacher and

Catholic who said he rarely attends church. “They are there to serve themselves rather than the community they represent.”

Cook, who had expected legal bills to reach about \$30,000, already faces more than eight times that amount and the fight isn’t over. He said he has paid \$2,500, offset by less than \$500 in contributions. Assistance from groups tied to police unions and gay-rights activists hasn’t shown up, he added.

“Even if I get recalled, I’ll walk out with my head held high because I stood up for what I felt was right,” Cook said.