

CASE TITLE: CITY OF EL CENTRO VS

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non-payment of prevailing wages.

Pursuing state policy objectives through financial incentives is generally constitutional. The Legislature has plenary lawmaking authority over the state's budget (Cal. Const., Art. IV, § 12), and there is no constitutional prohibition precluding it from creating specific funds for specific governmental purposes. Shaw v. People ex rel. Chiang (2009) 175 Cal.App.4th 577, 602. The state may impose conditions upon the granting of a privilege, including restrictions upon

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these state statutes do not result in a conflict with the local ordinance preventing the use of PLAs. The conditional receipt of a small amount of state funding does not appear to be coercive as a matter of law.

C. Labor Code Section 1782 (SB 7 (2013)): Interference With Initiatives/Propositions

Article IV, Section 1 of the California Constitution provides: "The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum." An amendment to a proposition is valid only if, by any reasonable construction, it can be said that the statute furthers the purposes of the proposition. Foundation for Taxpayer and Consumer Rights v. Garamendi (2005) 132 Cal.App.4th 1354, 1371. Petitioners argue that the enactment of section 1782 effectively "amends" multiple state initiatives/propositions/bonds that fund local government construction projects, and is therefore unconstitutional.

The Court finds that this issue is not "sufficiently concrete to allow judicial resolution even in the absence of a precise factual context." Pacific Legal Foundation v. California Coastal Com. (1982) 33 Cal.3d 158, 170. This ripeness requirement prevents Courts from issuing purely advisory opinions. Id. There must be a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts. Id. at 171. Petitioners do not refer to the language of any specific bond measure in detail, or to any related evidence. Petitioners do not demonstrate that the language in section 1782 contravenes, or does not advance, the purposes of one or more specific bond measures. In fact, section 1782 does not affect or encompass "revenues that charter cities are entitled to receive without conditions under the California Constitution." Labor Code § 1782(d)(4). Petitioners fail to show that the state has withheld, or threatened to withhold, specific bond funds, or has even taken such a position. Petitioners do not distinguish as between measures that were adopted by voters, as opposed to those measures that were rejected. Petitioners also do not distinguish as between bond measures passed by initiative, as opposed to Legislative bond measures that were ratified by voters. All of these particulars could be determinative in this analysis. In the absence of these details, a ruling by this Court would be a fruitless and advisory exercise.

D. Whether Labor Code Section 1782 (SB 7 (2013)) "Restricts Local Tax Dollars" in Violation of Art. XIII, Sec. 24(b) (Proposition 22)

Article XIII, Section 24(b) of the California Constitution was enacted via Proposition 22, and provides: "*The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes.*" See California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231, 269-270 (requiring payment to avoid dissolution of a redevelopment agency "is not an option but a requirement" in violation Proposition 22).

As discussed above, section 1782 (SB 7) concerns discretionary state funding. It does not appropriate local funds, and it is not a requirement that cities make payments to the state. Also as discussed above, section 1782(d)(4) explicitly "does not include revenues that charter cities are entitled to receive without condition under the California Constitution." Petitioners provide no authority or evidence suggesting that section 1782 will have any effect on tax revenues collected by the state on behalf of charter cities and

Respondents' Request for judicial notice filed on 7-11-14 is GRANTED IN PART AND DENIED IN PART. The Court take judicial notice of Exhibits "1 - 9" and declines to take judicial notice of Exhibits "10 -11", all of which were lodged in opposition to the Petition.

Respondents' evidentiary objections, and the joinder of Intervenor State Building and Construction Trades Council ("SBCTC"), to the declaration of attorney James P. Lough are OVERRULED IN PART AND SUSTAINED IN PART. The Court overrules objection nos. 1 - 7. The Court sustains objection nos. 8 - 9.

Petitioners' evidentiary objections to the declarations of Robbie Hunter and Peter W. Philips are OVERRULED.

Petitioners' Request for judicial notice filed on 7-18-14 in support of its Reply is DENIED.