



## Staff Report

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**File #:** TMP-0214, **Version:** 1

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**MEETING DATE:**

November 10, 2014

**SUBJECT:**

RESOLUTION NO. 2014-8004 - AUTHORIZING ADDITIONAL FUNDING IN SUPPORT OF THE LEGAL CHALLENGE TO SENATE BILL 7

**Recommendation**

ADOPT a resolution authorizing additional funding in the amount of \$5,000 per appeal to the Senate Bill 7 challenge effort, for a maximum potential additional contribution of \$10,000.

**Board or Commission Action**

Not Applicable

**Relevant Council Strategic Theme**

Dynamic and Responsive Service Delivery  
Good Governance

**Relevant Department Goal**

Not Applicable

**Introduction**

Senate Bill (SB) 7, passed by the California Legislature in 2013, prohibits a charter city from receiving or using state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor to not comply with state prevailing wage requirements on local construction projects. It was passed after the 2012 California Supreme Court decision in *State Building and California Trades, AFL-CIO v. City of Vista* that ruled charter cities can decide how they want to spend their city tax funds. SB 7 sought to nullify that decision by imposing costly conditions on public works projects that cities help fund with their own tax dollars.

The charter cities of Carlsbad, El Cajon, El Centro, Fresno, Oceanside, and Vista filed a court challenge to SB 7 that was also funded by the League of California Cities and about nine other charter cities, including San Marcos. In August 2014, San Diego Superior Court Judge Joel R. Wohlfeil upheld SB 7. The plaintiffs are appealing the judge's decision.

**Discussion**

Judge Wohlfeil ruled that SB 7 is legal and does not conflict with cities' charter provisions or ordinances that permit them to not comply with the state's prevailing wage requirements. He also ruled that the state has a right to pursue policy objectives through financial incentives, and that other constitutional challenges to SB 7 were not appropriate for adjudication.

SB 7 is scheduled to take effect on January 1, 2015. The next step in the appeal process is to seek a stay from the Court of Appeal on the law's implementation. The League of California Cities believes an appeal to the state Supreme Court is likely regardless of how the Court of Appeal rules. It also believes that the trial court's decision leaves open arguments for a successful appeal.

If the cities decided not to appeal, or if they are unsuccessful at a future appellate stage, a charter city would be required to pay prevailing wages even if a public works project uses entirely local funds. Failure to pay prevailing wages would result in the charter city losing state funds or grants on any contracts.

The League of California Cities is asking cities participating in the lawsuit to authorize spending an additional \$5,000 for each appeal step, meaning \$5,000 would be spent for the Court of Appeal and another \$5,000 if the case ultimately goes to the Supreme Court.

### **Fiscal Impact**

If the City Council approves the resolution, the total fiscal impact to the City would be up to but would not exceed \$10,000 if the appeal goes to the Supreme Court. The funds would come from the approved Attorney Services line item within the City Attorney budget. The cost to the charter cities by not appealing would be significant due to the need to pay prevailing wages for public works projects.

### **Attachment(s)**

- 1) Resolution authorizing funding for the SB 7 appeal
- 2) Judge Wohlfeil's August 2014 ruling

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