



County Administrative
Office
COUNTY OF TULARE
AGENDA ITEM

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: April 2, 2013

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>

CONTACT PERSON: Debbie Vaughn PHONE: 636-5005

SUBJECT: Letter of Opposition

REQUEST(S):

That the Board of Supervisors:

Approve sending a letter of opposition to SB 7 (Steinberg and Cannella) which would prohibit 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 comply with prevailing wage provisions on any public works contract.

SUMMARY:

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Existing law also allows for cities, by majority vote of its electors, to adopt a charter and, if adopted, to make and enforce all ordinances and regulations in respect to municipal affairs subject only to charter limitations and general law.

SB 7 would prohibit 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 prevailing wage provisions on any public works contract. The bill would prohibit a charter city from receiving or using state funding or financial assistance for a construction project for up to 2 calendar years if the city has, after January 1, 2014, awarded a public works contract without requiring the contractor to comply with prevailing wage provisions. The bill excludes contracts for projects of \$25,000 or less for construction work, or projects of \$15,000 or less for alteration, demolition, repair, or maintenance work.

SUBJECT: Letter of Opposition

DATE: April 2, 2013

In 2012, the California Supreme Court upheld the 2009 *Vista* decision that the subject matter of the state's prevailing wage law is not a statewide concern. The Supreme Court stated that (1) the construction of a city-operated facility for the benefit of the city's inhabitants with city funds is "quintessentially a municipal affair," and (2) the state cannot require a charter city to exercise its purchasing power based upon "some indirect effect [of the charter city's purchasing power] on the regional and state economies."

SB 7 violates the fundamental principles of local control and attempts, via the Legislature, to force a different outcome than the Supreme Court's ruling by withholding state construction funds from charter cities that fail to adopt prevailing wage requirements for projects built with local funds.

Although SB 7 is directed at charter cities lacking a local prevailing wage requirement, the intent of the bill to remove local control, and the manner in which the bill seeks to circumvent legal rulings has generated opposition from both charter and general law cities.

FISCAL IMPACT/FINANCING:

N/A

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Opposing SB 7 aligns with the County's Strategic Initiative of Organizational Performance through opposition of measures which attempt to remove local control and local decision-making authority.

ADMINISTRATIVE SIGN-OFF:

Debbie Vaughn
Senior Administrative Analyst

Cc: Auditor-Controller
County Counsel
County Administrative Office (2)

Attachment(s) Letter of Opposition

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF LETTER OF
OPPOSITION

)
) Resolution No. 2013-

UPON MOTION OF SUPERVISOR, SECONDED BY SUPERVISOR, THE
FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL
MEETING HELD APRIL 2, 2013, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS ISHIDA, VANDER POEL, COX, WORTHLEY AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

Approved sending a letter of opposition to SB 7 (Steinberg and Cannella) which would prohibit 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 comply with prevailing wage provisions on any public works contract.

CAO
DAY
4/2/13

April 2, 2013

The Honorable Darrell Steinberg
Senate President Pro Tem
State Capitol, Room 205
Sacramento, CA 95814

RE: Opposition to SB 7 (Steinberg and Cannella)

Dear Senator Steinberg:

The County of Tulare regrets to inform you of our opposition to SB 7 which would prohibit 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 funded by city funds.

This measure violates the fundamental principle of local control and the constitutional limits of state authority over charter cities, as recently held by the Court in the *Vista* decision¹. This measure conflicts with *Vista* by attempting, via the Legislature, to leverage a different outcome than the Court's ruling by withholding vital state construction funds, derived from all of the state's taxpayers, from charter cities that fail to adopt prevailing wage requirements for projects built with local funds. Such a condition is unlawful because the state is seeking to leverage outcomes it lacks the legal authority to compel.

While the County of Tulare is not directly impacted by this bill, we have grave concerns that this legislative tactic will be used in the future to erode other local flexibility that is important to our County. Thus, we oppose this measure due to its undercutting of local charter authority. The state should respect the Court decision in *Vista*.

This measure would establish a disturbing framework for future state micromanaging of charter city laws and policies by the tactic of withholding state funds as political leverage to attempt to force changes to city charters and ordinances.

For these reasons, the County of Tulare opposes this legislation.

Sincerely,

Pete Vander Poel, Chairman
Tulare County Board of Supervisors

Phillip A. Cox, Vice-Chairman
Tulare County Board of Supervisors

J. Steven Worthley, District Four
Tulare County Board of Supervisors

Mike Ennis, District Five
Tulare County Board of Supervisors

Allen Ishida, District One
Tulare County Board of Supervisors

cc:

Senator Ted Lieu, Chair, Senate Committee on Labor and Industrial Relations
(Committee Fax: Attn: Alma Perez)

Senator Anthony Canella

Senator Jean Fuller

Assembly Member Connie Conway

Gareth Elliott, Legislative Affairs Secretary, Office of Governor Jerry Brown