



CHARTER COMMITTEE

AGENDA REPORT

MEETING DATE: AUGUST 28TH, 2013

ITEM NUMBER:

SUBJECT: PREVAILING WAGES
DATE: AUGUST 23, 2013
FROM: CITY ATTORNEY'S OFFICE
PRESENTATION BY: KIMBERLY HALL BARLOW & YOLANDA M SUMMERHILL

RECOMMENDATION:

The Charter Committee may postpone consideration of prevailing wages as a provision in Costa Mesa's proposed charter pending outcome of Senate Bill 7 ("SB 7") by the California Legislature.

BACKGROUND:

In its consideration of public contracting, the Charter Committee may include provisions governing "prevailing wages" in the charter. However, this may be made moot if the California Legislature passes SB 7 which would make prevailing wages a matter of statewide concern such that it is beyond the City's authority to regulate.

ANALYSIS:

Last year, the California Supreme Court determined that a charter city did *not* have to comply with prevailing wage laws because the wages paid by a charter city for public works was a "local concern" rather than a "statewide concern."

In response to the California Supreme Court decision, the California Senate introduced SB 7 which would make prevailing wages a matter of state wide concern and beyond the control of charter cities.

SB 7 passed in the Senate in May 2013 and is currently being considered by the Assembly. The Charter Committee will know whether SB 7 passed by the Assembly no later than September 13, 2013 - the deadline for each house to pass bills. In light of this looming deadline, the Charter Committee may postpone consideration of prevailing wages as a provision in the proposed charter pending outcome of the bill.

It should be noted that even assuming SB 7 does pass, it will likely not go into effect for more than a year. This is because it is almost certain to be challenged in court. During the court proceedings, SB 7 will not take effect until all rights to appeal have been exhausted and the court renders a final decision.

If the Committee wishes to consider the issue of prevailing wages despite the pendency of SB 7, we can provide a complete report on this issue to the Committee at its next meeting.

CITY OF COSTA
MESA



CHARTER COMMITTEE
LEGAL COUNSEL

STATUS OF
PREVAILING WAGES

Presented
August 14, 2013

State Building and Construction Trade Council of
California v. City of Vista, 54 Cal. 4th 547 (2012)

The Court determined that it was
acceptable for a charter city to NOT
comply with prevailing wage law
because the wages paid by a charter
city for public works was a "local
concern" rather than a "statewide
concern".

Senate Bill 7

- In response to the *Vista* decision,
Senate Bill 7 has been proposed by the
California Legislature in order to make
prevailing wages a matter of statute wide
concern.

Status of SB 7

- SB 7 passed in the Senate in May 2013.
- Assembly: it is still in committee.
- Deadline for passage/failure: September 2013.

Legal Challenge to SB 7

- If approved, SB 7 will likely be challenged in court. Thus, the application of SB 7 will not occur until all rights to appeal have been exhausted and the court renders a final decision.
