

# OPEN SHOP GAZETTE

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In the *Orange County Register* of March 17, 2014 the following piece by Leonard Gilroy titled **Propping Up Unions at Taxpayers' Expense** appeared in the Opinion Section.

*“Unfunded Liabilities:* A 2012 report by Dr. Joe Nation found that the cities Anaheim and Newport Beach faced unfunded pension liabilities of \$648 million and \$257 million.

In some potential good news for Orange County's charter cities, four San Diego County cities just filed a lawsuit seeking to strike down a new state law that would strong-arm charter cities into paying “prevailing wages” to workers on public works projects starting in 2015.

The suit targets Senate Bill 7, signed into law by Gov. Jerry Brown last October, which was an overt attempt to impose the state's will on charter cities. Unlike general law cities, charter cities are governed by voter-approved charters granting policymakers flexibility on issues like wages.

SB7 was a cynical legislative response to a 2012 State Supreme Court ruling rejecting a construction trade union's complaint against Vista, one of the four charter city plaintiffs in the new lawsuit, seeking to require that cities pay prevailing wages on public projects.

Had Vista lost that court ruling, it “would have limited the means of charter cities.....to efficiently deliver to citizens and businesses a range of needed public safety, park and other facilities,” according to a city



press release at the time, as it would have “required (taxpayers) to pay the highest possible wages to build their municipal facilities.”

True to form, that's exactly what Gov. Brown and the legislature aimed to do with SB7: take away charter cities' fiscal autonomy as a gesture to labor unions. And SB7 would not do this through an overt mandate, but rather through forcing charter cities to “choose” to either pay prevailing wages on construction projects or lose all state funding and financial support for roads and other public works projects.

Worse, SB7 sets a horrible precedent as a major erosion of local self-rule in California. Voters in charter cities – like Anaheim, Buena Park, Cypress, Huntington Beach, Irvine, Los Alamitos, Newport Beach, Placentia, Santa Ana and Seal Beach – proactively enacted

measures to give themselves flexibility in governance and get themselves out from under the thumb of the state on matters like pay, contracting and pensions.

Given the ongoing fiscal challenges and uncertainties facing governments, local flexibility matters a lot. Look no further than Costa Mesa, where prevailing wage mandates played a high-profile role in the 2012 ballot measure on charter status.

The measure failed amid a well-funded opposition campaign led by public employee and construction trade unions that outspent charter proponents 10 to 1. The issue is very likely to return in 2014, as a committee is preparing a revamped draft charter to present to the city council later this month (it would go before voters if approved).

Costa Mesa's pension obligations are a key reason why charter proponents are again seeking local control over fiscal matters, despite the 2012 loss.

The city's annual contribution to government employees' pensions now accounts for roughly 15 percent of its general fund spending and it faces a massive \$228 million unfunded pension liability that must be paid. A 2012 report by Dr. Joe Nation at the Stanford Institute for Economic Policy Research found that charter cities Anaheim and Newport Beach faced similarly large unfunded pension liabilities, at \$648 million and \$257 million, respectively.

For these and other charter cities, it would be illogical to overspend on public works projects due to artificially inflated wages if they could pay lower market rates and use those savings in other areas of the budget, like shoring up underfunded pension plans.

They should hope that their peers in San Diego County are successful in their lawsuit. State policymakers need to stop seeking ways to elevate the interests of organized labor over the expressed desire of local voters for self-rule and fiscal autonomy.”

## Open Shop Council Meeting

**Thomas A. Lenz, Partner**

Atkinson, Andelson, Loya, Ruud & Romo

**Thursday, May 1, 2014**

12:00 p.m.—1:30p.m.

**Monterey Plaza Hotel & Spa**

400 Cannery Row | Monterey, CA 93940

Please plan on attending the next Open Shop Council meeting which is being held in conjunction with the AGC Spring Conference. Our guest speaker will be Mr. Thomas A. Lenz, Partner, Atkinson, Andelson, Loya & Romo. Mr. Lenz will be updating us on the Supreme Court Case being heard now on the validity of the NLRB and their previous rulings. He will also be discussing new and revised rules covering prevailing wage issues and will provide an ample time for questions and answers.

Please confirm your attendance to Bill Hamilton at (909) 885-7519 or email: [hamiltonw@agc-ca.org](mailto:hamiltonw@agc-ca.org).

