



# **BILL HORN**

## **VICE-CHAIRMAN**

**SUPERVISOR, FIFTH DISTRICT  
SAN DIEGO COUNTY BOARD OF SUPERVISORS**

### **AGENDA ITEM**

**DATE:** February 9, 2010

**TO:** Board of Supervisors

**SUBJECT:** ENSURING FAIR AND OPEN COMPETITION FOR COUNTY  
CONTRACTS (DISTRICTS: ALL)

#### **SUMMARY:**

##### **Overview**

The County of San Diego is a leader in creating efficient government by using innovation to deliver services, build public projects, and improve infrastructure in a responsible manner that protects taxpayers. By utilizing core competencies of government and the strengths of the private sector, the County has remained fiscally sound during economic crisis. The use of project labor agreements (“PLA”) by some local governments represents a dangerous trend that may be a costly threat to taxpayers.

A PLA is a pre-hire collective bargaining agreement to use union labor on a project. When required, it eliminates the ability for non-union companies and workers to compete for and work on, government projects. Though sometimes required for projects funded by the State or Federal governments, a PLA is usually a requirement imposed at the discretion of a local government. On July 10, 2009 a Presidential Executive Order was issued encouraging federal departments and agencies to use publically funded PLAs for construction projects. This represents a threat to taxpayers as the competitive bidding process for government projects is being closed to all but union companies.

In San Diego County, several local governments have placed measures on the ballot allowing voters to decide whether or not the requirement for a PLA should be prohibited in cases where the local government has discretion. This recent trend is occurring because the PLA is discriminatory by design, and meant to reduce competition to those contractors that use union labor. Preferential treatment and narrowed competition often cause bids to come in higher which drives up the cost of public projects.

**SUBJECT: ENSURING FAIR AND OPEN COMPETITION FOR COUNTY CONTRACTS (DISTRICTS: ALL)**

This Board Letter recommends that voters be given the chance to protect the County of San Diego's fair and open bidding processes for future generations. Ensuring that all qualified contractors receive a fair opportunity to bid on County projects will save precious taxpayer dollars and resources for years to come.

**Recommendation(s)**

**VICE-CHAIRMAN HORN**

Direct County Counsel to draft and submit a ballot measure to the voters of San Diego County on June 8, 2010 that would, if approved by a majority of voters, amend the County Charter to prohibit all requirements to include PLAs or similar agreements in County Public Contracts beyond what State and Federal law require.

**Fiscal Impact**

Placing this initiative measure on the June 8, 2010 ballot will result in an increase of approximately \$100,000 in the County's share of costs for this election and no additional staff years. Funds for this request are included in the Registrar of Voters' Fiscal Year 2009-11 Adopted Operational Plan. The funding source is General Purpose Revenue.

**Business Impact Statement**

N/A

**Advisory Board Statement**

N/A

**BACKGROUND:**

A PLA is a pre-hire collective bargaining agreement to use union labor on a project. When required, it eliminates the ability for non-union companies and workers to compete for and work on, government projects. Though sometimes required for projects funded by the State or Federal governments, a PLA is usually a requirement imposed at the discretion of a local government. Several local governments have recently acted to prohibit their ability to require a PLA beyond what State and Federal law require, by enacting ordinances or charter amendments.

In the last 12 months, the cities of San Diego, Chula Vista, Oceanside, and the County of Orange have all taken steps to reduce or eliminate requirements to use the PLA. The State and the Federal government require a PLA in certain circumstances. For example, the State currently allows certain public works projects to be built using a design-build contract, but requires a PLA or similar agreements as part of the contract. Despite these limitations, each of these jurisdictions have enacted or asked voters to approve ordinances or charter amendments that limit or prohibit requirements to use a PLA beyond what the State and Federal government require.

This recent trend is occurring because a PLA is discriminatory by design, and meant to reduce competition among contractors to those willing or able to incur the higher costs of union labor. This excludes contractors from being able to build projects paid for with their own tax dollars.

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The U.S. Department of Labor's Bureau of Labor Statistics (BLS) Jan. 28, 2009 report states that only 15.6% of the nation's construction workforce was unionized in 2008. Since the PLA often precludes open shop companies from working on projects with a PLA requirement, these projects discriminate against the majority of companies and the 8.5 out of 10 workers who choose not to join a union. With unemployment in San Diego County over 10%, it is wrong to prevent these workers from working on public projects paid for by their own tax dollars.

In 2003, The Beacon Hill Institute (BHI) at Suffolk University released a study on the PLA and school construction costs in Massachusetts. The study analyzed 126 school construction projects in the Boston and Massachusetts area, and found construction costs were 8% - 15% higher on PLA projects when compared to non-PLA projects. A follow-up study released in May 2006 by BHI found that the use of a PLA on school construction projects in New York increased the cost of the projects by 20%, and concluded that the presence of a union-only PLA increased the projects' base construction bids by \$27 per square foot relative to non-PLA projects.

These increases in project costs reduce the value of taxpayer dollars by artificially limiting the number of public works projects that can be performed and indirectly constrains other agencies of local government by creating budgetary pressure. Free and open competition is conducive to production, economic growth, and efficient use of limited resources. It is in the public interest, especially when public contracts and tax dollars are concerned, to fairly consider all qualified and capable contractors and workers for public contracts. This Board Letter therefore recommends that voters be given the chance to protect the County of San Diego's fair and open bidding processes for future generations. Ensuring that all qualified contractors receive a fair opportunity to bid on County projects will save precious taxpayer dollars and resources for years to come.

Respectfully submitted,

BILL HORN  
VICE-CHAIRMAN  
Supervisor, Fifth District

**SUBJECT: ENSURING FAIR AND OPEN COMPETITION FOR COUNTY CONTRACTS (DISTRICTS: ALL)**

**AGENDA ITEM INFORMATION SHEET**

**CONCURRENCE(S)**

<b>COUNTY COUNSEL REVIEW</b>	<input checked="" type="checkbox"/> Yes	
Written Disclosure per County Charter Section 1000.1 Required	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>GROUP/AGENCY FINANCE DIRECTOR</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
<b>CHIEF FINANCIAL OFFICER</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
Requires Four Votes	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>GROUP/AGENCY INFORMATION TECHNOLOGY DIRECTOR</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
<b>COUNTY TECHNOLOGY OFFICE</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A
<b>DEPARTMENT OF HUMAN RESOURCES</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> N/A

**Other Concurrence(s):** N/A

**ORIGINATING DEPARTMENT:** District 5, Board of Supervisors  
**CONTACT PERSON(S):**

Chris Champine

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**AUTHORIZED REPRESENTATIVE:** \_\_\_\_\_

**SUBJECT:** ENSURING FAIR AND OPEN COMPETITION FOR COUNTY  
CONTRACTS (DISTRICTS: ALL)

**AGENDA ITEM INFORMATION SHEET**  
(continued)

**PREVIOUS RELEVANT BOARD ACTIONS:**

[Click **here** and type action(s), or type N/A if not applicable]

**BOARD POLICIES APPLICABLE:**

[Click **here** and type applicable policies, or type N/A if not applicable]

**BOARD POLICY STATEMENTS:**

[Click **here** and type required statement(s), or type N/A if not applicable]

**ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION  
NUMBER(S):**

[Click **here** and type numbers, or type N/A if not applicable]