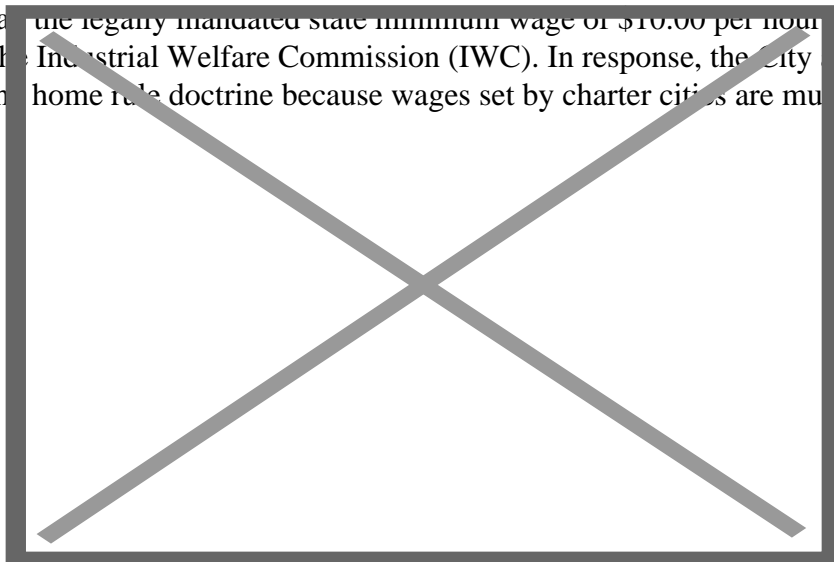


## State Minimum Wage Law Applies to Charter Cities

The Second District Court of Appeal has held that California's minimum wage law is a matter of statewide concern and hence applies to charter cities as well as general law cities. [Marquez v. City of Long Beach](#), No. B282270 (2nd. Dist., Feb. 25, 2019) Plaintiffs, employees of the City of Long Beach, filed a class action against the City for the failure to pay the regularly mandated state minimum wage of \$10.00 per hour established under the Labor Code and orders of the Industrial Welfare Commission (IWC). In response, the City argued the plaintiffs' claims were barred under the home rule doctrine because wages set by charter cities are municipal affairs not



subject to state regulation.

The case involved

a collision between two provisions of the California Constitution -- Article XIV, section 1, which states that the "legislature may provide for minimum wages and for the general welfare of employees" and Article XI, section 5, which grants to cities authority over municipal affairs, including "plenary authority" to provide for the compensation of city employees. With regard to the latter, the City relied heavily on the California Supreme Court's decision in *State Building & Construction Trades Council of California v. City of Vista* (2012) 54 Cal.4th 547, 558 (discussed in our July 14, 2012, [post](#)). There, the court held that state prevailing wage laws, which require payment of the local prevailing wage for public construction projects, were not a matter of statewide concern and hence did not constrain the power of charter cities to set wage levels for public works. The court reasoned that construction of local public works projects for the benefit of a city's inhabitants was "quintessentially a municipal affair" and that the regional or statewide impacts of local spending on wages were not sufficient to make them a matter of statewide concern. The *Long Beach* court, however, found sufficient differences between prevailing wage laws and minimum wage laws to warrant a different outcome. Analyzing the legislative history of the minimum wage laws (including the original constitutional amendment proposed by the legislature and adopted by the voters), the court found they reflected strong public policies favoring protection of workers' general welfare and society's interest in a stable job market. The laws also directly implicated the state's own finances because employees receiving below-minimum wage were more likely to receive state-funded public assistance. The court found that its conclusion was bolstered by the scope of the minimum wage mandate, which is of very broad and general application, covering every industry regulated by the IWC, including both private and public sectors. This was in contrast to other state compensation laws the California Supreme Court had determined not to apply to charter cities, including prevailing wage laws, and laws requiring binding arbitration of wage disputes, nullifying agreements between localities and their public

employees for cost-of-living wage increases, and specifying salaries for police officers and firefighters in municipalities over a certain size. The court further noted that prevailing wage law had a more significant impact on local control than the minimum wage law because by requiring payment of wages prevailing in an industry locally, the law was "effectively a salary setting statute." By contrast, the court said, minimum wage law does not effectively determine the wage for all employment relationships it regulates, but simply sets a floor on the permissible hourly rate of compensation. Cities thus retained authority to provide wages for their employees above that minimum as they saw fit. In sum, the court held, the Legislature's goals of ensuring workers a sufficient wage to provide the necessities of life and raise them above the poverty level reflected a statewide concern sufficient to justify interference in what would otherwise be a municipal affair and hence applied to charter cities.

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