

BUILDING TRADES BULLETIN

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November 16, 2016

Federal Court Upholds SB 54; SBCTC-Sponsored Refinery Safety Law

In a decisive victory for public health and safety, the U.S. District Court for the Eastern District of California on November 15 upheld Senate Bill 54, sponsored by the State Building and Construction Trades Council in 2013, which allows refineries in California to use outside contractors to perform onsite construction and maintenance work only if those contractors employ a skilled and trained workforce. Two non-union contractors, Unico Mechanical Corp. and Alfred Conhagen, Inc. of California, had sought to overturn the law. The Court rejected the challenge completely. The contractors have 30 days, if they choose, to appeal to the Ninth Circuit Court of Appeal, but there is no reason to believe such an appeal would be successful, and SB 54 remains law of the land in California in the meanwhile.

Judge John A. Mendez of the U.S. District Court stated that SB 54 does not violate non-union contractors' federal rights and that the plaintiffs had not demonstrated that they could not comply with the law. The Court stated that the Legislature has the power to pass laws to protect public health and safety, including SB 54, which was passed in the wake of the 2012 explosion at the Chevron refinery in Richmond.

California Attorney General Kamala Harris and the State Building Trades were the defendants in the case and successfully moved the Court to grant summary judgment dismissing the case.

This is the third lawsuit brought by different groups of non-union contractors to challenge SB 54. The contractor plaintiffs dropped the first two cases after early court rulings against them.

SBCTC President Robbie Hunter commented: "The Legislature has the right and responsibility to pass laws to protect workers and the public by requiring that safety-sensitive refinery work be performed by a skilled and trained construction workforce. This is a victory not just for Building Trades workers, but for residents of the communities surrounding refineries and the environment."

Judge Mendez pointed out at the hearing that the plaintiffs were complaining about the inability to hire apprentices but had never requested apprentices from state-approved programs.

Unions should remind apprenticeship directors that they may receive requests for apprentices from non-union contractors for SB 54-covered work. If such a request is received, the program's attorney should be consulted to ensure it is handled appropriately.