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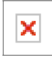
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High court seeks Obama administration's views on S.F. health care law

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WASHINGTON—The U.S. Supreme Court on Monday asked the Obama administration for its opinion on whether it should review a ruling upholding San Francisco's controversial health care spending law.

The San Francisco law, which went into effect last year, requires employers with at least 100 employees to make health care expenditures of $1.85 per hour for every employee working at least eight hours per week. For employers with 20 to 99 employees, the contribution is $1.23 per hour. Employers with fewer than 20 employees are exempt from the spending mandate.

Expenditures can include payment of group health insurance premiums and contributions to health savings accounts, health reimbursement arrangements or a city fund.

In Monday's request, the Supreme Court asked U.S. Solicitor General Elena Kagan for the administration's views on whether the justices should consider the case.

The Golden Gate Restaurant Assn. challenged the law on grounds that the law ran afoul the Employee Retirement Income Security Act, which pre-empts state and local laws and rules relating to employee benefit plans. However, a panel of the 9th U.S. Circuit Court of Appeals upheld the law unanimously in 2008 and the full appeals court in March declined to review the panel's decision.

Earlier this year, the Obama administration declined to file a friend-of-court brief in the case. The Labor Department said the government generally does not file unsolicited briefs with the Supreme Court at the petition stage.

However, the Labor Department during the Bush administration a year earlier filed an amicus brief with the federal appeals court that argued ERISA pre-empts San Francisco's law.

President Obama has supported the San Francisco law. "Instead of talking about health care, mayors like Gavin Newsom in San Francisco have been ensuring that those in need receive it," the president said during a February meeting with mayors.

Business groups worry that if the law is allowed to stand, it would set the stage for other state and local governments to pass their own health care spending measures, and result in multistate employers having to comply with a hodgepodge of health care benefit requirements.