

Court of Appeals, State of Michigan

ORDER

Kent County v State of Michigan

Docket No. 301151

Henry William Saad
Presiding Judge

Deborah A. Servitto

Elizabeth L. Gleicher
Judges

The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.206(D), the Court orders that the complaint for declaratory and monetary relief under Const 1963, art 9, § 29 and 32 is DENIED. The POUM provision of Const 1963, art 9, § 29 becomes operational only when a requirement imposed under state law mandates that local government units perform an activity that the state previously did not require the local government units to perform or at an increased level from that previously required of local government units. *Judicial Attorneys Ass'n v Michigan*, 460 Mich 590, 606; 597 NW2d 113 (1999); *Durant v Michigan*, 456 Mich 175, 190-196; 566 NW2d 272 (1997); *Wayne Co Bd of Comm'rs v Wayne Co Airport Auth*, 253 Mich App 144, 168; 658 NW2d 804 (2002); *Durant v Dep't of Education (Third Remand)*, 203 Mich App 507, 515-518; 513 NW2d 195 (1994). The Headlee Amendment is not implicated in this case because the increased service levels alleged by plaintiff arise not from any state law requirement, but instead arise from the state's compliance with a federal court consent decree that enforces various federal constitutional, statutory and contractual rights. MCL 21.232(3); MCL 21.233(2); MCL 21.234(5); *Frew v Hawkins*, 540 US 431, 437; 124 S Ct 899; 157 L Ed 2d 855 (2004); *Brown v Tennessee Dep't of Finance and Administration*, 561 F3d 542, 546 (CA 6, 2009).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 18 2011

Date

Sandra Schultz Mengel
Chief Clerk