

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMALGAMATED TRANSIT UNION, et
al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
LABOR, et al.,

Defendants,

THE STATE OF CALIFORNIA,

[Proposed] Defendant-Intervenor.

Civil Action No. 1:25-cv-3872

**NOTICE OF LODGING [PROPOSED] OPPOSITION TO PLAINTIFF’S MOTION
TO CONSOLIDATE**

Proposed Defendant-Intervenor State of California hereby lodges its Proposed
Opposition to Plaintiff’s Motion to Consolidate.

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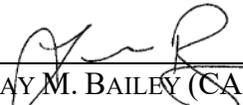
Proposed Defendant-Intervenor hereby requests that the Court accept the underlying filing should the Court grant Proposed Defendant-Intervenor's Motion to Intervene (Dkt. 12.).

Dated: January 23, 2026

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**[PROPOSED] DEFENDANT-INTERVENTOR'S OPPOSITION TO PLAINTIFF'S
MOTION TO CONSOLIDATE**

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INTRODUCTION

On November 19, 2025, Plaintiffs Amalgamated Transit Union, International, and its California affiliates (collectively, “Plaintiffs” or “ATU”), filed a motion to consolidate this case with another recently filed case challenging the Department of Labor’s certification of transit grants in the State of Florida. Dkt. 7 (“Motion” or “Mot.”). Plaintiffs’ motion ignores the 13-year history of this dispute and characterizes the Department’s administrative decision at the highest level of abstraction to highlight surface-level similarities with the Florida case. They are not similar. Plaintiffs’ motion fails to acknowledge how the administrative decision challenged here was informed by prior litigation between the Department, California, and ATU over the same issues—including two fact-intensive administrative records, five detailed merits opinions issued by the Eastern District of California, and a 2018 permanent injunction in California’s favor that remains in place. Granting Plaintiffs’ motion to consolidate these cases would significantly prejudice the interests of proposed Defendant-Intervenor the State of California, potentially subjecting it to conflicting interpretations of the same California statute and preventing California from transferring this matter to the district court that has hosted this litigation for 13 years. Because the interests of justice greatly disfavor consolidation, the Court should deny the motion.

RELEVANT BACKGROUND AND PROCEDURAL HISTORY

I. THE UMTA’S REQUIREMENTS FOR “FAIR AND EQUITABLE” LABOR ARRANGEMENTS

In 1964, Congress enacted the UMTA to revamp deteriorating transit systems throughout the nation, 49 U.S.C. § 5301(a), and in part “to provide federal aid for local governments in acquiring failing private transit companies so that communities could continue to receive the benefits of mass transportation despite the collapse of the private operations.” *Jackson Transit Auth. v. Local Div. 1285, Amalgamated Transit Union*, 457 U.S. 15, 17 (1982). While debating the UMTA’s merits, Congress expressed concerns “that public ownership might threaten existing

collective-bargaining rights of unionized transit workers employed by private companies.” *Ibid.* Accordingly, Congress included a provision in the UMTA requiring applicants for transit assistance to seek certification (herein “Section 13(c) certification”) from the Department of Labor (the “Department”) that the “interests of employees affected by the assistance” are protected by “fair and equitable” arrangements that provide for the “continuation of collective bargaining rights.” 49 U.S.C. § 5333(b)(2)(B).

II. THE ENACTMENT OF PEPRA AND THE 2013 CALIFORNIA LITIGATION

Confronted with growing concerns over the unfunded liability of California’s public pension systems, which includes the two largest public pensions systems in the country, the California Legislature enacted the California Public Employees’ Pension Reform Act (“PEPRA”) in September 2012. Cal. Stats. 2012, ch. 296 (AB 340); Cal. Stats. 2012, ch. 297 (AB 197). Among other things, PEPRA required that all new employees contribute at least 50 percent of the “normal costs” of a defined benefit retirement plan. Cal. Gov’t Code §§ 7522.30(a), 20683.2. It also imposed new standards for calculating pensionable compensation to close loopholes under which workers could inflate their retirement benefits, creating arbitrary and inequitable results. *See Alameda Cty. Deputy Sheriff’s Ass’n v. Alameda Cty. Employees’ Ret. Ass’n*, 470 P.3d 85, 93-94 (Cal. 2020). One of the primary purposes of PEPRA was to ensure that California’s public pension system remained sustainable and capable of meeting its future obligations. *See State of Cal. v. U.S. Dep’t of Labor*, 76 F.Supp.3d 1125, 1138 (E.D. Cal. 2014) (*State of Cal. I*).

In September 2013, following PEPRA’s enactment, the Department denied Section 13(c) certification to two state transit authorities—Monterey-Salinas Transit and the Sacramento Regional Transit District—on the basis that PEPRA modified pension terms offered to public employees hired on or after January 1, 2013, in a way that was “inconsistent with section 13(c)(1)’s mandate to preserve pension benefits under existing collective bargaining agreements and section 13(c)(2)’s mandate to ensure continuation of collective bargaining rights.

Amalgamated Transit Union Intl. v. U.S. Dep't of Labor, No. 1:19-cv-2533-EGS (D.C. 2019), Dkt. 1-1 (“2019 Determination”) at 3.

The Monterey and Sacramento transit entities, along with California,¹ challenged the Department’s certification denial in a lawsuit filed in the Eastern District of California. *State of California v. U.S. Dep't of Labor*, No. 2:13-cv-02069 KJM DAD (E.D. Cal. 2013). ATU obtained leave of court to participate in those proceedings as an amicus. *State of Cal. I*, 76 F. Supp. 3d at 1128 (E.D. Cal. 2014).

On December 30, 2014, the Eastern District of California ruled in favor of the State and transit entities, finding that the Department’s determination that PEPRAs interfered with the continuation of collective bargaining rights was arbitrary and capricious, in violation of the Administrative Procedures Act (APA). *State of Cal. I*, 76 F. Supp. 3d at 1141–45. The court remanded the matter to the Department for further proceedings consistent with its decision. *Id.* at 1148. In response, the Department began certifying grants under Section 13(c) for all transit entities subject to PEPRAs, apart from the plaintiff Monterey and Sacramento transit entities. *See, e.g.*, Compl. (Dkt. 1), Ex. 1 at 3.

On August 13, 2015, the Department issued new final determinations denying certification to the Monterey and Sacramento transit entities on the basis that PEPRAs interfered with the continuation of collective bargaining rights of transit workers in violation of Section 13(c). 2019 Determination Letter at 3. The transit agencies and the State again challenged these determinations in the Eastern District of California. *Id.* And again, the district court ruled in favor of the State and transit agencies, holding that the Department’s actions were arbitrary, capricious, and contrary to Section 13(c), and that PEPRAs were a permissible state-law backdrop for collective bargaining that did not interfere with federal labor policy. *State of Cal. v. U.S. Dep't of Labor*, No. 2:13-cv-02069 KJM DB, 2016 WL 4441221, at **9-28 (E.D. Cal. Aug. 22, 2016) (*State of Cal. II*); *State of Cal. v. U.S. Dep't of Labor*, 306 F. Supp. 3d 1180, 1186–89

¹ California appeared in the action by and through the California Department of Transportation, a pass-through recipient of UMTA funding.

(E.D. Cal 2018) (*State of Cal. III*) The district court then issued a permanent injunction preventing the Department “from relying on PEPRAs, as currently enacted, to deny the State’s application for funding under either § 13(c)(1) or § 13(c)(2) to the extent the State intends those funds to benefit [the Monterey and Sacramento transit agencies].” *Id.* at 1190.

After initially appealing the district court’s decision, the Department voluntarily moved to dismiss its appeal on November 5, 2018. 2019 Determination Letter at 4. While the Department’s motion to dismiss was pending, ATU moved to intervene for the purpose of taking over the appeal. *Id.* On December 19, 2018, the Ninth Circuit denied ATU’s motion to intervene and dismissed the appeal. *Id.*

III. THE 2019 CALIFORNIA LITIGATION

On June 14, 2019, the Department began certifying UMTA grants for California transit agencies notwithstanding PEPRAs, and over ATU’s objections. 2019 Determination Letter at 7-9. ATU filed a lawsuit against the Department in 2019 in the D.C. District Court, in which California intervened as a defendant and the D.C. District Court ordered transfer of the venue to the Eastern District of California, where the prior case had been litigated under 28 U.S.C. § 1404. *See Amalgamated Transit Union Int’l v. U.S. Dep’t of Labor*, No. 1:19-cv-2533-EGS (D.D.C. 2019), Dkts. 1, 15, 20.

In 2021, the Department, now under a new administration, agreed to stay the pending litigation and issued a letter “reconsidering” and “nullifying” its 2019 determination. Letter from Arthur F. Rosenfeld, Director, Office of Labor-Management Standards, to Robert Molofsky, General Counsel, ATU (Jun. 14, 2019) (“2021 Reconsideration”), Dkt. 1 at 29. Although the 2021 Reconsideration took no action on the 11 grants challenged by ATU, the letter made clear that the Department would deny certification on the basis of PEPRAs going forward. *Id.*

California filed a cross-complaint against the Department challenging the 2021 Reconsideration under the APA. *See Amalgamated Transit Union Intl. v. U.S. Dep’t of Labor*, No. 2:20-cv-0953-KJM (E.D. Cal. 2020), Dkt 70. Once again, the court ruled in favor of California, holding that the 2021 Reconsideration violated the APA both procedurally (because

the Department failed to follow its own binding procedures when it issued the letter, which amounted to a substantive rule that the Department has no power to issue), and substantively (because the Department's reasoning was arbitrary and capricious as it related to denying certification on the basis of PEPPRA). *Id.* at Dkt. 111. The court based its rulings on an extensive, fact-based showing that fair and equitable labor arrangements continued after PEPPRA's enactment, resulting in collective bargaining agreements for transit workers that secured wage gains and other important concessions from management following PEPPRA. *Amalgamated Transit Union, Int'l v. United States Dep't of Lab.*, 647 F. Supp. 3d 875, 910-11 (E.D. Cal. 2022), (vacated and remanded sub nom. *Amalgamated Transit Union Int'l v. U.S. Dep't of Lab.*, No. 23-15503, 2024 WL 3565264 (9th Cir. July 29, 2024)).

Both the Department and ATU appealed, and their appeals were consolidated. *Amalgamated Transit Union Int'l v. U.S. Dep't of Labor*, No. 23-15503 (9th Cir. 2023), Dkt. 16. In 2024, the Ninth Circuit issued an unpublished memorandum disposition narrowly holding that, because the 2021 Reconsideration simply "announce[d] the position" the Department would take with respect to future grant applications from transit agencies subject to PEPPRA and did not present a concrete dispute about a particular denial, the matter was not prudentially ripe. *Amalgamated Transit Union Int'l v. U.S. Dep't of Lab.*, 2024 WL 3565264 at *1 (9th Cir. July 29, 2024). Accordingly, the Ninth Circuit found that the district court lacked jurisdiction to hear the matter, vacated the district court's judgment and injunction, and remanded the matter with instructions to dismiss the case. *Id.* at 2. This dismissal did not address the merits or disturb the permanent injunction from the predecessor case filed by California. *See State of Cal. III*, 306 F. Supp. 3d at 1190.

IV. THE PRESENT CALIFORNIA DISPUTE

Despite the extensive proceedings in the Eastern District of California spanning more than a decade, ATU continues to interpose objections arising from PEPPRA's purported effects upon the collective bargaining rights of transit entity employees. This time, ATU objects to the certification of labor conditions for ten grant applications. In its Determination Letter of March

31, 2025, the Department noted the “preliminary injunction halting the Department’s implementation of the 2021 Reconsideration” and the “permanent injunction barring the Department from relying on PEPRA as a basis to deny Section 13(c) certification to California transit grants” as the basis for recommitting to the reasoning set forth in the 2019 Determination Letter. *Amalgamated Transit Union Intl. v. U.S. Dep’t of Labor*, No. 1:25-cv-03872 (D.D.C. 2025) (“*ATU CA*”), Dkt. 1 at 17 (“2025 Determination Letter”). The Department subsequently certified the grant applications over ATU’s objections.

V. THE PRESENT FLORIDA DISPUTE

In May 2023, the Florida Legislature enacted Senate Bill 256 (“SB 256”), which requires unions to maintain a 60 percent membership rate, prohibits employers from deducting union dues directly from employee paychecks, and places substantial administrative burdens on adding new union members. *See Fla. Stat. §§ 447.303, 447.305*. Failure to maintain the minimum membership rate could result in revocation of a union’s certification, precluding the union from serving as an exclusive bargaining agent during collective bargaining. *See Fla. Stat. § 447.305(1), (6)*. In June of 2023, the Department denied certification of grants to Florida transit agencies pursuant to Section 13(c) on the basis that SB 256 removed mandatory subjects of collective bargaining. *See Amalgamated Transit Union, Intl. v. Department of Labor*, No. 1:25-CV-3876-APM, Dkt. 1. The Florida Public Employee Relations Commission (“PERC”) therefore granted a waiver to Florida transit employees for the provisions of SB 256, after which the Department certified the grants. Florida Compl., Ex. 2 at 25. However, the waiver was conditional and would expire upon “any final decision of [the Department] or a court of competent jurisdiction declaring that [the provisions of SB 256] do not violate the protections required by [Section 13(c)].” *Id.* at 26.

On May 29, 2025, following a change in administration, the Department issued a letter indicating that it had reconsidered its prior position and found that SB 256 did not bar certification under Section 13(c). *See Florida Compl., Ex. 3 at 29*. Accordingly, PERC’s transit employee waivers immediately expired when the Department’s determination became effective.

See Florida Compl., Ex. 2 at 26. The Department subsequently certified the grant applications over ATU's objections. Florida Compl., Ex. 10 at 70.

On November 6, 2025, ATU filed the complaints in this case and in the Florida case seeking to invalidate the Department's determinations as contrary to law and in excess of its statutory authority, in violation of the APA.

LEGAL STANDARD

Under Federal Rule of Civil Procedure 42(a), a court may "(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay" if the "actions before the court involve a common question of law or fact." District courts have "broad discretion in determining whether to consolidate related cases." *Biochem Pharma, Inc. v. Emory Univ.*, 148 F. Supp. 2d 11, 13 (D.D.C. 2001). And consolidation is not granted automatically, but rather only after courts have "weigh[ed] considerations of convenience and economy against considerations of confusion and prejudice." *Chang v. United States*, 217 F.R.D. 262, 265 (D.D.C. 2003).

In making that determination, courts "weigh the risks of prejudice and confusion wrought by consolidation against the risk of inconsistent rulings on common factual and legal questions, the burden on the parties and the court, the length of time, and the relative expense of proceeding with separate lawsuits if they are not consolidated." *Nat'l Ass'n of Mortg. Brokers v. Bd. of Governors of the Fed. Reserve Sys.*, 770 F. Supp. 2d 283, 286 (D.D.C. 2011). "To determine whether consolidation is appropriate, a court should consider both equity and judicial economy." *Hanson v. District of Columbia*, 257 F.R.D. 19, 21 (D.D.C. 2009). "If 'savings of expense and gains of efficiency can be accomplished without sacrifice of justice,' a court may find the actions merit consolidation." *Id.* (quoting *Devlin v. Transp. Commc'ns Int'l Union*, 175 F.3d 121, 130 (2d Cir. 1999) (internal quotations and citation omitted)). However, "efficiency cannot be permitted to prevail at the expense of justice." *Devlin*, 175 F.3d at 130.

"The party requesting consolidation bears the burden of showing that the balance weighs in favor of consolidation." *Clayton v. D.C.*, 36 F. Supp. 3d 91, 94 (D.D.C. 2014) (internal

quotations omitted). Consolidation is unwarranted where “the parties at issue, the procedural postures, and the allegations in each case are different.” *Hanson*, 257 F.R.D. at 21 (citing *Stewart v. O’Neill*, 225 F. Supp. 2d 16, 21 (D.D.C. 2002)). Of note, courts will take into account the procedural posture of the cases and may deny consolidation if they are at different procedural stages. *Stewart*, 225 F. Supp. 2d at 21.

ARGUMENT

Contrary to Plaintiffs’ contentions, the California case and the Florida case are fundamentally different. Although both challenge administrative decisions to certify labor conditions where a state statute is alleged to have interfered with the continuation of collective bargaining rights under Section 13(c)(2), the similarities end there. The cases involve different underlying state laws, different local transit authorities and unions, and are at completely different stages in their procedural history. Indeed, the Eastern District of California has already issued a permanent injunction covering two local California transit agencies and addressing the same issues ATU raises here, and that injunction remains in effect. Accordingly, consolidation will do little to promote convenience and judicial economy, while creating a significant risk of conflicting rulings, confusing the issues, and prejudicing the parties whose interests are at stake. The Court should therefore deny Plaintiff’s Motion.

I. THE CALIFORNIA AND FLORIDA CASES DO NOT SHARE COMMON ISSUES OF LAW OR FACT

Consolidation of the California case and the Florida case would be inappropriate because they present fundamentally different factual and legal issues, beginning with the subject state laws themselves. The state statutes to which ATU objects are fundamentally different in their purpose and effect. California’s statute, PEPRRA, reforms its public pension system to improve its solvency and stability and close loopholes that allowed exploitative final pension calculations. *See* Cal. Gov’t. Code § 7522, *et seq.*; *see also State of Cal. I v. U.S. Dep’t of Labor*, 76 F.Supp.3d at 1138 (E.D. Cal. 2014). By contrast, Florida’s statute prohibits the mandatory deduction of public-sector union dues and requires, as a condition of the union’s recertification,

that at least 60 percent of its membership pay dues. *See Fla. Stat. §§ 447.303, 447.305.* Based on subject matter alone, there is no reason to presume each law would have a similar effect—if any—on the continuation of transit workers’ collective bargaining rights under Section 13(c)(2).

By emphasizing only the top-line conclusion in the Department’s administrative determination, ATU characterizes this dispute as presenting as a “common legal question” that is “highly likely to be dispositive” “without discovery.” Mot. 16-17. But ATU overplays its hand. The Section 13(c) certifications to which ATU objects in this case were not granted in a vacuum. In California’s case, the analysis underpinning the challenged 2025 administrative decision by the Department was developed across a series of administrative decisions issued in 2013, 2015, 2019, and 2021—each of which are cited and discussed in detail in the Department’s 2025 determination and its attachments. *See Compl. (Dkt. 1), Ex. 1.* These decisions hinge on legal analysis specific to PEPRRA, the operation of public pensions, and the opinions of the Eastern District of California in prior litigation regarding both—legal issues that shed no light on the Section 13(c) implications of the dues check-off and union recertification requirements at issue in Florida. And ATU does not dispute that its claims in the Florida case implicate two of UMTA’s conditions for fair and equitable labor conditions—both Section 13(c)(1) and (c)(2)—and thus presents additional legal questions not at issue in the California case, which concerns only Section 13(c)(2)). *See Mot. 15 n. 2, 18.*

Further, the Department’s determinations as to California transit agencies rely heavily on the factual record from the prior litigation, including PEPRRA’s legislative history and application to public employees, as well as extra-record evidence offered by California demonstrating that, following PEPRRA’s enactment, “a number of transit agencies and their employees bargained over wage increases to make up for pension contribution increases, and they negotiated agreements to shore up underfunded pension plans.” *Compl., Ex. 1 at 2.* Indeed, in the prior cases presenting this exact issue, the parties regularly moved to supplement the record, and the Court ultimately relied on these additional facts in granting summary judgment in favor of California. *See, e.g., State of California v. U.S. Dep’t of Labor*, Case 2:13-CV-2069-KJM (E.D.

Cal. 2013), Dkts. 18, 41; *Amalgamated Transit Union v. U.S. Dep't of Labor*, Case 2:20-CV-953-KJM (E.D. Cal. 2020), Dkts. 88, 111; *Amalgamated Transit Union, Int'l*, 647 F. Supp. 3d at 910-11. The questions posed here are therefore not pure legal issues, as Plaintiffs claim, but mixed questions of law and fact. California anticipates offering the same type of factual evidence (both from the prior record, along with more recent evidence) in defense of ATU's claims, and these factual distinctions are likely to predominate in any ruling on the merits.

Finally, the parties across the two cases are not aligned. Although the two cases share ATU International as a plaintiff and the Department and Secretary Chavez-DeRemer as defendants, the California case includes eight California-based local affiliate unions as plaintiffs, while the Florida plaintiffs include eight local affiliates in Florida. Intervenor-defendant California brings its own unique interests to bear on the California case, as detailed in its motion to intervene, including its interests in meeting the state's environmental policy goals and serving transit-dependent communities, through fully funded regional transit systems, as well as its interests in protecting transit workers from layoffs occasioned by cuts to transit funding. Further, California has a strong interest in its ability to regulate its own public pension system to provide for its solvency and stability, and to ensure that its pension reforms are applied uniformly to California public workers within their scope. Accordingly, the states, local transit authorities, and local unions have significant interests not considered by plaintiffs in their motion, and there is little to no overlap between these parties.

This case is therefore very unlike *Hanson*, in which the consolidated cases presented a single, overlapping pure question of law. In that case, the court agreed to consolidate the cases because they shared a single defendant, all plaintiffs resided within the District of Columbia, and both cases presented the overlapping question of whether the District's adoption of the California Roster in issuing gun licenses was constitutional. *Hanson*, 257 F.R.D. at 22. Here, by contrast, the Court will be required to apply Section 13(c) to different state laws, presenting different facts, and as applied to different parties. Courts have declined to consolidate when the "key issues will hinge on copious evidence unique to each Plaintiff's case." *In re Consol. Parlodel*

Litig., 182 F.R.D. 441, 446 (D.N.J. 1998); *see also Enter. Bank v. Saettele*, 21 F.3d 233, 236 (8th Cir. 1994) (declining to consolidate breach of contract claims against a single defendant when it was “the only common factual thread running through the lawsuits”); *Stewart*, 225 F.Supp.2d at 21 (declining to consolidate discrimination cases when the agencies at issue were different). And ATU’s reliance on *Trustees of the Iam National Pension Fund v. Ohio Magnetics, Inc.*, No. CV 21-928 (RDM), 2021 WL 3036854, at *3 (D.D.C. July 16, 2021), is misplaced; there, the common question—whether the actuarial assessment of two pension fund’s withdrawal liability employed a discount rate that was impermissible under ERISA, requiring vacatur of an arbitration award that relied on it—was narrow and highly technical, while the factual differences between the two pension funds—namely, the amount in controversy for each fund—did not bear on the outcome.

II. THE PROCEDURAL POSTURES AND HISTORIES OF THE CALIFORNIA AND FLORIDA CASES ARE NOT ALIKE

The Florida case is a poor match for consolidation with the California case, considering that each has an extensive history of prior litigation giving each a different procedural posture. Plaintiffs acknowledge that litigation among these parties over Section 13(c) relationship to PEPRAs has been ongoing for “more than a decade,” with multiple merits rulings issued in California’s favor. Mot. at 8. Since 2018, the Department has been permanently enjoined from denying grant certifications to two California regional transit agencies, Sacramento Regional Transit and Monterey-Salinas Transit, on the basis of PEPRAs. *State of Cal. III*, 306 F. Supp. 3d at 1190. A second, statewide injunction entered in 2023, before the Ninth Circuit vacated the ruling solely on ripeness grounds. Although only one of the injunctions is presently in effect, both were the product of multiple rounds of briefing on the merits, multiple substantive opinions, and a well-developed administrative record specific to PEPRAs that remains relevant to the present case, but not the Florida case. ATU’s claim that both cases are in a nascent stage (Mot. 5, 16), ignores how much the factual and legal issues in the California case have been sharpened over the course of its long prior history.

The Florida statute, for its part, has its own history of related Section 13(c) litigation—a fact that goes unmentioned by ATU, even though it participated in those proceedings as an intervenor-defendant. *See State of Florida v. Buttigieg*, No. 0:23-cv-61890 (M.D. Fla. 2023); *State of Florida v. Sec’y, U.S. Dep’t of Transp.*, No. 24-13261 (11th Cir. 2025). And although the prior Section 13(c) litigation in Florida does not appear to have resulted in a merits ruling or remedy that remains in effect today, at least one federal court has held that SB 256’s dues check-off provision is unconstitutional—a development that may impact the Florida case. *Alachua Cnty. Educ. Ass’n v. Carpenter*, 757 F. Supp. 3d 1248 (N.D. Fla. 2024). In summary, their differing histories distinguish the two cases from each other and would render any consolidated proceedings inefficient.

III. CONSOLIDATION PRESENTS A SIGNIFICANT RISK OF PREJUDICE TO CALIFORNIA

Finally, there is a significant risk of prejudice to the parties most affected by the outcome of these cases. Although Plaintiff claims that the parties in both cases “are at loggerheads over the proper reading of this Circuit’s decision in *ATU v. Donovan*,” this ignores the critical fact that a federal court has *repeatedly* held that Plaintiff’s reading of *Donovan* is reflexive and too narrow, and that PEPRAs does not violate Section 13(c)(2)’s mandate to ensure the continuation of collective bargaining rights. There may very well be a legitimate disagreement over the application of *Donovan* to SB 256, but there is no further basis for such a disagreement as it relates to PEPRAs. California therefore need not start this litigation at the same stage as Florida, and requiring it to do so would be prejudicial.

Indeed, if allowed to intervene, the State of California will likely seek to transfer venue to the Eastern District of California, where the prior Section 13(c) cases between ATU, the Department, and California have been litigated. Venue is proper in that district because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of California, beginning with the enactment of PEPRAs. Defendant-Intervenor the State of California is located within that district, and all of its anticipated witnesses, including officials from the eight affected regional transit agency applicants, are based in California. Further, the

Eastern District of California was the venue for both prior cases concerning PEPRA's import on UMTA grant certifications, and that court has issued five detailed opinions addressing the merits of ATU's claims, each one ruling in California's favor, and two granting permanent injunctive relief. *See* 28 U.S.C. § 1391(e). It is not, however, a proper venue for the Florida case.

Consolidation would therefore preclude the State of California from transferring venue to the court that has extensive experience considering both the factual and legal issues underlying ATU's claims, and previously and repeatedly decided this issue in California's favor, which would substantially prejudice California's interests.

Because the prior judgment entered by the Eastern District of California includes an injunctive relief component that remains in effect, any concern about the possibility of inconsistent rulings weighs heavily *against* consolidation, not in favor as ATU asserts. The Department has already been permanently enjoined since 2018 from relying on PEPRA as a basis to deny grants to two California transit agencies. A conflicting decision from a consolidated case in this District could require inconsistent applications of Section 13(c) across California based on the same state law—disqualifying the Department from certifying some \$275 million in grants to some transit agencies on the basis of PEPRA, even while it remains required to certify grants to others. This would impair California's interests in the uniform application of PEPRA to public employees within the state, and in having uniform standards for federal funding eligibility for regional transit agencies. In contrast, the risk of a split decision between the California and the Florida case is present whether or not the cases are consolidated, and, indeed, one may be warranted by the individualized factual and legal issues present in each case.

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CONCLUSION

For the foregoing reasons, Defendant-Intervenor respectfully requests that this Court deny Plaintiffs' Motion to Consolidate.

Dated: January 23, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

Case Name: **Amalgamated Transit Union v.** Case No. **1:25-cv-03872**
U.S. Department of Labor

I hereby certify that on January 23, 2026, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

[PROPOSED] DEFENDANT-INTERVENTOR'S OPPOSITION TO PLAINTIFF'S MOTION TO CONSOLIDATE

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct, and that this declaration was executed on January 23, 2026, at Los Angeles, California.

M. Guerrero
Declarant

/s/ M. Guerrero
Signature

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