

Question MEE 4 – July 2025 – Selected Answer 1

1. The issue is whether sovereign immunity bars the man's lawsuit against State A.

Under the Eleventh Amendment of the United States Constitution, a state cannot be sued in federal court for money damages by its own citizens or citizens of another State. State sovereign immunity may be waived by consent. Moreover, a state official is not immune from suits for money damages when the official acts under color of state law. Finally, Congress may abrogate state sovereign immunity by enforcing the Thirteenth, Fourteenth, and Fifteenth Amendment under the Enforcement Clause of Article V of the Fourteenth Amendment. Congress cannot, however, expand the rights under these Amendments. It may only enforce these rights, and enforcement must be congruent and proportional to the purposes for which enforcement is sought.

In this case, the Notice Provision of the Economic Incentive Act (EIA) prohibits "any employer with more than 100 employees from terminating an employee's employment without cause on less than 30 days notice." The EIA then allows any person harmed by an employer's violation of the Act to "recover actual damages" in federal court. The EIA was passed pursuant to Congress's power to regulate interstate commerce, and no legislative history indicates any other purpose. Here, man is a citizen of State A who is suing State A under the EIA. Although State A is a qualified employer, Congress may not abrogate state sovereign immunity to enforce the Commerce Clause. Moreover, State A did not consent to lawsuits in federal court. As a result, sovereign immunity bars the man's lawsuit against State A.

2. The issue is whether sovereign immunity bars the woman's lawsuit against City.

State sovereign immunity under the Eleventh Amendment does not apply to local counties and municipalities. Local counties and municipalities may be sued pursuant in federal court. Congress's power to enable suits against local counties and municipalities arises under the Supremacy Clause, which states the federal law is the Supreme law of the land.

In this case, woman is suing City under for damages for violating the Notice Provision of the EIA. Congress has granted woman the right to enforce the EIA by suing the municipality in federal court, and Congress's law is supreme over the municipalities authority or will. The 11th Amendment's grant of sovereign immunity

does not apply to City because City is a municipality in State A. As a result, sovereign immunity does not bar the woman's lawsuit against City.

3. The issue is whether the Notice Provision of the Act commandeers State A in violation of the Tenth Amendment.

The Tenth Amendment reserves to States the residuary powers of sovereignty not otherwise granted to individuals or the federal government. Under the Tenth Amendment, Congress cannot "commandeer" states and local counties and municipalities by (1) requiring state officers and enforcement agencies to enforce federal law or (2) requiring state legislatures to enact federal statutes.

In this case, the Notice Provision of the EIA prohibits State A from terminating a State A employee's employment without cause on less than 30 days' notice. The Notice Provision does not require State A officers and enforcement agencies to enforce federal law. Instead, the Notice Provision protects employees by granting them a procedural guarantee. Under the Commerce Clause, Congress has the authority to require all employers, including State employers, to adhere to federal law. Moreover, the Notice Provision does not require State A's legislature to enact any federal statutes. Finally, the Notice Provision does not raise the issue of unduly coercive spending because the Notice Provision is not tied to a grant of congressional funding. As a result, the Notice Provision of the Act commandeers State A in violation of the Tenth Amendment.

4. The issue is whether the Housing Provision of the Act commandeers County in violation of the Tenth Amendment.

The Tenth Amendment reserves to States the residuary powers of sovereignty not otherwise granted to individuals or the federal government. Under the Tenth Amendment, Congress cannot "commandeer" states and local counties and municipalities by (1) requiring state officers and enforcement agencies to enforce federal law or (2) requiring state legislatures to enact federal statutes.

In this case, the Housing Provision provides grants to private developers of new low income housing projects who meet the Act's requirements. The Housing Provision directs designated municipalities to administer the federal grant program by accepting applications for grants, reviewing the applications, making decisions, and enforcing the Act's requirements. Moreover, the Housing Provision authorizes the United States to impose monetary penalties on a municipality that does not administer the grant program.

Here, the County is likely to argue that the Housing Provision commandeers it by "directing" its enforcement agencies to administer the federal grant program by accepting applications for grants, reviewing the applications, making decisions, and enforcing the Act's requirements. Under the Tenth Amendment, Congress may not commandeer states and municipalities law enforcement officers to "enforce" federal law. The Housing Provision requires that officers of local municipalities are to accept the applications for grants. This commandeers such officers in violation of the Tenth Amendment. As a result, the Housing Provision of the Act commandeers County in violation of the Tenth Amendment.

Question MEE 4 – July 2025 – Selected Answer 2

1. The issue is whether sovereign immunity bars the man's lawsuit against State A.

The Eleventh Amendment provides states sovereign immunity from suit in federal court by citizens of their own state. States can consent to waive their sovereign immunity. Congress can abrogate state sovereign immunity in certain circumstances. Congress cannot abrogate state sovereign immunity using its Article I powers. It can only abrogate state sovereign immunity under Section 5 of the 14th Amendment.

Here, State A is immune from suit in federal court under the 11th Amendment, and sovereign immunity bars its own citizen, the man, from suing it in federal court. State A has not consented to lawsuits in federal court. Congress passed the relevant law using its Commerce Clause power, an Article I power, and not according to its powers under Section 5 of the 14th Amendment. Congress tried to abrogate State A's immunity by providing that any person who was harmed by the failure of a state to follow the Act could bring suit in federal court and stating that states will not be immune under the Act. However, Congress lacked the power to do this using its Article I commerce clause power. Since Congress could not abrogate immunity in this instance and State A did not consent to suit, the man's lawsuit is barred due to sovereign immunity.

2. The issue is whether sovereign immunity bars the woman's suit against the City.

Sovereign immunity under the Eleventh Amendment only applies to the states. It does not apply to local governments. Local governments are not immune to suit in federal court.

Here, sovereign immunity will not protect the City against the woman's lawsuit. The Eleventh Amendment will not apply to the City, which is a locality, and the Act clearly

provides an express cause of action against municipalities for failure to follow the Act. Thus, the City will be subject to the woman's suit and will not be protected by sovereign immunity.

3. The issue is whether the Notice Provision of the Act commandeers State A in violation of the Tenth Amendment.

Under the Tenth Amendment and the anti-commandeering doctrine, the federal government cannot commandeer state governments or officials. The federal government cannot force a state to enact a law or force them to not enact a law. The federal government also cannot force a state to administer a federal program or enforce a federal law. However, Congress can regulate states as an employer and treat them equally to private parties in that respect.

Here, under the Notice Provision, a state with more than 100 employers cannot terminate an employee's employment without cause with fewer than 30 days' notice. The provision applies to employees of private businesses and state governments. This provision of the law does not force a state to enact a law or force them to not enact a law. A state may argue that this is interfering with its policymaking because it cannot pass a law making immediate mass layoffs. However, the law does not require states to hire people or not fire people in general; it merely requires notice for without cause termination of employment. Additionally, the federal government is not asking State A to administer a federal program or enforce a federal law. It is implementing a direct regulation on private parties and states as employers. The Notice Provision is a valid employment regulation under Congress's commerce clause power and does not commandeer State A in violation of the Tenth Amendment.

4. The issue is whether the Housing Provision of the Act commandeers the County in violation of the Tenth Amendment.

The anti-commandeering doctrine applies to both state and local officials. The federal government cannot commandeer state or local resources by forcing local officials to enact a federal program or enforce a federal law.

Here, the Housing Provision requires municipalities to administer the federal grant program to private developers of low-income housing projects. The municipalities would essentially have to do complete all activities for the program: accept and review applications, make decision, and enforce the Act's requirements. Further, this is not an optional provision because the government can impose monetary penalties on municipalities that don't administer the grant program. This is a clear violation of the anti-commandeering doctrine, which applies to localities like the County. The federal

government is commandeering localities and local officials to enforce a federal law and directly administer and enact a federal program. Thus, the Housing Provision is unconstitutional because it commandeers municipalities in violation of the Tenth Amendment.

Question MEE 4 – July 2025 – Selected Answer 3

I. Sovereign Immunity - State A

The 11th Amendment bars suits against States. There are several exceptions to this rule. Suits brought by the federal government, if the state consents, suits seeking injunctions, and against officers of the state are not protected by sovereign immunity. Congress may also pass laws pursuant to their post civil war powers (13, 14, and 15 Amendment) that allow for suits against States.

The issue is whether the man's lawsuit against state A is barred by sovereign immunity.

Here, the State has not consented to the suit, nor is the suit against an officer of the state or brought by the federal government. The man is also damages, not an injunction. The Act was passed pursuant to Congress's Commerce Powers. The Act creates a cause of action for persons harmed to recover actual damages. No exceptions apply to the rule for Sovereign immunity that would create allow the man to recover, as such the suit is barred.

Thus, because the law was not enacted pursuant to Congress's civil war powers, they do not have the authority to create a cause of action for monetary damages against a state and the man's lawsuit is barred.

II. Sovereign Immunity- City

The issue is whether the woman's lawsuit against the city is barred by Sovereign Immunity.

The rule for sovereign immunity is explained above. Sovereign immunity applies to States only. A municipality or a city within a state is not covered by sovereign immunity.

Here, the woman is bringing a suit against the City. The City is not provided the same protections as the state is. The city is treated as a municipality for 11th amendment purposes, which are not protected by the Amendment. The Act has created a cause of

action that allows the woman to recover and there are not bars under sovereign immunity because it does not apply. The woman is free to bring her suit against the city.

Thus, because the 11th Amendment protects states and not municipalities, the woman is not barred by the 11th Amendment.

III. Commander- Notice Provision

The issue is whether the Notice Provision of the Act commandeers State A in violation of the Tenth Amendment.

Under the 10th Amendment, Congress may not act in a way that "commandeers" a state. To commandeer a state means that Congress is acting in a way that is forcing a state to act on Congress's behalf. This includes forcing a state to enact and enforce laws. The Supreme Court has held that laws of general applicability that apply equally to all actors and not just the state are not prohibited under the 10th Amendment's anti-commandeering provision.

Here, the Notice Provision of the Act prohibits certain employers from firing employees without a hearing. The provision applies to all employers, not just the government. The provision is not forcing the State to act on behalf of Congress. Instead, the provision is providing broad employment protection to employees in both the private and public sector. As a provision that is general in its application, it is unlikely a court would find that the provision commandeers State A in violation of the 10th Amendment.

Thus, because the provision is general in nature and applies to both private and public employers, it does not commandeer and is not a violation of the 10th Amendment.

IV. Commander- Housing Provision

The issue is whether the Housing Provision of the Act commandeers State A in violation of the Tenth Amendment.

The rule for commandeering is explained above. An Act will be in violation of the 10th Amendment's anti-commandeering provisions if the Act forces a State to act on behalf of the federal government by forcing the State to enact and enforce laws.

Here, the Housing Provision of the Act forces the State to act on behalf of the federal government. The state must administer the program in full, including accepting

applicants, reviewing applications, making decisions, and enforcing the Act's requirements. The provision is not general in nature, only select municipalities are designated to administer it. It does not apply on a private sector. The federal government is forcing the State enforce the law and enact it, in violation of the 10th amendment.

Thus, because the State must enforce the provisions and enact them, the Housing Provision of the Act commandeers State A, in violation of the 10th Amendment.