



CALIFORNIA
STATE
ASSOCIATION OF
COUNTIES

September 12, 2006

URBAN
COUNTIES
CAUCUS

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: AB 2987 (Nunez/Levine) - REQUEST FOR SIGNING MESSAGE

URBAN COUNTIES
CAUCUS

Dear Governor Schwarzenegger:

On behalf of the California State Association of Counties (CSAC) and the Urban Counties Caucus (UCC), we write to respectfully request that, if you decide to sign AB 2987, by Assembly Speaker Fabian Nuñez and Assembly Member Lloyd Levine, you consider including a signing message. Counties have communicated our considerable concerns with the measure to the authors and believe that Californians would be well served by revisiting a number of those issues in the coming legislative session. Your support for these changes, indicated in a signing message, would provide important impetus for addressing our outstanding concerns.

AB 2987 places existing local government franchise fee revenue at risk. There are two components of the bill that still fall short of providing appropriate revenues to local governments.

- Franchise Fee: Fee vs. Tax. There has been considerable debate as to the constitutional integrity of a franchise fee structure where the franchise is authorized by one governmental entity and the fee is imposed and/or received by another governmental entity. We would prefer that a uniform franchise fee be imposed at the local level. The state levy of the fee as provided for in the bill exposes the receipt of local governments' fee revenues to an unacceptable level of risk. We propose that this issue be resolved by including a "back-up" remedy in the bill that would preserve the flow of funds to local governments - a remedy that would only be triggered by a court's determination that a state franchise fee is invalid or should be enjoined.
- Gross Revenue Definition. Gross revenues are the basis on which the maximum five percent franchise fee will be calculated. Therefore, it is critical that the definition include all funds upon which the fee should be based and that this information is readily accessible. We have submitted language to accomplish this to the authors. We are concerned about the insertion of Generally Accepted Accounting Principles (GAAP) in the bill, as inclusion of these principles can be interpreted broadly, likely to the benefit of the video provider. Further, inclusion of references to GAAP could lead to additional litigation, complicating a settled area of law.

Emergency notification requirements in AB 2987 will not meet the public safety needs of Californians. We continue to advocate for broad authorization for local emergency notification systems. Local emergency notification systems have been in existence for quite some time around the country and offer county emergency services

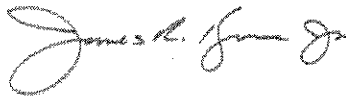
administrators an important tool for providing broad distribution of information to citizens. When Californians experience natural disasters, terrorist attacks, or some other local emergency, such as the recent heat emergency, public safety officials should have more access to emergency alerts, not less.

The language in the bill that grandfathers in existing local emergency notification systems for a two-year period fails to recognize the importance of this tool in public communications during local emergencies. Counties believe that all video service providers should offer access to their systems in those communities that need them until the federal and state governments develop and mandate a more robust community alerting system.

AB 2987 requires cities and counties to provide customer service enforcement without adequate enforcement tools. Counties believe that the disconnect between franchising authority and customer service enforcement in AB 2987 is problematic, especially when local governments do not have meaningful enforcement tools. Mandating *de novo* court review of customer service enforcement actions only further weakens the customer service provisions of the bill and serves as a deterrent for local governments to execute enforcement.

While we have worked for many months to communicate our concerns to the Legislature, we view the issues outlined above as those most critical to delivering video technology to Californians in a manner that protects the interests of both taxpayers and consumers. We have greatly appreciated your steadfast support of local governments and know that you understand the importance of the role of cities and counties in providing service to Californians. To that end, we hope you recognize the value of addressing the above issues in AB 2987 when the Legislature reconvenes.

Respectfully,



James Keene
Executive Director
California State Association of Counties



Casey Kaneko
Executive Director
Urban Counties Caucus

cc: Assembly Speaker Fabian Nuñez
Assembly Member Lloyd Levine
Dennis Albani, Deputy Legislative Affairs Secretary, Office of the Governor