September 5, 2023

SENATE FLOOR ALERT

AB 1168 (Bennett): Emergency medical services (EMS): prehospital EMS
As Amended July 13, 2023 – OPPOSE

On behalf of the California State Association of Counties (CSAC), Urban Counties of California (UCC), Rural County Representatives of California (RCRC), the County Health Executives Association of California (CHEAC), and the Health Officers Association of California (HOAC), we write in OPPOSITION to AB 1168, authored by Assembly Member Steve Bennett. AB 1168 as amended seeks to overturn an extensive statutory and case law record that has repeatedly affirmed county responsibility for the administration of emergency medical services and with that, the flexibility to design systems to equitably serve residents throughout their jurisdiction.

With the passage of the Emergency Medical Services Act in 1980, California created a framework for a two-tiered system of EMS governance through both the state Emergency Medical Services Authority (EMSA) and local emergency medical services agencies (LEMSAs). Counties are required by the EMS Act to create a local EMS system that is timely, safe, and equitable for all residents. To do so, counties honor .201 authorities and contract with both public and private agencies to ensure coverage of underserved areas regardless of the challenges inherent in providing uniform services throughout geographically diverse areas.

AB 1168 seeks to abrogate unsuccessful legal action that attempted to argue an agency's .201 authorities – that is, the regulation that allows eligible city and fire districts which have continuously served a defined area since the 1980 EMS Act to administer EMS including providing their own or contracted non-exclusive ambulance service. In the case of the City of Oxnard v. County of Ventura, the court determined that their case "would disrupt the status quo, impermissibly broaden Health and Safety Code section 1797.201's exception in a fashion that would swallow the EMS Act itself, **fragment the long-integrated emergency medical system**, and undermine the purposes of the EMS Act."

In addition, counties have identified the following concerns with AB 1168 below.

Oxnard v. County of Ventura
While we appreciate the removal of the bill's intent language section, counties remain concerned that AB 1168 is based upon distorted findings in the City of Oxnard v. County of Ventura case. Proponents have argued that the Oxnard v. Ventura case has created confusion and concern among local agencies regarding the utility and desirability of entering into JPAs. However, the court clearly ruled that "City contends it meets the criteria for section 1797.201 grandfathering because it contracted for ambulance services on June 1, 1980, as one of the signatories to the JPA. But on that

date the JPA empowered County, not City, to contract for and administer ambulance services." Oxnard never directly contracted for ambulance services; therefore, Oxnard was not eligible to have .201 authorities. **Counties strongly oppose "giving" Oxnard .201 authorities they never had nor were eligible to have.**

In addition, the author and sponsors contend that the City of Oxnard has not received equitable ambulance services as members of the JPA. However, according to 2017-2020 data from Ventura County, the City of Oxnard had the two highest performing ambulance response time areas in the county. Furthermore, the appellate court in this case found that Oxnard's claim that current ambulance services provided by the County of Ventura were substandard was "…not supported by admissible evidence."

For the reasons stated above, counties remain opposed to AB 1168.

Joint Powers Agreements

Proponents argue that many fire districts may be reluctant to enter into joint powers agreements (JPAs) for fear of losing their .201 administrative responsibilities given this recent court case; however, in practice, many fire districts are part of JPAs and still retain their .201 authority. Nothing would preclude a JPA agreement from ensuring those administrative responsibilities could be maintained in the context of the JPA if all parties agree to those terms. If the true intent of this measure is to address .201 authority for cities and fire districts that prospectively join JPAs, counties would remove our opposition to AB 1168 if section 1797.232 (b) was the sole provision in the bill.

AB 1168, as noted, opens the door to undo years of litigation and agreements between cities and counties regarding the provision of emergency medical services and as drafted causes a great deal of uncertainty for counties who are the responsible local government entity for providing equitable emergency medical services for all their residents. AB 1168 sets a legislative precedent that cities and fire districts can have .201 authorities bestowed when none existed. Subsequently, cities or fire districts could back out of longstanding agreements with counties. Counties would then be forced to open already complex ambulance contracting processes while scrambling to provide continued services to impacted residents. Unfortunately, this measure creates a system where there will be haves and have nots – well-resourced cities or districts will be able to provide robust services whereas disadvantaged communities, with a less robust tax base, will have a patchwork of providers – the very problem the EMS Act, passed over 40 years ago, intended to resolve.

Our respective members are deeply alarmed by AB 1168 and the effort by the bill's sponsors to dismantle state statute, regulations, and an extensive body of case law regarding the local oversight and provision of emergency medical services in California. This bill creates fragmented and inequitable EMS medical services statewide. For these reasons, CSAC, UCC, RCRC, CHEAC, and HOAC strongly OPPOSE AB 1168.

cc: The Honorable Steve Bennett, Member, California State Assembly
Honorable Members, California State Senate
Marjorie Swartz, Policy Consultant, Office of Senate President pro Tempore Toni Atkins
Misa Lennox, Policy Consultant, Office of Senate President pro Tempore

Toni Atkins
Karen Chow, Legislative Coordinator, Office of Senate Floor Analyses
Sarah Haynes, Floor Manager, Senate Republican Caucus
Joe Parra, Policy Consultant, Senate Republican Caucus
Ryan Eisberg, Policy Consultant, Senate Republican Caucus
Angela Pontes, Deputy Legislative Secretary, Office of Governor Newsom
Samantha Lui, Deputy Secretary, Legislative Affairs, CalHHS
Brendan McCarthy, Deputy Secretary for Program and Fiscal Affairs, CalHHS
Julie Souliere, Assistant Secretary, Office of Program and Fiscal Affairs, CalHHS