



June 19, 2024

The Honorable Lola Smallwood-Cuevas, Chair
Senate Labor, Public Employment, and Retirement Committee
1021 O Street, Suite 6740
Sacramento, CA 95814

Re: **AB 2557 (Ortega): Local agencies: contracts for special services and temporary help: performance reports**
As amended 6/17/24 – OPPOSE
Set for hearing 7/03/24 – Senate Labor, Public Employment, and Retirement Committee

Dear Senator Smallwood-Cuevas:

On behalf of the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC), the League of California Cities (CalCities), the California Special Districts Association (CSDA), the Association of California Healthcare Districts (ACHD), the California Association of Recreation and Park Districts (CARPD), the California Association of Sanitation Agencies (CASA), the County Health Executives Association of California (CHEAC), the County Welfare Directors Association (CWDA), the County Behavioral Health Directors Association (CBHDA), the Association of California School Administrators (ACSA), the California School Boards Association (CSBA), the Mosquito and Vector Control Association of California (MVCAC), the California Municipal Utilities Association (CMUA), the Coalition for Adequate School Housing (CASH), the California Association of Joint Powers Authorities (CAJPA), the American Council of Engineering Companies (ACEC), the American

Institute of Architects (AIA), California Building Officials (CALBO), Transportation California, the Southern California Contractors Association (SCCA), the American Public Works Association (APWA), and the California Geotechnical Engineering Association (CalGeo), California Fire Chiefs Association (CalChiefs), the Fire Districts Association of California (FDAC), Public Risk Innovation, Solutions, and Management (PRISM), the California Association for Local Economic Development (CALED), and the California and Nevada Civil Engineers and Land Surveyors (CELSA), National Society of Professional Engineers - California (NSPE-CA), California Association of Public Hospitals and Health Systems (CAPH), California County Superintendents, Association of California Water Agencies (ACWA), the California Association of County Veterans Services Officers (CACVSO), the Emergency Medical Services Administrators' Association of California (EMSAAC), the California Records' Association of California (CRAC), the California State Sheriffs' Association (CSSA), we write to inform you of our opposition to Assembly Bill 2557, Assembly Member Liz Ortega's measure relating to contracting by local agencies. Even after considerable amendments, our organizations believe the proposal contained in AB 2557 remains overly burdensome, costly, and inflexible, likely resulting in worse outcomes for vulnerable communities and diminished local services for our residents and students.

Broad application has costly implications. There are more than 4800 local agencies in the state, most of which rely – at least in part – on contractors to provide a variety of local programs and services that, given our current public sector workforce shortages, would be difficult to provide without their capable assistance. Make no mistake: the provisions of AB 2557 will be costly to implement. At a time when the state and local agencies are facing significant fiscal challenges, it is difficult to fathom that the extensive reporting, posting, and contracting requirements of the bill are worth the investment of scarce public resources. With the new requirements of AB 2557 for local agencies with represented workforces and for their contractors, we anticipate (1) fewer non-profit providers, community-based organizations, and other private service providers willing to engage with local agencies, (2) exacerbated already-demanding caseloads and workloads for our existing staff, and (3) increased costs for local agencies. Given the extensive application of the measure, we can easily anticipate costs associated with this measure in the many millions of dollars statewide, which includes Proposition 98 funds.

AB 2557 continues to apply broadly to a wide range of local services, including, but not limited to, jail health care, forest and wildfire prevention and management, public works surveyors, family reunification services, 9-1-1 dispatching, permitting, engineering, outside counsel, accounting, payroll, IT/Cybersecurity, RFP consulting services, real estate consulting, scientific monitoring and research, special education assistants, school nurses, data collection, among others.

New requirements are burdensome, duplicative, and impractical. While recent amendments appear to remove the obligation for reporting by contractors directly, AB 2557 takes most of those same requirements and requires local agencies to put them in the contractual agreement. This means that contractors will continue to have to provide considerable information that may not be directly applicable to the work that they are contracted to do or may be duplicative of other mandated reporting requirements associated with their work. New amendments also remove a prior exemption for contracts between governmental entities, making the bill's new website posting, noticing, and contractual requirements applicable to those commonly used contracts, imposing considerable redundancy for both parties with no discernable benefit.

While internet posting is already occurring for most contracts per statutory requirements to post meeting materials under the Ralph M. Brown Act, AB 2557 would now require that contracts and any related documents be posted separately on local agencies' internet website. This is likely an expensive endeavor that would require considerable investment in IT infrastructure and staff for local agencies, a cost that may potentially be subject to an SB 90 mandate claim or included in the school block grant mandate reimbursement. The measure further fails to recognize that some special districts are not required to have websites pursuant to Senate Bill 929 (McGuire, 2018).

We remain concerned that the timeframes provided in the proposed amendments are impractical; as we have previously communicated, local agencies often are unaware of a need for a procurement process in a consistent timeframe. While the bill includes the requirement for a “reasonable” notification to the employee representative, we are unclear as to what exactly this requirement means. Arguably, parties naturally at odds on the general issue of contracting will disagree as to what is “reasonable,” making this requirement at best a subject of a dispute, and at worst, an infeasible obligation. Further, the emergency exemption provided in the bill appears to only apply to portions of the notice provisions. Please consider that local agencies are first responders to any public emergency, including very real-world examples of a natural disaster, a global pandemic, an unanticipated need to care for those crossing our southern border seeking asylum, to name a few, and need flexible and accessible means for contracting with clear understanding by all parties of what is required prior to doing so.

Finally, new language includes provisions that are sufficiently vague and introduce confusion into a process that is generally well-understood and executed by practitioners. For example, the language is unclear about what is meant by “beginning a procurement process.” It is also unclear how the bill applies to sole-source contracts, contracts under the threshold for a Request for Proposal (RFP) process, or contracts for on-call services. Amendments for noticing requirements would also expand the bill’s application to “functions, duties, responsibilities, or services” performed by that are currently performed or were in the previous five years performed by represented employees. This expansion will also create ambiguity with the bill’s provisions applicable to website posting and contractual requirements, both of which apply to “functions” performed by represented employees.

Local agencies are already subject to statutory limitations on contracting. It is important to note that local agencies are already subject to the statutory provisions of the Meyers-Milias-Brown Act (MMBA), the Educational Employment Relations Act, and related provisions of state law. These laws establish that local agencies cannot contract out work currently being performed by bargaining unit employees simply to save money and most contracting-out decisions are already subject to meet-and-confer requirements. There are exceptions to the meet-and-confer requirement in cases of compelling necessity (like an emergency) or when there is an established past practice of contracting out particular work. More broadly, any of the requirements of this bill, if desirable to local agency employees and their representatives, can be negotiated at the bargaining table. Our position is that all of these issues are better addressed at the bargaining table where local conditions can be appropriately considered.

In addition, recent amendments would dramatically expand local agencies’ notice provisions. Under existing MMBA requirements, local agencies notify bargaining units of the intent to contract out for items within the scope of representation. The bill would expand those requirements for every contract even when it is clearly not in the scope of representation. The new requirement will increase the workload of staff and lengthen the amount of time it takes to enter a contract.

Finally, AB 2557 has already been amended a number of times throughout the legislative process; however, in no instance have these amendments addressed the significant concerns of the local agencies responsible for implementing the bill nor have they addressed any of the considerable challenges faced by local agencies in attracting and retaining a robust public sector workforce. Further, these additional burdens continue to undermine a collaborative and productive working relationship with private sector and non-profit partners, who local agencies regard as essential to meeting our statutory obligations and effectively serving our respective communities.

AB 2557 represents a sweeping change to the fundamental work of local governments, but we remain unaware of a specific, current problem that this measure would resolve or prevent. We are keenly aware, though, of the very real harm that could result from this measure. AB 2557 will not improve services, reduce

costs, or protect employees. As a result, we are opposed to AB 2557. Should you have any questions about our position, please reach out directly.

Sincerely,



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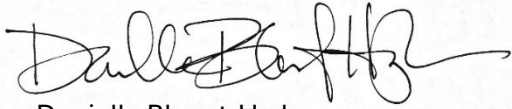
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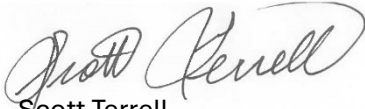
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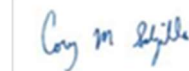
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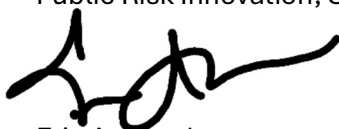
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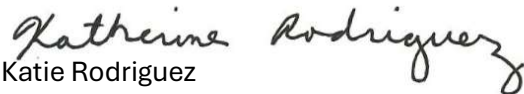
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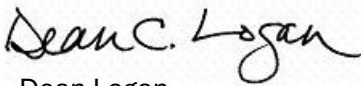
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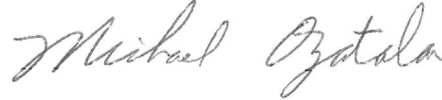
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