



June 24, 2024

The Honorable Thomas Umberg  
Chair, Senate Judiciary Committee  
1020 O Street, Room 3240  
Sacramento, CA 95814

**RE: Assembly Bill 2149 (Connolly) – Oppose Unless Amended  
As Amended May 16, 2024**

Dear Senator Umberg:

On behalf of the California State Association of Counties (CSAC), Rural County Representatives of California (RCRC) and the League of California Cities (CalCities), we must regrettably oppose Assembly Bill 2149 (Connolly), *unless amended*. This measure creates a requirement for local agencies to regulate and enforce safety provisions set forth in the bill on all gates that weigh more than 50 pounds and are over 48 inches wide or are more than 84 inches high, which capture a massive variety number of gates.

AB 2149 creates an entirely new regulatory and enforcement burden on local agencies at a scale that is unworkable. As currently drafted, the bill's definition of a regulated gate covers a wide universe of barriers that would likely create enforcement duties over thousands of gates in each jurisdiction. Although the bill currently focuses on owners and private contractors to inspect the gate and make repairs, the local building department may be required to step in should health and safety measures not be addressed during the initial inspection. As a result, if another unfortunate situation occurs where someone is injured or killed by a gate, local governments may be liable if the local government did not take action due to delays or a lack of staff resources.

For example, if a faulty gate was reported by a private inspector to the local building department, inspectors may have to delay enforcement due to staff shortages and a continuous push by the state to streamline a variety of permits in California. This can result in long delays for enforcing state regulations putting local governments at risk for future litigation. With the wide universe of gates involved and the industry incentive to compel the installation of the hardware required by this bill, it is likely that local government staffing costs would increase. Further, with the central role that industry contractors have in the bill, we are greatly concerned with potential for predatory behavior that could be engaged in. The provisions of

this measure place local governments in the difficult position of determining whether a complaint filed by a private inspector is meritorious or part of a pattern of profit seeking behavior. Finally, we are troubled by the sponsor testimony in Assembly Judiciary indicating that local governments could recover their enforcement costs from the fines authorized by the bill. The legislature has made clear in several public safety statutes that local governments should not utilize administrative penalties and fines to fund their operations. We believe the legislature's guidance provided in the public safety area applies equally to this bill.

After discussions with the author's office, it seems clear that a local government role is a key part of this effort. However, we are concerned with the predatory behaviors the bill and we don't believe all of our members have uniform agreement that local agency involvement in this regulatory space is the most effective way to address the risks identified by this bill. With that in mind we suggest amending the bill to create a process where local jurisdiction regulatory and enforcement involvement only occurs when a County Board of Supervisors or City Council takes an affirmative step to enforce the provisions of this bill.

Additionally, we note that the current definition of "regulated gate" in the bill does not adequately focus attention on the type of gates that motivated the introduction of this bill. To further reduce the fiscal impacts of this measure, we suggest that the author's office should limit the bill to apply to gates on school grounds. This would ensure that cities and counties have a clear understanding of the scope and risk of the gates they are considering to regulate.

This bill creates a new state-mandated local program. While cities and counties are required to comply with all state mandates, they only receive funding to carry out a select group of state-mandated programs in the form of after-the-fact reimbursement payments from the state. Cities and counties absorb all other state-mandated costs using local revenues. After a bill is signed into law, reimbursement for local governments to comply with state-mandated programs is not automatic. Rather, cities and counties initiate the process to receive reimbursement via the Commission on State Mandates, which may take a year or more to determine whether the new law meets the criteria for reimbursement—and even longer to establish a process and rate for reimbursement. Therefore, cities and counties comply with new laws pending reimbursement status, often funding these programs alone for years, facing the uncertainty of reimbursement.

After years of layered responsibilities for counties and insufficient financial support from the state, we urge the Legislature to pair all new requirements with an appropriation in the state budget act for city and county implementation.

For these reasons, CSAC, RCRC and CalCities are regrettably opposed to AB 2149 unless amended to address our concerns. If you have any questions, please do not hesitate to contact Tracy Rhine (RCRC) [trhine@rcrcnet.org](mailto:trhine@rcrcnet.org), Mark Neuburger (CSAC) [mneuburger@counties.org](mailto:mneuburger@counties.org), or Brady Guertin (Cal Cities) [bguertin@calcities.org](mailto:bguertin@calcities.org).

Sincerely,



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Legislative Advocate  
California State Association of Counties



**Tracy Rhine**  
Senior Policy Advocate  
Rural County Representatives of California



**Brady Guertin**  
Legislative Affairs, Lobbyist  
League of California Cities

cc: The Honorable Damon Connolly, Member of the California State Assembly  
Members of the Senate Judiciary Committee  
Margie Estrada, Chief Counsel, Senate Judiciary Committee  
Morgan Branch, Consultant, Senate Republican Caucus