



March 29, 2023

The Honorable Jim Wood
Member, California State Assembly
1020 N Street, Suite 390
Sacramento, CA 95814

**Re: AB 1168 (Bennett): Emergency medical services (EMS): prehospital EMS
As Amended March 16, 2023 – OPPOSE
Set for Hearing on April 11, 2023 – Assembly Health Committee**

Dear Assembly Member Wood:

On behalf of the California State Association of Counties (CSAC), Urban Counties of California (UCC), Rural County Representatives of California (RCRC), and the County Health Executives Association of California (CHEAC), we write in OPPOSITION to AB 1168, authored by Assembly Member Steve Bennett. AB 1168 as recently 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 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 rights 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 agencies which have continuously served a defined area since the 1980 EMS Act to continue serving that area as the sole provider. 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.”

Counties are concerned with the legislative intent language in AB 1168, and we believe it distorts the findings in the City of Oxnard v. County of Ventura case. In addition, counties have identified the following concerns with AB 1168 below.

Deeming of Section 1797.201 Entities

AB 1168 would allow virtually any city or fire agency to deem themselves a .201 entity moving forward. As underscored in several court cases, the EMS Act intended Section 1797.201 to be “transitional” for cities and fire agencies that were providing EMS services on June 1, 1980, to do so until they ceded the provision of those EMS services to the county through agreements. Section 1797.232, as drafted in AB

1168, would now allow any city or fire agency that has entered into an agreement with a county to now be “deemed” to retain its .201 authorities under three scenarios: those entering an agreement with a county (both previously and in perpetuity), those who entered a joint exercise of powers agreement (e.g.: Oxnard, where the court fundamentally disagreed the city was a .201 entity), and those that contract with a county outside its jurisdiction for EMS services. This creates a disorganized and potentially chaotic system where cities and fire agencies can enter and leave existing agreements at will, reversing the intent of the EMS Act, which was intended to organize a fragmented system.

Joint Powers Agreements

We understand proponents argue that many fire agencies may be reluctant to enter into joint powers agreements (JPAs) for fear of losing their .201 administrative responsibilities; however, in practice, many fire agencies 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. When asked how many fire agencies may be reluctant to join a JPA for this reason, proponents could only name one with certainty. This bill, in seeking to address a narrow concern, creates considerable disruption for the entire statewide EMS system.

Muddled Ambulance Contracting Process

AB 1168 also creates a convoluted process for counties to navigate to ensure EMS services throughout the entire jurisdiction. In the case of the City of Oxnard, if the city is now allowed to retain .201 authorities a court determined they never had, the neighboring city of Port Hueneme would be left without ambulance service as the City of Oxnard would only provide services within their city boundaries. Ventura County would then be forced to allow Oxnard to bid on the services, and if the city refuses to then try and secure services through several options that are likely disruptive, inequitable, and expensive. While we appreciate counties being allowed to determine the economic viability of providing services set forth by this process, the bill would then mandate the city or fire agency to provide EMS services to the entire operating area. This bill would disrupt established agreements and services with the potential outcome of having to mandate an entity that may not be best suited or interested in serving the entire operating area.

AB 1168, as noted, undoes 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 of their residents. As drafted, cities and fire districts could opt to back out of longstanding agreements with counties; counties would then be forced to open up 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, the undersigned representatives of our organizations strongly OPPOSE AB 1168.

Thank you,



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(CSAC)



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cc: The Honorable Steve Bennett, Member, California State Assembly
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