



July 23, 2024

The Honorable Anna Caballero
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

**RE: Assembly Bill 2149 (Connolly) – Oppose Unless Amended
As Amended July 3, 2024**

Dear Senator Caballero:

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 to address our fiscal and policy concerns. This measure creates a requirement for local agencies to regulate and enforce safety provisions set forth in the bill on new and some existing gates that weigh more than 50 pounds and are over 48 inches wide or are more than 84 inches high and meet exceedingly vague public access criteria, which capture a massive variety and 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 newly installed gates as well as the replacement of existing gates, which would likely create enforcement duties over a significant number of gates in each jurisdiction. This would create the need to train existing inspectors, hire new staff or utilize contract inspectors to perform the enforcement duties required by this bill. 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 inspector staffing and contractor costs statewide would gradually increase to over \$7 million annually. This estimate is based on data from the State Controller, which indicates local government inspectors have salaries of approximately \$75,000 per year and over 100 inspectors would be re-trained, hired or brought on as contractors by cities and counties within the first few years of the bills effective date.

We want to stress that a jurisdictions population won't guide impact of this bill given that this bill captures a large number of existing gates in rural areas and the replacement of these gates will require compliance with this bill's regulatory requirements. For urban and suburban counties, we note that businesses, places of worship and other community facilities are

installing new fencing and gates to address legitimate security concerns will significantly drive workload for city and county inspectors in these areas. Further, with the central role that industry contractors have in the bill, we are greatly concerned with the high potential for these entities to engage in predatory behavior. The provisions of this measure place local governments in the difficult position of determining whether a complaint filed by a private inspector or fence contractor is meritorious or part of a pattern of profit seeking behavior.

We also note that the bill will require cities and counties to make existing park gates immediately compliant with its provisions or remove them. We are still gathering information on the full costs of making gates compliant with this bill, but it is likely to range in the millions of dollars. This is based on the reality that there are thousands of gates in city and county parks coupled with the fact that local governments must comply with public works contracting and prevailing wage statutes for this work, which will drive the costs of addressing existing gates well in excess of the \$50 part costs cited by the sponsor. Additionally, city and county staff have indicated that if they are unable to obtain the funds to bring the gates into compliance with this bill, they will be forced to take them down. Local government staff note that removing access control or other types of gates may have significant consequences, including the need to close the facility to the public to ensure that all safety concerns are addressed.

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. 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. 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 they did not take action due to delays or a lack of staff resources. Although lawsuits like this are difficult to quantify, we note the City of Oakland paid \$32.7 million to families impacted by the 2016 Ghost Ship fire in connection with the city's inspection authority and duties in that incident.

Finally, 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, Mark Neuburger (CSAC) mneuburger@counties.org, or Brady Guertin (Cal Cities) bguertin@calcities.org.

Sincerely,



Mark Neuburger
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 Appropriations Committee
Consultant, Senate Appropriations Committee
Morgan Branch, Consultant, Senate Republican Caucus