May 9, 2023

The Honorable Chris Holden
Chair, Assembly Appropriations Committee
1021 O Street, Suite 5650
Sacramento, CA 95814

**Re: AB 1168 (Bennett): Emergency medical services (EMS): prehospital EMS**
**As Amended May 1, 2023 – OPPOSE**
**Set for Hearing on May 17, 2023 – Assembly Appropriations Committee**

Dear Assembly Member Holden:

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 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 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."

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**
While recent amendments seek to narrow the intent of the bill, AB 1168 would allow a city or fire district 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 districts 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 district 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, 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 are providing prehospital EMS services as of January 1, 2024. This creates a disorganized and potentially chaotic system where cities and fire districts can enter and leave existing local EMS systems and service 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 districts may be reluctant to enter into joint powers agreements (JPAs) for fear of losing their .201 administrative responsibilities; 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. According to the recent Health Committee analysis, proponents have identified ten current JPAs where these provisions may apply; however, we continue to assert that 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 district 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. While recent amendments taken in the Emergency Management Committee seek to ensure cities or fire districts adhere to local EMS performance standards, counties remain opposed to broader proposed changes to local ambulance contracting processes. Additionally, these new contracting requirements will likely increase local cost pressures on county governments including increased costs for the bidding process, potential loss of provider fees that support local EMS systems, and increased costs for subsidizing ambulance services in order to ensure county obligations under the City of Lomita v. County of Los Angeles decision.

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,

Jolie Onodera
Senior Legislative Advocate
California State Association of Counties (CSAC)

Kelly Brooks-Lindsey
Urban Counties of California (UCC)

Sarah Dukett
Legislative Advocate
Rural County Representatives of California (RCRC)

Michelle Gibbons
Executive Director
County Health Executives Association of California (CHEAC)

Kat DeBurgh
Executive Director
Health Officers Association of California (HOAC)

cc: The Honorable Steve Bennett, Member, California State Assembly
Honorable Members, Assembly Appropriations Committee
Irene Ho, Principal Consultant, Assembly Appropriations Committee
Allegra Kim, Principal Consultant, Assembly Appropriations Committee
Joe Shinstock, Fiscal Director, Assembly 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