



May 7, 2024

The Honorable Buffy Wicks, Chair
 Assembly Appropriations Committee
 1021 O Street, Suite 8140
 Sacramento, CA 95814

Re: **AB 2489 (Ward): contracts for special services and temporary help
 As amended 4/29/24 – OPPOSE
 Awaiting hearing – Assembly Appropriations Committee**

Dear Assembly Member Wicks:

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), we write to inform you of our opposition to Assembly Bill 2489, Assembly Member Chris Ward’s measure relating to contracting by local agencies. Like previous legislative efforts that attempted to curb local agency authority for contracting, our organizations

believe the proposal contained in AB 2489 is unnecessary 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. With the additional reporting obligations and requirements of AB 2489 – and its partner measure, AB 2557 (Ortega) – 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 applications of the measure, we can easily anticipate costs associated with this measure in the hundreds of millions of dollars statewide, which includes portions of Proposition 98 funding.

Further, there remains a chronic and sustained under-investment in funding local government programs and services in California. In fact, most of the new resources that local agencies have received from the state and federal governments over the past many years have been one-time in nature. As the state repeatedly acknowledges regarding its own budget, responsible budgeting means that one-time revenues should be spent on one-time expenditures.

10-month notification is infeasible and unnecessary. AB 2489 would require local agencies – at least 10 months prior to a procurement process to contract for special services that are currently or in the past 10 years provided by a member of an employee organization – to notify the employee organization affected by the contract of its determination to begin a procurement process by the governing body. The special services statutes vary by agency type, but cover a broad array of services provided by local agencies, from essential government administration services to medical and therapeutic services to legal, financial, and other technical services. This is an infeasible obligation, as local agencies often are unaware of a need for a procurement process 10 months prior. Local agencies have proven their ability to be adaptable in times of need, but the 10-month timeframe and extensive range of services included in AB 2489 are both arbitrary and unworkable, impeding local agencies' capacity to respond to local needs.

Local agencies are already subject to the statutory provisions of the Meyers-Milias-Brown Act (MMBA), Educational Employment Relations Act (EERA) 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 during which concerns like qualifications of contractors can be addressed. 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. AB 2489 does not incorporate either of these limitations. 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.

Definition of emergency is unreasonably narrow. Recent amendments to AB 2489 define “emergency” for purposes of the bill in an exceptionally narrow manner that does not comport with long-standing definitions and understanding in other parts of the code. The measure defines an “emergency” as “one that calls for immediate action to respond to the threat of serious harm or mass casualties, including conditions of natural disaster or conditions posing extreme peril...” Local agencies regularly experience emergent needs that must be met in order to maintain public health and safety. An emergency situation

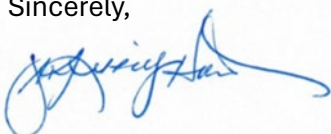
could occur under any number of circumstances: from a labor dispute that results in a strike, a natural disaster, a global pandemic, emergency utility repairs, emergent and on-call situations, an unanticipated need to care for those crossing our southern border seeking asylum, and so forth. While any one of these instances may not meet the definition contained in the measure, there is no doubt that the public expects an immediate and thorough response that may not be possible without support from a contractor. (By contrast, existing definitions of “emergency” *in public contracting statutes* include this full range of circumstances where prompt action is needed to protect the public interest. See, e.g., Public Contract Code section 1102: “Emergency’... means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.”)

Minimum qualifications requirements undermine efforts to provide services in a manner that prioritizes cultural competency and lived experience. In recent years, the Newsom Administration and Legislature has challenged local agencies to engage with community partners to connect with vulnerable communities more effectively. There are countless examples of programs and policies that have specified components that are directed to be delivered by entities that have direct, lived experience and/or cultural familiarity. One need only look to efforts over the last few years with the state’s Homeless Housing and Prevention (HHAP) program or the significant reforms to the Medi-Cal program contained in CalAIM or various criminal justice reforms, to name a few. These efforts explicitly include a role for non-profit, community-based, and private sector providers, sometimes specifically with individuals with different lived experience and expertise than those in a similar government job. Without that partnership, local agencies will be less successful in meeting the expectations and outcomes the state has directed – a consequence of which could be penalties and fines – and, in doing so, will have failed those that we are jointly committed to serve.

Making private employee data subject to the California Public Records Act deters effective partnerships with the private sector. AB 2489 requires contractors to provide information to ensure that their employees meet the minimum qualifications and standards and to retain this information for two years. This private employee data would be accessible to any member of the public via the California Public Records Act; public employee data subject to the CPRA has resulted in data mining for profit, as well as subjecting employees to harassment and threats.

AB 2489 represents a sweeping change to the fundamental work of local governments, but we are 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 2489 will not improve services, reduce costs, or protect employees. As a result, we are opposed to AB 2489. Should you have any questions about our position, please reach out directly.

Sincerely,



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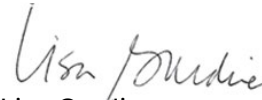
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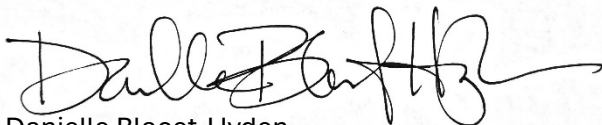
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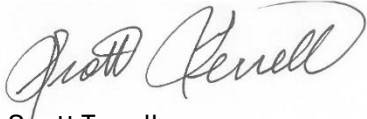
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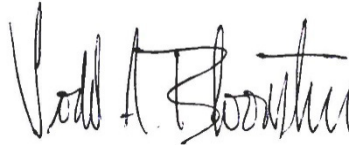
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