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EMERGENCY MEDICAL SERVICES ADMINISTRATORS' ASSOCIATION OF CALIFORNIA

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June 21, 2023

The Honorable Susan Talamantes Eggman
Chair, Senate Health Committee
1021 O Street, Suite 8530
Sacramento, CA 95814

Re: AB 1168 (Bennett): Emergency medical services (EMS): prehospital EMS
As Amended May 26, 2023 – OPPOSE
Set for Hearing on June 28, 2023 – Senate Health Committee

Dear Senator Eggman,

The Emergency Medical Services Administrators Association of California (EMSAAC), representing the interests of all 34 California Local EMS Agencies (LEMSAs) covering all 58 California counties write in OPPOSITION to AB 1168, authored by Assembly Member Steve Bennett. LEMSAs ensure the high quality, safe, and equitable delivery of emergency medical services (EMS) care to all of California's residents and visitors. 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 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."

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In addition, LEMSAs have identified the following concerns with AB 1168 below.

Oxnard v. County of Ventura Intent Language

LEMSAs are concerned with the legislative intent language in AB 1168, which distorts the findings in the City of Oxnard v. County of Ventura case. Section 1797.11 (d) states the validity of the joint exercise of powers (JPA) based on the Oxnard v. Ventura case has been called into question. This is not true. The court clearly ruled that "City contends it meets the criteria for section 1797.201 grandfathering because it contracted for ambulance services on June 1, 1980, as one of the signatories to the JPA. But on that date the JPA empowered County, not City, to contract for and administer ambulance services." Oxnard never directly contracted for ambulance services; therefore, Oxnard was not eligible to have .201 authorities.

In addition, the author and sponsors contend recent amendments make this a district only measure; however, intent language in Section 1797.11 (e) states that AB 1168 seeks to "clarify the effect of agreements for the joint exercise of powers regarding prehospital EMS…and to abrogate any contrary holdings in the City of Oxnard v. County of Ventura…". LEMSAs are concerned that this misleading legislative intent language will be leveraged in future litigation, just as we have seen in previous court cases filed against counties (e.g.: South San Joaquin County Fire Authority v. San Joaquin County Emergency Medical Services Agency). This language could unintentionally suggest that .201 authorities should be restored for any city or fire district that previously lost their .201 authority while entering into an agreement with the county – including a JPA. This abrogation of Oxnard v. County of Ventura could have significant implications on how EMS is structured today, risking further fragmentation of our EMS system.

For the reasons stated above, we ask that this intent section be removed in its entirety.

Joint Powers Agreements

Proponents argue that many fire districts may be reluctant to enter into joint powers agreements (JPAs) for fear of losing their .201 administrative responsibilities given this recent court case; 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. If the true intent of this measure is to address .201 authority for cities and fire districts that prospectively join JPAs, LEMSAs would remove our opposition to AB 1168 if section 1797.232 (b) was the sole provision in the bill.

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AB 1168, as noted, opens the door to undo 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, EMSAAC strongly OPPOSES AB 1168.

Thank you,

John Poland, Paramedic
EMSAAC Legislative Chair

cc: The Honorable Steve Bennett, Member, California State Assembly
Honorable Members, Senate Health Committee
Vince Marchand, Principal Consultant, Senate Health Committee
Tim Conaghan, Policy Consultant, Senate Republican Caucus
Joe Parra, Policy Consultant, Senate 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, Assit. Secretary, Office of Program and Fiscal Affairs, CalHHS