



California State Association of Counties
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Regional Council of Rural Counties
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May 1, 2009

The Honorable John A. Perez
California State Assembly
State Capitol, Room 3160
Sacramento, CA 95814

**Re: AB 1409 (John Perez): Public Contracts: County Highways
As Amended on 4/29/09 – OPPOSE
Set for Hearing on May 6, 2009 – Assembly Local Government Committee**

Dear Assembly Member Perez:

The California State Association of Counties (CSAC) and the Regional Council of Rural Counties (RCRC) regret to inform you of our opposition to your Assembly Bill 1409, which is set for hearing before the Assembly Local Government Committee on Wednesday, May 6, 2009.

As you know, AB 1409, as amended on April 29, 2009, would revise Public Contract Code Section 20395 (c) so that a county could use day labor or force account only after putting a project out to bid and then adopting a Board Resolution stating that no bids were received or that all bids received exceed the cost of having the project done by day labor or force account.

While most counties already put larger construction projects out to bid, they depend on the flexibility currently provided under law to perform work on the local highway system. While we appreciate the recent attempt to let counties retain flexibility, the amendments still limit a county's ability to perform work on county highways in a timely, efficient, and cost-effective manner. The measure is very problematic for the following reasons.

Counties use their own work force for projects for a variety of reasons. First, many projects are too small to economically prepare plans, specifications, advertise, award, and inspect. This process can add anywhere from 15-35% to the overall cost of a project, and anywhere from two months to a year in additional time because of the required steps to complete the bid process. These extra costs and delays are not economical or prudent, and are presently avoided by using county forces to do work on minor projects.

Second, some projects need to be performed immediately due to local emergencies such as landslides, declared disasters, floods, and fires. However, bidding a project would add months onto the process, severely limiting emergency response capabilities. As such, there is increased exposure and risk to the traveling public, as well as an increased liability for counties that are unable to respond to matters of public health and safety. In addition, because counties are liable for responding to local emergencies and maintaining the local transportation system, CSAC and RCRC believe that decisions regarding the most cost-effective and expedient manner in which to complete projects should remain with the counties.

It is also important to note that in the case of a resurfacing or reconstruction project involving asphalt, the typical materials cost is 75% of the total project cost. Since counties do not have their own asphalt plants, most, if not all material items are purchased through competitively bid procurement contracts. Therefore, in the end, a large percentage of force account projects represent something competitively bid.

AB 1409 is especially problematic for rural counties in California. Many of the smaller projects performed by day labor or force account do not attract contractors. CSAC and RCRC strongly disagree with the argument that there are more contractors today in rural areas that result in the need to do work by contract. Our rural counties report few contractors in their areas that are willing to take on minor construction projects. For instance, before the current economic downturn, Tuolumne County experienced several years of contracts where only one bid from the one large contractor in the area was received. Rural areas do not have a large enough contractor presence to have a truly competitive environment which is necessary to drive down project costs.

Some rural counties also have unique weather conditions that result in short construction seasons – only four to five months long. As such, the delays caused by putting all minor projects out to bid could push maintenance and rehabilitation work off an entire construction season. The longer maintenance work is put off, the worse the road conditions become, and the more costly they are to fix.

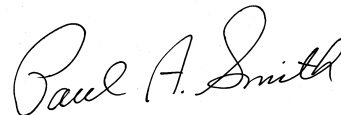
It is a well known and widely agreed upon fact that transportation needs far exceed revenues available. A recent statewide needs assessment of the local system (a joint venture of CSAC, the League of California Cities, and the County Engineers Association of California) revealed that there is a \$71.4 billion shortfall over the next ten-years for the local system alone. Counties do not have the resources to do what is currently needed even with using in-house staff, much less contracting some or all of it out. Given the State budget situation and sagging economy, we should be encouraging more efficient and effective uses for valuable transportation funds, not adding costly requirements that will result in fewer transportation projects at higher costs, more lay-offs, increased backlogs and deferred maintenance, and ultimately a less safe transportation network for the constituents we all serve.

In conclusion, we believe that adoption of this bill would result in additional costs to the taxpayers and is in essence anti-economic stimulus. Accordingly, CSAC and RCRC are opposed to AB 1409. Please do not hesitate to contact us should you have any questions regarding our position. DeAnn Baker can be reached at (916) 327-7500 ext. 509 or dbaker@counties.org and Paul Smith at (916) 447-4806 or psmith@rcrcnet.org.

Sincerely,



DeAnn Baker
Senior Legislative Representative
California State Association of Counties



Paul Smith
Senior Legislative Advocate
Regional Council of Rural Counties

cc: Members and Consultants, Assembly Local Government Committee
William Weber, Assembly Republican Caucus
Nick Ynda, Governor's Office of Planning and Research