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May 16, 2017

The Honorable Lorena S. Gonzalez Fletcher
Chair, Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, CA 95814

**Re: AB 890 (Medina) – Local Land Use Initiatives: Environmental Review
As Amended May 10, 2017 – OPPOSE
To be heard in the Assembly Appropriations Committee on May 17, 2017**

Dear Assembly Member Gonzalez-Fletcher,

The California State Association of Counties (CSAC) and the Rural County Representatives of California (RCRC) write to respectfully express our opposition to AB 890 (Medina), which would require an environmental review of all proposed local initiatives that constitute a project under the California Environmental Quality Act (CEQA) and require cities and counties to approve the project regardless of the outcome of the environmental review. Counties acknowledge the important role that CEQA provides in ensuring essential information about environmental impacts is publicly available and informs the local decision-making process. However, AB 890 raises serious concerns for local governments on many fronts.

Specifically, this bill would require local governments to determine whether a proposed local ballot measure constitutes a project under CEQA, require a local agency to conduct a CEQA analysis and prepare a summary of that analysis; and, by furnishing the summary of the analysis within 5 days of completing the CEQA process to the proponents, the jurisdiction would be required to “de facto” approve the project regardless of the content of the environmental analysis. Furthermore, the bill would require the governing body to submit the proposed ordinance, without alteration, to the voters at a special election.

Under this bill, local governments would be required to conduct an environmental review resulting in a tremendous work load increase to the jurisdiction. In addition, the jurisdiction would have no discretion to actually comply with CEQA as the bill requires the lead agency to provide a summary of the analysis to the proponent and by providing this information, would deem the project approved. CEQA requires a lead agency to study not only the proposed project, but a reasonable range of feasible alternatives to the project, which achieve most of the project objectives, and to identify the environmentally superior alternative. If a project would result in significant, unavoidable impacts, but the lead agency is still inclined to approve, the lead agency would be required to adopt a statement of overriding considerations (under section 21081), also a discretionary action which is required to be supported by substantial evidence. Similarly, if there’s an environmentally superior project alternative, the lead agency has to consider this alternative and find it to be infeasible before approving the project.

In addition, AB 890 would compel jurisdictions to call a special election for all proposed ballot measures for which an environmental review is conducted. This process can be considerably expensive for a local jurisdiction to conduct a standalone special election. In 2016, California voters considered more than 850 local ballot measures, many of which could be considered to have direct or indirect impact on the environment and constitute a project under CEQA. This has the potential to present significant costs to local jurisdictions. Furthermore, there has been a trend within the Legislature over the past several years to consolidate elections to ensure for greater voter turnout. This bill runs counter to that effort and could compel jurisdictions to incur the cost of a significant increase in standalone elections.

Finally, this bill exposes local governments to significant liability and unacceptable risk that the county has no control to mitigate. Despite the fact that the measure would be decided by the voters, the county is liable for faults in the environmental document and takes all discretion away from the lead agency in terms of project approval. The practical implications of this are considerable, and could result in a large new wave of CEQA lawsuits. Even those initiative proposals that do make it through the process would likely be subject to years of additional review, litigation, and costly delays.

It is for these reasons that CSAC and RCRC must respectfully oppose AB 890. If you have any questions about our position, please do not hesitate to contact Cara Martinson at cmartinson@counties.org or 916-327-7500, ext. 504, or Mary-Ann Warmerdam at MWarmerdam@rcrcnet.org, or 916- 447-4806.

Sincerely,



Cara Martinson
CSAC Legislative Representative



Mary-Ann Warmerdam
RCRC Senior Legislative Advocate

cc: The Honorable Jose Medina, Member, State Assembly
Honorable Members, Assembly Appropriations Committee
Jennifer Galehouse, Deputy Chief Consultant, Assembly Appropriations Committee
John Kennedy, Consultant, Assembly Republican Caucus