



COUNTY OF SAN BERNARDINO

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GREGORY C. DEVEREAUX
Chief Executive Officer

March 27, 2014

The Honorable Jim Frazier
California State Assembly
California State Capitol, Room 3091
Sacramento, CA 95814

AB 2471 (Frazier) Public Contracts: Change Orders – OPPOSE

Dear Assemblymember Frazier:

The County of San Bernardino must respectfully oppose AB 2471, legislation regarding public contracts and change orders. This bill would require a public entity—when authorized to order changes or additions in the work in a public works contract awarded to the lowest bidder—to issue a change order promptly and no later than 30 days after changes or additions are required, among other provisions.

County departments, such as public works and architecture and engineering, enter into numerous public works contracts every year.

This bill could put local jurisdictions at a major disadvantage in contract disputes for which there is already a fair and established resolution process. It could also increase costs and make litigation more likely. First, change orders are generally issued within 30 days, but if the change order puts the contract total in excess of the approved amount, our Board of Supervisors must approve the change. Going through this process can easily exceed the proposed 30-day requirement. Also, we should not be locked into paying contractors based upon their submitted invoices. Currently payments are made based on unit prices as bid, lump sum price as agreed, or time and material. The County has been involved in situations in which the original contractor defaulted on its contract, and the County had to work directly with the surety company, with payments made to the surety company, not the original contractor.

The bill also gives contractors the authority to go straight to court to enforce any of its provisions, and collect 10 percent interest retroactively. That could dramatically increase costs even when a local jurisdiction has acted in good faith.

For the reasons stated above, we must respectfully oppose AB 2471. Please contact Josh Candelaria, Director of Governmental and Legislative Affairs, at (909) 387-4821 if you have any questions.

Sincerely,

[Handwritten signature of Janice Rutherford]

JANICE RUTHERFORD
Board of Supervisors Chair
Second District Supervisor
County of San Bernardino

cc: County of San Bernardino Legislative Delegation.