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The Honorable Patricia Guerrero, Chief Justice
and Honorable Associate Justices
Supreme Court of the State of California
350 McAllister Street
San Francisco, CA 94102-3600

Re: ***Stone v. Alameda Health System***
California Supreme Court No. S279137
First Appellate District Case No. A164021
Superior Ct Case No. RG21092734 (Alameda County Superior Court)

To the Honorable Chief Patricia Guerrero and Associate Justices:

The California State Association of Counties (“CSAC”), the League of California Cities (“Cal Cities”), and the California Association of Joint Powers Authorities (“CAJPA”) respectfully submit this letter pursuant to California Rules of Court, rule 8.500(g) in support of the petition for review filed by the Alameda Health System in the above-named case. CSAC, Cal Cities and CAJPA join in the arguments made by Alameda Health System in its Petition for Review and submit this letter to emphasize that this case presents issues of statewide significance that are likely to recur, which warrants Supreme Court review. (Cal. Rules of Court, rule 8.500(b)(1).)

Interest of Amici Curiae

CSAC is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels’ Association of California and is overseen by the Association’s Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

Cal Cities is an association of 477 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. Cal Cities is advised by its Legal Advocacy Committee, comprised of 24 city attorneys from all regions of the

State. The Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

CAJPA is an association of JPAs in California, formed to meet the need for communication and cooperation among the JPAs. It provides leadership, education, advocacy, and assistance to public-sector risk pools to enable them to enhance their effectiveness, and it advocates both in court and in the Legislature on behalf of JPAs. Its amicus advocacy is guided by a Legal Affairs Committee that reviews amicus requests from public entities throughout the state.

Specifically, local governments form a variety of public agencies to carry out all manner of critical public functions. The governing structure and powers of these agencies can vary significantly depending on the purpose for which the agency was formed. Thus, the Court of Appeal's narrow reading of Labor Code exemptions for public entities and its application of the "sovereign powers doctrine" is an issue of statewide significance that has a direct effect on operations that are core functions of local government.

Reasons Review Should Be Granted

A. Local governments rely on other public agencies that they create pursuant to state law to perform critical functions.

While acknowledging statutory exemptions in the Labor Code and California Wage Orders for public entities, the Court of Appeal nevertheless concluded that those exemptions only apply if the public entity exercises specified powers of municipal sovereignty. This analysis fails to consider the reality of public agency structure and the important role that Joint Powers Agencies (JPAs") and other types of special districts play in delivering critical services.

State law authorizes creation of a myriad of special districts to meet a variety of community needs, including airport districts (Pub. Utilities Code, § 22001), citrus pest districts (Food & Ag. Code, § 8410), fire protection districts (Health & Saf. Code, § 13800 et seq.), harbor districts (Harbors & Nav. Code, § 6000), levee districts (Water Code, §§ 70150-70151), library districts (Ed. Code, §§ 19400, 19600), utility districts (Pub. Utilities Code, § 11501), recreation and park districts (Pub. Resources Code, § 5780 et seq.), public cemetery districts (Health & Saf. Code, § 9000 et seq.), and more.

In addition, there are more than 1,800 JPAs in California,¹ which are formed under statutory authority (Gov. Code, § 6500, et seq.) to provide all manner of public services, financial services, insurance pooling and purchasing discounts, planning services, and regulatory enforcement. JPAs allow local governments to share resources and combine services, which saves the agencies and the constituents they serve time and money. The agreements forming a JPA dictate what powers and authorities the JPA will possess. (Gov. Code, § 6503.) The powers granted to a JPA may or may not include the factors cited by the Court of Appeal as indicative of sovereign power. (See, e.g., *Burbank-Glendale-Pasadena Airport Auth. v. Hensler* (2000) 83 Cal.App.4th 556, 563 [eminent domain powers can be, but do not have to be, delegated to a JPA by the forming entities].)

These public agencies play an important role in providing services to California's residents, and bring with them many benefits that cannot be achieved by cities and counties alone. They can address issues that cross jurisdictional boundaries more effectively, pool staffing, resource and equipment for improved efficiencies, be in a better position to receive grant funding dedicated to specified subject areas, have a narrowly tailored governing structure that is more readily focused on a specified subject area, be more responsive to constituents by being limited only to a special benefit area, and many more. Treating these entities as less than sovereign only serves to discourage this creativity and efficiency in service delivery, and is incompatible with the reality of local government service delivery in this State.

B. The opinion below creates uncertainty and exposes public agencies to liability that was not intended under the statutes.

As noted in the Petition for Review, most of the cases issued prior to this decision held that public entities are not liable for various wage and hour obligations and did so without reliance on the sovereign powers doctrine. The confusion that results warrants this Court's review.

The analysis that the Court of Appeal undertakes in this opinion would potentially apply to all manner of JPAs, special district and other similarly created public entities and leave courts and litigants alike with little guidance as to how and when various statutes apply to these entities. For example, the local governments creating a habitat conservation JPA in one jurisdiction may make a policy decision to provide the JPA with eminent domain authority, while in another jurisdiction eminent domain authority for that same type of JPA may not be provided. Or perhaps a cemetery district in one county may have an appointed Board of Directors, while in another county the Board is elected.

¹ Senate Local Gov't Committee, *Governments Working Together: A Citizen's Guide to Joint Powers Agreements* (Aug. 2007), p. 12 (available at: <https://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/GWTFinalversion2.pdf>).

In these cases, the two entities are performing the same essential functions with only slightly different governing structures. This is perfectly permissible in our local government system, which does not require a “one size fits all” means of delivering local services. And yet, one JPA or special district might be subject to wage and hours rules or other statutes not typically applicable to local government, while the other would be considered sovereign and therefore exempt. This simply cannot be the rule.

Conclusion

For these reasons, and the reasons set forth in Alameda Health System’s Petition for review, CSAC, Cal Cities and CAJPA urge this Court to grant the Petition and reverse the Opinion below.

Sincerely,

/s/ Jennifer B. Henning

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