

## Attachment C

March 23, 2012

Assembly Member Felipe Fuentes  
State Capitol Building, Room 2114  
Sacramento, CA 95814

**RE: AB 2231 (Fuentes). Sidewalks: Repairs. (As introduced)**

### **NOTICE OF OPPOSITION**

Dear Assembly Member Fuentes,

The League of California Cities (League) and the California State Association of Counties (CSAC) regret to inform you of our opposition to AB 2231, which would amend long-standing statutes related to sidewalk repairs, drastically changing current law and disrupting the many successful and orderly sidewalk repair programs in place in cities and counties throughout the state.

Current law provides that property owners are responsible for repairs on sidewalks adjacent to their property. However, AB 2231 would effect a major change in California law by making cities and counties responsible for the repair of any sidewalks they "own" or that have been damaged by any plant or tree. The bill also makes cities and counties liable for any injury resulting from the failure to repair and prohibits cities and counties from imposing an assessment on the adjacent property owner for the repair of the sidewalk. These unnecessary changes would have severe and negative impacts for cities and counties.

First, mandating cities and counties to incur sidewalk repairs would result in significant financial losses, resulting in the diversion of funds from projects that benefit the entire traveling public such as street and road maintenance, storm drain cleaning and sewage line maintenance.

It is important to note that after the passage of Proposition 13, which reduced property taxes that fund many local services, and also in fiscally difficult times, cities and counties are continually forced to make tough fiscal decisions in deciding which local maintenance projects can be sustained. It is difficult to justify repairing a sidewalk for a homeowner in a residential neighborhood instead of filling potholes on a thoroughfare that serves as a primary route for the movement of people and goods.

Current law provides a framework for local jurisdictions to work from regarding sidewalk repair programs, and many local governments have policies in place that go beyond statute, to the benefit of the homeowner. For example, some cities and counties have programs scheduled years in advance to repair sidewalks street by street at no expense to the homeowner. The level of fiscal commitment to the repair of sidewalks should be left with cities and counties who are best equipped to assess available resources and prioritize projects that benefit the community as a whole, not the state.

Second, shifting sidewalk repair responsibilities and liability for injuries will likely result in the reduction of new sidewalks built, such as those provided under Safe Routes to Schools grants, due to inadequate funding for maintenance of those new sidewalks.

Additionally, shifting sidewalk repair responsibilities will result in additional strain on local General Fund monies normally allocated to public safety and other vital programs and services.

It is also a challenge to ascertain who "owns" the sidewalk. The abutting property owner usually "owns" an easement and a city or county usually "owns" the underlying fee interest.

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The “one-size fits all” approach outlined in AB 2231, would create a costly and inefficient maintenance system that fails to take into account numerous considerations relevant to the public safety of residents, infrastructure planning, and limited resources. Local jurisdictions throughout the state have created long-standing, successful, and locally appropriate programs to address sidewalk repairs in their city or county, including remedies for potential concerns from property owners.

For these reasons, the League and CSAC oppose AB 2231. If you have any questions about our position, please contact Jennifer Whiting (League, 916/658-8249) or DeAnn Baker (CSAC, 916/327-7500 ext. 509).

Sincerely,



Jennifer Whiting  
Legislative Representative



DeAnn Baker  
Senior Legislative Representative

cc: Chair and Members, Assembly Local Government Committee  
Hank Dempsey, Consultant, Assembly Local Government Committee  
William Web, Consultant Assembly Republican Caucus