

The County of Yuba

County Counsel



TO: Board of Supervisors

FROM: County Counsel, Michael Ciccozzi

SUBJECT: County Counsel: Board approve and ratify signature of Vice Chair on Letter of Opposition to AB6

DATE: September 8, 2020

NUMBER: 463/2020

Recommendation

Board approve and ratify the signature of the Vice-Chair on a Letter of Opposition to AB6 – Attorney General: Duties

Background

In 2018 along with approximately 37 other counties in California, Yuba County filed a federal court action against the largest opioid manufacturers, distributors, and retailers to hold them accountable for their role in creating and sustaining a flood of opioids into communities throughout the United States. The Complaint filed by Yuba County details the tactics and strategies used by the defendants to ensure the influx of these drugs into our communities for the sole purpose of enriching those at the helm of the deceptive marketing strategies. Along with the lawsuits filed by thousands of other public entities throughout the country, the Yuba County lawsuit was consolidated in a Multi-District Litigation centered in Ohio.

At the time that Yuba County filed its lawsuit, the State of California and in particular, the Attorney General had no interest in pursuing litigation against the manufacturers, distributors, and retailers. The counties and cities who filed suit in 2018 have expended and continue to expend untold hours and resources in litigating these cases to the point that after defeating several attempts by the defendants to have the case dismissed, the defendants have come to the table to try to settle the claims of those communities affected by the opioid crisis.

Over a year after cities and counties throughout the nation took the lead in attempting to hold the defendants accountable, the California State Attorney General filed a state lawsuit naming only Purdue

Pharmaceuticals and their owners, the Sackler family as defendants. While the cities and counties of California have attempted to engage the State Attorney General in meaningful discussions regarding a global approach to resolving the lawsuits, the State Attorney General has instead attempted to dictate the terms of any global resolution. When the cities and counties resisted the State Attorney General's efforts, the State Attorney General resorted to a more nefarious method to achieve his goals.

On the evening of Thursday, August 27, 2020, our outside counsel became aware of legislation introduced by the Attorney General, AB6 entitled Attorney General: Duties. The counties that are part of our coalition were immediately notified of this legislative effort to undermine the authority of cities and counties to control or at least be part of the discussion of the resolution of the claims being made in the numerous public entity lawsuits pending in the national litigation.

Discussion

AB6 began as a bill focused on early childhood education. However, the original bill has been gutted and amended at the last minute to instead grant authority to the State Attorney General to release any claim related to the opioid crisis that may be brought by any governmental entity in California. Although the bill contains some vague language regarding the preservation of the claims by those entities that have already filed suit, such vague language does not provide any degree of confidence to those litigating cities and counties that their rights will be respected by the State Attorney General in any settlement. The Attorney General is also seeking to impose an allocation formula for any settlement whereby 15% of the settlement proceeds go directly to the cities and counties; 15% of the settlement proceeds go directly to the State; and an additional 70% goes to the State to be distributed to local governments as the State sees fit.

After hearing of this legislative attempt, the County Administrator and County Counsel coordinated to draft the attached letter of opposition to AB6. Because time was of the essence, the letter was signed by the Vice-Chair to ensure that the letter was delivered to our State legislators prior to the onset of hearings on the bill. The letter was sent to both Assemblyman James Gallagher and State Senator Jim Nielsen on Friday, August 28, 2020. Copies were also sent to CSAC and RCRC, both of whom are opposing this AB6.

Committee Action

Due to time constraints, this matter was not taken to committee first. It is presented to the full board for ratification of the action taken.

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Fiscal Impact

General Fund - None
Non-General Fund - None
Source of Funds - Not Applicable

Attachments

463/2020 - Letter of Opposition to AB6