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February 28, 2017

The Honorable Mike McGuire
Chair, Senate Governance and Finance Committee
State Capitol, Room 408
Sacramento, CA 95814

Dear Senate Member McGuire:

The Fresno County Board of Supervisors would like to voice its support for one of the provisions in Senate Bill 205 – the Local Government Omnibus Act of 2017. Specifically, the Board wishes to voice its support for the proposed amendment to Government Code §1360 that would clarify the requirement of public officers to take an oath of office following election or appointment.

Current law requires candidates to take the oath of office prescribed by Article XX, Section 3 of the California Constitution at the time they file their candidacy for a primary, general, or final election (Elections Code §200). Article XX, Section 3 of the California Constitution and Government Code §1360 also require all public officers and employees to take the oath of office before entering the duties of their office. The current law is not clear whether an elected official is required to take the Oath of Office after the election or if the Oath of Office subscribed to at the time the candidacy papers are taken out/filed satisfies the Constitutional Oath requirement. This ambiguity has caused counties to interpret the law differently.

In Fresno County, lawsuit(s) have been threatened regarding whether failure to take the Constitutional oath of office following the election rendered elected board members' actions subsequent to the election void. Additionally, this ambiguity has caused some elected officials to question why they must take the same oath of office they subscribed to when filing their candidacy papers. To clarify when an oath of office is required, the proposed bill would require public officers to take an oath of office following election or appointment.

The Fresno County Board of Supervisors sees the proposed amendment to Government Code §1360 as a concise solution to the ambiguity and potential misinterpretation of the law as it exists currently. Please do not hesitate to contact Brandi Orth, County of Fresno Registrar of Voters at (559) 600-3013, should you have any questions regarding our support on this matter. Thank you for your advocacy on this important issue.

Sincerely,

Brian Pacheco, Chairman
Fresno County Board of Supervisors

cc: Fresno County Board of Supervisors
Fresno County Legislative Delegation
Brandi Orth, County of Fresno Registrar of Voters
Michael Corbett, State Legislative Advocate