



To: RCRC Executive Committee
From: Paul A. Smith, Vice President Governmental Affairs
Arthur J. Wylene, General Counsel
Date: November 7, 2018
Re: Consideration of Guidelines for RCRC Participation as *Amicus Curiae* in Pending Court Cases of Interest to Rural Counties - **ACTION**

Summary

This memo addresses possible participation by RCRC as *amicus curiae* in appropriate cases, including guidelines for managing such activities.

Background

RCRC is occasionally approached by members counties and others regarding possible participation as *amicus curiae* in pending litigation of statewide importance. Such "friends of the court" typically submit briefs to the judge(s) providing perspective on the legal and policy issues that may be broader or different than that of the parties. This can be a powerful tool for organizations such as RCRC to advance the interests of their members – but can also entail a significant investment of time and resources and may require the organization to "take a side" in what is often a contentious public debate.

RCRC has not historically had the capacity to operate such a program; however, with the hiring of in-house counsel, there is now an opportunity to participate in a limited number of cases that may materially affect the interests of rural counties. Such participation could involve drafting advocacy briefs in-house, and/or coordinating the drafting efforts of interested member County Counsels. The *amicus* programs of the League of California Cities and California State Association of Counties routinely use both methods.

RCRC staff is interested in pursuing this avenue where appropriate – subject to careful guidelines to both manage our resource commitment and ensure that RCRC's involvement aligns with the organization's overall policy goals. We consequently propose the following protocol for possible future RCRC activities as *amicus curiae*:

- **RCRC's participation must be requested by one or more County Counsels from an RCRC-member county.**

This will ensure a baseline level of interest and impact for rural counties, provided by the county officers in the best position to judge.

- **The case must involve an issue of statewide significance to rural county governments.**
We propose the focus of the program on matters affecting the county government directly (e.g., fiscal, governance, and liability matters) in order to maximize the value of RCRC's resource commitment.
- **RCRC's involvement must provide unique input from a rural perspective, and not be duplicative of other *amicus curiae*.**
The League of California Cities and the California State Association of Counties have active *amicus curiae* programs that effectively represent the interests of local governments in general. Our intention would be to limit RCRC's involvement to cases, issues, or perspectives specific to rural counties.
- **The number and timing of *amicus curiae* cases will be limited to ensure that this program can be managed within existing resources, and does not interfere with RCRC staff's other duties.**
- **All requests for *amicus curiae* participation will be submitted to the President or his designee. They will review these requests and submit those that are deemed appropriate for RCRC involvement to the Executive Committee for consideration.**
- **The Executive Committee will review the selected *amicus curiae* requests (typically in closed session), and make the final decision regarding RCRC participation.**

If the Executive Committee concurs with the foregoing guidelines, the guidelines will be memorialized in a resolution prepared for consideration by the full Board of Directors at the December meeting.

Recommendation

It is recommended that the Executive Committee review the proposed *amicus curiae* guidelines and:

1. Direct staff to make any necessary revisions to the guidelines; and
2. Approve the guidelines and direct staff to present the proposed revisions to the full Board for approval