

Date of Hearing: May 13, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Brian Maienschein, Chair
AB 783 (Daly) – As Amended March 26, 2015

SUBJECT: Cities: legislative bodies: subpoena power.

SUMMARY: Allows a city attorney to attest a subpoena that has been signed by a mayor.

EXISTING LAW authorizes the legislative body of a city to issue subpoenas requiring the attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before the legislative body. These subpoenas must be signed by the mayor and attested by the city clerk.

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill allows a city attorney to attest a subpoena that has been signed by a mayor. Current law allows only city clerks to perform this function. This bill is sponsored by the author.
- 2) **Author's Statement.** According to the author, "A city's legislative body has the power to issue subpoenas requiring attendance of a witness or production of documents in pending proceedings. Thus for cities, issuing subpoenas is an important power that can be an effective method for obtaining information from a reluctant witness or an uncooperative city vendor.

"Under current law, subpoenas signed by the mayor must be attested by the city clerk, and if the person refuses to obey, only the mayor can report the fact to a superior court judge. However, if a city clerk resigns or is indisposed, this important power may be rendered impotent. Given that the appointment of a new city clerk may require many months, the enforcement of this crucial power would be ineffective."

- 3) **Background.** Current law, enacted in 1949, allows cities to issue subpoenas requiring witness attendance or the production of specified documents for evidence or testimony in any action or proceeding pending before them. Subpoenas must be signed by the mayor and attested by the city clerk, and may be served in the same manner as they are served in civil actions.

The author asserts that an alternative should be available in the event that a city clerk is unable to attest a city's subpoena. This bill additionally allows a city attorney to attest a subpoena that has been signed by a mayor.

- 4) **Attesting.** An attestation is a declaration by a witness that an instrument has been executed in his or her presence according to the formalities required by law. An attestation clause is frequently found in legal documents that must be witnessed if they are to be valid, for example, a will or a deed. It states that the instrument has been completed in the manner

required by law in the presence of the witness who places his or her signature in the designated space.

5) **Arguments in Support.** None on file.

6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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