

September 24, 2019

The Honorable Gavin Newsom
Governor of California
State Capitol # 1114
Sacramento, CA 95814

RE: Request for Signature on AB 116, Including a Message Committing to Cleanup through Urgency Legislation

Dear Governor Newsom:

We are writing to thank you for your leadership on improving the use and effectiveness of Enhanced Infrastructure Financing Districts (EIFDs) by being a strong advocate for removing the vote requirement to issue bonds for these districts. AB 116 (Ting) eliminates this barrier, but in doing so, it introduces a new protest requirement in the formation process of EIFDs that unintentionally, significantly impacts districts that are currently in the formation process, impedes the creation of new districts, and potentially disrupts already formed districts.

With this in mind, we request your signature on AB 116 in support of the elimination of the vote requirement for bonds and strongly urge that you include a message committing to work with the legislature and economic development practitioners on urgency legislation, next year, to address concerns with the timing of the protest hearing requirement included in AB 116.

We recognize the Legislature's interest in including an opportunity for a protest hearing process before EIFD bonds are issued, but AB 116 would impose that protest hearing at the point of EIFD formation as opposed to when EIFD bonds are actually issued. We are requesting follow-up urgency legislation to AB 116 to clarify that the protest hearing process shall only occur at the point of issuing EIFD bonds. For context and consideration, below are the specific issues with the timing of the protest process, more information on the recommended solution for clean-up, and a suggested draft message to accompany your signature on AB 116.

Protest Process Timing Concerns:

- **AB 116's protest process timing creates significant uncertainty, adds time, and increases costs for jurisdictions that are currently forming an EIFD:** There are several jurisdictions throughout the state that are in the process of forming an EIFD, including the City of Sacramento (Railyards), Stanislaus County, and the City of Redondo Beach, to name a few. If AB 116 is implemented without our suggested cleanup, these numerous jurisdictions that are midstream in the EIFD

formation process will have to restart their formation proceedings and hold three (3) public hearings at least 30 days apart. In addition to the public cost of these delays, this will also add time to a process that is dependent on moving quickly to establish a base year of assessed value. Again, clarifying through urgency legislation that the protest process shall only occur at the point of bond issuance will allow these EIFDs to move ahead with their formation process without significant added risk.

- **The timing of the protest process discourages the creation of EIFDs:** Jurisdictions are already required to go through a stringent public engagement process to form an EIFD. The protest process makes it more difficult for jurisdictions with a long-term economic development vision to form or pursue an EIFD. In particular, the landowner and/or voter electorate at the time of formation (when the protest process occurs under AB 116) may be less supportive and relevant for a bond issuance that may occur many years later. This is an important distinction in that a minority of the current landowners and/or electorate could stop future beneficial economic development growth that may occur after they are no longer owners. This concern would be mitigated by moving the protest hearing process to the point of bond issuance, because at that point the landowners and/or electorate of the EIFD will be much more likely to be supportive of issuing tax increment bonds to finance improvements within the district.
- **It is not clear how the new process impacts already formed districts:** A court may not permit a district formed prior to the enactment of AB 116 to rely on the language eliminating the bond vote requirement because the district would have previously committed to conducting an election process as part of its previously adopted Infrastructure Financing Plan (as required by original statute). Moving the timing of the protest process to the point of bond issuance would help alleviate this concern.

Proposed Solution:

Urgency legislation should be enacted to clarify that the protest hearing process included in AB 116 shall only apply to EIFDs at the point of issuing bonds as opposed to at the point of adopting the Infrastructure Financing Plan.

Specifically, AB 116 amends Government Code Section 53398.66, among other sections, to apply the protest hearing process to the adoption of the Infrastructure Financing Plan, which occurs prior to the formation of the EIFD. Our proposed urgency legislation would restore this section to its current form and instead amend Section 53398.77 and other sections related to the adoption of a resolution of intent to issue EIFD bonds, and the protest hearing process would instead be required to occur prior to the issuance of bonds (after the district has been formed).

Being well-versed in the technical details of forming and implementing EIFDs, our organizations can provide language, support, and advocacy to work with you on introducing and advocating for this solution. Our recommended approach will further our collective goals of expanding the use of EIFDs and enhancing local economic development efforts, while still providing for ample public participation in the process to meet the legislative intent of AB 116.

Signing Message:

As noted earlier, AB 116 makes significant progress towards improving the utilization of EIFDs, but in its current form the bill creates uncertainty by adding a new protest process at the point of district formation instead of at the point of bond issuance. It is our hope that you include the following suggested message to signal your commitment to work with stakeholders on a solution to this issue in your signing message for AB 116:

"Follow up cleanup legislation is needed to clarify that the protest hearing process included in AB 116 shall only apply to EIFDs at the point of issuing bonds as opposed to at the point of adopting the Infrastructure Financing Plan. This technical amendment will acknowledge and appropriately address impacts of AB 116 (Ting) on existing Enhanced Infrastructure Financing Districts (EIFDs) in the State such as those in the cities of West Sacramento, San Diego, La Verne, Placentia and the County of Madera, as well as the 40-plus districts in the process of formation (e.g. as evidenced by an adopted Resolution of Intent to form). These districts were formed or initiated with an understanding among community stakeholders about the parameters and requirements for district formation and future debt issuance and my signing of AB 116 should not stop or interfere with Districts formed and in process as of the enactment of AB 116. An optional exclusion from the updated requirements pursuant to this bill (i.e. authority to continue under previous requirements) for existing and in-process EIFDs would appropriately allow local officials to pursue the most transparent and effective path to district implementation based on the needs and circumstances in each community."

We ask that you sign AB 116 and send a clear message to the Legislature that technical cleanup is needed to fix the timing of the protest hearing process for EIFD bonds. Our organizations are fully prepared to constructively engage with the Legislature and your Administration in these efforts. Please contact either the League of California Cities or the California Association for Local Economic Development if you have any questions. Jason Rhine can be reached at 916-658-8264 or Gurbax Sahota at 916-448-8252 ext. 15.

Respectfully,



Gurbax Sahota
President & CEO
California Association for
Local Economic Development



Jason Rhine
Assistant Legislative Director
League of California Cities