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April 27, 2018

The Honorable Holly J. Mitchell
Chair, Senate Budget Committee

The Honorable Phil Ting
Chai, Assembly Budget Committee

On behalf of our coalition of labor, educational and other public agencies, we are asking your assistance with an issue regarding Assembly Bill 195 (2017) that is generating significant voter confusion and threatening our ability to meet the educational, housing, health, and many other needs of California residents.

AB 195 (Obernolte) [Chapter 105, Statutes of 2017] [Elections Code Section 13119] mandates changes to the ballot label for local bonds. It was characterized as a technical fix, but the policy implications are far-reaching and damaging for the communities our agencies serve.

For the reasons outlined herein, we are asking the Legislature to exempt local general obligation bonds from the requirements of AB 195/Elections Code Section 13119.

We must stress that time is of the essence, as local entities are facing a highly compact time frame to plan their November 2018 bond elections. To that end, we are asking you to address this issue in a budget trailer bill, which would be effective immediately upon signature. Trailer bill language is attached that will address the issues outlined in this letter.

AB 195 Background:

AB 195 requires a local ballot measure that imposes a tax or raises the rate of a tax – including local bonds – to include on the ballot label:

- The amount of money to be raised annually.
- The rate of the tax to be levied.
- The duration of the tax to be levied.

The ballot label is the 75 word question that voters see on their ballot.

The Problem:

The ballot labels created by AB 195 are confusing and misleading to voters.

The rate for a bond fluctuates on an annual basis to pay principle and interest costs. Public agencies attempting to comply with the law are now forced to insert rates into their ballot labels that may not be charged in any year. As such, the information provided in the ballot label is unlikely to provide voters an accurate depiction of rates over the life of the bond.

Similarly, the duration of a bond program can change when projects take longer than anticipated, due to economic conditions (recession, decreasing property values, etc.), changes in local priorities or the creation of new state mandates.

Because ballot labels are capped at 75 words, these newly-required statements take up approximately one-third of the space that would otherwise be used to describe how bond proceeds will be spent in the community.

Effect of Voter Confusion:

Placing these statements in the ballot label generates confusion and ultimately causes more voters to vote “NO,” thereby reducing the passage rate of local bonds. Polling for the June and November 2018 elections shows a decrease of approximately 5 to 10 percentage points when these statements are placed in the ballot label, pushing many bonds below the threshold needed for passage.

More importantly, this outcome is not a reflection of a change in voters’ personal beliefs regarding the use of bonds to fund critical infrastructure improvements. Rather, it shows that voters will default to a “NO” position when they do not fully understand what they are being asked to approve, or if the ballot labels create more questions than they provide answers.

Role of the Tax Rate Statement:

Transparency and accountability are critical for successful bond programs. That is why voters already receive detailed information about the mechanics of a proposed bond measure and the potential costs to taxpayers in the **tax rate statement**, which is included in the voter information guide. The tax rate statement is the proper location for such information, as it provides space for context and a thorough explanation. Placing the abbreviated (and consequentially inaccurate) statements required by AB 195 on the ballot label actually misleads voters, as they do not make sense in the context of bonds.

Legal Issues:

Placing this information in the ballot label may also create legal issues. By placing the rate, duration and amount raised annually on the ballot label, bond counsel could interpret this as creating a cap on all three, making it difficult for public agencies to access the full amount authorized by voters and creating credit concerns with bond investors.

Solution:

A remedy is urgently needed in order to preserve the ability of local entities to go out for bonds in November 2018. After the adoption of AB 195, numerous entities planning June 2018 bonds have already been forced to postpone when polling results dipped close to or below approval thresholds. Board resolutions for November 2018 ballot measures must be passed by **August 10**, and polling has already commenced to assess community support. A remedy is needed immediately that will allow time for governing boards to do complete and accurate polling and pass resolutions authorizing bond measures to be placed on the ballot.

For these reasons, we are asking you to support the attached trailer bill exempting local general obligation bonds from the provisions of AB 195.

We look forward to a swift resolution that will help protect the ability of local agencies to work with their communities in support of critical infrastructure projects, and relieve pressure on the State to provide for these needs. Thank you for your consideration of this request.

Sincerely,



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cc: Honorable Toni G. Atkins, Senate President pro Tempore
Honorable Anthony Rendon, Assembly Speaker
Honorable Patricia C. Bates, Senate Minority Leader
Honorable Brian Dahle, Assembly Minority Leader
Camille Wagner, Legislative Affairs Secretary, Office of Governor Brown
Michael Cohen, Director, Department of Finance

AB 195 Fix

Amend Elections Code Section 13119 as follows:

(a) The ballots used when voting upon a measure proposed by a local governing body or submitted to the voters as an initiative or referendum measure pursuant to Division 9 (commencing with Section 9000), ~~including a measure authorizing the issuance of bonds or the incurrence of debt~~, shall have printed on them the words, "Shall the measure (stating the nature thereof) be adopted?" Opposite the statement of the measure to be voted on, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption of the measure. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

(b) If the proposed measure imposes a tax or raises the rate of a tax, the ballot shall include in the statement of the measure to be voted on the amount of money to be raised annually and the rate and duration of the tax to be levied.

(c) The statement of the measure shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.

(d) For purposes of this section, "local governing body" means the governing body of a city, county, city and county, including a charter city or charter county, or district, including a school district.

(e) This section is not applicable to any measure authorizing the issuance of bonds or incurrence of debt.