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## COUNTY OF SANTA BARBARA

Senator Hannah-Beth Jackson  
State Capitol, Room 2032  
Sacramento, CA 95814

June 2, 2017

### **RE: OPPOSE AB 653, Exempting property owned in fee by Indian tribes from property taxes**

Dear Senator Jackson:

I am writing to request that you take an active role opposing AB 653 (Ridley-Thomas) that seeks to amend California's Revenue and Taxation Code. The bill would exempt land owned in fee from local property taxes as soon as any federally recognized tribe receives a Notice of Decision from the U.S. Department of the Interior accepting the lands into trust.

AB 653 is *not* an effective way to create affordable housing as it purports to be; it would create an unfunded mandate for local government; and, most significantly, it would seriously undermine state and federal policies that encourage tribes to negotiate agreements with local governments prior to lands transferring into trust. The bill may also violate the state constitution. Further, it disrupts the federal regulatory scheme governing fee-to-trust transactions and creates practical and procedural issues. The following elaborates.

First, the bill's author asserts that the bill provides "tax relief as Native American tribes work toward solving their own housing crisis." This rationale, however, contradicts the reality of many fee-to-trust applications in California. Trust lands are often used to site casinos, hotels and other commercial ventures even though housing might have been the basis for the fee-to-trust application. Ironically, the wealthier the tribe, the less the need for property tax relief and the greater the financial benefit from this bill. Landless tribes would not benefit. Moreover, local governments would lose revenues that could be used to meet their responsibilities to provide services, especially for vulnerable populations.

Furthermore, the California Revenue and Taxation Code already provides an exemption for low-income tribal housing. (Rev. & Tax. Code, §237.) Therefore, AB 653 is not necessary for affordable rental housing.

Second, this state bill would create an unfunded mandate for local government. According to the Legislative Analysis, the bill would result in "potentially hundreds of thousands of dollars per year in local revenue loss." This bill, however, attempts to override California's constitutional requirement that the state reimburse local agencies for costs mandated by the state by declaring: "The state shall not reimburse any local agency for any property tax revenue lost by it pursuant to this act." Ironically, the bill would waive local property taxes, keeping state revenues intact.

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Similarly, it appears that AB 653 violates California's Constitutional provision stating that all property is taxable unless exempted by federal law or the state Constitution. Federal law exempts trust lands from state and local taxation, but the California Constitution does not exempt property owned in fee by an Indian tribe. A legislative action such as AB 653 cannot overrule the California Constitution.

Most significantly, the bill would undercut state and federal policies designed to encourage intergovernmental agreements between tribes and local governments. (The Governor's recent work on tribal compacts and statements from the Department of the Interior both indicate a strong preference for local agreements). These agreements establish a *framework for cooperation* once trust status is achieved. Trust lands are exempt from local taxes and local regulations dealing with land use, building and fire codes, water and wastewater, among many more. Without such agreements, trust lands can impose considerable costs on local governments and communities. Unfortunately, the initial phases of the fee-to-trust process—up to the Notice of Decision—can proceed *with little to no notice or participation by local government*. Thus, keeping the land on local property tax rolls—maintaining the status quo—until the process is completed provides a critical incentive to negotiate and reach an agreement.

Finally, the AB 653 exemption would apply when the “department” issues a notice of decision. That language is vague and does not define what is deemed a decision of the “department.” Typically, a Regional Director for the Bureau of Indian Affairs, a unit within the Department of Interior, issues the initial notice of decision, which is not final for the Department of Interior but is subject to administrative review and appeal before the land can be taken into trust. If the proposed exemption applied prior to a final decision by the Department of Interior, it would: (a) discourage the timely resolution of any administrative appeals; (b) create a jurisdictional conflict and practical difficulties as there would be local regulatory authority but not taxing authority over the land; and (c) disrupt the federal regulatory scheme for taking land into trust, which permits removal of the land from local taxing and regulatory jurisdiction *only* upon a final decision by the Department of Interior.

Thank you for your consideration and I urge you to oppose AB 653.

Sincerely,



Joan Hartmann  
Third District Supervisor  
Santa Barbara County

cc: Senator Jim Beall, 15<sup>th</sup> Senate District  
Assemblymember Jim Frazier, 11<sup>th</sup> Assembly District  
Assemblymember Jordan Cunningham, 35<sup>th</sup> Assembly District  
Assemblymember Monique Limon, 37<sup>th</sup> Assembly District  
Mona Miyasato, County Executive Officer  
Cliff Berg, Governmental Advocates  
Kiana Valentine, California State Association of Counties