

April 16, 2019

Hon. Mike McGuire, Chair
Senate Governance & Finance Committee
State Capitol
Sacramento, CA 95814

OPPOSE - SB 293 (Skinner) Howard Terminal Infrastructure Financing District

Dear Chair McGuire,

The Pacific Merchant Shipping Association (PMSA) must respectfully oppose SB 293 (Skinner), which would prematurely and unnecessarily create a project-specific Infrastructure Financing District for the Howard Terminal in the Port of Oakland. SB 293 would also undermine the protections for state trust property in the current Seaport IFD law, and make findings wholly unrelated to the purposes of this bill which are of questionable factual integrity, yet potentially damaging to the integrity of the BCDC Seaport Planning process which is underway for the Howard Terminal in the Port.

There is no clear reason why the Legislature should start a single-property-specific IFD processes for the Howard Terminal. The bill is unnecessary because there are no defects in the current EIFD statutes or in the Seaport IFD law which need correction or amendment in order for the Port of Oakland, City of Oakland, or the Oakland A's to access potential tax-increment financing at this potential project location. Correspondingly, the actual financing described offers no additional or special benefits which could not be garnered under the current EIFD or Seaport IFD statutes.

This is premature because there is no approved project pending at Howard Terminal. The Oakland A's have selected an incredibly challenging, complex, and expensive site upon which to build their project. The A's have an ENA with the Port, but that is all; there are no entitlements, the CEQA process only began several months ago but not at the Port, and no publicly-discussed proposal yet released can meet the high legal clearance hurdles imposed on the site from DTSC, SLC, and BCDC. As there is no basis upon which the project could even conditionally proceed at this time, it is impossible for the A's to do anything more than speculate about what infrastructure they would need to finance with an IFD, much less explain why pursuing an EIFD under current law would be insufficient.

SB 293 is also problematic because it proposes a project-specific path which would allow a waterfront, marine terminal parcel to avoid the protections of the tidelands trust in the current Seaport IFD law. After the Legislature created the new EIFD framework subsequent to the wind-up of redevelopment, it also adopted SB 63 (Hall)(Chap. 793, Statutes of 2015). SB 63 added seaport infrastructure to the list of projects eligible for EIFD tax-increment financing and created a process which engages the State Lands Commission to protect the state's interests in its tidelands which are held in trust by local Ports. SB 63 applies the tidelands trust and its protections to the authorization of the investment of local tax increment revenue generated by the Seaport's own properties.

This bill would avoid the provisions of current law which protect the state's interests in maintaining the tidelands trust and our maritime industries at our seaports under the current EIFD law. But these provisions should be maintained because California's waterfront has always attracted the attention of developers and speculators looking to build new projects on our coasts and shoreline.

What makes the waterfront so desirable for developers, such as the Oakland A's at Howard Terminal, is exactly what also requires it to be protected for the benefit of all of the people of California under the tidelands trust: it is a one-of-a-kind resource. And once a water-dependent use is displaced by development, it is virtually impossible to recover.

The SLC is tasked with protecting the benefits of the state's interests in its waterfront, and to ensure that these benefits accrue to their rightful owner: the people of California, not just one local municipality with EIFD authority. Protections of the statewide interests in these properties were a fundamental core of the extension of EIFD benefits to the waterfront, but SB 293 ignores these limits on the relationships between an underwriting authority and the state's trustees. Not only does it cut out that State Lands Commission, it puts the Oakland City Council itself in direct control of infrastructure on Port trust lands. The Port of Oakland and State Lands Commission are not even mentioned in the operative sections of this bill.

Finally, we very strenuously object to the inclusion of the findings in Section 1 of SB 293, as these are wholly unrelated to the contents of the IFD bill. These are not harmless, could potentially impact the oversight of this project by BCDC, and should be immediately removed from this bill. Our concerns are not speculative in this regard: the Oakland A's circulated drafts of proposed legislative language to various public agencies earlier this year, and publicly acknowledged those efforts in a public meeting of BCDC, that would substitute legislative findings and judgments for those of BCDC with specific respect to the application of the BCDC Seaport Plan to the Housing/Office/Stadium complex at Howard Terminal. This language obviously seeks to create legislative findings of fact which are not only likely not to be supported by any objective evidence – particularly paragraphs (c) and (e).

If SB 293 is intended only to be an IFD bill, then it should be stripped of these findings which could be used to impugn or limit the judgment and findings of BCDC with respect to amendments that they will need to consider with respect to their own Seaport Plan.

We respectfully OPPOSE SB 293.

Sincerely,



Mike Jacob
Vice President & General Counsel

cc: Members, Senate Governance & Finance Committee
Senator Nancy Skinner
State Lands Commission
Bay Conservation and Development Commission