July 20, 2020

The Honorable Phil Ting
Assemblymember, 19th District
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0019

RE: AB 105 (Change in ownership: nonresidential active solar energy systems)—OPPOSE AS AMENDED JULY 22, 2020

Dear Assemblymember Ting,

On behalf of the California Business Roundtable Board of Directors, I am writing to inform you of our opposition to AB 105, which would take active solar systems currently classified by the constitution as real property, declare them “personal property” by legislative fiat if held by a nonresidential owner, and then exempt them from personal property tax until a change of ownership.

As has already been pointed out by the California Assessors’ Association, AB 105 is also clearly unconstitutional. The Legislature has no authority to exempt real property from taxation. While the constitution allows the Legislature to exempt personal property from taxation, however the courts have closely guarded against the exact taxation trickery attempted by AB 105 (e.g. *Lucas v. County of Monterey* 65 Ca. App. 3rd). In short, this bill is clearly unconstitutional and will likely be challenged in court should it pass.

AB 105 also establishes bad precedent by allowing the Legislature to choose winners and losers ahead of the potential largest property tax increase in state history. The bill provides a carve-out for the solar industry should the deeply flawed split-roll property tax measure, Proposition 15, pass this November. In fact, none of the provisions of AB 105 become operative unless Prop 15 passes.

AB 105 is a special-interest bailout and unconstitutional. For these reasons, we strongly oppose AB 105.

Sincerely,

ROBERT C. LAPSLEY
President

cc: California Governor Gavin Newsom
    Assembly Speaker Anthony Rendon
    Assembly Republican Leader Marie Waldron
    Assemblymember Autumn Burke, Chairperson, Assembly Revenue and Taxation Committee
    Members, Assembly Revenue and Taxation Committee