

LEGISLATIVE DIGEST

[Business & Tax Regulations Code - Improvement Districts: Longer Term for Assessments Pledged to Bond, Lease, or Other Obligations; Alternative 2/3 Weighted Vote by Businesses]

Ordinance amending San Francisco Business and Tax Regulations Code Article 15 "Business Improvement Districts Procedure Code" by amending Sections 1510 and 1511, and by adding Section 1515, to: (1) provide for a district term of up to 40 years when assessments are pledged or applied to pay any bond, financing lease (including any certificates of participation therein), or other similar obligations of the City; (2) authorize the Board of Supervisors to require a weighted two-thirds (2/3) vote of business owners to be assessed, based on ballots cast, as an alternative or additional procedure for establishing a business improvement district and levying assessments; and (3) clarify existing provisions and update references to state law; and by making a finding that California Constitution Article XIID does not apply to the levy of business assessments authorized by Business and Tax Regulations Code Article 15.

Existing Law

The state Property and Business and Improvement Act of 1994 (California Streets and Highways Code §36600 *et seq.*, or "1994 Act") authorizes boards of supervisors to create assessment districts and levy assessments on business and/or property for specified periods of time. The process starts with proposed assessees' submission of weighted petitions reflecting each petitioner's share of the total proposed assessment. After an opportunity for assessees to protest, in which each assessee's ballot is weighted according to the percentage of all district assessments that business or property owner will pay, the Board of Supervisors may, in the absence of a majority protest, form the district and levy the assessments. The 1994 Act also allows the Board of Supervisors to contract with an owners non-profit corporation to manage a district.

City Business and Tax Regulations Code Article 15 "Business Improvement Districts Procedure Code" ("Article 15") provides certain optional modifications and augmentations to the 1994 Act. For example, Article 15: allows institution of formation proceedings by the Board of Supervisors upon submission of 30% weighted petitions by proposed assessees, instead of the 50% required under state law; and allows a 15-year district term, instead of the (initial) 5-year term or (renewed) 10-year terms that the state law allows.

The City has formed 12 such currently extant assessment districts under the state law and Article 15. Each such district is managed under a contract the Board of Supervisors has approved between the City and an owners non-profit corporation.

Amendments to Current Law

The proposed ordinance would amend Article 15 to:

- (1) Authorize a district term of up to 40 years when assessments are pledged or applied to pay any bond, financing lease (including any certificates of participation therein), or other similar obligations of the City;
- (2) Authorize the Board of Supervisors to require an alternative or additional procedure as a pre-requisite for establishing a business-based district and levying assessments (which procedure would not apply to a property-based district). Under this alternative/additional procedure businesses that will pay at least 50% of the total estimated assessments in the district must cast weighted ballots; and at least two-thirds (2/3) of the weighted vote must approve the establishment of the district and levy of assessments. The proposed ordinance would define the business owners subject to the proposed business assessment with their weighted votes, as the "electorate" for purposes of California Constitution Article XIIC §2(d) (which requires a 2/3 vote of the electorate to approve a special tax) as and to the extent that provision applies to the levy of assessments on businesses pursuant to San Francisco Business and Tax Regulations Code Article 15; and,
- (3) Clarify existing provisions, and update references to state law (including Ordinance Section 1511(c)).