

File No. 101140

Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: September 15, 2010

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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Completed by: Victor Young

Date: September 10, 2010

Completed by: Victor Young

Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Cigarette Litter Abatement Fee - Timing and Standards for Controller's Review and
2 Adjustment]

3 **Ordinance amending Section 105.3 of the San Francisco Administrative Code to**
4 **change the timelines and standards under which the Controller is directed to review**
5 **and adjust the Cigarette Litter Abatement Fee.**

6 NOTE: Additions are *single-underline italics Times New Roman*;
7 deletions are *strike-through italics Times New Roman*.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strikethrough-normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. The San Francisco Administrative Code is hereby amended by amending
11 Section 105.3, to read as follows:

12 **SEC. 105.3. IMPOSITION OF CIGARETTE LITTER ABATEMENT FEE.**

13 (a) The City hereby imposes a Cigarette Litter Abatement Fee at the rate of \$0.20 per
14 Pack of Cigarettes on the Purchaser for all Cigarette Sales within the geographic limits of the
15 City, subject to adjustment from time to time under subsection (g) below. The Fee shall be
16 imposed on a per-Pack of Cigarettes basis for Cigarette Sales in larger quantities. The Fee is
17 payable at the time of the Cigarette Sale transaction.

18 (b) Each Cigarette Retailer shall collect the Fee from the Purchaser at the time of the
19 Cigarette Sale and remit the collected revenue to the City as provided in Subsection (c).

20 (c) The Cigarette Retailer shall hold the collected Fee revenue in trust for the City and
21 remit such revenue to the Tax Collector each calendar quarter on or before the last day of the
22 month immediately following each respective quarterly period, and in accordance with the Tax
23 Collector's Rules, except that all such amounts shall be due immediately upon the City's
24 suspension of a Cigarette Retailer's Health Code Article 19H tobacco sales permit, or upon a
25

1 Cigarette Retailer's voluntary surrender of such tobacco sales permit, or upon the transfer of
2 ownership or cessation of a Cigarette Retailer's business for any reason.

3 (d) If the Cigarette Retailer fails to collect and remit the Fee as Subsections (a), (b)
4 and (c) require, the Cigarette Retailer is liable to the City for the full Fee amount.

5 (e) The Tax Collector shall deposit all monies collected pursuant to this Cigarette Litter
6 Abatement Fee Ordinance to the credit of the Environment Cigarette Litter Abatement Fund
7 authorized by San Francisco Administrative Code Section 10.100-70. Said fund shall be used
8 exclusively for the following purposes:

9 (1) Refunds of any overpayments of the Fee imposed hereunder;

10 (2) Costs of the Department of Public Works incurred in abating cigarette litter
11 from sidewalks, street gutters, and similar outdoor public spaces consistent with the categories of
12 expense items included in the report that the Department of Public Works has submitted to the Board of
13 Supervisors in support of this ordinance and that appears in file no. 101140; ~~administration, collection~~
14 and enforcement of this Cigarette Litter Abatement Fee Ordinance, including but not limited to, the Tax
15 Collector's personnel, training, space, equipment, material and supplies, and systems programming
16 expenses specific to collecting the Fee;

17 (3) Costs of the Tax Collector incurred in the collection and enforcement of the
18 Cigarette Litter Abatement Fee consistent with the categories of expense items included in the report
19 that the Tax Collector has submitted to the Board of Supervisors in support of this ordinance and that
20 appears in file no. 101140;

21 (4) Costs of public outreach and education to curb improper cigarette
22 litter disposal; and

23 ~~(4) Costs to collect and remove cigarette litter from City sidewalks, gutters and~~
24 ~~public spaces.~~

1 (g) **Fee Adjustment.** No later than December 1, 2010, and every year thereafter, the
2 Controller shall Beginning with fiscal year 2011-2012, the City may adjust the Fee each year,
3 without further action by the Board of Supervisors, as set forth in this subsection.

4 ~~(1) Not later than April 1, the Director of the Department of the Environment, or his or~~
5 ~~her designee, shall report to the Controller the Fees collected from the prior fiscal year and the City's~~
6 ~~prior fiscal year costs to support the services and activities described in Section 105.3(e) herein, as~~
7 ~~well as many other information that the Controller deems necessary to carry the duties set forth herein.~~

8 (21) ~~Not later than May 15, t~~The Controller shall determine whether the current
9 Fee has produced or is projected to produce revenues sufficient to support the services and
10 activities described in Section 105.3(e) herein and that the current Fee has not produced or is
11 not projected to produce revenue which is significantly more than necessary to support those
12 services and activities.

13 (32) The Controller shall, if necessary, adjust the Fee upward or downward for
14 the upcoming fiscal year as appropriate to ensure that, over time, the Fee program recovers
15 no more than the costs of the services and activities described in Section 105.3(e) herein. The
16 adjusted Fee shall become operative on January July 1.

17 (43) The Tax Collector shall post the adjusted Fee on its website. Failure to
18 make the posting that this subsection requires shall not affect the rights of the City to collect
19 the adjusted Fee.

20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: 
24 BURK E. DELVENTHAL
25 Deputy City Attorney

LEGISLATIVE DIGEST

[Cigarette Litter Abatement Fee; Timing and Standards for Controller's Review and Adjustment.]

Ordinance amending Section 105.3 of the San Francisco Administrative Code to change the timelines and standards under which the Controller is directed to review and adjust the Cigarette Litter Abatement Fee

Existing Law

Current law imposes a cigarette litter abatement fee and requires the Controller to review abatement and administrative costs and fee revenues and, if necessary, make annual adjustments commencing in fiscal year 2011-2012 to ensure that over time the ordinance recovers no more than the actual costs of cigarette litter abatement.

Amendments to Current Law

This amendment would delete the 2011-2012 commencement of the Controller's obligation to review the fee and make adjustments. Instead the amendment would require the Controller to conduct the first review and if necessary make adjustments not later than December 1, 2010. This amendment would also provide more detailed criteria to guide the Controller's review duties under this ordinance.

Background Information

Updated cost data indicate that it is preferable to require an earlier review of the costs and revenues that support the Cigarette Abatement Fee.