File No.   __240174__   **Committee Item No.**   __2__
                                Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
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Committee: __Rules Committee__   **Date** _April 15, 2024_

Board of Supervisors Meeting   **Date** _____

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Completed by: ___Victor Young_____   **Date** _April 11, 2024_
Completed by: _____   **Date** _____

1   [Administrative, Municipal Elections Codes - General Obligation Bond Passthroughs]

2

3   **Ordinance amending the Administrative Code to provide that the general obligation**

4   **bond passthrough from landlords to tenants shall be calculated based on the amount**

5   **the property tax rate has increased due to general obligation bonds since the tenant's**

6   **move-in date or 2005, whichever is later; and to allow tenants to seek relief from**

7   **general obligation bond passthroughs based on financial hardship.**

8

9   NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.

10   **Additions to Codes** are in *single-underline italics Times New Roman font*.
            Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.

11   **Board amendment additions** are in <u>double-underlined Arial font</u>.
            Board amendment deletions are in ~~Board amendment deletions~~ ~~strikethrough Arial font~~.

12   **Asterisks (*   *   *   *)** indicate the omission of unchanged Code
            subsections or parts of tables.

13

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

15

16   Section 1. Purpose and Findings.

17   (a) City law allows landlords to pass through to residential tenants a portion of any

18   property tax increases that result from the issuance of certain types of general obligation

19   bonds. The purpose of this law has been to reflect a compromise that landlords and tenants

20   should equally share the burden of any property tax increases that result from the issuance of

21   these bonds. And so, except in cases involving certain older general obligation bonds, the

22   general rule is that landlords may pass through to tenants up to 50% of the change in property

23   taxes that landlords may pay as a result of the bonds.

24   (b) Since approximately 2006, the City has followed a general obligation bond debt

25   management policy that seeks to prevent City general obligation bonds from resulting in an

1   increase to the property tax rate from the prior year. By and large this policy has achieved

2   that aim, and yet, the City has been authorizing passthroughs based on the costs of individual

3   bonds in isolation and without regard to the policy and whether those bond issuances actually

4   resulted in any property tax increase. If landlords and tenants are to share the burden of

5   property tax increases that result from general obligation bond debt, so too should they

6   equally benefit from the City's debt management policies.

7   (c)   A further issue is that because landlords have the right to set the initial rent at the

8   start of a new tenancy, landlords already have the opportunity when they set the rent to cover

9   their existing property tax costs. If these costs are priced into the starting rent, then allowing a

10 passthrough of these costs creates a potential for double recovery, and moreover the City's

11 debt management policy has helped keep the property tax rate relatively stable despite

12 subsequent bonds. As a result, it is fair and consistent with the purpose of the passthrough

13 for the passthrough to only cover property tax increases that arose after the tenant's move-in

14 due to general obligation bonds, which are not already included in the rent. In the case of

15 tenants who moved in before the City adopted its debt management policy, it is appropriate to

16 measure the change in property tax rate relative to the property tax rate in 2005.

17 (d)   The City's failure to account for these factors has led to a growing and unintended

18 disparity. As noted above, the intent of the general obligation bond passthrough was to allow

19 landlords to pass through up to 50% of any increases in the property tax rate that resulted

20 from the bonds. But since 2005-2006, the portion of the property tax rate that corresponds to

21 these bonds has risen about 18%, compared to a 216% increase in the tenant passthrough

22 rate. And the passthrough rates consider bonds whose costs may already have been priced

23 into a tenant's starting rent, in any event.

24 (e)   For the foregoing reasons, the Board of Supervisors finds it is necessary and in

25 the public interest to update the Rent Ordinance to ensure it reflects the reality of the City's

1 debt management policy and the true intent of the general obligation bond passthrough. To

2 ensure fairness, the Board finds that this update should occur prospectively as of July 1,

3 2024, without affecting or impairing the validity of any passthroughs imposed prior to that

4 date.

5

6 Section 2. Article VII of Chapter 2 of the Administrative Code is hereby amended by

7 revising Section 2.40, to read as follows:

8 **SEC. 2.40. INCLUSION OF LANDLORD PASSTHROUGH LANGUAGE.**

9 Any proposal for bonded indebtedness submitted pursuant to this Article *VII* shall

10 include, as a provision of the ordinance submitting such proposal to the voters, language

11 incorporating and authorizing the ~~50 percent~~ passthrough of the change in a landlord's property

12 tax resulting from the repayment of such indebtedness as provided in Administrative Code

13 Section 37.3(a)(6).

14 * * * *

15

16 Section 3. Article V of the Municipal Elections Code is hereby amended by revising

17 Section 520, to read as follows:

18 **SEC. 520. CONTROLLER'S FINANCIAL ANALYSIS.**

19 (a)   The Controller shall prepare an impartial financial analysis of each measure

20 submitted to the voters. The Controller's financial analysis shall include the amount of any

21 increase or decrease in the cost of City and County government. The Controller's financial

22 analysis shall also include the effect of the measure upon the tax rate.

23 For any general obligation bond measure placed on the ballot, the Controller's

24 financial analysis shall include an explanation of the City's legal debt limit, as well as the

25 impact of the proposed bond measure on that limit. The Controller's financial analysis for a

1   general obligation bond measure placed on the ballot, including general obligation bond

2   measures submitted by the San Francisco Unified School District or San Francisco

3   Community College District, also shall include an explanation of the ~~50 percent~~ passthrough of

4   the change in a landlord's property tax resulting from the repayment of such indebtedness

5   provided in Administrative Code Section 37.3(a)(6), and an _explanation_~~estimate~~ of the impact of

6   that passthrough _as it relates to_~~under~~ the proposed bond measure.

7   * * * *

8

9   Section 4. Chapter 37 of the Administrative Code is hereby amended by revising

10   Sections 37.2. and 37.3, to read as follows:

11   **SEC. 37.2. DEFINITIONS.**

12   * * * *

13   (q)   **Rent Increases.** Any additional monies demanded or paid for rent as defined in

14   item (p) above, or any reduction in housing services without a corresponding reduction in the

15   monies demanded or paid for rent; provided, however, that _passthroughs of the following cost_

16   _increases do not constitute rent increases_: (1) where the landlord has been paying the tenant's

17   utilities and the cost of those utilities increases~~, the landlord's passing through to the tenant of such~~

18   ~~increased costs pursuant to this Chapter does not constitute a rent increase~~; (2) where _the landlord is_

19   _passing through to the tenant the_ ~~there has been a~~ change in the landlord's property tax attributable

20   to a general obligation bond ~~approved by the voters between November 1, 1996 and November 30,~~

21   ~~1998, or after November 14, 2002, the landlord's passing through to the tenant of such increased costs~~

22   in accordance with ~~this Chapter (see as~~ Section 37.3(a)(6)~~) does not constitute a rent increase; (3)~~

23   ~~where there has been a change in the landlord's property tax attributable to a San Francisco Unified~~

24   ~~School District or San Francisco Community College District general obligation bond approved by the~~

25   ~~voters after November 1, 2006, the landlord's passing through to the tenant of such increased costs in~~

1 *accordance with this Chapter (see Section 37.3(a)(6)) does not constitute a rent increase; and, (4)*; and

2 *(3) where the landlord is passing through to the tenant* where water bill charges are attributable to

3 water rate increases resulting from issuance of water revenue bonds authorized at the

4 November 5, 2002 election*, the landlord's passing through to the tenant of such increased costs* in

5 accordance with *this Chapter (see* Section 37.3(a)(5)(B)*) does not constitute a rent increase*.

6   * * * *

7

8   **SEC. 37.3. RENT LIMITATIONS.**

9   (a)   **Rent Increase Limitations for Tenants in Occupancy.** Landlords may impose

10 rent increases upon tenants in occupancy only as provided below and as provided by

11 subsections 37.3(d) and 37.3(g):

12   * * * *

13   (6)   **Property Tax.**

14   *(A) Effective July 1, 2024, a*A landlord may impose increases based upon a

15 100% passthrough of the change in the landlord's property tax resulting from the repayment of

16 general obligation bonds of the City and County of San Francisco approved by the voters

17 between November 1, 1996, and November 30, 1998*; a 50% passthrough of the change in the*

18 *landlord's property tax resulting from the repayment of general obligation bonds of the City and*

19 *County of San Francisco approved by the voters after November 14, 2002; and* as provided in Section

20 *37.2(q).*

21   A landlord may impose increases based upon a 50% passthrough of the change in the

22 landlord's property tax resulting from the repayment of San Francisco Unified School District

23 or San Francisco Community College District general obligation bonds approved by the voters

24 after November 1, 2006. *General obligation bonds that meet the criteria set forth in the previous*

25 *sentence are referred to herein as "Eligible Bonds;" provided, however, that a general obligation bond*

1 *approved after December 20, 2000 may qualify as an Eligible Bond only if the passthrough was*

2 *disclosed and approved by the voters. The City and County of San Francisco, San Francisco Unified*

3 *School District, and San Francisco Community College District are referred to collectively as "the*

4 *Issuing Entities."*

5 *To pass through the change in property tax resulting from the repayment of Eligible Bonds, the*

6 *landlord shall calculate said change relative to the amount that the property tax rate increased due to*

7 *the repayment of Eligible Bonds since each tenancy commenced, or 2005, whichever is later ("the Base*

8 *Year"), as set forth in subsection (a)(6)(B). The amount of such increases shall be determined for each*

9 *tax year as follows:*

10 *(B)(A)* The Controller *and the Board of Supervisors* will *first* determine the

11 percentage of the property tax rate, if any, *in each tax year* attributable to *the* general obligation

12 bonds *of any of the Issuing Entities ("the General Obligation Bond Factor") for each and repayable*

13 *within such* tax year*. The passthrough rate for an individual tenant (the "Tenant Passthrough Rate")*

14 *shall be based on the amount that the General Obligation Bond Factor for the current year has*

15 *increased since the tenant's Base Year; and the degree to which said increase, if any, is attributable to*

16 *Eligible Bonds, as measured by the ratio of debt service for the Eligible Bonds compared to the total*

17 *debt service attributable to general obligation bonds of the Issuing Entities. The resulting figure shall*

18 *then be discounted to reflect the specific percentage passthroughs for each of the Eligible Bonds as*

19 *specified in subsection (A). The Controller shall prepare and annually update a form to help landlords*

20 *and tenants calculate the Tenant Passthrough Rates. The Controller's authority to interpret and*

21 *administer this calculation shall be liberally construed to further the purposes of this subsection (a)(6).*

22 *(C)(B)*   *To calculate the amount of increased property tax that the landlord*

23 *can pass through to a tenant in any given year, the landlord shall divide This percentage shall be*

24 *multiplied by* the total amount of the net taxable value as of November 1 of the applicable tax

25 year *by the total number of all units in the property, including commercial units; and shall multiply the*

1   *resulting figure by the applicable Tenant Passthrough Rate*. The result is the dollar amount of

2   *increased* property taxes for that tax year for a particular property attributable to the repayment

3   of ~~the general obligation bonds~~ *Eligible Bonds that the landlord may pass through to the tenant*.

4   *(D)*~~(C)~~   The dollar amount calculated under subsection (a)(6)*(C)*~~(B)~~ ~~shall~~

5   ~~be divided by the total number of all units in each property, including commercial units. That figure~~

6   ~~shall also be discounted to reflect the percentage passthrough that the voters authorized, as applicable:~~

7   ~~specifically, in the case of the 50% passthroughs authorized for general obligation bonds of the City~~

8   ~~and County of San Francisco approved by the voters after November 14, 2002 and general obligation~~

9   ~~bonds of the San Francisco Unified School District or San Francisco Community College District~~

10   ~~approved by the voters after November 1, 2006, the figure shall be divided by two. The figure~~ shall

11   then be divided by the total number of months that the passthrough may apply pursuant to

12   subsection (a)(6)*(E)*~~(D)~~(i), to determine the monthly per unit costs for that tax year of the

13   repayment of general obligation bonds.

14   *(E)*~~(D)~~   Landlords may pass through to each unit in a particular property

15   the dollar amount calculated under subsections (a)(6)(A)*-(D)*~~, (B), and (C)~~, as provided in this

16   subsection (a)(6)*(E)*~~(D)~~.

17   (i)   ~~If a passthrough is imposed on or before December 31, 2020, it shall~~

18   ~~apply only for the 12-month period after it is imposed. Starting January 1, 2021, a~~*A*ll passthroughs

19   shall apply for the same number of months covered by the property tax bills used in the

20   passthrough calculation, and the calculation may not be based on tax bills issued more than

21   three years prior to the year in which the passthrough was imposed.

22   (ii)   The landlord shall give affected tenants notice of the

23   passthrough as provided by applicable notice of rent increase provisions of this Chapter 37,

24   including but not limited to Section 37.3(b)(3). The passthroughs may be imposed at any time

25   in the calendar year, provided that the landlord serves notice of such passthrough to be

1 effective on the anniversary date of each tenant's occupancy of the property. The

2 passthroughs shall not become a part of a tenant's base rent. The amount of each

3 passthrough imposed pursuant to this subsection (a)(6) may vary from year-to-year,

4 depending on the amount calculated *by the Controller*~~under subsections (a)(6)(A), (B), and (C)~~. A

5 landlord may impose the passthroughs described in this subsection (a)(6) for a particular tax

6 year only with respect to those tenants who were residents of a particular property on

7 November 1 of the applicable tax year. A landlord shall not impose a passthrough pursuant to

8 this subsection (a)(6) if the landlord has filed for or received Board approval for a rent

9 increase under Section 37.8(e)(4) for increased operating and maintenance expenses in

10 which the same increase in property taxes due to the repayment of general obligation bonds

11 was included in the comparison year cost totals.

12   *(F)*~~(E)~~   A tenant who has received a passthrough under this subsection

13 (a)(6) may file a financial hardship application with the Board, and the Board may grant the

14 tenant complete or partial relief from ~~that part of~~ the passthrough ~~that is attributable to general~~

15 ~~obligation bonds approved by the voters on or after November 5, 2019~~. The standards and

16 procedures for the financial hardship application shall be as set forth in Sections 37.7(h)-(i).

17   *(G)*~~(F)~~   The Board will have available a form which explains how to

18 calculate the passthrough. Landlords must provide to tenants, on or before the date that

19 notice is served on the tenant of a passthrough permitted under this subsection (a)(6), a copy

20 of the completed form. *Landlords shall provide their tenants the* ~~This~~-completed form*s* ~~shall be~~

21 ~~provided~~ in addition to the Notice of Rent Increase required under Section 37.3(b)*, and shall file*

22 *copies of the completed forms with the Board*. Where a tenant alleges that a landlord has imposed

23 a charge which exceeds the limitations set forth in this subsection (a)(6), the tenant may

24 petition for a hearing under the procedures provided by Section 37.8. In such a hearing, the

25 landlord shall have the burden of proving the accuracy of the calculation that is the basis for

1 the increase. Any tenant petitions challenging such a passthrough must be filed within one

2 year of the effective date of the passthrough.

3 *(H)(G)* The Board *and the Controller* may amend *theirits* rules and

4 regulations as necessary to implement this *S*subsection (a)(6).

5 * * * *

6

7 Section 5. Effective and Operative Dates.

8 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs

9 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not

10 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the

11 Mayor's veto of the ordinance.

12 (b) This ordinance shall become operative on its effective date or on July 1, 2024,

13 whichever is later.

14

15 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors

16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

19 additions, and Board amendment deletions in accordance with the "Note" that appears under

20 the official title of the ordinance.

21

22 Section 7. Severability. If any section, subsection, sentence, clause, phrase, or word of

23 this ordinance, or any application thereof to any person or circumstance, is held to be invalid

24 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not

25 affect the validity of the remaining portions or applications of the ordinance. The Board of

1   Supervisors hereby declares that it would have passed this ordinance and each and every

2   section, subsection, sentence, clause, phrase, and word not declared invalid or

3   unconstitutional without regard to whether any other portion of this ordinance or application

4   thereof would be subsequently declared invalid or unconstitutional

5

6   APPROVED AS TO FORM:
    DAVID CHIU, City Attorney

7

8   By: /s/_____
            MANU PRADHAN

9   Deputy City Attorney

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FILE NO. 240174

LEGISLATIVE DIGEST

[Administrative, Municipal Elections Codes - General Obligation Bond Passthroughs]

Ordinance amending the Administrative Code to provide that the general obligation bond passthrough from landlords to tenants shall be calculated based on the amount the property tax rate has increased due to general obligation bonds since the tenant's move-in date or 2005, whichever is later; and to allow tenants to seek relief from general obligation bond passthroughs based on financial hardship.

Existing Law

The Rent Ordinance limits rent increases on residential tenants, but allows landlords to "pass through" to their tenants a portion of the change in the property taxes that is the result of the repayment of certain categories of general obligation bonds ("Eligible Bonds"). Specifically, landlords can pass through 100% of the change in property tax resulting from bonds issued by the City between 1996-98; 50% of the change resulting from bonds issued by the City after 2002; and 50% of the change resulting from bonds issued by the San Francisco Unified School District or the San Francisco Community College District after 2006. The Controller calculates a Citywide passthrough rate each year, based on the amount of the property tax rate in that year that is attributable to Eligible Bonds. Landlords can use the passthrough rate to determine the amount of property tax costs they can pass through to their tenants.

A tenant who has received a passthrough may file a financial hardship application with the Rent Board as to that part of the passthrough that is attributable to Eligible Bonds approved on or after November 5, 2019.

Amendments to Current Law

The ordinance would modify how the Controller calculates the tenant passthrough rates. Rather than use a standard passthrough rate for all tenants based on the aggregate cost of the Eligible Bonds under repayment, landlords would identify a specific passthrough rate for each tenant. Each tenant's passthrough rate would be based on a comparison of how much the portion of the property tax rate that pays for general obligation bonds of the three bond-issuing entities (the "General Obligation Bond Factor") had increased between the current year, and the year that tenant moved into the unit or 2005, whichever is later ("the Base Year"). If the current year's General Obligation Bond Factor was not higher than it was in the tenant's Base Year, then there would be no increase to pass through to that tenant. But if the General Obligation Bond Factor had increased since the tenant's Base Year, the landlord could pass through to that tenant the portion of the increase that was attributable to Eligible Bonds, in the specific percentages authorized for each of the different categories of Eligible Bonds. The Controller would prepare and annually update a form to help landlords and tenants calculate the tenant passthrough rates. These changes would take effect on July 1, 2024, and would not affect prior years' passthroughs.

Also, the ordinance would allow tenants to seek relief based on financial hardship as to passthroughs associated with all Eligible Bonds, not just Eligible Bonds issued on or after November 5, 2019.

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BOARD of SUPERVISORS

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M E M O R A N D U M

TO: Greg Wagner, City Controller
          Christina Varner, Executive Director, Rent Board

FROM: Victor Young, Assistant Clerk

DATE: May 8, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

> File No. 240174
>
> Ordinance amending the Administrative Code to provide that the general
> obligation bond passthrough from landlords to tenants shall be calculated based
> on the amount the property tax rate has increased due to general obligation
> bonds since the tenant's move-in date or 2005, whichever is later; and to allow
> tenants to seek relief from general obligation bond passthroughs based on
> financial hardship.

If you have comments or reports to be included with the file, please forward them to
Victor Young at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B.
Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

cc.   Tood Rydstrom, Office of the Controller

AFFORDABLE
HOUSING
ALLIANCE

March 19, 2024

Supervisor Hillary Ronen
1 Dr. Carlton B. Goodlett Place
City Hall Room 244
San Francisco, CA 94102

Re: File 240174, Assigned to Rules, Bond Pass-Throughs to Tenants

Dear Supervisor Ronen,

I am writing to seek your support and request your co-sponsorship of this legislation to update and reform the Rent Law's provision for Pass-Through of Property Tax Increases due to the passage of G.O. Bonds.

Since fiscal year 2005-2006, the City has adhered to the Capital Plan mandate that the issuance of new G.O. Bonds be staggered and timed with the retirement of existing G.O. Bonds, in order to accomplish the goal of not raising property taxes. This policy is routinely touted in the materials urging voters to adopt G.O. Bonds. We tell the voters that their vote for the G.O. Bonds will not raise property taxes.

Meanwhile, the antiquated provision in the Rent Law has been producing significant Pass-Throughs for Property Tax Increases, ostensibly due to the passage of those same G.O. Bonds, when in fact those property tax increases do not exist.

The legislation I am writing to you about will update the relevant Rent Law pass-through provision to reflect the "No Property Tax Increase" policy. City and County G.O. Bonds that adhere to the Capital Plan, and therefore do not result in a property tax increase, will, by the same token, not result in a Pass-Through.

The existing Rent Law provision is based on what was a bit of a "one-off" solution originally addressing just two G.O. Bonds, first in 1996 and then in 1998. The formula is an inexact approximation that resulted, among other things, in tenants paying for property tax increases that occurred before their tenancy even started. The passage of time has magnified the inaccuracy of the original provision, with increased significance as the discrepancy has grown. The adoption of the Capital Plan beginning in Fiscal Year 2005/06 has made this clear, as the City approves and issues G.O. Bonds, without raising property taxes, while tenants pay a Pass-Through for an increase in property taxes that no longer exists.

71 Norwich Street, San Francisco, CA 94110   415-756-3037
www.sfaffordablehousingalliance.org

The legislation provides that the G.O. Bond Pass-Through will be calculated based upon the amount the Property Tax Rate has increased due to general obligation bonds after the tenant's move-in date, or 2005, whichever is later.

The result will be that the City's G.O. Bonds issued pursuant to the Capital Plan's "No Property Tax Increase" provision, will not result in a pass-through to tenants.

Other provisions of the legislation will allow tenants to seek relief based on financial hardship, and to require landlords to file a copy of their Pass-Through worksheet with the Rent Board, a process that mimics one already in place for certain Utility Pass-Throughs. The legislation will not result in a significant increase in work load for the Rent Board.

My request is that you consider supporting the legislation by joining as a co-sponsor.

Sincerely,

Mitchell Omerberg
Director