

File No. 091269

Committee Item No. _____

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

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Committee _____

Date _____

Board of Supervisors Meeting

Date 5/11/10

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Completed by: Renee Craig

Date 5/6/10

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

5/4/10

FILE NO. 091269

ORDINANCE NO.

1 [Payroll Expense Tax Biotechnology Exclusion Amendment.]

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3 **Ordinance amending Section 906.1 of the San Francisco Business and Tax Regulations**
4 **Code to clarify the definition of "biotechnology business" and to allow applicants to**
5 **claim the biotechnology exclusion for seven and one half years irrespective of the**
6 **application date.**

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

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

11 Section 1. The San Francisco Business and Tax Regulations Code is hereby amended
12 by amending Section 906.1 to read as follows:

13 SEC. 906.1. BIOTECHNOLOGY EXCLUSION.

14 (a) Any person engaging in biotechnology business within the city may exclude from
15 their payroll expense all compensation paid to, on behalf of or for the benefit of all employees
16 of that person, and all distributions by an Association by way of salary to those having an
17 ownership interest in such Association, who or that perform substantially all work or render
18 substantially all services in direct support of such person's biotechnology business, subject to
19 the conditions and limitations set forth in this Section. For purposes of this Section, outside
20 contractors shall not be considered employees of the biotechnology business. For purposes of
21 this Section, "biotechnology business" means conducting biotechnology research and
22 experimental development, and operating laboratories for biotechnology research and
23 experimental development, using *recombinant* DNA, *cells fusion*, and/or bioprocessing
24 techniques, as well as the application thereof to the development of *therapeutics*, diagnostic
25 products and/or devices to improve human health, animal health, and agriculture.

1 (b) For purposes of this section, "DNA" is a nucleic acid sequence, or fragment thereof, that
2 contains the genetic information for cell growth, division, and function. Examples of DNA include
3 recombinant DNA, RNA, mRNA, antisense, RNAi, genes and ESTs.

4 (c) For purposes of this section, "cells" are membrane bound structures containing
5 biomolecules, such as nucleic acids, proteins, and polysaccharides. This definition includes both
6 prokaryotic (bacterial) and eukaryotic (animal or plant) cells. Examples include primary cells,
7 transformed or cultured cells, stem cells, iPS, ESCs, fused cells and cell lines.

8 (d) For purposes of this section, "bioprocessing" is the use of microbial, plant, or animal cells
9 or portions thereof, for the production of therapeutics or diagnostics. Bioprocessing includes the
10 extraction of compounds from biomaterials; reaction of biomaterials, such as microbial fermentation,
11 cell culture, cell fusion or biotransformation by enzymes; and separation of product from biomaterials
12 using filtration, purification, precipitation, centrifugation, solvents, chromatography or other means.

13 ~~(be)~~ The biotechnology exclusion authorized under this Section shall be available to
14 and may be taken by each person engaging in the biotechnology business in the City for a
15 period of seven and one-half years from the effective date of this Section or the
16 commencement of the person's biotechnology business in the City, whichever is later. The
17 date the ~~Tax Collector~~ Director of Public Health or his or her designee received the person's
18 application for a business registration certificate for the person's biotechnology business shall
19 be presumed to be the date of commencement of such business unless the person
20 establishes a different commencement date to the satisfaction of the Tax Collector.

21 (f) In order to be eligible for the payroll expense tax exclusion authorized under this Section,
22 persons wishing to claim the exclusion must:

23 (1) Complete and submit an initial application to the Director of the Department of
24 Public Health or his or her designee for review and evaluation. The Director of the Department of
25 Public Health, or his or her designee shall have authority to develop eligibility criteria for the

1 biotechnology exclusion, which shall include participation in the City's First Source Hiring
2 Program as defined in Section 83.4 of the Administrative Code.

3 (2) After approval, file an annual affidavit with the Department of Public Health
4 affirming that they continue to meet the eligibility criteria as determined by the Department of Public
5 Health. The affidavit must be filed with the Department of Public Health on or before January 31 of
6 every year after the year the application is first approved.

7 (3) Maintain a reasonable method of documentation that can be reviewed or verified
8 objectively that tracks how employees whose compensation qualifies for the payroll expense tax
9 exclusion spend their time at work, and provide such documentation to the Tax Collector upon request.

10 (4) File an annual Payroll Expense Tax Return with the Tax Collector regardless of the
11 amount of tax liability shown on the return after claiming the exclusion provided for in this Section.

12 (5) File annual affidavits with the Office of Economic and Workforce
13 Development detailing the total number of individuals hired, the number of individuals hired
14 who were referred by the San Francisco Workforce Development System, and the duration of
15 employment for each individual hired. The affidavits must be filed with the Office of Economic
16 and Workforce Development on or before January 31 of every year after the year the
17 application is first approved.

18 ~~(e)(g)~~ The biotechnology exclusion authorized under this Section shall expire on the
19 tenth anniversary date of the effective date of this Section. ~~A person may not use or claim any~~
20 ~~unused portion of the seven and one-half year biotechnology exclusion after the expiration date of this~~
21 ~~Section.~~ Unless exempted under Sections 906 of this Article, every person engaging in the
22 biotechnology business in the City shall pay the tax imposed under this Article on the full
23 amount of the person's payroll expense attributable to the City from and after the expiration of
24 this Section.

1 (dh) If a person's taxable payroll for any year does not exceed the small business exemption
2 amount as defined in Section 905-A, the person shall be exempt from payment of the Payroll Expense
3 Tax for that year. If a person's calculated liability for the Payroll Expense Tax does not exceed \$2,500
4 for the tax year after applying the biotechnology exclusion under this Section, the person shall be
5 exempt from payment of the Payroll Expense Tax for that tax year as provided in Section 905-A.

6 [(ei) Reserved.]

7 (fl) The Tax Collector shall submit an annual report to the Board of Supervisors for
8 each year for which the biotechnology exclusion authorized under this Section is available that
9 sets forth aggregate information on the dollar value of the biotechnology exclusions taken
10 each year, the number of businesses taking the exclusion, the change in the number of
11 biotechnology businesses engaging in business in the City, and any increase or decrease in
12 the number of jobs in the biotechnology business sector compared to the number of jobs in
13 the biotechnology business sector for the immediately preceding calendar year.

14 (gk) The Assessor-Recorder and the Tax Collector shall jointly prepare and submit an
15 annual report to the Board of Supervisors for each year for which the biotechnology exclusion
16 authorized under this Section is available that sets forth any increases in property taxes
17 resulting from biotechnology businesses location, relocation or expansion to or within the City.

18 (hl) The Mayor's Office of Economic Development shall coordinate community
19 educational workshops on the biotechnology industry.

20 (im) The Controller, after five years from the enactment of this Ordinance, shall
21 perform an assessment and review of the effect of the biotechnology tax exclusion. Based on
22 such assessment and review the Controller shall prepare and submit an analysis to the Board
23 of Supervisors. The analysis shall be based on criteria deemed relevant by the Controller, and
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may include but is not limited to, data contained in the annual reports to the Board of Supervisors as required by subsections (f) and (a) of Section 1.

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

By: Carol A. Boardman
Carol A. Boardman
Deputy City Attorney