

BOARD of SUPERVISORS



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MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: *ll*
bw Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: February 12, 2018

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 180122

Motion ordering submitted to the voters at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code and Administrative Code to allocate a portion of hotel tax revenues for arts and cultural purposes and remove obsolete provisions; and affirming the Planning Department's determination under the California Environmental Quality Act.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**
_____ **Recommendation Attached**

Chairperson, Small Business Commission

1 [Initiative Ordinance - Business and Tax Regulations and Administrative Codes - Hotel Tax
2 Allocations]

3 **Motion ordering submitted to the voters at an election to be held on November 6, 2018,**
4 **an Ordinance amending the Business and Tax Regulations Code and Administrative**
5 **Code to allocate a portion of hotel tax revenues for arts and cultural purposes and**
6 **remove obsolete provisions; and affirming the Planning Department's determination**
7 **under the California Environmental Quality Act.**

8
9 MOVED, That the Planning Department has determined that the actions contemplated
10 in this ordinance comply with the California Environmental Quality Act (California Public
11 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
12 Board of Supervisors in File No. _____ and is incorporated herein by reference. The
13 Board affirms this determination; and be it further

14
15 MOVED, That the Board of Supervisors hereby submits the following ordinance to the
16 voters of the City and County of San Francisco, at an election to be held on November 6,
17 2018.

18
19 **Ordinance amending the Business and Tax Regulations Code and Administrative Code**
20 **to allocate a portion of hotel tax revenues for arts and cultural purposes and remove**
21 **obsolete provisions; and affirming the Planning Department's determination under the**
22 **California Environmental Quality Act.**

23 NOTE: **Unchanged Code text and uncodified text** are in plain font.
24 **Additions to Codes** are in *single-underline italics Times New Roman font*.
25 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 Asterisks (* * * *) indicate the omission of unchanged Code subsections or
 parts of tables.

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

2
3 Section 1. Pursuant to Articles XIII A and XIII C of the Constitution of the State of
4 California, this ordinance shall be submitted to the qualified electors of the City and County of
5 San Francisco at the November 6, 2018, consolidated general election.
6

7 Section 2. The Business and Tax Regulations Code is hereby amended by revising
8 Section 515.01 and deleting Section 515.2, to read as follows:

9 **SEC. 515.01. HOTEL TAX ALLOCATIONS.**

10 (a) ~~The portion of all~~ monies collected pursuant to the tax imposed by Section 502 of
11 this Article ~~7 representing a tax of 1.5%, including any penalties, interest, and fees related to such~~
12 ~~1.5% tax~~ ("Allocable Hotel Tax Revenues"), shall be deposited to the credit of ~~a fund to be known~~
13 ~~as~~ the Hotel Room Tax Fund, ~~established in Administrative Code Section 10.100-80,~~ and shall be
14 allocated ~~as for the purposes~~ specified in ~~subsections~~ Subsection (b) ~~and in the amounts prescribed in~~
15 ~~Subsection (c).~~

16 (b) ~~Subject to subsection (c), the~~ The monies ~~in the Hotel Room Tax Fund~~ allocated pursuant to
17 ~~this Section~~ shall be appropriated ~~to the following departments~~ and used solely for the following
18 ~~purposes as follows:~~

19 (1) **Allocation Number 1 (Grants for the Arts Convention Facilities):** \$16,300,000
20 to the City Administrator to distribute to nonprofit cultural organizations in the City, including any
21 administrative costs associated with this grant-making process. To the City Administrator for Base
22 Rental and Additional Rental as provided for and defined in the Project Lease, as amended, between
23 the City and the Successor Agency to the Redevelopment Agency of the City and County of San
24 Francisco, for the acquisition, construction, and financing of a convention center within the Yerba
25 Buena Center Redevelopment Project Area, and for all expenses reasonably related to operation,

1 ~~maintenance, and improvement of the Moscone Convention Center.~~ Any unexpended balance
2 remaining in Allocation Number 1 at the close of any fiscal year shall be deemed to be
3 provided for a specific purpose within the meaning of Section 9.113 of the Charter and shall
4 be carried forward and accumulated in said allocation for the purposes recited herein.

5 (2) **Allocation Number 2 (Cultural Equity Endowment):** \$5,800,000 for programs
6 that move San Francisco arts funding toward cultural equity. Any unexpended balance remaining in
7 Allocation Number 2 at the close of any fiscal year shall be deemed to be provided for a specific
8 purpose within the meaning of Section 9.113 of the Charter and shall be carried forward and
9 accumulated in said allocation for the purposes recited herein.~~(Administration): To the Tax Collector~~
10 ~~for administration of the provisions of this Article.~~

11 (3) **Allocation Number 3 (Cultural Centers):** \$3,300,000 to the Arts Commission to
12 support the operation, maintenance, and programming of City-owned community cultural centers to
13 assure that these cultural centers remain open and accessible and remain vital contributors to the
14 cultural life of the City. Any unexpended balance remaining in Allocation Number 3 at the close of any
15 fiscal year shall be deemed to be provided for a specific purpose within the meaning of Section 9.113 of
16 the Charter and shall be carried forward and accumulated in said allocation for the purposes recited
17 herein.~~(Refunds): To the Tax Collector for refunds of any overpayment of the tax imposed under this~~
18 ~~Article.~~

19 (4) **Allocation Number 4 (Additional Arts and Culture Funding Enhancement):**
20 \$6,600,000 to support enhanced funding for arts and cultural programs, including but not limited to
21 supplemental funding for Allocation Number 1 (Grants for the Arts), Allocation Number 2 (Cultural
22 Equity Endowment), and Allocation Number 3 (Cultural Centers), and funding for Cultural Districts in
23 the City's neighborhoods. Allocations for Cultural Districts shall be used solely to address the effects
24 of destabilization on residents and businesses in the City's Cultural Districts. For purposes of this
25 Section 515.01, "Cultural District" means a geographic area designated by the Board of Supervisors.

1 by ordinance, as an area that embodies a unique cultural heritage or contains a concentration of
2 historically or culturally significant arts, services, or businesses. Any unexpended balance remaining
3 in Allocation Number 4 at the close of any fiscal year shall be deemed to be provided for a specific
4 purpose within the meaning of Section 9.113 of the Charter and shall be carried forward and
5 accumulated in said allocation for the purposes recited herein. ~~(Publicity/Advertising): To the City~~
6 ~~Administrator for publicity and advertising purposes pursuant to the provisions of Section 3.104 of the~~
7 ~~Charter.~~

8 (5) **Allocation Number 5 (Refunds):** All amounts necessary to the Tax Collector for
9 refunds of any overpayment of the 1.5% portion of the tax imposed under Section 502, including any
10 related penalties, interest, and fees.

11 ~~(6) (Balance to General Fund):~~ After the specific purpose allocations and
12 ~~accumulations~~ required by this Section 515.01(b), as adjusted under Section 515.01(c), all
13 remaining revenues shall be transferred to the General Fund, to be expended for any purposes of
14 the City.

15 (c) The amounts described in subsections (b)(1) through (b)(4) as Allocation Numbers 1, 2, 3,
16 and 4, shall be subject to the following adjustments:

17 (1) Fiscal Year 2018-2019 Adjustment: For fiscal year 2018-2019, each amount in
18 subsections (b)(1) through (b)(4) shall be half of the amount stated.

19 (2) Annual Adjustment: Commencing in fiscal year 2019-2020, subject to
20 subsection (c)(3), each amount in subsections (b)(1) through (b)(4) shall be adjusted annually by the
21 percentage increase or decrease in Allocable Hotel Tax Revenues collected in the current fiscal year
22 compared with the prior fiscal year; provided, however, that such percentage increase or decrease
23 shall not exceed 10% annually.

24 (3) Grants for the Arts and Cultural Equity Endowment: For fiscal years 2019-2020
25 and 2020-2021, one-half of the amount of the adjustment to Allocation Number 1 (Grants for the Arts)

1 under subsection (c)(2) due to any increase in Allocable Hotel Tax Revenues shall be allocated instead
2 to Allocation Number 2 (Cultural Equity Endowment).

3 (d) Commencing with a report filed no later than February 15, 2020, covering the fiscal year
4 ending on June 30, 2019, the Controller shall file annually with the Board of Supervisors, by February
5 15 of each year, a report containing the amount of monies collected in and expended from the Hotel
6 Room Tax Fund during the prior fiscal year, the status of any project required or authorized to be
7 funded by this Section 515.01, and such other information as the Controller, in the Controller's sole
8 discretion, shall deem relevant to the operation of this Section 515.01.

9 Each allocation for a purpose described in Subsection (b) shall be in the amount prescribed in
10 the table below.

<i>Allocation No.</i>	<i>Amount</i>
<i>1. Moscone Convention Center</i>	<i>50%</i>
<i>2. Administration</i>	<i>Up to .6%</i>
<i>3. Refunds of Overpayments</i>	<i>As required</i>
<i>4. Publicity & Advertising</i>	<i>As appropriated</i>
<i>5. To General Fund</i>	<i>Remainder</i>

17 Percentages shall be calculated based on the total amount collected pursuant to the tax imposed
18 by Section 502 of this Article.

20 **SEC. 515.2. CALCULATION OF PERCENTAGE ALLOCATIONS UNDER SECTION 515.01.**

21 (a) Notwithstanding Section 515.01 of this Article, the total amount to be allocated under
22 Section 515.01 for each fiscal year shall be reduced by the amount of principal and interest (exclusive
23 of any bond reserve payments) due and payable for that fiscal year on any outstanding agency bonds,
24 as defined in Section 502.8(c) hereof.

1 ~~(b) This Section 515.2 shall remain in effect so long as Section 502.8 of this Article remains in~~
2 ~~effect.~~

3
4 Section 3. The Administrative Code is hereby amended by adding Section 10.100-80,
5 to read as follows:

6 **SEC. 10.100-80. HOTEL ROOM TAX FUND.**

7 (a) Establishment of Fund. The Hotel Room Tax Fund (“Fund”) is established as a category
8 four fund as defined in Section 10.100-1 of the Administrative Code, and shall receive all taxes,
9 penalties, interest, and fees described in Section 515.01(a) of Article 7 of the Business and Tax
10 Regulations Code.

11 (b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies in the
12 Fund shall be used exclusively for the purposes described in Section 515.01(b) of Article 7 of the
13 Business and Tax Regulations Code.

14 (c) Administration of Fund. As stated in Section 515.01(d) of Article 7 of the Business and Tax
15 Regulations Code, commencing with a report filed no later than February 15, 2020, covering the fiscal
16 year ending June 30, 2019, the Controller shall file annually with the Board of Supervisors, by
17 February 15 of each year, a report containing the amount of monies collected in and expended from the
18 Fund during the prior fiscal year, the status of any project required or authorized to be funded by
19 Section 515.01, and such other information as the Controller, in the Controller’s sole discretion, shall
20 deem relevant to the operation of Section 515.01.

21
22 Section 4. Scope of Ordinance. In enacting this ordinance, the People of the City and
23 County of San Francisco intend to amend only those words, phrases, paragraphs,
24 subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other
25 constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions

1 or deletions, in accordance with the "Note" that appears under the official title of the
2 ordinance.

3
4 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
5 of this ordinance, or any application thereof to any person or circumstance, is held to be
6 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
7 shall not affect the validity of the remaining portions or applications of the ordinance. The
8 People of the City and County of San Francisco hereby declare that they would have passed
9 this ordinance and each and every section, subsection, sentence, clause, phrase, and word
10 not declared invalid or unconstitutional without regard to whether any other portion of this
11 ordinance or application thereof would be subsequently declared invalid or unconstitutional.
12

13 Section 6. Effective and Operative Dates. The effective date of this ordinance shall be
14 ten days after the date the official vote count is declared by the Board of Supervisors. This
15 ordinance shall become operative on January 1, 2019. The 50% adjustment for fiscal year
16 2018-2019 provided in Section 515.01(c)(1) of the Business and Tax Regulations Code takes
17 into account the mid-fiscal year operative date of this ordinance.
18

19 APPROVED AS TO FORM:

20 DENNIS J. HERRERA, City Attorney

21
22 By: 
23 KERNE H. O. MATSUBARA
24 Deputy City Attorney

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LEGISLATIVE DIGEST

[Initiative Ordinance - Business and Tax Regulations and Administrative Codes - Hotel Tax Allocations]

Motion ordering submitted to the voters at an election to be held on November 6, 2018, an Ordinance amending the Business and Tax Regulations Code and Administrative Code to allocate a portion of hotel tax revenues for arts and cultural purposes and remove obsolete provisions; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The City currently imposes a hotel tax on the rental of hotel rooms. The tax is 14%, consisting of an 8% base tax and an additional 6% tax surcharge. The tax goes into the General Fund, and the Board of Supervisors may allocate the money for any public purpose.

Amendments to Current Law

This ordinance would subject 1.5% of the 8% base tax to specific allocation, and the remaining 6.5% of the 8% base tax would continue to go into the General Fund. Hotel tax revenues from the 1.5% portion of the base tax would be allocated for arts and cultural purposes, as follows:

- Allocation 1: \$16,300,000 to distribute to nonprofit cultural organizations in the City, including any administrative costs associated with the grant-making process;
- Allocation 2: \$5,800,000 for programs that move San Francisco arts funding toward cultural equity;
- Allocation 3: \$3,300,000 to the Arts Commission to support the operation, maintenance, and programming of City-owned community cultural centers; and
- Allocation 4: \$6,600,000 to support enhanced funding for arts and cultural programs, including but not limited to supplemental funding for the three categories described above, and funding for cultural districts in the City.

Amounts for fiscal year 2018-2019 would be halved to take into account the January 1, 2019 operative date for this ordinance. Additionally, commencing in fiscal year 2019-2020, the amounts allocated for each purpose would be adjusted annually by the percentage increase or decrease in revenues from the 1.5% portion of the base tax, compared to the prior fiscal year. For fiscal years 2019-2020 and 2020-2021, one-half of the annual adjustment for Allocation 1 due to an increase in revenues would be allocated instead to Allocation 2. After all specific allocations have been made, any remaining revenues from the 1.5% portion of the base tax would go into the General Fund to be used for any City purpose.

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