

LEGISLATIVE DIGEST

[Initiative Ordinance - Business and Tax Regulations Code - Additional Utility Users Tax on Gas and Electricity]

Motion ordering submitted to the voters an Ordinance amending the Business and Tax Regulations Code to impose an additional utility users tax on electricity equal to 2.5% of the charges incurred, subject to certain exemptions including an exemption for electricity from certain renewable energy resources, and an additional utility users tax on gas equal to 2.5% of the charges incurred, subject to certain exemptions, to fund affordable housing and programs that reduce carbon emissions at an election to be held on November 3, 2015.

Existing Law

Article 10 of the Business and Tax Regulations Code currently imposes a general utility users tax on commercial users of electrical energy and gas at a rate of 7.5% of the charges for those utilities. The tax is collected and remitted to the Tax Collector by the utility supplier. Components of gas and electric bills calculated on the baseline rate, as defined in section 739 of the California Public Utilities Code, are exempt from the tax. The utility users tax is administered under the provisions of Articles 6 and 10 of the Business and Tax Regulations Code.

Amendments to Current Law

This motion would place an ordinance on the November 3, 2015 ballot that would impose an additional special utility users tax on residential and commercial users of electrical energy and gas at a rate of 2.5% of the charges for those utilities. The proposed tax would be collected and remitted to the Tax Collector by the utility supplier in the same manner as the current utility users tax, and would be effective July 1, 2016. The proposed tax would be administered under the provisions of Articles 6 and 10 of the Business and Tax Regulations Code in the same manner as the current utility users tax.

All of the exemptions from the current utility users tax would apply to the proposed utility users tax, except that residential users would not be exempt. Additionally, the following persons would be exempt from the proposed utility users tax as applied to the use of electrical energy:

- Persons that voluntarily elect to receive at least 50% of their electrical energy from eligible renewable energy resources or that receive any amount of their electrical energy from on-site solar systems;
- Persons that receive their electrical energy from a Community Choice Aggregator;
- Persons that qualify for the California Alternative Rates for Energy (“CARE”) program under sections 739.1 through 739.4 of the California Public Utilities Code; and

- Persons that qualify for the Family Electric Rate Assistance Program (“FERA”).

Persons that qualify for the CARE program would also be exempt from the gas portion of the proposed utility users tax.

All revenues from the proposed ordinance would be deposited into a newly created Environment Greenhouse Gas Emission Reduction Fund (the “Fund”). The Fund would be used for administration of the proposed tax, refunds of overpayments of the proposed tax, and for the following Eligible Programs:

- Programs administered by the Mayor’s Office of Housing for the development of affordable housing in areas well served by public transit that would reduce greenhouse gas emissions by decreasing vehicle miles travelled;
- Programs administered by the San Francisco Public Utilities Commission for the development or acquisition of renewable energy resources in San Francisco or on real property owned or leased by the City;
- Energy efficiency projects administered by the Department of the Environment that would benefit disadvantaged residents and small business owners; and/or
- Urban forest projects administered by the Department of the Environment or the Department of Public Works that would increase carbon sequestration through tree planting and maintenance.

The Department of the Environment would allocate amounts from the Fund based on budget proposals submitted by the Departments administering each program. In allocating such amounts, the Department of the Environment would be required to give priority to programs that are eligible for potential matching funds from state, federal, or other sources.

The Department of the Environment would have to report annually to the Mayor, the Board of Supervisors, and the Controller on: (1) the amount deposited into the Fund, the amount expended from the Fund, the amount of any remaining unexpended balances by Eligible Program and Department, and the allocation of all prior expenditures from the Fund, by Eligible Program, Department, and fiscal year; (2) the status of any programs funded by the Fund; and (3) any other information the Department of the Environment deems relevant to the use of amounts in the Fund.

n:\legana\as2015\1500743\01020633.doc