

File No. 091269

Committee Item No. 4  
Board Item No. 18

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Sub - Committee: Budget and Finance

Date: April 28, 2010

Board of Supervisors Meeting

Date: May 4, 2010

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <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                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Andrea S. Ausberry

Date Thursday, April 23, 2010

Completed by: Andrea S. Ausberry

Date Thursday, April 29, 2010

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



1 [Payroll Expense Tax Biotechnology Exclusion Amendment.]

2  
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

1 Public Health, or his or her designee shall have authority to develop eligibility criteria for the  
2 biotechnology exclusion.

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

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

24 [(ei) Reserved. ]  
25

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

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

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

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

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

22 By:   
23 Carol A. Boardman  
24 Deputy City Attorney  
25

LEGISLATIVE DIGEST

[Payroll Expense Tax Biotechnology Exclusion Amendment]

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

Existing Law

A payroll expense tax is currently imposed upon every person engaging in business in San Francisco. A biotechnology exclusion from the payroll expense tax may be claimed by businesses that engage in qualifying activities for seven and one half years from the date of their application for the exclusion. But under current law, the period of eligibility for the exclusion may not extend beyond the expiration date of the biotech exclusion itself, and the biotechnology exclusion is scheduled to expire on August 12, 2014.

Amendments to Current Law

This amendment clarifies the definition of "biotechnology business" and allows the biotechnology exclusion for seven and one half years irrespective of the application date.

Background Information

The payroll expense tax is imposed for general governmental purposes and in order to require commerce and the business community to carry a fair share of the costs of local government in return for the benefits, opportunities and protections afforded by the City. In order to encourage biotechnology businesses to locate and do business in the City, help revive the local economy, create jobs, and generate an increase in property tax revenue to the City, in 2004 the Board of Supervisors approved an exclusion from the payroll expense tax for qualifying biotechnology businesses. The exclusion is available for the first seven and one half years the biotechnology business is in operation in the City. Under current law, a person may not use or claim any unused portion of the seven and one half year biotechnology exclusion after the biotechnology exclusion expires. Since the biotechnology exclusion is scheduled to expire on August 12, 2014, some businesses will not receive the benefit of the exclusion for an entire seven and one half year period. This amendment would allow all qualifying businesses to claim the exclusion for seven and one half years. This amendment also clarifies the definition of the term "biotechnology business".

**Item 4**  
**File 09-1269**

**Department(s):**  
Treasurer/Tax Collector and Department of Public Health

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed ordinance would amend Section 906.1 of the City's Business and Tax Regulations Code to (a) clarify scientific definitions; (b) allow each biotechnology business applicant to claim annual Payroll Expense Tax biotechnology exclusions for 7½ years; (c) make Section 906.1 consistent with the Small Business Tax Exemption laws; and (d) designate the Director of the Department of Public Health (DPH), or his or her designee, as the reviewer of Biotechnology Payroll Expense Tax exclusion applications.

### Key Points

- On August 12, 2004, the Board of Supervisors approved adding Section 906.1 to the City's Business and Tax Regulations Code, to establish a ten-year Payroll Expense Tax exclusion for eligible San Francisco biotechnology businesses, which terminates on August 14, 2014 (File No. 04-0592). Biotechnology businesses, located in San Francisco, are eligible to receive the Biotechnology Payroll Expense Tax exclusion if such firms (a) conduct biotechnology research and experimental development by (i) using recombinant DNA, cell fusion, and bioprocessing techniques and (ii) applying such techniques to developing diagnostic products and/or devices to improve human health, animal health and agriculture; and (b) have a calculated tax year liability that exceeds \$2,500. Eligible biotechnology businesses do not have to pay any Payroll Expense Taxes for 7½ years or until the exclusion period terminates on August 14, 2014, whichever date comes first.
- The proposed amendments are (a) intended to create a greater incentive for biotechnology businesses to locate and expand their biotechnology business in San Francisco, (b) make Section 906.1 consistent with the Small Business Tax Exemption laws, and (c) designate a department that has the scientific expertise to review Biotechnology Payroll Expense Tax exclusion applications.

### Fiscal Impact

- According to Mr. Ted Egan, Chief Economist of the Office of Economic Analysis, the Office of Economic Analysis did not conduct an economic impact report on the proposed ordinance because (a) the Controller's Office could not determine that the policy would have a material economic impact of \$10,000,000 on the City and (b) there is insufficient information about the biotechnology businesses currently located in San Francisco to estimate (i) how many biotechnology business employees would qualify under the proposed ordinance's broader definition and (ii) the cost of future Payroll Expense Tax exclusions.

### Policy Considerations

- Given that (a) the Controller's Office is unable to estimate the annual Biotechnology Payroll Expense Tax revenues that would not be received by the City as a result of the proposed Payroll Expense Tax Exclusion, (b) the number of eligible Biotechnology Business employees has grown over the last five fiscal years, (c) the eligible Biotechnology businesses would be able to receive 7½ years of the annual Payroll Expense Tax biotechnology exclusions subsequent to the current exclusion period's end date of August 12, 2014, and (d) there is insufficient data on the number of biotechnology businesses in San Francisco, approval of the proposed ordinance is considered a policy matter for the Board of Supervisors.

### Recommendation

- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.



## BACKGROUND/MANDATE STATEMENT

### Existing Legal Requirements

On August 12, 2004, the Board of Supervisors approved adding Section 906.1 to the City's Business and Tax Regulations Code, to establish a ten-year Payroll Expense Tax<sup>1</sup> exclusion for eligible biotechnology businesses in San Francisco, which terminates on August 14, 2014 (File No. 04-0592). In accordance with Section 906.1, eligible biotechnology businesses include firms that operate laboratories that conduct biotechnology research and experimental development by (a) using recombinant DNA<sup>2</sup>, cell fusion<sup>3</sup>, and bioprocessing<sup>4</sup> techniques and (b) applying such techniques to develop diagnostic products and/or devices to improve human health, animal health and agriculture. Eligible San Francisco biotechnology businesses that apply for and receive this Payroll Expense Tax exclusion do not have to pay any Payroll Expense Taxes to the City on their eligible San Francisco payroll expenses<sup>5</sup> for 7½ years or until the exclusion period terminates on August 14, 2014, whichever date is earliest. Section 906.1 also states that biotechnology businesses must have a calculated annual tax liability that exceeds \$2,500 to be eligible for the Payroll Expense Tax exclusion (see Details of Proposed Legislation Section below).

In addition, in accordance with Section 906.1, the Treasurer/Tax Collector's Office is required to submit an annual report to the Board of the Supervisors summarizing the Payroll Expense Tax exclusion information for the past calendar years, including (a) the number of biotechnology businesses eligible for the exclusion, (b) the number of eligible biotechnology business employees, and (c) the amount of Payroll Expense Tax exclusion claimed. In addition, the Assessor-Recorder's Office is required to submit an annual report to the Board of the Supervisors summarizing the Property Taxes received from the eligible biotechnology businesses. Finally, the Controller's Office is required to submit a five-year report to the Board of Supervisors, which assesses and reviews the Payroll Expense Tax exclusion program.

### Background

Since Section 906.1 was added to the City's Business and Tax Regulations Code, the Treasurer/Tax Collector's Office has reviewed applications from biotechnology businesses, administered the Payroll Expense Tax exclusion provisions, audited the eligible biotechnology businesses, and submitted annual Payroll Expense Tax exclusion reports to the Board of the Supervisors. The Assessor-Recorder's Office has also submitted annual reports to the Board of

<sup>1</sup> According to Section 903 of the City's Business and Tax Regulations Code, the City imposes a 1.5 percent Payroll Expense Tax on San Francisco businesses, exempting businesses with annual taxable payroll less than \$250,000 annually.

<sup>2</sup> Recombinant DNA is defined as combining a strand or piece of one DNA with another strand of DNA.

<sup>3</sup> Cell fusion is defined as the process where researchers can grow and transform stem cells into specialized cells (i.e. muscle tissue, nerve tissue), which could be used to conduct biological research.

<sup>4</sup> Bioprocessing is defined as the use of portions of microbial, plant, or animal cells for the production of therapeutics or diagnostics.

<sup>5</sup> Payroll expenses include salaries, wages, bonuses, commissions, property issued or transferred in exchange for the performance of services, stock options and any other form of compensation.

the Supervisors with the annual Property Tax revenues received from the eligible biotechnology businesses.

On December 3, 2009, the Controller's Office of Economic Analysis issued a Five-Year Evaluation of the Biotechnology Payroll Expense Tax Exclusion report, which identified the impact of the Payroll Expense Tax exclusion for the last five calendar years, as summarized in Table 1 below.

**Table 1:  
The Growth of Eligible Biotechnology Business Employees**

<b>Calendar Year</b>	<b>Number of Eligible Biotechnology Business Employees</b>
CY 2004	3
CY 2005	88
CY 2006	163
CY 2007	215
CY 2008	231
<b>Five Year Increase (CY 2008 less CY 2004)</b>	<b>228</b>
<b>Percent Change</b>	<b>7600%</b>

Source: Controller's Five-Year Evaluation of the Biotechnology Payroll Expense Tax Exclusion Report

Table 1 above shows that since the Biotechnology Payroll Expense Tax exclusion began in CY 2004, the number of eligible Biotechnology Business Employees has grown by 228 employees, from three employees in CY 2004 to 231 in CY 2008.

As stated in the Controller's report, submitted on December 3, 2009 to the Board of Supervisors, it is difficult to determine how much the Biotechnology Payroll Expense Tax exclusion contributed to attracting and expanding biotechnology businesses in San Francisco because other factors promoted the growth of the industry, including the development of research and clinical studies areas, such as Mission Bay and the UCSF campus.

The Controller's report further states that although attracting and expanding biotechnology businesses in San Francisco may not be fully attributed to the Biotechnology Payroll Expense Tax exclusion, the Controller's Office does not recommend weakening or terminating the Biotechnology Payroll Expense Tax exclusion at this time because (a) the intent of the Biotechnology Payroll Expense Tax exclusion was to help generate a biotechnology industry cluster in San Francisco, (b) the cost of the Biotechnology Payroll Expense Tax exclusion has been relatively low compared to the total Payroll Expense Taxes received from all businesses from CY 2004 to CY 2008 (see Table 2 below), and (c) the Biotechnology Payroll Expense Tax exclusion has a symbolic, or marketing, value.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend Section 906.1 of the City's Business and Tax Regulations Code to:

- (a) Clarify the definition of "biotechnology business";
- (b) Allow each biotechnology business applicant to claim annual Payroll Expense Tax biotechnology exclusions for 7½ years, irrespective of the biotechnology business' application date;
- (c) Make Section 906.1 consistent with the Small Business Tax Exemption laws (Section 905-A of the City's Business and Tax Regulations Code); and
- (d) Designate the Director of the Department of Public Health (DPH), or his or her designee, as the reviewer of applications from biotechnology businesses to determine if such businesses annually qualify for the Biotechnology Payroll Expense Tax exclusion.

According to Ms. Jennifer Entine Matz, Managing Deputy Director of the Office of Economic and Workforce Development, the proposed ordinance is intended to create a greater incentive for new biotechnology businesses to locate in San Francisco or for existing biotechnology businesses to expand in San Francisco by expanding the definition of biotechnology businesses and providing Payroll Expense Tax exclusions for up to 7½ years, instead of expiring on August 12, 2014. In addition, the proposed ordinance would make Section 906.1 consistent with the Small Business Tax Exemption laws and designate the Department of Public Health (DPH) instead of the Treasurer/Tax Collector's Office since DPH has the scientific expertise to review Biotechnology Payroll Expense Tax exclusion applications.

Biotechnology Definition: Currently, biotechnology businesses that use recombinant DNA, cell fusion and bioprocessing techniques to develop diagnostic products and/or devices are eligible to apply for the Payroll Expense Tax exclusion. Under the proposed ordinance, biotechnology businesses that conduct research and experimental development using DNA<sup>6</sup>, cell<sup>7</sup>, and/or bioprocessing techniques and apply such techniques to developing therapeutics or diagnostics products and/or devices would also be eligible for the existing biotechnology Payroll Expense Tax exclusion.

Payroll Expense Tax Biotechnology Exclusions for 7½ years: The proposed ordinance would allow each biotechnology business applicant to claim Payroll Expense Tax exclusions for 7½ years, irrespective of the date the biotechnology business applied for the exclusion, as long as the application was submitted before August 12, 2014. Under the existing Code, all biotechnology business Payroll Expense Tax exclusions terminate on August 12, 2014.

<sup>6</sup> DNA, or deoxyribonucleic acid, is defined as a nucleic acid sequence, or a fragment of a nucleic acid sequence, that contains the genetic information for cell growth, division and function.

<sup>7</sup> Cells are defined as prokaryotic (bacterial) or eukaryotic (animal or plant) membrane bound structures containing biomolecules, such as nucleic acids, proteins, and polysaccharides (a carbohydrate that can be decomposed by hydrolysis into two or more molecules of sugar that is not decomposable into simpler sugars).

Consistency with Small Business Tax Exemption laws: In accordance with Section 906.1, a biotechnology business currently must have a calculated annual tax liability that exceeds \$2,500 to be eligible for the Payroll Expense Tax exclusion. The proposed ordinance would amend Section 906.1 to be consistent with Section 905-A (the Small Business Tax Exemption law), which states that businesses are exempt from paying the City's Payroll Expense Tax if their annual taxable payroll expense does not exceed \$250,000. Beginning in CY 2011 and every two years afterwards, the taxable payroll expense exemption limit would be subject to Consumer Price Index (CPI)<sup>8</sup> adjustments.

Biotechnology Application Review: The Treasurer/Tax Collector's Office reviews applications from biotechnology businesses to determine if such businesses qualify for the Biotechnology Payroll Expense Tax exclusion. Under the proposed ordinance, the Director of DPH, or his or her designee, would review such applications instead of the Treasurer/Tax Collector's Office. Applications would be sent to DPH instead of the Treasurer/Tax Collector's Office. If DPH determines that biotechnology businesses are eligible for the Biotechnology Payroll Expense Tax exclusion, such businesses must submit an annual affidavit to the Department of Public Health on or before January 31<sup>st</sup> of every year stating that they continue to meet the eligibility criteria. The Treasurer/Tax Collector's Office will continue to administer the Payroll Expense Tax exclusion provisions, audit the biotechnology businesses and submit annual Payroll Expense Tax exclusion reports to the Board of the Supervisors.

## FISCAL ANALYSIS

### Estimated Reduction to Payroll Expense Tax Revenue

According to Mr. Ted Egan, Chief Economist of the Office of Economic Analysis, the Office of Economic Analysis did not conduct an economic impact report on the proposed ordinance because (a) the Controller's Office could not determine that the policy would have a material economic impact of \$10,000,000 or more on the City<sup>9</sup> and (b) there is insufficient information about the biotechnology businesses currently located in San Francisco to estimate (i) how many biotechnology business employees would qualify under the proposed ordinance's broader definition and (ii) the cost of future Payroll Expense Tax exclusions.

As shown in Table 2 below, the biotechnology Payroll Expense Tax exclusions over the last five calendar years have resulted in reduced Payroll Expense Tax revenues payable to the City of \$963,396 from CY 2004 through CY 2008, which is less than one percent (0.0006) of the \$1,630,525,356 total Payroll Expense Tax revenue realized over the same five-year period.

<sup>8</sup> The CPI represents changes in prices of all goods and services for All Urban Consumers in the San Francisco-Oakland-San Jose area and is published by the Bureau of Labor Statistics under the United States Department of Labor.

<sup>9</sup> According to Mr. Egan, the Controller's Office writes economic impact report on policies that have a material economic impact of \$10,000,000 or more.

**Table 2:  
Payroll Expense Tax Exclusion Paid compared to Payroll Expense Tax Revenue Generated**

Calendar Year	Payroll Expense Tax Revenue (a)	Payroll Expense Tax Exclusion (b)	Payroll Expense Tax Exclusion Paid compared to Payroll Expense Tax Revenue (b)/(a)
CY 2004	\$272,119,339	\$815	0.00%
CY 2005	300,818,509	\$26,471	0.01%
CY 2006	326,132,681	251,954	0.08%
CY 2007	361,028,761	319,123	0.09%
CY 2008	370,426,066	365,033	0.10%
<b>Total</b>	<b>\$1,630,525,356</b>	<b>\$963,396</b>	<b>0.06%</b>

Source: Controller's Office

**Business Property Taxes Paid to the City**

As shown in Table 3 below, the eligible biotechnology businesses have paid \$265,203 in Property Tax revenues to the City from CY 2004 through CY 2008, which includes Property Taxes paid on property, equipment and machinery owned by such businesses.

**Table 3:  
Property Tax Revenue Generated from Eligible Biotechnology Businesses**

Calendar Year	Property Tax Revenues
CY 2004	\$0
CY 2005	0
CY 2006	63,007
CY 2007	90,894
CY 2008	111,302
<b>Total</b>	<b>\$265,203</b>

Source: Controller's Office

**Estimated Cost to Implement the Proposed Ordinance**

According to Dr. Mitch Katz, Director of the Department of DPH, DPH would review the Biotechnology Payroll Expense Tax applications at no additional costs to the City since such costs could be absorbed within DPH's existing budgeted funds.

According to Mr. David Augustine, Policy and Programs Manager of the Treasurer/Tax Collector's Office, if the proposed ordinance is approved, the Treasurer/Tax Collector's Office anticipates that (a) the cost of audits of the biotechnology businesses would increase slightly and (b) the cost of information technology modifications to the Treasurer/Tax Collector's software programs would also increase slightly. Mr. Augustine advises that the costs from such changes would most likely be absorbed within the Treasurer/Tax Collector's Office existing budgeted funds.

**POLICY CONSIDERATIONS****Scientific Review of the Biotechnology Applications**

In order to qualify for the Biotechnology Payroll Expense Tax exclusion under the proposed ordinance, a biotechnology business would need to apply DNA, cells, and bioprocessing techniques to develop therapeutics or diagnostics products and/or devices. The proposed ordinance defines “DNA,” “cells,” and “bioprocessing” techniques, but does not define “therapeutics or diagnostics products and/or devices.”

Given that the Director of DPH, or his or her designee, would be responsible for reviewing the applications from biotechnology businesses and has the scientific expertise to determine the biotechnology businesses’ eligibility, the definition of “therapeutics or diagnostics products and/or devices” would be determined by the Director of DPH, or his or her designee.

**The Biotechnology Businesses Generate Property Tax Revenues**

As shown in Table 3 above, from CY 2004 through CY 2008, based on information provided by the Controller’s Office, the eligible biotechnology business generated \$265,203 in Property Tax revenues for the City, which according to the Controller’s Office is an additional benefit to the Biotechnology Payroll Expense Tax exclusion. As stated in the Controller’s Office’s Five-Year Evaluation of the Biotechnology Payroll Expense Tax Exclusion report, “It is important to recognize that these revenues [\$265,203] are the only property taxes that the affected businesses pay directly. As rent-paying commercial tenants, however, they do indirectly contribute to the value of commercial property in San Francisco, by bidding up commercial rents. Indirectly, therefore, they do contribute to the City’s real property tax revenue.”

**The Reduction to Payroll Expense Tax Revenue is Unknown**

As shown in Table 1 above, from CY 2004 through CY 2008, based on information provided by the Controller’s Office, the number of eligible Biotechnology Business Employees has increased by 228, from 3 to 231, such that, as shown in Table 2 above, based on information provided by the Controller’s Office, the amount of the Biotechnology Payroll Expense Tax revenues excluded and therefore, not payable to the City has increased by \$364,218, from \$815 in CY 2004 to \$365,033 in 231 in CY 2008.

Given that the (a) Controller’s Office is unable to estimate the annual Biotechnology Payroll Expense Tax revenues that would not be received by the City as a result of the proposed Payroll Expense Tax Exclusion, (b) the number of growth of eligible Biotechnology Business employees has grown over the last five fiscal years, (c) eligible Biotechnology businesses would be able to receive 7½ years of the annual Payroll Expense Tax biotechnology exclusions subsequent to the current exclusion period’s end date of August 12, 2014, and (d) there is insufficient data on the number of biotechnology businesses in San Francisco, the Budget and Legislative Analyst considers the approval of proposed ordinance to be a policy matter for the Board of Supervisors.

**RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

10. *[Faint, illegible text]*