

File No. 200420

Committee Item No. 3

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date June 1, 2020

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- Memorandum of Understanding (MOU)
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 - Ethics Commission
- Award Letter
- Application
- Form 700
- Vacancy Notice
- Information Sheet
- 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"/>	_____
<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: Victor Young Date May 28, 2020

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Business and Tax Regulations, Administrative Codes - Temporary Suspension of Vacancy  
2 Tax]

3 **Ordinance amending the Business and Tax Regulations Code and Administrative Code**  
4 **to temporarily suspend the imposition of the Vacancy Tax, through December 31, 2021.**

5  
6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
9 **Board amendment additions** are in double-underlined Arial font.  
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
11 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
12 subsections or parts of tables.

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

14 Section 1. Background, Purpose, and Findings.

15 (a) At an election on March 3, 2020, San Francisco voters approved the Vacancy Tax,  
16 an annual excise tax on persons keeping ground floor commercial space in certain  
17 neighborhood commercial districts and certain neighborhood commercial transit districts  
18 vacant, to fund assistance to small businesses. The Vacancy Tax is effective January 1,  
19 2021.

20 (b) The Mayor issued a proclamation on February 25, 2020 declaring the existence of  
21 a local emergency in connection with the imminent spread within the City of a novel  
22 coronavirus ("COVID-19"). On March 3, 2020, the Board of Supervisors concurred in that  
23 proclamation and in the actions taken by the Mayor to meet the emergency. On March 4,  
24 2020, the Governor proclaimed a state of emergency to exist within the State due to the threat  
25 posed by COVID-19. Further, on March 6, 2020, the Local Health Officer declared a local

1 health emergency under Section 101080 of the California Health and Safety Code, and the  
2 Board of Supervisors concurred in that declaration on March 10, 2020.

3 (c) On March 16, 2020, the Local Health Officer issued a stay safe at home order,  
4 requiring most people to remain in their homes subject to certain exceptions including  
5 obtaining essential goods such as food and necessary supplies, and requiring the closure of  
6 non-essential businesses, through April 7, 2020, as that order may be extended or modified.  
7 On March 19, 2020, the Governor issued Executive Order N-33-20 and the California Public  
8 Health Officer issued a corresponding order requiring people to stay home except as needed  
9 subject to certain exceptions.

10 (d) On March 31, 2020, the Local Health Officer extended the stay safe at home order  
11 and tightened the stay safe at home restrictions through May 3, 2020, which date is subject to  
12 further change. The order, possibly with some modifications, will be extended through at least  
13 the end of May 2020.

14 (e) The COVID-19 outbreak has caused significant negative impact on businesses in  
15 the City, including the closure of many of those businesses. While the exact course of the  
16 pandemic cannot be predicted, it is expected to continue to pose serious public health  
17 concerns in San Francisco for months to come, and will continue to have a serious negative  
18 impact on businesses during that time. It is therefore in the City's best interest to suspend  
19 temporarily the imposition of the Vacancy Tax, through December 31, 2021.

20  
21 Section 2. The Business and Tax Regulations Code is hereby amended by revising  
22 Sections 2904 and 2907 of Article 29, to read as follows:  
23  
24  
25

1 **SEC. 2904. IMPOSITION OF TAX.**

2 (a) Except as otherwise provided in this Article 29, for the purposes described in  
3 Section 2907, the City imposes an annual Vacancy Tax on keeping Taxable Commercial  
4 Space Vacant.

5 (b) The tax on keeping Taxable Commercial Space Vacant in a tax year shall be as  
6 follows:

7 (1) For the ~~2022~~~~2021~~ tax year, \$250 per linear foot of Frontage.

8 (2) For the ~~2023~~~~2022~~ tax year, \$250 per linear foot of Frontage for Taxable  
9 Commercial Space that has not been kept Vacant by any person in the ~~2022~~~~2021~~ tax year and  
10 \$500 per linear foot of Frontage for Taxable Commercial Space that has been kept Vacant by  
11 any person in the ~~2022~~~~2021~~ tax year.

12 (3) For the ~~2024~~~~2023~~ tax year and subsequent tax years:

13 (A) \$250 per linear foot of Frontage for Taxable Commercial Space that  
14 has not been kept Vacant by any person in the immediately preceding tax year;

15 (B) \$500 per linear foot of Frontage for Taxable Commercial Space that  
16 has been kept Vacant by any person in the immediately preceding tax year but not kept  
17 Vacant by any person in the tax year immediately preceding that tax year; and

18 (C) \$1,000 per linear foot of Frontage for all situations in which neither  
19 subsection (b)(3)(A) nor subsection (b)(3)(B) of this Section 2904 applies.

20 (c) The Vacancy Tax shall be payable by: (1) the owner or owners of the Taxable  
21 Commercial Space kept Vacant, provided that the Taxable Commercial Space is not leased;  
22 (2) the lessee or lessees, and not the owner, of the Taxable Commercial Space kept Vacant,  
23 if that Taxable Commercial Space is leased but not subleased; and (3) the sublessee or  
24 sublessees, and not the owner or sublessor, of the Taxable Commercial Space kept Vacant, if  
25 that Taxable Commercial Space is subleased. Not more than one tax shall be imposed under

1 this Section 2904 by reason of multiple liable owners, lessees, or sublessees. If there are  
2 multiple liable owners, lessees, or sublessees, each such person shall be jointly and severally  
3 liable for the Vacancy Tax.

4 (d) A person shall be liable for the Vacancy Tax only if that person has kept Taxable  
5 Commercial Space Vacant in a tax year. A person shall be deemed to have kept Taxable  
6 Commercial Space Vacant in a tax year if that person and all Related Persons and Affiliates of  
7 that person, individually or collectively, have kept that Taxable Commercial Space Vacant for  
8 more than 182 days in that tax year.

9 (e) The imposition of the Vacancy Tax under this Section 2904 shall be suspended for the 2021  
10 tax year.

11  
12 **SEC. 2907. DEPOSIT OF PROCEEDS; EXPENDITURE OF PROCEEDS.**

13 (a) All monies collected under the Vacancy Tax Ordinance shall be deposited to the  
14 credit of the Small Business Assistance Fund (“Fund”), established in Administrative Code  
15 Section 10.100-334. The Fund shall be maintained separate and apart from all other City  
16 funds and shall be subject to appropriation. Any balance remaining in the Fund at the close of  
17 any fiscal year shall be deemed to have been provided for a special purpose within the  
18 meaning of Charter Section 9.113(a) and shall be carried forward and accumulated in the  
19 Fund for the purposes described in subsection (b).

20 (b) Subject to the budgetary and fiscal provisions of the Charter, monies in the Small  
21 Business Assistance Fund shall be appropriated on an annual or supplemental basis and  
22 used exclusively for the following purposes:

- 23 (1) To the Tax Collector and other City Departments, for administration of the  
24 Vacancy Tax and administration of the Fund.

1 (2) Refunds of any overpayments of the Vacancy Tax, including any related  
2 penalties, interest, and fees.

3 (3) All remaining amounts to provide funding to assist the maintenance and  
4 operation of small businesses in the City.

5 (c) Commencing with a report filed no later than February 15, ~~2023~~2024, covering the  
6 fiscal year ending on June 30, ~~2022~~2023, the Controller shall file annually with the Board of  
7 Supervisors, by February 15 of each year, a report containing the amount of monies collected  
8 in and expended from the Small Business Assistance Fund during the prior fiscal year, the  
9 status of any project required or authorized to be funded by this Section 2907, and such other  
10 information as the Controller, in the Controller's sole discretion, shall deem relevant to the  
11 operation of this Article 29.

12  
13 Section 3. The Administrative Code is hereby amended by revising Section  
14 10.100-334 of Article XIII, to read as follows:

15  
16 **SEC. 10.100-334. SMALL BUSINESS ASSISTANCE FUND.**

17 (a) Establishment of Fund. The Small Business Assistance Fund ("Fund") is  
18 established as a category four fund as defined in Section 10.100-1 of the Administrative Code,  
19 and shall receive all taxes, penalties, interest, and fees collected from the Vacancy Tax  
20 imposed under Article 29 of the Business and Tax Regulations Code.

21 (b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies  
22 in the Fund shall be used exclusively for the purposes described in Section 2907(b) of Article  
23 29 of the Business and Tax Regulations Code.

24 (c) Administration of Fund. As stated in Section 2907(c) of Article 29 of the Business  
25 and Tax Regulations Code, commencing with a report filed no later than February 15,



## **LEGISLATIVE DIGEST**

[Business and Tax Regulations, Administrative Codes - Temporary Suspension of Vacancy Tax]

### **Ordinance amending the Business and Tax Regulations Code and Administrative Code to temporarily suspend the imposition of the Vacancy Tax, through December 31, 2021.**

#### **Existing Law**

At an election on March 3, 2020, San Francisco voters approved the Vacancy Tax. Effective January 1, 2021, the tax is an annual excise tax on persons keeping ground floor commercial space in certain neighborhood commercial districts and certain neighborhood commercial transit districts vacant, to fund assistance to small businesses. The tax is based on (1) the number of linear feet of ground-level street-facing commercial space that is kept vacant and (2) the number of years that space has been kept vacant. The Controller must file annually with the Board of Supervisors a report on the amounts collected from the tax and spent, beginning with a report filed by February 15, 2023 for the fiscal year ending June 30, 2022.

#### **Amendments to Current Law**

This ordinance would temporarily suspend the imposition of the Vacancy Tax through December 31, 2021. Commercial space that is kept vacant in 2021 would not be taken into account in determining the number of years that space has been kept vacant for purposes of calculating the amount of the tax for 2022 and subsequent years. The Controller's annual report on the tax would begin with a report filed by February 15, 2024 for the fiscal year ending June 30, 2023.

#### **Background Information**

On February 25, 2020, the Mayor issued a proclamation declaring the existence of a local emergency in connection with the imminent spread within the City of a novel coronavirus ("COVID-19"). The Board of Supervisors concurred in that proclamation. On March 4, 2020, the Governor proclaimed a state of emergency to exist within the State due to the threat posed by COVID-19. On March 6, 2020, the Local Health Officer declared a local health emergency, and the Board of Supervisors concurred in that declaration. On March 16, 2020, the Local Health Officer issued a stay safe at home order, requiring most people to remain in their homes subject to certain exceptions, and requiring the closure of non-essential businesses, through April 7, 2020. On March 19, 2020, the Governor issued an executive order and the California Public Health Officer issued a corresponding order requiring people to stay home except as needed with certain exceptions. On March 31, 2020, the City's stay safe at home order was extended through May 3, 2020 with tightened restrictions. The order, possibly with some modifications, will be extended through at least the end of May 2020.

n:\legana\as2020\2000449\01439494.docx



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector  
Ben Rosenfield, Controller, Office of the Controller

Victor Young, Assistant Clerk  
Rules Committee

A handwritten signature in black ink that reads "Victor Young".

DATE: May 7, 2020

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Rules Committee received the following proposed legislation on April 28, 2020:

**File No. 200420**

**Ordinance amending the Business and Tax Regulations Code and Administrative Code to temporarily suspend the imposition of the Vacancy Tax, through December 31, 2021.**

If you have comments or reports to be included with the file, please forward them to me 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](mailto:victor.young@sfgov.org).

cc. Todd Rydstrom, Office of the Controller  
Peg Stevenson, Office of the Controller  
Molly Cohen, Office of the Treasurer and Tax Collector

1 [Business and Tax Regulations, Administrative Codes - Temporary Suspension of Vacancy  
2 Tax]

3 **Ordinance amending the Business and Tax Regulations Code and Administrative Code**  
4 **to temporarily suspend the imposition of the Vacancy Tax, through December 31, 2021.**

5  
6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
9 **Board amendment additions** are in double-underlined Arial font.  
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
11 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
12 subsections or parts of tables.

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

14 Section 1. Background, Purpose, and Findings.

15 (a) At an election on March 3, 2020, San Francisco voters approved the Vacancy Tax,  
16 an annual excise tax on persons keeping ground floor commercial space in certain  
17 neighborhood commercial districts and certain neighborhood commercial transit districts  
18 vacant, to fund assistance to small businesses. The Vacancy Tax is effective January 1,  
19 2021.

20 (b) The Mayor issued a proclamation on February 25, 2020 declaring the existence of  
21 a local emergency in connection with the imminent spread within the City of a novel  
22 coronavirus (“COVID-19”). On March 3, 2020, the Board of Supervisors concurred in that  
23 proclamation and in the actions taken by the Mayor to meet the emergency. On March 4,  
24 2020, the Governor proclaimed a state of emergency to exist within the State due to the threat  
25 posed by COVID-19. Further, on March 6, 2020, the Local Health Officer declared a local

1 health emergency under Section 101080 of the California Health and Safety Code, and the  
2 Board of Supervisors concurred in that declaration on March 10, 2020.

3 (c) On March 16, 2020, the Local Health Officer issued a stay safe at home order,  
4 requiring most people to remain in their homes subject to certain exceptions including  
5 obtaining essential goods such as food and necessary supplies, and requiring the closure of  
6 non-essential businesses, through April 7, 2020, as that order may be extended or modified.  
7 On March 19, 2020, the Governor issued Executive Order N-33-20 and the California Public  
8 Health Officer issued a corresponding order requiring people to stay home except as needed  
9 subject to certain exceptions.

10 (d) On March 31, 2020, the Local Health Officer extended the stay safe at home order  
11 and tightened the stay safe at home restrictions through May 3, 2020, which date is subject to  
12 further change. The order, possibly with some modifications, will be extended through at least  
13 the end of May 2020.

14 (e) The COVID-19 outbreak has caused significant negative impact on businesses in  
15 the City, including the closure of many of those businesses. While the exact course of the  
16 pandemic cannot be predicted, it is expected to continue to pose serious public health  
17 concerns in San Francisco for months to come, and will continue to have a serious negative  
18 impact on businesses during that time. It is therefore in the City's best interest to suspend  
19 temporarily the imposition of the Vacancy Tax, through December 31, 2021.

20  
21 Section 2. The Business and Tax Regulations Code is hereby amended by revising  
22 Sections 2904 and 2907 of Article 29, to read as follows:  
23  
24  
25

1     **SEC. 2904. IMPOSITION OF TAX.**

2             (a) Except as otherwise provided in this Article 29, for the purposes described in  
3     Section 2907, the City imposes an annual Vacancy Tax on keeping Taxable Commercial  
4     Space Vacant.

5             (b) The tax on keeping Taxable Commercial Space Vacant in a tax year shall be as  
6     follows:

7                     (1) For the ~~2022~~~~2021~~ tax year, \$250 per linear foot of Frontage.

8                     (2) For the ~~2023~~~~2022~~ tax year, \$250 per linear foot of Frontage for Taxable  
9     Commercial Space that has not been kept Vacant by any person in the ~~2022~~~~2021~~ tax year and  
10    \$500 per linear foot of Frontage for Taxable Commercial Space that has been kept Vacant by  
11    any person in the ~~2022~~~~2021~~ tax year.

12                    (3) For the ~~2024~~~~2023~~ tax year and subsequent tax years:

13                             (A) \$250 per linear foot of Frontage for Taxable Commercial Space that  
14    has not been kept Vacant by any person in the immediately preceding tax year;

15                             (B) \$500 per linear foot of Frontage for Taxable Commercial Space that  
16    has been kept Vacant by any person in the immediately preceding tax year but not kept  
17    Vacant by any person in the tax year immediately preceding that tax year; and

18                             (C) \$1,000 per linear foot of Frontage for all situations in which neither  
19    subsection (b)(3)(A) nor subsection (b)(3)(B) of this Section 2904 applies.

20             (c) The Vacancy Tax shall be payable by: (1) the owner or owners of the Taxable  
21     Commercial Space kept Vacant, provided that the Taxable Commercial Space is not leased;  
22     (2) the lessee or lessees, and not the owner, of the Taxable Commercial Space kept Vacant,  
23     if that Taxable Commercial Space is leased but not subleased; and (3) the sublessee or  
24     sublessees, and not the owner or sublessor, of the Taxable Commercial Space kept Vacant, if  
25     that Taxable Commercial Space is subleased. Not more than one tax shall be imposed under

1 this Section 2904 by reason of multiple liable owners, lessees, or sublessees. If there are  
2 multiple liable owners, lessees, or sublessees, each such person shall be jointly and severally  
3 liable for the Vacancy Tax.

4 (d) A person shall be liable for the Vacancy Tax only if that person has kept Taxable  
5 Commercial Space Vacant in a tax year. A person shall be deemed to have kept Taxable  
6 Commercial Space Vacant in a tax year if that person and all Related Persons and Affiliates of  
7 that person, individually or collectively, have kept that Taxable Commercial Space Vacant for  
8 more than 182 days in that tax year.

9 (e) The imposition of the Vacancy Tax under this Section 2904 shall be suspended for the 2021  
10 tax year.

11  
12 **SEC. 2907. DEPOSIT OF PROCEEDS; EXPENDITURE OF PROCEEDS.**

13 (a) All monies collected under the Vacancy Tax Ordinance shall be deposited to the  
14 credit of the Small Business Assistance Fund (“Fund”), established in Administrative Code  
15 Section 10.100-334. The Fund shall be maintained separate and apart from all other City  
16 funds and shall be subject to appropriation. Any balance remaining in the Fund at the close of  
17 any fiscal year shall be deemed to have been provided for a special purpose within the  
18 meaning of Charter Section 9.113(a) and shall be carried forward and accumulated in the  
19 Fund for the purposes described in subsection (b).

20 (b) Subject to the budgetary and fiscal provisions of the Charter, monies in the Small  
21 Business Assistance Fund shall be appropriated on an annual or supplemental basis and  
22 used exclusively for the following purposes:

- 23 (1) To the Tax Collector and other City Departments, for administration of the  
24 Vacancy Tax and administration of the Fund.

1 (2) Refunds of any overpayments of the Vacancy Tax, including any related  
2 penalties, interest, and fees.

3 (3) All remaining amounts to provide funding to assist the maintenance and  
4 operation of small businesses in the City.

5 (c) Commencing with a report filed no later than February 15, ~~2023~~2024, covering the  
6 fiscal year ending on June 30, ~~2022~~2023, the Controller shall file annually with the Board of  
7 Supervisors, by February 15 of each year, a report containing the amount of monies collected  
8 in and expended from the Small Business Assistance Fund during the prior fiscal year, the  
9 status of any project required or authorized to be funded by this Section 2907, and such other  
10 information as the Controller, in the Controller's sole discretion, shall deem relevant to the  
11 operation of this Article 29.

12  
13 Section 3. The Administrative Code is hereby amended by revising Section  
14 10.100-334 of Article XIII, to read as follows:

15  
16 **SEC. 10.100-334. SMALL BUSINESS ASSISTANCE FUND.**

17 (a) Establishment of Fund. The Small Business Assistance Fund ("Fund") is  
18 established as a category four fund as defined in Section 10.100-1 of the Administrative Code,  
19 and shall receive all taxes, penalties, interest, and fees collected from the Vacancy Tax  
20 imposed under Article 29 of the Business and Tax Regulations Code.

21 (b) Use of Fund. Subject to the budgetary and fiscal provisions of the Charter, monies  
22 in the Fund shall be used exclusively for the purposes described in Section 2907(b) of Article  
23 29 of the Business and Tax Regulations Code.

24 (c) Administration of Fund. As stated in Section 2907(c) of Article 29 of the Business  
25 and Tax Regulations Code, commencing with a report filed no later than February 15,

