

File No. 110749

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Sub-Committee

Date: July 26, 2011

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Victor Young

Date: July 22, 2011

Completed by: Victor Young

Date: _____

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

[Administrative, Business and Tax Regulations Codes - 0.50% Sales Tax Increase to Fund Public Safety Programs and Services to Children and Seniors]

Ordinance amending the San Francisco Business and Tax Regulations Code by adding Article 16-A to provide funds for public safety programs and services to children and senior citizens in the City and County of San Francisco by imposing a transactions (sales) and use tax at the rate of one-half of one percent (0.50%) for a period of ten years, to be administered by the State Board of Equalization in accordance with Parts 1.6 and 1.7 of Division 2 of the California Revenue and Taxation Code; adopting an expenditure plan; amending the Administrative Code by adding Section 10.100.321 establishing a special revenue fund; and directing submission of the tax for voter approval at the November 8, 2011 municipal election.

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

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

Section 1. The San Francisco Business and Tax Regulations Code is hereby amended by adding Article 16-A, Sections 1650 et seq., ("Safe Communities Transactions and Use Tax Ordinance") to read as follows:

SEC. 1650. TITLE.

This ordinance shall be known as the Safe Communities Transactions and Use Tax Ordinance.

The City and County of San Francisco hereinafter shall be called "City and County." This ordinance shall be applicable in the City and County.

1 SEC. 1651. OPERATIVE DATE.

2 *"Operative Date" means the first day of the first calendar quarter commencing more than*
3 *110 days after the adoption of this ordinance, as provided in Cal. Rev. & Tax. Code Section 7265.*

4 SEC. 1652. CONDITIONS TO OPERABILITY OF THE TAX INCREASE IMPOSED BY THIS
5 ORDINANCE.

6 (a) *The Safe Communities Transactions and Use Tax imposed by this ordinance shall*
7 *become operative only if on or before November 30, 2011: (i) the state legislature or the state voters*
8 *do not extend or reimpose the temporary 1% increase in the state sales and use tax rate from April 1,*
9 *2009 until July 1, 2011 under Assembly Bill 3 (3rd Ex. Sess.) (Stats. 2009-10, Ch. 18) (the "Temporary*
10 *State Tax"), or impose the same or a substantially similar state tax at the same rate or a higher rate*
11 *and for the same purpose (a "Substantially Similar State Tax"), for a term of at least 1 year, and (ii) as*
12 *a result of such failure to extend or reimpose the Temporary State Tax or impose a Substantially*
13 *Similar State Tax, the state sales and use tax rate, inclusive of the Bradley-Burns Uniform Sales and*
14 *Use Tax rate, is then no more than 7.25%. If either such condition is not satisfied on or before*
15 *November 30, 2011, then the Safe Communities Transactions and Use Tax shall not become operative*
16 *and this ordinance shall expire by operation of law.*

17 (b) *If the Safe Communities Transactions and Use Tax becomes operative under*
18 *subparagraph (a), but on or before January 1, 2016 (i) the state legislature or the state voters approve*
19 *the extension or reimposition of the Temporary State Tax or impose a Substantially Similar State Tax*
20 *for a period of at least 1 calendar year, and (ii) as a result the state sales and use tax rate, inclusive of*
21 *the Bradley-Burns Uniform Sales and Use Tax rate, is at least 8.00% or a combination of the state tax*
22 *rate, the Bradley-Burns Uniform Sales and Use Tax rate and the rate of a Substantially Similar State*
23 *Tax equals at least 8.00%, then the Safe Communities Transactions and Use Tax will expire by*
24 *operation of law as follows: (1) Promptly following satisfaction of the conditions described in clauses*
25 *(i) and (ii) above, the Board of Supervisors shall adopt and transmit to the State Board of Equalization*

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1 an ordinance requesting that it cease collecting the Safe Communities Transactions and Use Tax on the
2 day before the state tax becomes operative or, (2) if that is not feasible, at the earliest date
3 administratively possible, the Safe Communities Transactions and Use Tax shall expire by operation of
4 law and cease to be collected on the date the State Board of Equalization is able to cease collecting it
5 in accordance with this paragraph. On such date as the Safe Communities Transactions and Use Tax
6 ceases to be collected, this ordinance shall expire by operation of law.

7 (c) If the Safe Communities Transactions and Use Tax becomes operative and remains
8 operative after January 1, 2016 and (i) subsequent to January 1, 2016 the state legislature or the state
9 voters approve the extension or reimposition of the Temporary State Tax or impose a Substantially
10 Similar State Tax for a period of at least 1 calendar year, and (ii) as a result the state sales and use tax
11 rate, inclusive of the Bradley-Burns Uniform Sales and Use Tax rate, is at least 8.00% or a
12 combination of the state tax rate, the Bradley-Burns Uniform Sales and Use Tax rate and the rate of a
13 Substantially Similar State Tax equals at least 8.00%, then the Board of Supervisors shall hold a public
14 hearing to consider the economic impact of the state sales and use tax and whether the Safe
15 Communities Transactions and Use Tax should continue to be collected.

16 **SEC. 1653. PURPOSE.**

17 This ordinance is adopted to achieve the following, among other purposes, and directs that the
18 provisions hereof be interpreted in order to accomplish those purposes:

19 (a) To provide support and funding for public safety programs and services for children and
20 senior citizens in the City and County.

21 (b) To impose a retail transactions and use tax in accordance with the provisions of Part
22 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section
23 7285.5 of Part 1.7 of Division 2 which authorizes the City and County to adopt this tax ordinance
24 which shall be operative if 2/3 of the electors voting on the measure vote to approve the imposition of
25 the tax at an election called for that purpose.

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1 (c) To adopt a retail transactions and use tax ordinance that incorporates provisions
2 identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions
3 are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the
4 Revenue and Taxation Code.

5 (d) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a
6 measure therefor that can be administered and collected by the State Board of Equalization in a
7 manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the
8 existing statutory and administrative procedures followed by the State Board of Equalization in
9 administering and collecting the California State Sales and Use Taxes.

10 (e) To adopt a retail transactions and use tax ordinance that can be administered in a
11 manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of
12 Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use
13 taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation
14 under the provisions of this ordinance.

15 **SEC. 1654. CONTRACT WITH STATE.**

16 Prior to the operative date, the City and County shall contract with the State Board of
17 Equalization to perform all functions incident to the administration and operation of this transactions
18 and use tax ordinance; provided, that if the City and County shall not have contracted with the State
19 Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case
20 the operative date shall be the first day of the first calendar quarter following the execution of such a
21 contract.

22 **SEC. 1655. TRANSACTIONS TAX RATE.**

23 For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all
24 retailers in the incorporated and unincorporated territory of the City and County at the rate of 0.50%
25

1 of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the
2 City and County on and after the operative date of this ordinance.

3 **SEC. 1656. PLACE OF SALE.**

4 For the purposes of this ordinance, all retail sales are consummated at the place of business of
5 the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an
6 out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross
7 receipts from such sales shall include delivery charges, when such charges are subject to the state sales
8 and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent
9 place of business in the State or has more than one place of business, the place or places at which the
10 retail sales are consummated shall be determined under rules and regulations to be prescribed and
11 adopted by the State Board of Equalization.

12 **SEC. 1657. USE TAX RATE.**

13 An excise tax is hereby imposed on the storage, use or other consumption in the City and
14 County of tangible personal property purchased from any retailer on and after the operative date of
15 this ordinance for storage, use or other consumption in the City and County at the rate of 0.50% of the
16 sales price of the property. The sales price shall include delivery charges when such charges are
17 subject to state sales or use tax regardless of the place to which delivery is made.

18 **SEC. 1658. ADOPTION OF PROVISIONS OF STATE LAW.**

19 Except as otherwise provided in this ordinance and except insofar as they are inconsistent with
20 the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part
21 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted
22 and made a part of this ordinance as though fully set forth herein.

23 **SEC. 1659. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE**
24 **TAXES.**

25 In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

1 (a) Wherever the State of California is named or referred to as the taxing agency, the name
2 of the City and County shall be substituted therefor. However, the substitution shall not be made when:

3 (1) The word "State" is used as a part of the title of the State Controller, State
4 Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the
5 Constitution of the State of California;

6 (2) The result of that substitution would require action to be taken by or against the City
7 and County or any agency, officer, or employee thereof rather than by or against the State
8 Board of Equalization, in performing the functions incident to the administration or operation
9 of this ordinance;

10 (3) In those sections, including, but not necessarily limited to sections referring to the
11 exterior boundaries of the State of California, where the result of the substitution would be to:

12 (A) Provide an exemption from this tax with respect to certain sales, storage,
13 use or other consumption of tangible personal property which would not otherwise be
14 exempt from this tax while such sales, storage, use or other consumption remain subject
15 to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and
16 Taxation Code, or;

17 (B) Impose this tax with respect to certain sales, storage, use or other
18 consumption of tangible personal property which would not be subject to tax by the state
19 under the said provision of that code.

20 (4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737,
21 6797 or 6828 of the Revenue and Taxation Code.

22 (b) The words "the City and County of San Francisco" shall be substituted for the words
23 "this State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the
24 definition of that phrase in Section 6203.

1 **SEC. 1660. PERMIT NOT REQUIRED.**

2 If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation
3 Code, an additional transactor's permit shall not be required by this ordinance.

4 **SEC. 1661. EXEMPTIONS AND EXCLUSIONS.**

5 (a) There shall be excluded from the measure of the transactions tax and the use tax the
6 amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or
7 county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any
8 state-administered transactions or use tax.

9 (b) There are exempted from the computation of the amount of transactions tax the gross
10 receipts from:

11 (1) Sales of tangible personal property, other than fuel or petroleum products, to
12 operators of aircraft to be used or consumed principally outside the City and County in which
13 the sale is made and directly and exclusively in the use of such aircraft as common carriers of
14 persons or property under the authority of the laws of this State, the United States, or any
15 foreign government.

16 (2) Sales of property to be used outside the City and County which is shipped to a
17 point outside the City and County, pursuant to the contract of sale, by delivery to such point by
18 the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee
19 at such point. For the purposes of this paragraph, delivery to a point outside the City and
20 County shall be satisfied:

21 (A) With respect to vehicles (other than commercial vehicles) subject to
22 registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the
23 Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities
24 Code, and undocumented vessels registered under Division 3.5 (commencing with
25 Section 9840) of the Vehicle Code by registration to an address outside the City and

1 County and by a declaration under penalty of perjury, signed by the buyer, stating that
2 such address is, in fact, his or her principal place of residence; and

3 (B) With respect to commercial vehicles, by registration to a place of
4 business outside the City and County and declaration under penalty of perjury, signed
5 by the buyer, that the vehicle will be operated from that address.

6 (3) The sale of tangible personal property if the seller is obligated to furnish the
7 property for a fixed price pursuant to a contract entered into prior to the operative date of this
8 ordinance.

9 (4) A lease of tangible personal property which is a continuing sale of such
10 property, for any period of time for which the lessor is obligated to lease the property for an
11 amount fixed by the lease prior to the operative date of this ordinance.

12 (5) For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of
13 tangible personal property shall be deemed not to be obligated pursuant to a contract or lease
14 for any period of time for which any party to the contract or lease has the unconditional right to
15 terminate the contract or lease upon notice, whether or not such right is exercised.

16 (c) There are exempted from the use tax imposed by this ordinance, the storage, use or
17 other consumption in the City and County of tangible personal property:

18 (1) The gross receipts from the sale of which have been subject to a transactions tax
19 under any state-administered transactions and use tax ordinance.

20 (2) Other than fuel or petroleum products purchased by operators of aircraft and
21 used or consumed by such operators directly and exclusively in the use of such aircraft as
22 common carriers of persons or property for hire or compensation under a certificate of public
23 convenience and necessity issued pursuant to the laws of this State, the United States, or any
24 foreign government. This exemption is in addition to the exemptions provided in Sections 6366
25 and 6366.1 of the Revenue and Taxation Code of the State of California.

1 (3) If the purchaser is obligated to purchase the property for a fixed price pursuant
2 to a contract entered into prior to the operative date of this ordinance.

3 (4) If the possession of, or the exercise of any right or power over the tangible
4 personal property arises under a lease which is a continuing purchase of such property for any
5 period of time for which the lessee is obligated to lease the property for an amount fixed by a
6 lease prior to the operative date of this ordinance.

7 (5) For the purposes of subparagraphs (3) and (4) of this section, storage, use, or
8 other consumption, or possession of, or exercise of any right or power over, tangible personal
9 property shall be deemed not to be obligated pursuant to a contract or lease for any period of
10 time for which any party to the contract or lease has the unconditional right to terminate the
11 contract or lease upon notice, whether or not such right is exercised.

12 (6) Except as provided in subparagraph (7) of this section, a retailer engaged in
13 business in the City and County shall not be required to collect use tax from the purchaser of
14 tangible personal property, unless the retailer ships or delivers the property into the City and
15 County or participates within the City and County in making the sale of the property, including,
16 but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of
17 business of the retailer in the City and County or through any representative, agent, canvasser,
18 solicitor, subsidiary, or person in the City and County under the authority of the retailer.

19 (7) "A retailer engaged in business in the City and County" shall also include any
20 retailer of any of the following: vehicles subject to registration pursuant to Chapter 1
21 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in
22 compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered
23 under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be
24 required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or
25 aircraft at an address in the City and County.

1 (d) Any person subject to use tax under this ordinance may credit against that tax any
2 transactions tax or reimbursement for transactions tax paid to a County imposing, or retailer liable for
3 a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to
4 the sale to the person of the property, the storage, use or other consumption of which is subject to the
5 use tax.

6 **SEC. 1662. AMENDMENTS.**

7 All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the
8 Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part
9 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and
10 Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this
11 ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax
12 imposed by this ordinance.

13 **SEC. 1663. ENJOINING COLLECTION FORBIDDEN.**

14 No injunction or writ of mandate or other legal or equitable process shall issue in any suit,
15 action or proceeding in any court against the State or the City and County, or against any officer of the
16 State or the City and County, to prevent or enjoin the collection under this ordinance, or Part 1.6 of
17 Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

18 **SEC. 1664. ADOPTION OF EXPENDITURE PLAN.**

19 The Safe Communities Transactions and Use Tax Expenditure Plan ("Expenditure Plan") on file
20 with the Clerk of the Board of Supervisors in File No. 110749 , and incorporated into this
21 ordinance by reference is hereby adopted. Proceeds of the tax imposed by this ordinance shall be
22 placed in a special account and shall be spent only to implement the project components set forth in the
23 Expenditure Plan. The Expenditure Plan may be amended from time to time to further the purposes of
24 this ordinance, to add or delete a project or to take into consideration unforeseen circumstances.

1 **SEC. 1665. SEVERABILITY.**

2 *If any provision of this ordinance or the application thereof to any person or circumstance is*
3 *held invalid, the remainder of the ordinance and the application of such provision to other persons or*
4 *circumstances shall not be affected thereby.*

5 **SEC. 1666. EFFECTIVE DATE.**

6 *This ordinance relates to the levying and collecting of the City and County transactions and use*
7 *taxes and shall take effect immediately.*

8 **SEC. 1667. TERMINATION DATE.**

9 *The authority to levy the tax imposed by this ordinance shall expire on December 31, 2022.*

10 Section 2. The San Francisco Administrative Code is hereby amended by adding
11 Section 10.100.321 to read as follows:

12 **SEC. 10.100.321. SAFE COMMUNITIES TRANSACTIONS AND USE TAX FUND.**

13 *(a) Establishment of Fund. The Safe Communities Transactions And Use Tax Fund, a special*
14 *revenue fund, is hereby established as a category-four fund to receive any and all collections of the*
15 *Transactions and Use Tax imposed by Business and Tax Regulations Code, Article 16-A, Section 1650*
16 *et seq.*

17 *(b) Use of Fund. Monies in the Safe Communities Transactions And Use Tax Fund shall be*
18 *used solely to fund the public safety and social safety programs described in the Safe Communities*
19 *Transactions and Use Tax Expenditure Plan.*

20 *(c) Oversight of Fund. The Controller shall maintain the Fund and shall record all receipts*
21 *and expenditures.*

22 Section 3. Pursuant to Article XIIIC of the Constitution of the State of California and
23 Section 7285 of the California Revenue and Taxation Code, this ordinance shall be submitted
24 to the qualified electors of the City and County of San Francisco at the November 8, 2011
25

1 municipal election. This ordinance shall become operative only if approved by the qualified
2 electors at such election.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By:


7 JEAN ALEXANDER
8 Deputy City Attorney
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LEGISLATIVE DIGEST

[Business and Tax Regulations Code - 0.50% Sales Tax Increase to Fund Public Safety Programs and Services to Children and Seniors.]

Ordinance amending the San Francisco Business and Tax Regulations Code to add Article 16-A to provide funds for public safety programs and services to children and senior citizens in the City and County of San Francisco by imposing a transactions (sales) and use tax at the rate of one-half of one percent (0.50%) for a period of ten (10) years, to be administered by the State Board of Equalization in accordance with Parts 1.6 and 1.7 of Division 2 of the California Revenue and Taxation Code; adopting an expenditure plan; amending the Administrative Code to add Section 10.100.321 establishing a special revenue fund; and directing submission of the tax for voter approval at the November 8, 2011 municipal election.

Existing Law

Existing Article 12-D of the San Francisco Business and Tax Regulations Code, known as the "Uniform Local Sales and Use Tax Ordinance of the City and County of San Francisco" establishes and implements a sales tax for the privilege of selling tangible personal property at retail upon retailers in the City and County of San Francisco. Article 12-D incorporates provisions identical to those of the Sales and Use Tax Law of the State of California. Existing law, Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.5 of Part 1.7 of Division 2, authorizes the City and County to adopt a retail transactions and use tax ordinance. Currently the combined state and local sales and use tax rate in San Francisco is 8.50%.

Amendments to Current Law

Section 1 of this ordinance adds Article 16-A, The Safe Communities Transactions and Use Tax Ordinance to the Business and Tax Regulations Code to impose a transactions and use tax at the rate of 0.50%. The revenue from the transactions and use tax will provide support and funding for public safety programs and services for children and senior citizens in the City and County. The revenue may be expended only as outlined in the incorporated expenditure plan. Section 2 adds Section 10.100.321 to the Administrative Code to establish a special revenue fund. Section 3 submits the measure to the voters for approval at the November 8, 2011 election.

Background Information

San Francisco's combined sales and use tax rate is currently 8.50%. In 2008, in order to resolve a budget crisis, the state legislature temporarily increased the state sales and use tax rate by 1%, from 7.25% to 8.25% from April 1, 2009, until July 1, 2011 [Assembly Bill 3 (3rd Ex. Sess.) (Stats. 2009-10, Ch. 18)]. The 1% increase expired on July 1, 2011. This ordinance will increase the local sales and use tax rate by 0.50%, if the state rate increase is not extended and the state portion of the sales and use tax rate remains 7.25%. If the state sales tax rate increase is extended or increased to at least 8.00%, or if the state legislature or the voters impose an identical or substantially similar state tax, the 0.50% tax proposed by this ordinance will not become operative. If this 0.50% rate increase is enacted and the state legislature approves a sales tax increase or approves an identical or substantially similar state tax prior to January 1, 2016, and as a result the state sales tax rate or the combined rate of the sales tax and a substantially similar tax is at least 8.00%, this ordinance will cease to be operative. If this 0.50% rate increase is operative after January 1, 2016 and after January 1, 2016, the state legislature approves a sales tax increase or approves an identical or substantially similar state tax and the state sales tax rate or the combined rate of the sales tax and a substantially similar state tax is at least 8.00%, then the Board of Supervisors must hold a public hearing to consider the economic impact of the state sales and use tax and whether the Safe Communities Transactions and Use Tax should continue to be collected.

Pursuant to Article XIIC of the California Constitution and California Revenue and Taxation Code §7285.5 of the California Revenue and Taxation Code, the Transactions and Use Tax proposed by this ordinance is a special tax and must be approved by a two-thirds vote of the qualified voters of the City and County of San Francisco. As required by state law, an expenditure plan demonstrating how the additional revenue will be spent is incorporated as a part of the ordinance.

Item 10**File 11-0749****Department(s):**

Office of the Treasurer and Tax Collector

EXECUTIVE SUMMARY**Legislative Objectives**

- The proposed ordinance would authorize the City and County of San Francisco to institute a one-half percent Safe Communities Transaction and Use Tax (Sales Tax) for a period of ten years if either the State Legislature or the State electorate do not reinstitute the temporary one percent increase in Sales Tax or impose a substantially similar tax before November 30, 2011.

Key Points

- The State of California imposed a temporary one percent Sales Tax increase effective April 1, 2009 that expired on June 30, 2011, which increased San Francisco's Sales Tax rate from 8.5 percent to 9.5 percent.
- The decrease of one percent in the State Sales Tax rate as of July 1, 2011 will directly impact the State's General Fund and will likely result in decreased State funding to San Francisco in FY 2011-12.
- Per the text of the proposed ordinance and the supplementary Safe Communities Transaction and Use Tax Expenditure Plan, the Safe Communities Transaction and Use Tax is required to be expended for support of San Francisco's public safety and social safety net programs for children and senior citizens.

Fiscal Impacts

- According to the Safe Communities Transaction and Use Tax Expenditure Plan, the proposed one-half percent Safe Communities Transaction and Use Tax is estimated to generate approximately \$60,000,000 in FY 2012-13 and approximately \$702,900,000 over the next ten years for the City and County of San Francisco.
- Each year, per the text of the proposed ordinance, 50 percent of the Safe Communities Transaction and Use Tax revenues, or approximately \$30,000,000 in FY 2012-13, would be required to be appropriated for public safety programs and 50 percent of the revenues, or approximately \$30,000,000 in FY 2012-13 would be required to be appropriated for social safety net programs for children and senior citizens. Specific programs within these categories and the amount for each program would be subject to annual appropriation approval by the Mayor and the Board of Supervisors.

Recommendation

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

MANDATE STATEMENT/ BACKGROUND

Mandate Statement

In accordance with the City's Business and Tax Regulations Code Sections 1202-1204 and California Revenue and Taxation Code Section 7285.5, the California State Board of Equalization currently collects a one percent local Transaction and Use Tax (Sales Taxes) that is then transferred to the City and County of San Francisco's General Fund as well as various "special district use taxes" that benefit regional transportation and schools (see Table 1 below). In accordance with California Revenue and Taxation Code Section 7285.5, local Sales Taxes can be increased by multiples of one-quarter of one percent, not to exceed two percent, if approved by ordinance by two-thirds of the Board of Supervisors and subsequently approved by a two-thirds vote of the San Francisco electorate. This ordinance includes an expenditure plan describing how the proposed Sales Tax revenues would be expended.

Background

In 2009, the State Legislature imposed a temporary one percent increase in the State Sales Tax increasing it from 6.25 percent to 7.25 percent effective April 1, 2009 through June 30, 2011. The revenues from this one percent increase were dedicated to the State's General Fund. On July 1, 2011, because of the expiration of the temporary one percent increase in the State Sales Tax, the total Sales Tax in San Francisco decreased from 9.5 percent to 8.5 percent. Table 1 below shows the percentage allocation of revenues from both the previous 9.5 percent and current 8.5 percent Sales Tax for San Francisco:

Table 1: Sales and Use Tax

| | 6/30/2011 | 7/1/2011 |
|---|--------------|--------------|
| State Sales Tax | 7.25% | 6.25% |
| State General Fund | 6.00% | 5.00% |
| Fiscal Recovery Act (+) | 0.25% | 0.25% |
| Local Revenue Fund | 0.50% | 0.50% |
| Public Safety Fund | 0.50% | 0.50% |
| | | |
| Local Sales Tax | 1.00% | 1.00% |
| Local Sales Tax (General Fund) | 1.00% | 1.00% |
| Fiscal Recovery Act (-) | -0.25% | -0.25% |
| Local Transportation Tax (TDA) | 0.25% | 0.25% |
| | | |
| Special District Use Tax | 1.25% | 1.25% |
| SF County Transportation Authority | 0.50% | 0.50% |
| Bay Area Rapid Transit (BART) | 0.50% | 0.50% |
| SF Public Financing Authority (Schools) | 0.25% | 0.25% |
| | | |
| Total Sales Tax Rate for San Francisco | 9.50% | 8.50% |

The State of California collected a total of approximately \$42,200,000,000 in Sales Taxes in FY 2009-10 at the 9.5 percent rate, of which approximately \$27,700,000,000 was allocated to the State's General Fund. Based on estimated projections by the State Board of Equalization, the projected annual decrease of State General Fund revenues with the expiration of the temporary one percent increase in Sales Tax is approximately \$4,600,000,000.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the City's Business and Tax Regulations Code to add Article 16-A which would institute a one-half percent Safe Communities Transaction and Use Tax for a period of ten years, if either the State Legislature or State electorate do not reinstitute the temporary one percent increase or impose a substantially similar tax before November 30, 2011. The proposed ordinance would also create a special revenue fund called the Safe Communities Transaction and Use Tax Fund to receive the additional Sales Tax revenues and allocate those funds to public safety programs and social safety net programs for children and senior citizens.

The proposed ordinance would also approve the Safe Communities Transaction and Use Tax Expenditure Plan prepared by the Mayor's Office on June 14, 2011 which directs the Sales Tax revenues from the Safe Communities Transaction and Use Tax to be divided equally between Public Safety and Social Safety Net programs. Under the proposed ordinance, the Board of Supervisors would have the authority to adjust the percentage allocation of expenditures from the Safe Communities Transaction and Use Tax Fund by a two-thirds vote, provided that any proposed allocations could not be expended for purposes other than those described in the Safe Communities Transaction and Use Tax Expenditure Plan.

As required by Article XIII C of the California Constitution and Section 7285 of the California Revenue and Taxation Code, if approved by the Board of Supervisors, the proposed ordinance would be submitted to the San Francisco voters for approval at the November 8, 2011 municipal election. If approved by at least two-thirds of San Francisco voters, the proposed one-half percent Sales Tax would be effective on April 1, 2012.

FISCAL IMPACTS

According to Ms. Michelle Allersma of the Controller's Office, the local one percent Sales and Use Tax generates approximately \$120,000,000 in annual revenue for the City and County of San Francisco. Therefore, the proposed one-half percent Safe Communities Transaction and Use Tax is projected to generate approximately \$60,000,000 in FY 2012-13 for the City and County of San Francisco. Under the proposed ordinance, this one-half percent increase would be effective for ten years from April 1, 2012 through March 31, 2022. According to projections in the Safe Communities Transaction and Use Tax Expenditure Plan, as proposed by the Mayor's Office, as shown in Table 1 below, over this ten-year period, including projected increases in

overall Sales Tax revenues¹, the additional one-half percent Sales Tax would generate an estimated increase in Sales Tax revenue of \$702,900,000 for San Francisco.

Table 1: Expenditure Category (Millions)

| Fiscal Year | Revenue | Public Safety | Social Safety Net |
|--------------------|----------------|----------------------|--------------------------|
| 2012* | \$15.0 | \$ 7.5 | \$ 7.5 |
| 2013 | \$60.0 | \$30.0 | \$30.0 |
| 2014 | \$61.8 | \$30.9 | \$30.9 |
| 2015 | \$63.7 | \$31.8 | \$31.8 |
| 2016 | \$65.6 | \$32.8 | \$32.8 |
| 2017 | \$67.5 | \$33.8 | \$33.8 |
| 2018 | \$69.6 | \$34.8 | \$34.8 |
| 2019 | \$71.6 | \$35.8 | \$35.8 |
| 2020 | \$73.8 | \$36.9 | \$36.9 |
| 2021 | \$76.0 | \$38.0 | \$38.0 |
| 2022 | \$78.3 | \$39.1 | \$39.1 |
| Total | \$702.9 | \$351.4 | \$351.4 |

* The first year would only include April 1, 2012 through June 30th, 2012

Although the proposed ordinance specifies that the additional revenues would be used for public safety and social safety net programs, the specific appropriation of the Safe Communities Transaction and Use Tax revenues would be determined annually by the Mayor's Office and Board of Supervisors, as part of the annual budget process with the exception of the partial year from April 1, 2012 to June 30, 2012. Those Sales Tax revenues would be available for supplemental appropriations.

POLICY IMPACTS

The California 2011-12 Budget signed into law on June 30, 2011 included \$12,500,000,000 in expenditure reductions. For public safety, a combination of reductions to the Vehicle License Fee² and the State's realignment of corrections³ will have a significant impact on San Francisco. Regarding social safety net programs for children and senior citizens, while the City is still in the process of developing estimates for how much funding will be reduced for children and senior citizens, Mr. Greg Wagner, the Mayor's Office Budget Director believes that the reductions could be substantial.

¹ Mr. Jonathan Lyens from the Mayor's Office advised that these ten-year projections assume an annual 3 percent inflation rate based on increasing prices which would result in additional Sales Tax revenue.

² As of July 1, 2011, the California Vehicle License Fee decreased from 1.15 percent of the value of a vehicle to 0.65 percent. This Fee is used to fund local Public Safety Programs, such that a reduction in the Vehicle License Fee will result in an undetermined reduction in State funding for local Public Safety Programs.

³ Currently, the State of California is in the process of transferring responsibility of some prisoners from the State to individual counties. Ms. Rebekah Krell of the Mayor's Office stated that the true cost of this additional responsibility will likely exceed (by an as yet undetermined amount) the \$5,787,088 that the State has pledged to San Francisco to offset this added responsibility.

According to Mr. Wagner, the proposed one-half percent Safe Communities Transaction and Use Tax is intended to allow the Mayor and the Board of Supervisors to prioritize the City's spending over the next ten years, rather than relying on unknown allocations of State revenues.

The Mayor's Office created an expenditure plan on June 14, 2011, that states, "Expenditures will be split evenly between traditional public safety programs and social safety net programs." The resolution specifically cites children and senior citizens as the targeted group for the social safety net programs. Based on projections in the Safe Communities Transaction and Use Tax Expenditure Plan, as prepared by the Mayor's Office, the one-half percent Safe Communities Transaction and Use Tax would generate an estimated \$60,000,000 in FY 2012-13 for San Francisco, of which \$30,000,000 of revenues would be available for public safety programs and \$30,000,000 would be available for social safety net programs for children and senior citizens. Table 2 below identifies some examples of public safety and social safety net programs that would be eligible for funding with the proposed additional Sales Tax revenues, although, as noted above, the specific appropriations would be determined each year during the annual budget process of the Mayor and the Board of Supervisors.

Table 2: Examples of Eligible Expenditures

Protecting Public Safety (50%)

- Community Policing
- Police Officer salaries
- Police Academy classes
- Fire and Emergency Services
- Firefighter salaries
- Vehicle and firefighting equipment replacement

Preserving the Social Safety Net (50%)

- In Home supportive services program for seniors
- Meals for seniors
- Assistance for independent living
- Adult day care services
- Child Care and associated Children's Services
- Health Care for Children, Families and Seniors

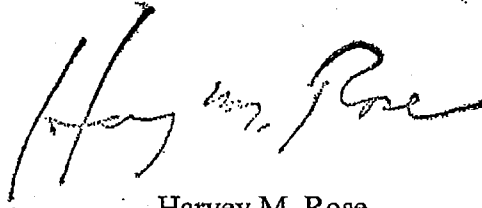
Source: Safe Communities Fund Expenditure Plan

Deputy City Attorney Jean Alexander confirmed that, in accordance with the proposed ordinance and the expenditure plan, the increased Sales Tax revenues must be used to fund public safety and social safety net programs. However, the even split between public safety programs and social safety net programs could be changed by a two-thirds approval of the Board of Supervisors.

If the proposed ordinance is not approved, the overall Sales Tax rate in San Francisco would remain at 8.5 percent. If the proposed ordinance is approved by San Francisco's voters on November 8, 2011, the overall Sales Tax rate in San Francisco would increase from 8.5 percent to 9.0 percent on April 1, 2012.

RECOMMENDATION

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

A handwritten signature in dark ink, appearing to read "Harvey M. Rose". The signature is fluid and cursive, with the first name "Harvey" being more prominent than the last name "Rose".

Harvey M. Rose

cc: Supervisor Chu
Supervisor Mirkarimi
Supervisor Kim
President Chiu
Supervisor Avalos
Supervisor Campos
Supervisor Cohen
Supervisor Elsbernd
Supervisor Farrell
Supervisor Mar
Supervisor Wiener
Clerk of the Board
Cheryl Adams
Controller
Greg Wagner



SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS



CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

July 19, 2011

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Re: Board of Supervisors File No. 110749 [Business and Tax Regulations Code - 0.50% Sales Tax Increase to Fund Public Safety Programs and Services to Children and Seniors.]

Small Business Commission Recommendation: **Approval with modification**

Dear Ms. Calvillo:

On July 11, 2011, the Small Business Commission (SBC) voted unanimously to recommend that the Board of Supervisors approve BOS File No. 110749 with a modification.

The Commission recognizes that the City needs to include revenue generation as part of its 5 year budget plan and the SBC supports a shared approach to accomplishing this task. The Small Business Commission requests that the City's leadership recognize that often, revenue generating measures are facilitated through brick and mortar retail businesses, by way of sales taxes and increased permit, license and regulatory fees. Moving forward, other areas of revenue generation, including a residential utility fee and spreading out the tax burden to a broader number of businesses need to be considered.

Commissioners noted that in this case, due to the reduction of the state sales tax rate, should this ordinance and ballot measure pass, there will still be a net reduction in sales taxes over the prior several years. Additionally, businesses will benefit from the increased funding as public safety and social services play an integral role in the safety and livability of both our City as a whole and our commercial corridors where many of our small businesses are located.

The SBC requests one modification. As drafted, this ordinance will cease to be operative if an identical or similar tax is approved at the state level prior to January 1, 2013 and as a result, the combined rate of the state tax is at least 8.25%. The Commission is concerned that this short window will open up the possibility for a significant tax disadvantage should the rate be increased in the future. The SBC recommends that the Board of Supervisors remove this provision or extend the period of time that the provision is in effect.

The Commission thanks Greg Wagner of the Mayor's Office for his detailed informational presentation.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Supervisors Chiu, Cohen, Mirkarimi, Wiener
Jason Elliott, Mayor's Office

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408

The Safe Communities Fund Expenditure Plan

The City and County of San Francisco ("City") is proposing a half-cent sales tax increase for a new Safe Communities Fund that will be used to fund public safety and social safety net programs, including services that have been reduced or are under additional financial strain as a result of state and federal budget cuts.

Based on historical data and forecasts of sales tax receipts, a half-cent sales tax is projected to generate \$60 million in the first full year of collection. During the first year, the revenues will not be appropriated in the City budget, but will be available for supplemental appropriation if needed. Beginning in fiscal year 2012-13, sales tax proceeds will be appropriated through the annual budget process. Unexpended revenues at year end will remain in a special fund created specifically for this purpose. Expenditures will be split evenly between traditional public safety programs and social safety net programs.

| Expenditure Category (Millions) | | | |
|--|----------------|----------------------|--------------------------|
| Fiscal Year | Revenue | Public Safety | Social Safety Net |
| 2012 | \$15.0 | \$ 7.5 | \$ 7.5 |
| 2013 | \$60.0 | \$30.0 | \$30.0 |
| 2014 | \$61.8 | \$30.9 | \$30.9 |
| 2015 | \$63.7 | \$31.8 | \$31.8 |
| 2016 | \$65.6 | \$32.8 | \$32.8 |
| 2017 | \$67.5 | \$33.8 | \$33.8 |
| 2018 | \$69.6 | \$34.8 | \$34.8 |
| 2019 | \$71.6 | \$35.8 | \$35.8 |
| 2020 | \$73.8 | \$36.9 | \$36.9 |
| 2021 | \$76.0 | \$38.0 | \$38.0 |
| 2022 | \$78.3 | \$39.1 | \$39.1 |

Examples of Eligible Expenditures

Protecting Public Safety (50%)

- Community Policing
 - Police officer salaries
 - Police academy class costs
- Fire and Emergency Services
 - Firefighter salaries
 - Vehicle and firefighting equipment replacement

Preserving the Social Safety Net (50%)

- In Home supportive services program for seniors
- Meals for seniors
- Assistance for independent living
- Adult day care services
- Child Care and associated Children's Services
- Health Care for Children, Families and Seniors

A. Protecting Public Safety (50%)

Half the revenues from the Safe Communities Transactions and Use Tax will be used to support public safety expenditures by the City. Eligible public safety expenditures include personnel expenses for police officers and firefighters, and purchase of equipment to support public safety operations.

B. Preserving the Social Safety Net (50%)

Half the revenues from the Safe Communities Transactions and Use Tax will be used to support social safety net programs for the most vulnerable individuals, including seniors and children. Examples of Eligible expenditures include:

- *Programs for Seniors.* Eligible uses of the Safe Communities Transactions and Use Tax include basic safety net services for protecting the health and welfare of seniors, and assisting them to remain living independently in the community instead of in more costly institutional care. Examples of these services include community meal programs, home-delivered and emergency meals, transportation services, adult protective services, home-based services for seniors including the local share of the in-home supportive services program, adult day health care services, and other support services to keep senior individuals in their homes instead of in institutions.
- *Child Care and Children's' Services.* Child care programs are another eligible use of the Safe Communities Transactions and Use Tax. Examples of child care services include vouchered, subsidized child care to families on public assistance, children who are victims of or at risk of abuse and/or neglect, homeless children, and other subsidy programs for low-income families. The fund can also be used to support programs that manage city- and state-funded child care subsidies, to replace funding for child care services reduced and/or eliminated through state budget decisions and to support parents in finding the appropriate child care that meets their needs.
- *Health Care for Seniors, Children and Their Families.* The Safe Communities Transactions and Use Tax can be used for expenditures providing health care services to vulnerable populations, including children and seniors.

Administration of Safe Communities Fund

The proposed transactions and use tax will be considered by voters at the November, 2011 election, and will require a two-thirds approval to take effect. If approved by voters, the earliest the tax could become operative will be in April of 2012, during the third quarter of fiscal year 2011-12. The 0.50% Transactions and Use Tax increase imposed by this ordinance shall become operative only if (i) the temporary 1% increase in the state sales and use tax rate from April 1, 2009 until July 1, 2011 under Assembly Bill 3 (3rd Ex. Sess.) (Stats. 2009-10, Ch. 18) (the "temporary state tax"), is not extended or reimposed for at least 1 year by the state legislature or the state voters on or before November 30, 2011 and (ii) as a result of such failure to extend or reimpose the temporary state tax, the state sales and use tax rate decreases from 8.25% to 7.25%. If either such condition is not satisfied on or before November 30, 2011, then the tax increase authorized under this ordinance shall not become operative. If both such conditions are satisfied but before January 1, 2013 the state legislature or the state voters approve the extension or reimposition of the temporary state tax for at least 1 year, then on the date the state sales tax rate is increased to 8.25% as a result of such approval, the 0.50% sales tax imposed by this ordinance will terminate and subsequently cease to be collected.

Revenue from the tax will be deposited into a special fund created by the City Controller for this purpose, called the Safe Communities Fund. Appropriation of revenues will be subject to the provisions of the City Charter. The Controller's Office will monitor the appropriation of funds from the Safe Communities Transactions and Use Tax to ensure they are used in a manner consistent with voter approval and the City's financial policies. The Board of Supervisors of the City and County of San Francisco will have the authority to adjust the percentage allocation of expenditures from the fund by a two-thirds vote, provided that any proposed allocations cannot be used for purposes other than those described in this expenditure plan.

City and County of San Francisco

Office of the Controller - Office of Economic Analysis

0.5% Sales Tax for Public Safety, Seniors, and Children: Economic Impact Report

File #110749



July 19, 2011



City and County of San Francisco

Office of the Controller - Office of Economic Analysis

0.5% Sales Tax for Public Safety, Seniors, and Children:
Economic Impact Report

July 19, 2011

Main Conclusions

On June 14, 2011 the Mayor introduced an ordinance to increase the sales and use tax by 0.50% for 10 years in order to fund public safety programs and services to children and seniors. On July 1, 2011, the state of California allowed a 1% sales tax to expire, which lowered San Francisco's sales tax rate from 9.5% to 8.5%. This means that the passage of a .5% sales tax increase would put the effective sales tax rate in San Francisco at 9.0%. In order to be placed on the November ballot, the ordinance would require the approval of two-thirds of the Board of Supervisors. The measure would then need the approval of two-thirds of voters before it can become law.¹ If approved, the half-percent sales tax would be effective on April 1, 2012.

San Francisco's Sales Tax rate is one of the highest among other large cities in California. San Franciscans currently face a rate above the mean and median rate of the 10 largest cities in California. If other cities or counties do not increase their sales tax rates, raising the sales tax rate to 9.0% would make San Francisco the city with the highest tax rate among the 10 largest cities in California.

The Controller's Sales Tax Analysis Reporting System (STARS) records the City's 1% share of quarterly sales tax remissions from every business in San Francisco to the state Board of Equalization. These payments totaled \$115.4 million in CY 2010. As a 0.5% sales tax increase would effectively represent half that total, it can be expected to increase City revenues by approximately \$58 million per year.

The overall employment impact of the legislation will be slightly positive, with job gains in the public sector, relatively to a baseline projection, of approximately 200 jobs outweighing an average of 150 fewer jobs in the private sector for each of the next ten years. The net employment impact is the difference between the two, or fifty jobs per year.

¹ Proposition 218 was passed by voters in November of 1996, which changed the requirements for local governments to raise revenue. The intent for proposition 218 is to ensure that all taxes and most charges on property owners are subject to voter approval. Because this sales tax is for the purpose of funding public safety programs and services to children and seniors, it is considered a "special tax." Under Proposition 218, any "special tax" must be approved by a two-third majority.

INTRODUCTION

Proposed Legislation and Passage Requirements

On June 14, 2011 the Mayor introduced an ordinance to increase the sales and use tax by 0.50% for 10 years in order to fund public safety programs and services to children and seniors. This increase would put the effective sales tax rate in San Francisco at 9.0%. In order to be placed on the November ballot, the ordinance would require the approval of two-thirds of the Board of Supervisors. The measure would then need the approval of two-thirds of voters before it can become law.² If approved, the half-percent sales tax would be effective on April 1, 2012.

The legislation contains a mechanism to void the tax increase if the State restores its 1% sales tax. This means, that if this proposed tax increase is approved, San Francisco residents will face four potential outcomes, depending on what the State does or does not do:

1. If the State does not increase its sales tax rate, the City's rate will remain at 9.0% until 2021.
2. If the State raises its sales tax by less than 1% at any time, the City's rate will be 9% plus the State's increase.
3. If the State renews a full 1% sales tax before January 1, 2013, this sales tax increase will be voided, and the City's rate will remain at 9.5%.
4. If the 1% sales tax is renewed after January 1, 2013, this sales tax will remain in effect, and San Franciscans will face 10% sales tax.

How the Sales Tax Currently Works in San Francisco

On July 1, 2011, the state of California allowed a 1% sales tax to expire, which lowered San Francisco's sales tax rate from 9.5% to 8.5%. The statewide sales and use tax rate is 6.25%, but the rate in a given jurisdiction may be higher depending on Special District taxes. The portion of the tax rate that is currently allocated towards the state is 6.25%, a statewide uniform tax rate of 1% goes back to the jurisdiction³, and 1.25% goes towards the transportation

² Proposition 218 was passed by voters in November of 1996, which changed the requirements for local governments to raise revenue. The intent for proposition 218 is to ensure that all taxes and most charges on property owners are subject to voter approval. Because this sales tax is for the purpose of funding public safety programs and services to children and seniors, it is considered a "special tax." Under Proposition 218, any "special tax" must be approved by a two-third majority.

³ In 1955 the California Legislature passed the Bradley-Burns Uniform Local Sales and Use Tax Law. This law laid the groundwork for a sales tax system that authorizes the State Board of Equalization to collect all sales and use taxes and distribute the 1.0% local share to cities and counties.

authority, schools and BART.⁴ Various exemptions have been granted that remove the tax liability for certain business, such as nonprofit organizations, various types of property, and certain food and medical services.⁵ A more detailed breakdown of San Francisco's Sales Tax Rate can be seen in the Table 2.

| TABLE 1 | | San Francisco's Sales Tax Rate |
|---|--|---------------------------------------|
| State Sales Tax | | 6.25% |
| State General Fund | | 6.00% |
| Fiscal Recovery Act (Triple Flip) | | 0.25% |
| Local Revenue Fund (to counties for health & welfare) | | 0.50% |
| Public Safety Fund (to counties & cities) | | |
| Local Sales Tax | | 1.00% |
| Local Sales Tax (to General Fund) | | 0.75% |
| Local Transportation Tax (TDA) | | 0.25% |
| Special District Sales Tax | | 1.25% |
| SF County Transportation Authority | | 0.50% |
| Bay Area Rapid Transit (BART) | | 0.50% |
| SF Public Financing Authority (Schools) | | 0.25% |
| Total Sales Tax Rate | | 8.50% |

What's Being Taxed

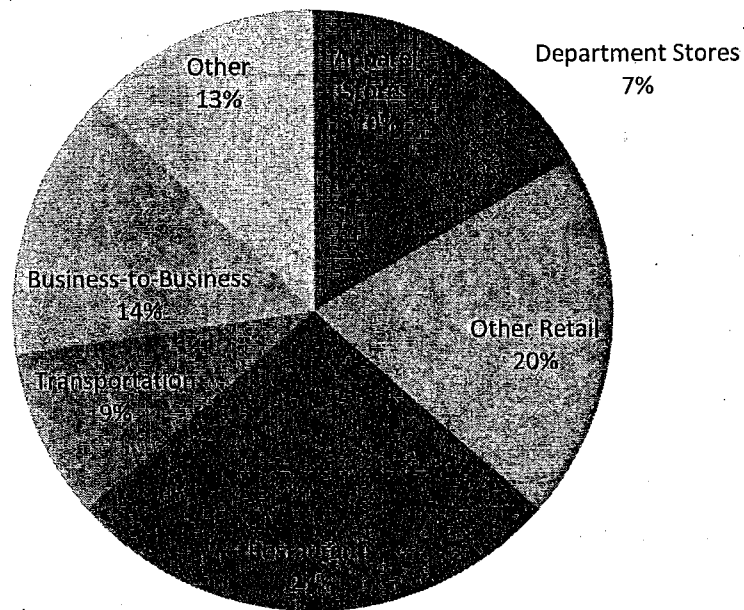
Sales and use tax revenues are generated from six major business groups, plus a County and State Pool category that captures select countywide activity.⁶ The bulk of Sales tax revenues come from restaurants which contribute 27% of sales tax revenue. Apparel Stores make up 10% of sales tax revenue, department stores contribute 7%, and other retail stores combine to contribute 20% of sales tax revenue (FIGURE 1).

A wider tax base means more goods and services are subject to the sales tax, which would translate into a wider revenue base. In California, state lawmakers can define the tax base by deciding which goods and services are subject to a sales tax. Since the sales tax is administered at the state-level, cities and counties that choose to impose their own sales tax must conform to the set of goods and services set by the state.

⁴ SB 566 was signed into law by Governor Davis on October 8, 2003, which authorized a combined city and county transactions and use tax rate of up to 2.0%—i.e. Special District taxes. Currently, San Francisco has 1.25% in Special District Sales Taxes leaving an unused authorization of 0.75%. Jurisdictions are only allowed to impose Special District Sales Tax in multiples of .25%.

⁵ Any local sales tax must conform to the rules and exemptions set by the Board of Equalization for the state. The only power City's have to modify the tax are amount and purpose.

⁶ County poll sales activity includes sale of used cars between private parties as well as large or specialized equipment purchased from an out-of-area manufacturer, but which is put into 'use' in San Francisco.

FIGURE 1**Breakdown of the Sales Tax Revenue Base**

Source: OEA estimates based on MuniServices Data

San Francisco's Sales Tax Rate in Context

California cities, compared to national averages, have comparatively high sales tax rates. At a minimum, California residents face a sales tax rate of 7.25%, but a city or a county can raise the rate to as high as 9.25%. High sales tax rates are not unusual in large cities. For example, residents in Chicago face a 9.75% sales tax rate. Other high rates among large cities outside of California include Seattle (9.5%), Phoenix (9.3%), New Orleans (9.0%), and New York (8.875%).⁷

San Francisco's current sales tax rate of 8.5% places it above the mean and median rates of its neighboring cities. If the ordinance passes and other cities do not impose a similar rate hike, San Franciscans will face a higher sales tax rate compared to their neighbors in the Bay Area (Table 2).

⁷ Barrett, William P. "Average U.S. Sales Tax Rate Hits Record High." *Forbes*, February 17, 2011.

TABLE 2**San Francisco's Sales Tax Rate Compared to 10 Neighboring Cities**

| Neighboring Cities | Tax Rates |
|--|------------------|
| San Francisco (After Rate Increase) | 9.00% |
| Oakland | 8.75% |
| Berkeley | 8.75% |
| Emeryville | 8.75% |
| San Francisco (Current Rate) | 8.50% |
| San Mateo | 8.50% |
| Colma | 8.25% |
| Daly City | 8.25% |
| San Jose | 8.25% |
| South San Francisco | 8.25% |
| Sausalito | 8.00% |
| Corte Madera | 8.00% |
| Average (Mean) of Neighboring Cities | 8.38% |
| Median of Neighboring Cities | 8.25% |

Source: California Board of Equalization, Rates for Cities and Counties effective 7/1/11

San Francisco's Sales Tax rate is one of the highest among other large cities in California. San Franciscans currently face a rate above the mean and median rate of the 10 largest cities in California. If other cities or counties do not increase their sales tax rates, raising the sales tax rate to 9.0% would make San Francisco the city with the highest tax rate among the largest cities in California (TABLE 3).

TABLE 3**Sales Tax Rates of the 10 Largest Cities in California**

| 10 Largest California Cities | Population | Tax Rates |
|-------------------------------------|-------------------|------------------|
| San Francisco (After Rate Increase) | 805,235 | 9.00% |
| Oakland | 390,724 | 8.75% |
| Los Angeles | 3,792,621 | 8.75% |
| Long Beach | 462,257 | 8.75% |
| San Francisco (Current Rate) | 805,235 | 8.50% |
| San Jose | 945,942 | 8.25% |
| Fresno | 494,665 | 7.98% |
| San Diego | 1,307,402 | 7.75% |
| Sacramento | 466,488 | 7.75% |
| Anaheim | 336,265 | 7.75% |
| Bakersfield | 347,483 | 7.25% |
| Average (Mean) 10 Largest Cities | | 8.148% |
| Median of Largest Cities | | 8.113% |

Sources: Population numbers come from the State of California, Department of Finance, 2010 Census Demographic Profile and the tax rates come from California Board of Equalization, Rates for Cities and Counties effective 7/1/11

ECONOMIC IMPACT FACTORS

Sales Tax as a Revenue Source

Sales taxes play an important role as a complement to other local revenue sources. The City of San Francisco can change the performance of its tax revenues based on the composition of their tax revenue sources. Revenue sources that are more sensitive to economic fluctuations grow faster during economic expansions, but tend to be more volatile and more likely to collapse during a downturn. Revenue sources less sensitive to economic fluctuations are generally more stable during recessions, but do not grow as fast during economic upswings. Studies show that sales tax revenues are more sensitive to economic fluctuations than property tax revenue.⁸

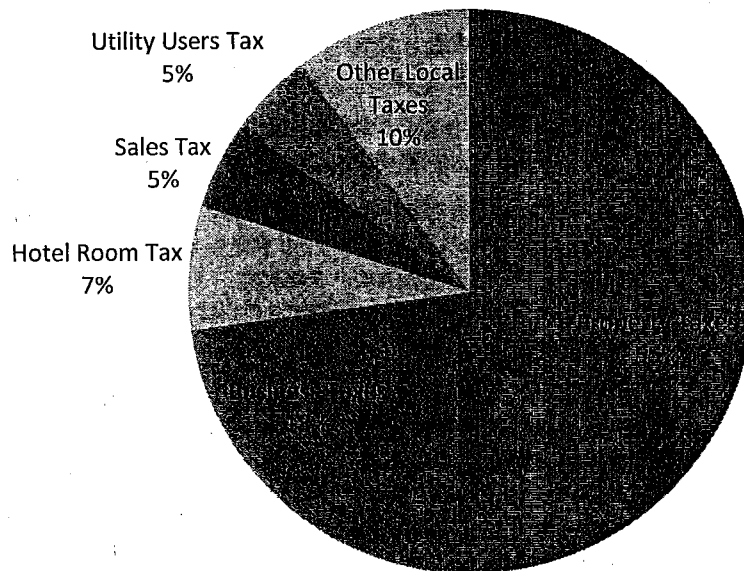
In FY 2009-2010, San Francisco received \$1.9 billion in total tax revenue. Sales taxes make up a 5% share of total tax revenue, making it the 4th largest tax revenue source for the City. Property taxes make up the largest share at 55%, followed by business taxes (18%), and hotel room taxes (7%) (FIGURE 2). An increase in the sales tax will boost the amount of tax revenue received by the city and increase the importance of the sales tax as a revenue source.

The sales tax also has the ability to generate revenue from consumers outside of the City. For example, tourists who visit San Francisco will purchase goods and services in the City, pumping revenue into the city's general fund, while using fewer services than residents of the City.⁹

Higher City tax rates will also increase employment in the public sector and in private sector businesses that supply the City. Revenue increases towards public safety and services for children and seniors will boost employment in the public safety and social services sectors (e.g. more police officers, more employment for child care services, more employment for elderly care, etc.).

⁸ Felix, Alison, "The and Volatility of State Tax Revenue Sources in the Tenth District." Federal Reserve Bank of Kansas City, *Economic Review*. Third Quarter 2008.

Bahl, Roy W. and Richard Hawkins, "The Sales Tax in Georgia: Issues and Options." Fiscal Research Program Report no. 1. October 1997.

FIGURE 2**Tax as a Percent of Total Tax Revenue FY2009-2010
(out of \$1.9 billion in total tax revenue)**

Source: City and County of San Francisco, Office of the Controller, Budget Analysis Division

Impact on Consumer and Retail Business Behavior

While the sales tax has some advantages as a revenue source, it can cause a number of economic distortions. When a sales tax is imposed, businesses pass the cost of the sales tax on to consumers in the form of higher prices. Generally, the price of goods and services increase by the amount of the sales tax.¹⁰ Consumers respond to these price increases by reducing their consumption in the taxing jurisdiction. These changes in consumer behavior lead to fewer sales, which in turn can alter the number of businesses that choose to locate in the city.

An increase in the sales tax rate could have a number of potential effects on consumers and businesses:

1. By raising prices on one set of commodities, it will have the likely effect of reducing expenditure on

⁹ Case, Bradford and Robert D. Ebel, "Using State Consumer Tax Credits for Achieving Equity." *National Tax Journal*, Vol. 42, no. 3. September 1989.

¹⁰ Poterba, James M. "Retail Price Reactions to Changes in State and Local sales Taxes", *National Tax Journal*, Vol. 49, no. 2. 1996.

Besley, Timothy and Harvey S. Rosen. "Sales Taxes and Prices", NBER working paper #6667. 1998.

those commodities, for example by switching from higher-priced to lower-priced products¹¹.

2. Consumers may respond to effective higher prices on goods and services facing a higher tax by switching some expenditures to local non-taxed goods and services.
3. Consumers could also purchase items in jurisdictions where the tax rate is lower.
4. Consumers could purchase items on the internet where they can avoid paying a sales tax.

When prices increase, this is implicitly seen as a loss of wealth. When consumers are less wealthy we often see combination of all four effects. Consumers not only consume less, but also substitute cheaper items for more expensive items.

The third effect is well-documented in academic literature. Virtually every study concludes differences in local tax rates will result in the reduction in sales in the jurisdiction with the higher sales tax rate and an increase in sales in the jurisdiction with a lower sales tax rate.¹²

The last effect has become more important over the last decade. Studies estimate that in 2010, state and local governments combined to lose \$8.6 billion in sales tax revenue due to internet purchases.¹³ Recently, a new state law will require large out-of-state retailers to collect sales taxes on some purchases made by California customers on the internet.¹⁴ This law became effective on July 1st. This law could potentially reduce the number of people turning to the internet for purchases after a sales tax increase.

¹¹ Koop, Gary, Simon M. Potter, and Rodney W. Strachan. "Re-examining the Consumption-Wealth Relationship." University of Leicester. Working Paper no. 05/3. February 2005.

Tan, Avlin and Graham Voss, "Consumption and Wealth." Reserve Bank of Australia, Economic Research Department. December 2000.

¹² Mikesell, John L. "Sales Taxation and the Border County Problem." *Quarterly Review of Economics and Business*, Vol. 11, pp. 23-29. 1971.

Fischer, R. "Local sales Taxes: Tax Rate Differentials, Sales Loss, and Revenue Estimation," *Public Finance Quarterly*, Vol. 8, pp. 171-188. 1980.

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Wong, John D. "The Impact of Local Option Sales Taxes on Retail Sales, Employment, Payrolls and Establishments: the Case for Kansas", *Review of Regional Studies*, Vol. 26, n.2, pp. 165-176. 1996.

¹³ Bruce, Donald, William F. Fox, and LeAnn Luna, "State and Local Government Sales Tax Revenue Losses from Electronic Commerce." The University of Tennessee. 2009.

¹⁴ Assembly Bill 153, Assembly Bill 155, and Senate Bill 234

Lastly, one study shows that places with higher tax rates generally have weaker retail industries in terms of sales and employment.¹⁵ A decline in retail employment due to an increase in sales tax rates should be expected due to lower sales on taxable items, and consumer substitution such as that discussed above. This employment reduction is the primary negative economic impact of sales tax increases; it is countered by any employment gain associated with higher local government revenues.

It should be noted that impacts of these effects vary by type of good. Every day items such as groceries are less responsive to the imposition of a sales tax, while big-ticket items such as automobiles or furniture are much more sensitive to tax increases.¹⁶ This means that a sales tax will have different effects for different industries.

Equity Issues

Sales taxes are inherently regressive because low-income families pay a larger share of their incomes on items subject to a sales tax than wealthier families. For example, the cost of a Big Mac, and the sales tax on that Big Mac, is the same for a rich person and a poor person. Since the rich person has more income, the amount paid for the Big Mac is less significant to her than for the poor person. Low-income families typically spend three-quarters of their income on items subject to a sales tax while middle-income families spend about half of their income, and the richest families spend only about a sixth of their income on sales-taxable items.¹⁷

Lawmakers have tried to make the sales tax less regressive by exempting items that low-income are more likely to consume while taxing items that higher-income families are more likely to consume. For example, in California, restaurant meals are taxed, but not groceries. As mentioned earlier, municipalities have no control over which items get taxed or exempted.

In San Francisco, sales taxes are somewhat less regressive because over half of the burden falls on non-residents. About 37% of sales taxes are paid by visitors and 14% by business.¹⁸ These are comparatively high shares paid by non-residents versus standard distributions in many other cities and counties.

¹⁵ Torralba, Francisco M. "New Evidence on the Effects of Sales Taxes on Retail Activity." University of Chicago. 2004.

¹⁶ Besley, Timothy and Harvey S. Rosen. "Sales Taxes and Prices", NBER working paper #6667. 1998.

¹⁷ Institute on Taxation and Economic Policy calculations using the Consumer Expenditure Survey.

¹⁸ OEA estimates based on MuniServices taxable sales data and taxable expenditures by visitors from the San Francisco Travel Association, "Visitor Industry Economic Impact Estimates, 2010."

ECONOMIC IMPACT ASSESSMENT

Introduction

As discussed in the previous section, the economic impact of the proposed 0.5% sales tax increase will reflect both the higher City spending, and the reduced consumer spending on retail businesses.

Both of these spending effects, positive and negative, ripple throughout the local economy. The City's higher spending on salaries, contractors, construction, and equipment will stimulate additional spending in employee neighborhoods, suppliers of businesses that supply the City, and so forth. On the other hand, reduced consumer spending at San Francisco retailers will reduce their employment below what it would otherwise be, leading to reduced worker spending associated with that sector, less spending at their neighborhood businesses.

Because the tax revenue from the sales tax is dedicated to public safety, children, and seniors, it will strengthen these public services and amenities available to San Francisco residents. For this reason, it benefits the economy in a second sense, beyond its direct impact on spending. By creating a higher quality of life in San Francisco, it reduces the wage premium that businesses must pay workers to offset higher housing prices.

Revenue Estimate

The Controller's Sales Tax Analysis Reporting System (STARS) records the City's 1% share of quarterly sales tax remissions from every business in San Francisco to the state Board of Equalization. These payments totaled \$115.4 million in CY 2010. As a 0.5% sales tax increase would effectively represent half that total, it can be expected to increase City revenues by approximately \$58 million per year¹⁹.

Businesses in STARS are coded by their type of retail activity, so sales tax and taxable sales can be tabulated by retailer type. Based on the STARS information, in the 1st Quarter of 2011, patrons at restaurants accounted for approximately 32% of all sales tax paid in San Francisco, and would pay an estimated \$19 million of the \$58 million raised by the proposed legislation. Other significant sources of revenue include apparel stores, department stores, office equipment and building supply wholesalers, and furniture/appliance stores, as indicated in Table 4 below.

¹⁹ These numbers do not precisely match those in the Budget and the recent report on this legislation produced by the Budget and Legislative Analyst, because those numbers are calculated on a fiscal year basis. The difference has a negligible effect on the economic impact.

TABLE 4**Revenue Increase from Proposed Legislation, by
Type of Retail Business**

| STARS Business Code | Annual Increased Sales Tax |
|----------------------------|-----------------------------------|
| Restaurants | \$18.8 |
| Miscellaneous Retail | \$5.7 |
| Apparel Stores | \$4.3 |
| Department Stores | \$3.4 |
| Bldg.Matls-Whsle | \$2.3 |
| Office Equipment Whsle | \$2.3 |
| Furniture/Appliance | \$2.2 |
| Service Stations | \$2.1 |
| Light Industry | \$2.0 |
| Energy Sales | \$1.9 |
| Food Markets | \$1.8 |
| Bldg.Matls-Retail | \$1.6 |
| Auto Sales - New | \$1.4 |
| Auto Parts/Repair | \$1.3 |
| Leasing | \$1.1 |
| Business Services | \$1.1 |
| Recreation Products | \$1.1 |
| Heavy Industry | \$0.9 |
| Liquor Stores | \$0.6 |
| Food Processing Eqp | \$0.5 |
| Drug Stores | \$0.3 |
| Electronic Equipment | \$0.3 |
| Health & Government | \$0.3 |
| Miscellaneous Other | \$0.3 |
| Florist/Nursery | \$0.3 |
| TOTAL | \$57.7 |

Source: STARS

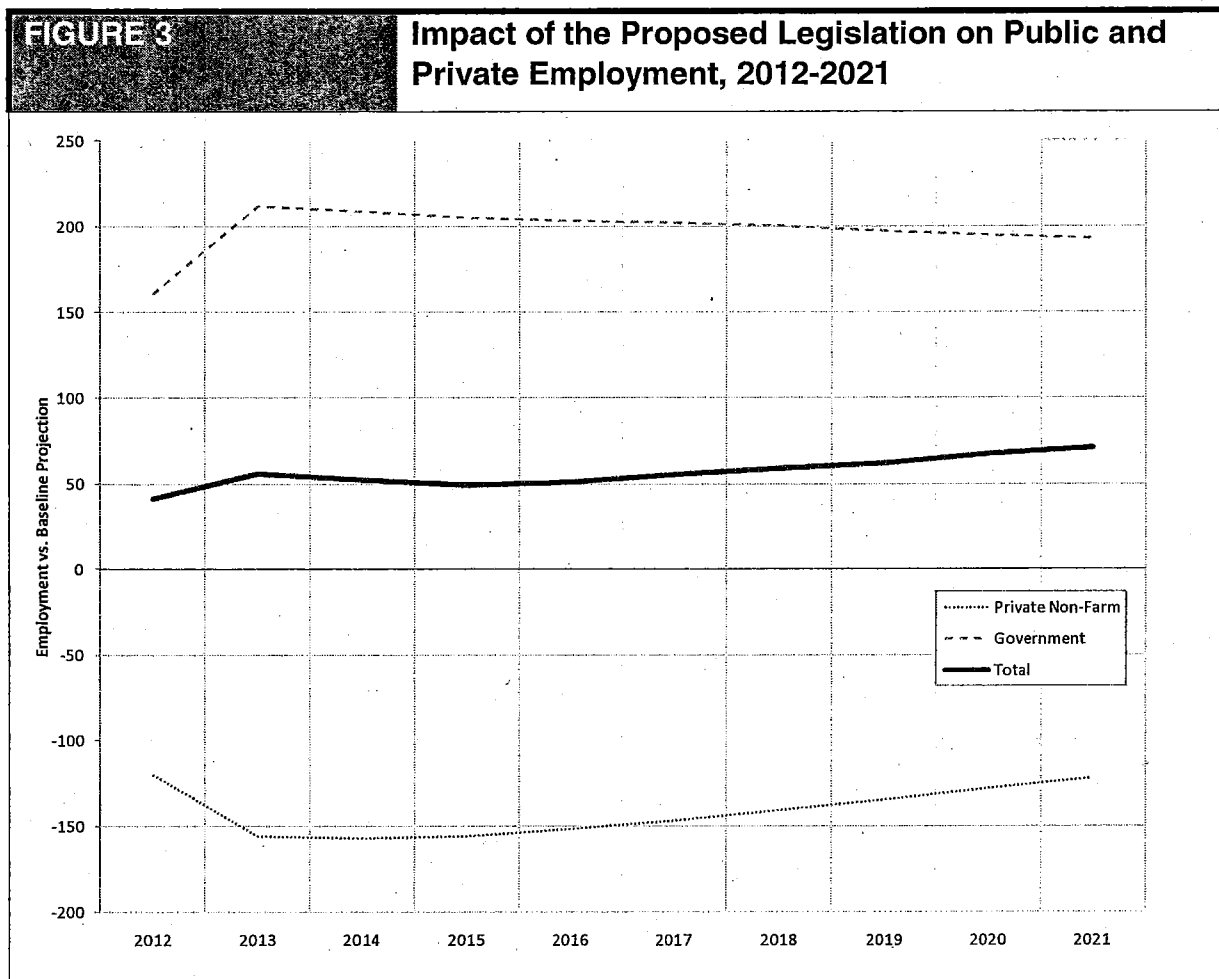
Impact on Jobs

In order to estimate the economic impact of the legislation, the OEA used its REMI model to simulate a \$58 million reduction in retail spending, distributed across various types of consumer spending categories. Different types of consumer spending are associated with different branches of the wholesale and retail trade industries, which have different local multiplier effects. Some retail types feature very small retail margins and sell products that are not produced in San Francisco; the local economic impact of a dollar spent at these businesses is relatively small. Other, more service-oriented retail industries spend a higher share of their costs on employee wages, and these have a higher local economic impact. The REMI model accounts for all of these differences.

The economic simulation also included an increase of an identical \$58 million in local government spending, including its impact on local amenities. Both the reduction in consumer spending, and increase in government

spending, were inflated 3% per annum over the next ten years, to reflect anticipated increases in sales tax revenue. The legislation is scheduled to take effect April 1, 2012, and will expire in 2021.

Figure 3 indicates that the overall employment impact of the legislation will be slightly positive, with job gains in the public sector, relative to a baseline projection, of approximately 200 jobs outweighing an average of 150 fewer jobs in the private sector for each of the next ten years. The net employment impact is the difference between the two or fifty jobs per year.



The negative impact on private, non-farm employment is primarily concentrated in the accommodations and food services sector, which is expected to have approximately 100 fewer jobs each year that it otherwise would, and the retail trade sector, which is expected to have approximately 40 fewer. Because of its reliance on public sector spending, the private construction industry is expected to slightly add employment, relative to baseline, if the legislation is adopted.

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0.5% Sales Tax for Public Safety, Seniors, and Children: Economic Impact Report

Office of Economic Analysis

Presentation to the Budget and Finance Committee

July 20, 2011



City and County of San Francisco

Office of the Controller – Office of Economic Analysis

San Francisco's Sales Tax Rate

| | |
|---|--------------|
| State Sales Tax | 6.25% |
| State General Fund | 6.00% |
| Fiscal Recovery Act (Triple Flip) | 0.25% |
| Local Revenue Fund (to counties for health & welfare) Public Safety Fund (to counties & cities) | 0.50% |
| Local Sales Tax | 1.00% |
| Local Sales Tax (to General Fund) | 0.75% |
| Local Transportation Tax (TDA) | 0.25% |
| Special District Sales Tax | 1.25% |
| SF County Transportation Authority | 0.50% |
| Bay Area Rapid Transit (BART) | 0.50% |
| SF Public Financing Authority (Schools) | 0.25% |
| Total Sales Tax Rate | 8.50% |



San Francisco Sales Tax Rate in Context

- San Francisco's current sales tax rate of 8.5% places it above the mean and median rate of the 10 largest cities in California. If other cities or counties do not increase their sales tax rates, raising the sales tax rate to 9.0% would make San Francisco the city with the highest sales tax rate among the 10 largest cities in California
- San Francisco's current sales tax rate also places it above the mean and median rates of its neighboring cities. If the ordinance passes and other cities do not impose a similar rate hike, San Franciscans will face a higher sales tax rate compared to their neighbors in the Bay Area



City and County of San Francisco

Office of the Controller – Office of Economic Analysis

San Francisco's Sales Tax Rate Compared to 10 Neighboring Cities

| Neighboring Cities | Tax Rates |
|--------------------------------------|-----------|
| San Francisco (After Rate Increase) | 9.00% |
| Oakland | 8.75% |
| Berkeley | 8.75% |
| Emeryville | 8.75% |
| San Francisco (Current Rate) | 8.50% |
| San Mateo | 8.50% |
| Colma | 8.25% |
| Daly City | 8.25% |
| San Jose | 8.25% |
| South San Francisco | 8.25% |
| Sausalito | 8.00% |
| Corte Madera | 8.00% |
| Average (Mean) of Neighboring Cities | 8.38% |
| Median of Neighboring Cities | 8.25% |



Economic Impact Factors

- Higher tax rates will boost the amount of revenue received by the city and will increase employment in the public sector as well as private sector businesses that supply the City. Revenue increases towards public safety and services for children and seniors will boost employment in public safety and social services sectors.
- Consumers will respond to higher rates by lowering expenditures on taxable items in the City. Consumers will do this by purchasing less expensive items, substituting for non-taxable items, purchasing items over the internet, or purchasing items in jurisdictions that have not increased their tax rate.
- Higher rates will lead to a decline in retail employment due to lower sales on taxable items and consumer substitution.



Equity Issues

- Sales taxes are inherently regressive because low-income families pay a larger share of their incomes on items subject to a sales tax than wealthier families.
- In San Francisco, the sales tax is less regressive because over half of the burden falls on non-residents. About 37% of sales taxes are paid by visitors and 14% in business-to-business transactions.
- This regressivity is further mitigated by the fact that California exempts a number of goods and services that low-income families are more likely to purchase.

Revenue Estimates

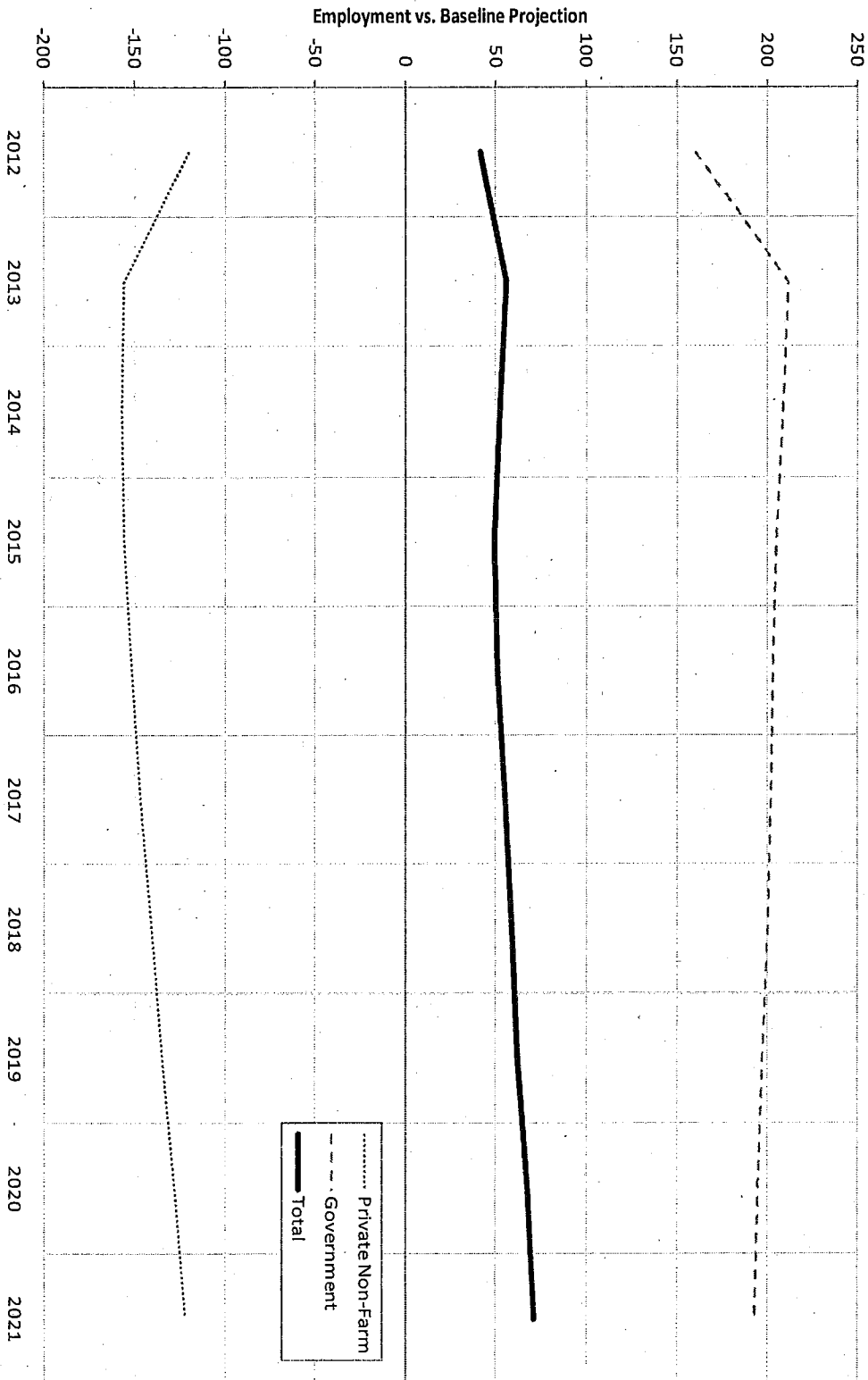
- Currently, the bulk of sales tax revenues come from restaurants, which contribute 27% of sales tax revenue. Apparel stores make up 10% of sales tax revenue, department stores contribute 7%, and other retail stores combine to contribute 20% of sales tax revenue.
- Sales tax payments for CY 2010 totaled \$115.4 million. As a 0.5% sales tax would effectively represent half that total, it can be expected to increase City revenues by approximately \$58 million per year.
- Restaurants will make up the bulk of revenue increases with an annual increase of about \$18.8 million. Miscellaneous retail stores make up about \$5.7 million, apparel stores make up about \$4.3 million and department stores will contribute \$3.4 million.



City and County of San Francisco

Office of the Controller – Office of Economic Analysis

Impact of the Proposed Legislation on Public and Private Employment, 2012-2021



Impact on Jobs

- The overall employment impact of the legislation will be slightly positive, with job gains in the public sector, relatively to baseline projection of approximately 200 jobs outweighing an average of 150 fewer jobs in the private sector for each of the next ten years.
- The net employment impact is the difference between two, or fifty jobs per year
- The negative impact on private, non-farm employment is primarily concentrated in the accommodations and food services sector, which is expected to have approximately 100 fewer jobs each year that it otherwise would, and the retail trade sector, which is expected to have approximately 40 fewer.



State Sales Tax Reduction Mitigation Proposal

Board of Supervisors Budget and Finance Committee
July 20, 2011

Overview

- On July 1, San Francisco's sales tax rate fell from 9.5% to 8.5%
- State tax authorization expired
- Governor Jerry Brown unable to persuade Republican legislators to keep tax rate flat
- Mayor Lee and Board members propose local restoration of 0.5% of the sales tax reduction
- **Still maintains a half-cent decrease in the sales tax rate**
- Protects SF against State budget reductions

Overview

- Special Tax (Requires two-thirds vote)
- Dedicated to services making San Francisco safe – including public safety and social safety net
- Protects San Francisco against State budget reductions
- 10-Year Sunset
- Automatically expires if the state restores its sales tax rate to prior level – so it will not end up increasing the tax rate

Purpose

- State budget impacts and uncertainty:
 - Social safety net reductions
 - Child care cuts
- Public safety realignment (hundreds of new prisoners and parolees beginning October 2011)
- Social Services realignment planned for 2012
- Redevelopment
- “Triggers” in State budget could mean more cuts in January if revenues don’t materialize

Implementation

- Consistent with City's Five-Year Financial Plan
- Shared Sacrifice: five-year projected GF deficit of \$829 million
 - 12% solved with revenue
 - 88% solved with expenditure savings (pension reform, capital budget reductions, contract reductions)
- Effective April 1, 2012 – assuming State allows 1% sales tax reduction to stand

Conclusion

- Still allows for a half-cent decrease in sales tax rate
- Limits uncertainty surrounding state budget impacts
- A more responsible economic alternative than other potential revenue proposals

Questions?

Questions?