

BOARD of SUPERVISORS



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

FROM: Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: March 11, 2021

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Appropriations Committee

The Board of Supervisors' Budget and Appropriations Committee has received the following substituted legislation, which is being referred to the Small Business Commission for comment and recommendation.

File No. 210138-2

Ordinance extending the deadline for certain businesses to pay the business registration fee for the fiscal year ending June 30, 2022, to November 1, 2021; temporarily suspending through November 1, 2021, penalties for late payment of certain weights and measures fees and point of sale station fees billed by the Tax Collector on or after March 17, 2020, and on or before October 1, 2021; and refunding suspended penalties paid to the City.

Please return this cover sheet with the Commission's response to Linda Wong, Budget and Appropriations Committee Clerk, by email to: linda.wong@sfgov.org.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

_____ **No Comment**

_____ **Recommendation Attached**

Chairperson, Small Business Commission

1 [Business Registration Fee - Weights and Measures and Point of Sale Station Fees]

2

3 **Ordinance extending the deadline for certain businesses to pay the business**
4 **registration fee for the fiscal year ending June 30, 2022, to November 1, 2021;**
5 **temporarily suspending through November 1, 2021, penalties for late payment of**
6 **certain weights and measures fees and point of sale station fees billed by the Tax**
7 **Collector on or after March 17, 2020, and on or before October 1, 2021; and refunding**
8 **suspended penalties paid to the City.**

9

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

14

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

16

17 Section 1. Background, Findings, and Purpose.

18 (a) On February 25, 2020, Mayor London Breed proclaimed a state of emergency in
19 response to the COVID-19 pandemic. On March 3, 2020, the Board of Supervisors concurred
20 in the February 25 Proclamation.

21 (b) On March 16, 2020, to mitigate the spread of COVID-19, the Local Health Officer
22 issued Order No. C19-07, which has been amended and replaced by subsequent orders,
23 directing San Franciscans to “shelter in place” beginning on March 17, 2020. These orders,
24 which are now known as “stay-safer-at-home” orders, generally require individuals to stay in
25 their homes to the extent possible, and require businesses to cease all non-essential

1 operations at physical locations in the City, with some limited exceptions. Over the course of
2 the COVID-19 pandemic, restrictions on the operations of different types of businesses in the
3 City have fluctuated, but unquestionably a large number of businesses, and many types of
4 businesses, have faced and continue to face severe restrictions.

5 (c) The COVID-19 outbreak has caused significant negative impacts on businesses in
6 the City. While the exact course of the pandemic cannot be predicted, it is expected to
7 continue to pose serious public health concerns in San Francisco for months to come, and will
8 continue to have serious negative impacts on businesses during that time. This ordinance is
9 intended to mitigate those impacts by (1) extending to November 1, 2021 the deadline for
10 most businesses to pay the business registration fee for the fiscal year ending June 30, 2022,
11 and (2) temporarily suspending penalties for the late payment of certain weights and
12 measures fees and point of sale station fees through November 1, 2021.

13
14 Section 2. Definitions.

15 For purposes of this ordinance, the following terms shall have the following meanings:

16 “Applicable Fee” means any fee charged under Section 1.13-5 or Chapter 115 of the
17 Administrative Code, that was billed by the Tax Collector on or after March 17, 2020, and on
18 or before October 1, 2021.

19 “Business Registration Certificate” means a “registration certificate,” as defined in
20 Section 852.2 of Article 12 of the Business and Tax Regulations Code.

21 “Business Registration Fee” means the tax imposed under Article 12 of the Business
22 and Tax Regulations Code.

23 “City” means the City and County of San Francisco.

24 “Combined Group” has the meaning described in Section 956.3 of Article 12-A-1 of the
25 Business and Tax Regulations Code.

1 "Newly Established Business" has the meaning set forth in Section 852.1 of Article 12
2 of the Business and Tax Regulations Code.

3 "Person" has the meaning set forth in Section 6.2-15 of Article 6 of the Business and
4 Tax Regulations Code.

5 "Registration Year" has the meaning set forth in Section 852.4 of Article 6 of the
6 Business and Tax Regulations Code.

7 "Tax Collector" has the meaning set forth in Section 6.2-19 of Article 6 of the Business
8 and Tax Regulations Code.

9
10 Section 3. Extension of Deadline to Pay Business Registration Fees.

11 (a) Business Registration Renewals. The deadline under Articles 6 and 12 of the
12 Business and Tax Regulations Code for a Person or Combined Group with a Business
13 Registration Certificate for the Registration Year ending June 30, 2021 to apply for renewal of
14 its Business Registration Certificate (or Business Registration Certificates, if a Combined
15 Group) and pay the Business Registration Fee for the Registration Year ending June 30, 2022
16 shall be extended from May 31, 2021 to November 1, 2021, and no penalty shall be assessed
17 if such Person or Combined Group files and pays that Business Registration Fee by
18 November 1, 2021. Business Registration Certificates issued for the Registration Year ending
19 June 30, 2021, shall continue to be valid through November 1, 2021, for all purposes.

20 (b) New Businesses Without a Business Registration Certificate Commencing
21 Business On or After January 1, 2021 and Before July 1, 2021. For Newly Established
22 Businesses commencing business in the City on or before June 30, 2021, that do not yet have
23 a Business Registration Certificate for the Registration Year ending June 30, 2021, the
24 deadline to pay the Business Registration Fee for the Registration Year ending June 30, 2022
25 shall be extended to November 1, 2021, and no penalty shall be assessed if such Newly

1 Established Business pays that Business Registration Fee by November 1, 2021. This
2 subsection (b) shall not relieve a Newly Established Business from the requirement to timely
3 apply for a Business Registration Certificate (or Business Registration Certificates, if a
4 Combined Group) and timely pay the prorated Business Registration Fee for the Registration
5 Year ending June 30, 2021. A Newly Established Business subject to this subsection (b) that
6 applies for a Business Registration Certificate (or Business Registration Certificates, if a
7 Combined Group) and pays the prorated Business Registration Fee, plus any applicable
8 penalties and interest, for the Registration Year ending June 30, 2021, shall be issued a
9 Business Registration Certificate (or Business Registration Certificates, if a Combined Group)
10 for the Registration Year ending June 30, 2021, which shall continue to be valid through
11 November 1, 2021, for all purposes.

12 (c) New Businesses Commencing Business On or After July 1, 2021. For Newly
13 Established Businesses commencing business in the City on or after July 1, 2021, the
14 deadline for payment of the Business Registration Fee for the Registration Year ending
15 June 30, 2022 shall be extended to November 1, 2021, and no penalty shall be assessed if
16 such Newly Established Business pays that Business Registration Fee by November 1, 2021.
17 This subsection (c) shall not relieve a Newly Established Business from the requirement to
18 timely apply for a Business Registration Certificate (or Business Registration Certificates, if a
19 Combined Group) for the Registration Year ending June 30, 2022. A Newly Established
20 Business subject to this subsection (c) shall not receive a Business Registration Certificate (or
21 Business Registration Certificates, if a Combined Group) until it has paid its Business
22 Registration Fee for the Registration Year ending June 30, 2022, but:

23 (1) all requirements in the San Francisco Municipal Code that a Business
24 Registration Certificate be posted shall be waived for such Newly Established Business for all
25 purposes through November 1, 2021; and

1 (2) such Newly Established Business shall receive a business account number
2 (or numbers, if a Combined Group) reflecting its registration with the Tax Collector, and shall
3 not be reflected as being delinquent in the records of the Tax Collector until
4 November 2, 2021, on account of not paying its Business Registration Fee for the Registration
5 Year ending June 30, 2022.

6 (d) A Newly Established Business that does not have a certificate of authority for the
7 collection of third-party taxes under Section 6.6-1 of Article 6 of the Business and Tax
8 Regulations Code, shall not be permitted to obtain such a certificate of authority until it has
9 paid its Business Registration Fee for the Registration Year or Years to which it is subject,
10 and shall not be permitted to engage in any business that requires it to collect the tax on
11 transient occupancy of hotel rooms in Article 7 of the Business and Tax Regulations Code or
12 the tax on occupancy of parking spaces in parking stations in Article 9 of the Business and
13 Tax Regulations Code without first paying its Business Registration Fee for the Registration
14 Year or Years to which it is subject.

15 (e) Persons or Combined Groups that cease business between July 1, 2021 and
16 November 1, 2021 shall still pay the Business Registration Fee for the Registration Year
17 ending June 30, 2022 and file any necessary forms to accompany that payment, except that
18 such payment deadline shall be extended to November 1, 2021.

19 (f) The Tax Collector shall timely issue Business Registration Certificates to all
20 Persons that choose to pay the Business Registration Fee for the Registration Year ending
21 June 30, 2022 prior to November 1, 2021.

1 Section 4. Temporary Penalty Suspension for Late Payment of Certain Fees; Refund
2 of Suspended Penalties.

3 (a) The penalties under Sections 1.13-5(h) and 115.5 of the Administrative Code shall
4 be suspended with respect to Applicable Fees through November 1, 2021. Penalties
5 suspended under this Section 4 shall recommence for Applicable Fees not paid by
6 November 1, 2021. Solely for purposes of calculating these penalties, the “billing date” under
7 Section 1.13-5(h), and “the last day of the term of registration” and “the original due date”
8 under Section 115.5, shall be deemed to be October 2, 2021.

9 (b) Persons who have paid the Tax Collector any penalties suspended under this
10 Section 4 shall be allowed a refund of those penalties, without interest, upon written request to
11 the Tax Collector within the later of (1) one year of payment of the penalty, or
12 (2) December 31, 2021.

13
14 Section 5. Effect of Penalty Suspension.

15 Persons subject to the provisions of Section 1.13-5 and/or Chapter 115 of the
16 Administrative Code shall comply with all of the requirements set forth in those provisions,
17 except as provided in Section 4 of this Ordinance. However, persons that do not pay the
18 Applicable Fees by their original due dates shall not be reflected as being delinquent in the
19 records of the Office of the Treasurer and Tax Collector until November 2, 2021, and the
20 Division of Weights and Measures, including the Sealer of Weights and Measures, shall not
21 withhold the issuance of any applicable certificate, license, or permit solely on the basis that
22 an Applicable Fee was not paid by its original due date.

1 Section 6. Severability.

2 If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any
3 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
4 decision of a court of competent jurisdiction, such decision shall not affect the validity of the
5 remaining portions or applications of this ordinance. The Board of Supervisors hereby
6 declares that it would have passed this ordinance and each and every section, subsection,
7 sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to
8 whether any other portion of this ordinance or application thereof would be subsequently
9 declared invalid or unconstitutional.

10
11 Section 7. Effective Date. This ordinance shall become effective 30 days after
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor's veto of the ordinance.

15
16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By: /s/
19 KERNE H. O. MATSUBARA
Deputy City Attorney

20 n:\legana\as2021\2100227\01516734.docx

REVISED LEGISLATIVE DIGEST

(Substituted, 3/2/2021)

[Business Registration Fee - Weights and Measures and Point of Sale Station Fees]

Ordinance extending the deadline for certain businesses to pay the business registration fee for the fiscal year ending June 30, 2022, to November 1, 2021; temporarily suspending through November 1, 2021, penalties for late payment of certain weights and measures fees and point of sale station fees billed by the Tax Collector on or after March 17, 2020, and on or before October 1, 2021; and refunding suspended penalties paid to the City.

Existing Law

Businesses in the City must obtain a registration certificate from the Tax Collector and pay an annual registration fee on a fiscal year basis. The deadline for businesses to renew and pay their registration fee for the fiscal year ending June 30, 2022 is May 31, 2021. Newly commencing businesses in the City must pay their registration fee when they apply for their registration certificate.

Persons using weighing and measuring devices for commercial purposes in the City must register those devices and pay annual registration and other fees, subject to a 100% late payment penalty. Persons using automated point of sale stations (e.g., scanners) for commercial purposes in the City must register those stations and pay annual registration and other fees, subject to late payment penalties of up to 100% of the amount of the fee.

Amendments to Current Law

This ordinance would extend the deadline for businesses to renew and pay their business registration fee for the fiscal year ending June 30, 2022 from May 31, 2021 to November 1, 2021. The deadline for new businesses to pay their business registration fee for the fiscal year ending June 30, 2022 would be extended to November 1, 2021.

This ordinance also would temporarily suspend through November 1, 2021 penalties for the late payment of certain weights and measures fees and point of sale station fees billed by the Tax Collector on or after March 17, 2020 and on or before October 1, 2021, and would refund suspended penalties paid to the City upon written request made to the Tax Collector within the later of (1) one year of payment of the penalty, or (2) December 31, 2021.

Background Information

On February 9, 2021, proposed legislation was introduced to extend the payment deadline of the business registration fee for certain businesses. This proposed legislation is being introduced as a substitute ordinance to add provisions suspending late payment penalties for certain weights and measures fees and point of sale station fees.

FILE NO. 210138

n:\legana\as2021\2100227\01515108.docx