



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: August 21, 2020

Subject: CONSIDER ADOPTING URGENCY ORDINANCE NO. 2020-23 AMENDING THE EFFECTIVE DATE OF ORDINANCE NO. 2020-22

RECOMMENDATION(S):

1. CONSIDER whether to adopt Ordinance No. 2020-23, an urgency ordinance amending the effective date of the ordinance establishing a general Countywide 0.5% sales tax.
2. ACKNOWLEDGE that if Senate Bill 1349 is not approved by the Legislature by August 31, 2020, Ordinance 2020-22 (as amended) will still be printed on the November 3, 2020 ballot, even though the ordinance will not be effective.

FISCAL IMPACT:

Approximately \$211,000; 100% General Fund. The costs include publishing of the impartial analysis, arguments and other text translated into multiple languages in the Voter Information Guide. This figure is substantially lower than the Fiscal Impact included in the July 28, 2020 Board Order introducing the ordinance. This is due to the Board's direction to provide the ordinance upon request pursuant to subdivisions (b)(3) and (b)(4) of Elections Code section 9160. See attached correspondence from the Clerk-Recorder, which includes a breakdown of the estimated costs.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **08/21/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

NO: Candace Andersen, District II Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: August 21, 2020

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Timothy Ewell
(925-335-1036)

FISCAL IMPACT: (CONT'D)

In addition, the County previously provided \$10,000 towards a poll to gauge community interest in a transactions and use tax measure in partnership with community based organizations and labor partners.

BACKGROUND:

At the November 4, 2019 meeting of the Finance Committee of the Board of Supervisors, committee members Gioia and Mitchoff discussed the formulation of a Potential Sales Tax Measure Ad Hoc Committee and considered input from staff and community members. The Ad Hoc Committee was tasked with activating a larger, self-identified working group consisting of representatives of Community-Based Organizations, Labor Organizations, and members of the public (collectively the "Working Group) charged with the development and formulation of a Needs Assessment. All willing participants were invited to attend and participate.

Ad Hoc Committee Work and Community Engagement

The first meeting of the Ad Hoc committee occurred on November 18, 2019. At this meeting, Supervisors Gioia and Mitchoff directed staff to work with the California Department of Tax and Fee Administration (CDTFA) on the logistics of listing a ballot measure and setting up collection contracts. Staff also was directed to forward to the full Board of Supervisors the Committee's recommendation to begin discussions with County lobbyists regarding special legislation required to list a measure on the ballot. Additionally, staff was directed to forward to the Board the recommendation to acknowledge that the Governor would need to sign said special legislation. The Ad Hoc committee concluded by directing district staff members Chris Wikler (Supervisor Mitchoff's office) and Sonia Bustamante (Supervisor Gioia's office) to staff the Working Group.

The Working Group convened for its first meeting on December 2, 2019. At that meeting, Mariana Moore of the Ensuring Opportunity Campaign & Josh Anijar of the Contra Costa Central Labor Council were selected by those in attendance to serve as co-chairs of the working group. The Working Group began to identify top-line vision statements and values to guide the creation of a Needs Assessment report, as well as form smaller sub-groups to study specific issues and matters relative to the larger goal of a general sales tax for County services.

The Working Group subsequently met on five occasions over the months of December 2019, January 2020 and February 2020. Members worked to distill and clarify the underserved needs of the County and identified several thematic areas: health and emergency services, safety net services, housing, and early childhood services. The group also retained Jim Ross of Telegraph LLC, a communications firm, to advise the Working Group and assist with the formulation of the Needs Assessment Report. Mr. Ross' services along with a poll of likely voters on a potential general services sales tax

conducted by pollsters FM3 were funded by labor unions and CBOs who participated in the Working Group process.

Senate Bill 1349

On April 8th, Senator Steve Glazer amended Senate Bill 1349 to include language providing relief to the County and cities within the County for future transaction and use tax measures. The bill was immediately referred to the Senate Governance and Finance Committee. The Senate Governance and Finance Committee hearing on SB 1349 was scheduled for Thursday, May 21st. Supervisor Gioia along with Concord Mayor Tim McGallian testified in support of the measure at the Senate committee meeting on May 21st. Additionally, Chief Assistant County Administrator Tim Ewell and Concord City Manager Valerie Barone have coordinated with cities in the County to collect letters of support for the bill. Currently, letters of support have been received by the cities of Concord, Danville, Lafayette, Pittsburg, San Ramon, Orinda and the Contra Costa Transportation Authority. In addition, the California Labor Federation, California Professional Firefighters, California Teamsters Public Affairs Council, SEIU California, IFPTE Local 21 and Office and Professional Employees International Union Local 29 have all provided letters of support as well.

Needs Assessment

The Potential Sales Tax Measure Ad Hoc Committee convened a meeting via video teleconference on May 13th to receive the finalized Needs Assessment Report from the Working Group and provide direction to staff. Supervisor Mitchoff noted the need for additional polling to determine the viability of the measure, as well as her perspective that public safety should be a part of any ballot measure in November. Supervisor Gioia agreed that there needs to be additional polling and suggested that the co-chairs could bring further polling recommendations when presenting the Needs Assessment to the Board of Supervisors. Supervisors Mitchoff and Gioia agreed to direct staff to forward the Needs Assessment Report to the full Board of Supervisors, for consideration and direction to staff on next steps regarding the Potential County-wide General Sales Tax measure at the May 26th meeting of the Board of Supervisors.

On May 26th, the Board received an update on the status of Senate Bill 1349 and a presentation of the Needs Assessment assembled by the Working Group. At that time, Senate Bill 1349 had been heard in the Senate Governance and Finance Committee the previous week, but was ultimately scheduled for reconsideration by the Committee due to a procedural issue on May 28th. The Committee authorized the reconsideration and ultimately voted the bill out of Committee on June 3rd. The bill was passed on the Senate Floor on June 11th and has been sent to the Assembly Local Government Committee for consideration. In addition, after receiving a report on the Needs Assessment, the Board directed the Working Group to return in mid-June with additional information about a second poll, including the number of people to be polled, the type of questions to be asked and the cost estimate.

Polling to Determine Community Interest

On June 16th, the Board authorized a cost share of \$10,000 from the County to assist in polling the community regarding the potential sales tax measure.

On July 14th, the Board received the results of polling, which showed that a transactions and use tax would likely be successful if listed on the November 2020 General Election ballot. The Board subsequently directed County Counsel to draft a transactions and use tax ordinance for introduction on the July 28th agenda, which includes language stating that the ordinance is only to be placed on the November 2020 ballot if the Legislature and the Governor approve Senate Bill 1349 no later than August 24th.

Sales Tax Ordinance and Calling of Election

On July 28th, the Board introduced the transactions and use tax ordinance and fixed adoption of the ordinance and related resolution calling for the election for the August 4th regular meeting of the Board. In addition, the Board made certain amendments to the proposed ordinance, including:

1. Determined copies of the full text of Ordinance No. 2020-22 shall be made available to the public in accordance with subdivisions (b)(3) and (b)(4) of Elections Code section 9160.
2. Clarified that the ordinance shall only become effective if Senate Bill 1349 is approved by the Legislature on or before August 24, 2020, and thereafter becomes law, and if this ordinance is adopted by the voters.

Ultimately, the Board approved Ordinance No. 2020-22 and Resolution No. 2020/407 on August 4th and subsequently filed materials with the Elections Department on August 5th. The Election Department conducted a lottery to determine ballot measure letter assignment following the close of the measure filing deadline. The County's sales tax measure is known now as "Measure X".

Today's Action

Today's action requests that the Board consider adopting urgency Ordinance No. 2020/23, which would change the date by which Ordinance No. 2020/22 becomes effective, conditional on approval by the Legislature, from August 24, 2020 to August 31, 2020. Adoption of urgency ordinances require a 4/5 vote of the Board of Supervisors.

Following the shutdown of the State Capitol due to COVID-19 after Summer Recess, the schedules of the Assembly and Senate have become significantly more compressed. Senate Bill 1349 was passed on the Senate Floor on June 11th and subsequently sent to the Assembly Committee on Local Government on June 16th. The Assembly Committee on Local Government was not able to reconvene until August 11th. The Committee did

hear and pass SB 1349 on to the Assembly Floor for consideration; however, as written, Ordinance No. 2020-22 would only allow for 13 days for a floor vote in the Assembly to ensure that the Ordinance becomes effective.

To complicate matters further, the Assembly announced that no floor votes would occur until the week of August 24th - the final week of the Legislative Session. The likelihood of SB 1349 being heard and a vote called on the first day of the Assembly Floor session is unknown. In addition, an amendment to SB 1349 to clarify portions of the bill are being made requiring concurrence with the Senate upon approval by the Assembly. More information on this amendment will be provided at today's meeting.

The Clerk Recorder has sent correspondence to the Board clarifying that the estimated election costs would be \$211,000, which is significantly lower than the previous estimates. This is primarily due to the full text of the Ordinance not being published in the Voter Information Guide, but rather being available upon request to interested parties.

In summary, the assumptions related to the Legislature's schedule that were in place during the development Ordinance No. 2020-22 have changed. To ensure that Measure X measure moves forward to the November 3, 2020 General Election ballot, it would be prudent to adopt Ordinance No. 2020-23 extending the time by which the Legislature has to act from August 24th to August 31st. This will result in Measure X being listed on the ballot regardless of the final disposition of SB 1349 and the County will incur the associated costs described above, but which are significantly lower than previous estimates. The election costs are one-time and will have no adverse impact on fiscal year 2020/21 County operations.

CONSEQUENCE OF NEGATIVE ACTION:

The Board of Supervisors will not have passed the urgency ordinance amending the effective date of Ordinance 2020-22 from August 24th to August 31st. This will result in a strong likelihood that Measure X may not go forward on the November 3, 2020 General Election ballot absent passage of SB 1349 by the Legislature on August 24th.

CLERK'S ADDENDUM

Speakers: Susan L. Pricco, President Contra Costa Taxpayers Association; Marianna Moore, Working Group, Sales Tax Project; Jason, resident of District II.

Written commentary (attached) was provided by Susan L. Pricco, President, Contra Costa Taxpayers Association.

ATTACHMENTS

Resolution 2020/407

Ordinance No. 2020-23

Correspondence from Clerk-Recorder re: Election Costs