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CITY OF OAKLAND  
CITY COUNCIL

### LEGISLATIVE ANALYST MEMORANDUM

**To:** President Brunner and Members of the City Council  
**From:** Sabrina Landreth, Legislative Analyst  
**Date:** March 3, 2009  
**Re:** Summary of Amendments to Proposed Hotel Tax Surcharge

At the February 24, 2009 Finance & Management Committee, the Resolution authorizing the submission of a proposed ordinance to the voters that would implement a surcharge to the City's Hotel Tax was amended as follows:

- The June 2, 2009 election date was replaced with "next municipal election";
- The surcharge was increased from 2% to 3%;
- The Oakland Convention & Visitors Bureau (OCVB) was added to the list of institutions that will receive the tax proceeds;
- The revenue allocation was changed to 1.5% for OCVB, .375% each to the Oakland Zoo, the Oakland Museum of California, the Chabot Space & Science Center, and the Cultural Arts Programs & Festivals; and
- Language was added that specifies that OCVB shall include City-funded cultural institutions in their marketing campaign.

Both a marked-up and a clean version of the amended Resolution are attached.

Item 5-15.1  
City Council  
March 3, 2009



CITY OF OAKLAND  
CITY COUNCIL

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 FEB 26 PM 1:19

### LEGISLATIVE ANALYST MEMORANDUM

**To:** President Brunner and Members of the City Council  
**From:** Sabrina Landreth, Legislative Analyst  
**Date:** March 3, 2009  
**Re:** Follow-up Information on Proposed Hotel Tax Surcharge

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At the February 24, 2009 Finance & Management Committee, Councilmember Nadel requested consideration of an alternative formula to increase funding for the Cultural Arts/Festivals. The language of this alternative proposal is included below for discussion purposes.

Section 4.24.031. Imposition of surcharge.

- A. There shall be a tax of three percent (3% of the rent charged by the operator of a hotel, in addition to the eleven percent tax specified in Section 4.24.030. for the privilege of occupancy in any hotel in the City of Oakland. The surcharge so collected shall be appropriated for the Oakland Convention and Visitors Bureau, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, Children's Fairyland, and the Cultural Arts Programs and Festivals as follows: 1.5% for OCVB, .225% for the Oakland Zoo, .225% for the Oakland Museum of California, .225% for Chabot Space and Science Center, 0.15% for Children's Fairyland and .675% for Cultural Arts Programs and Festivals.

If the surcharge were to generate \$3 million in additional revenue, the allocation of this proposal would be as follows:

- \$1.5 million for OCVB
- \$225,000 each to the Oakland Zoo, Oakland Museum of California, and the Chabot Space and Science Center
- \$150,000 to Children's Fairyland
- \$675,000 to Cultural Arts Programs and Festivals

Item **S-151**  
City Council  
March 3, 2009

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_  
2009 FEB 26 AM 11:18

APPROVED AS TO FORM AND LEGALITY

**DRAFT**  
CITY ATTORNEY

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NEXT MUNICIPAL ELECTION, A PROPOSED ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE IN ORDER TO PROVIDE FOR A THREE PERCENT SURCHARGE TO THE CITY'S TRANSIENT OCCUPANCY TAX (HOTEL TAX) TO THE OAKLAND CONVENTION AND VISITORS BUREAU (OCVB) TO SUPPORT PROGRAMS TO INCREASE TOURISM IN OAKLAND, AND TO THE OAKLAND ZOO, OAKLAND MUSEUM OF CALIFORNIA, CHABOT SPACE AND SCIENCE CENTER AND THE CULTURAL ARTS PROGRAMS AND FESTIVALS

**WHEREAS**, the City Council of the City of Oakland desires to amend the Oakland Municipal Code in order to provide for a three percent (3%) surcharge to the City's transient occupancy tax rate; and

**WHEREAS**, tourism promotions and marketing programs will build greater awareness of the City of Oakland as a tourist, meeting, and event destination; and

**WHEREAS**, Oakland visitors and residents benefit from quality cultural and educational experiences and institutions located within the city; and

**WHEREAS**, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, and Cultural Arts programs and Festivals are valuable assets that enhance the quality of life of Oakland residents; and

**WHEREAS**, the increasing costs of maintenance and operations and dwindling private resources are ongoing threats to the viability of Oakland's most valuable institutions; and

**WHEREAS**, it is the desire of the City Council to establish a steady stream of revenue for OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

**WHEREAS**, in many cities tourism programs and regional cultural institutions such as these, are funded from hotel taxes; and

5-15-1  
ORACOUNCIL

ballot measure increasing tot\_v5\_clean\_3%

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**WHEREAS**, these institutions attract a large number of visitors to the City of Oakland;  
and

**WHEREAS**, all revenues received from any increase shall be allocated as follows: 1.5% to OCVB to promote tourism activities, and .375% each to the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

**WHEREAS**, OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals shall coordinate their marketing efforts to promote the City of Oakland; now, therefore be it

**RESOLVED**: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next municipal election to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

**FURTHER RESOLVED**: That the City Council of the City of Oakland does hereby submit to the voters at the next municipal election the following:

*SECTION 1. The Oakland Municipal Code is hereby amended by adding Section 4.24.031 to read as follows:*

**Section 4.24.031. Imposition of surcharge.**

A. There shall be a tax of three percent (3% of the rent charged by the operator of a hotel, in addition to the eleven percent tax specified in Section 4.24.030. for the privilege of occupancy in any hotel in the City of Oakland. The surcharge so collected shall be appropriated for the Oakland Convention and Visitors Bureau, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals as follows: 1.5% for OCVB, .375% for the Oakland Zoo, .375% for the Oakland Museum of California, .375% for Chabot Space and Science Center and .375% for Cultural Arts Programs and Festivals.

B. The Oakland Convention and Visitors Bureau shall include City-funded cultural institutions in their marketing campaign.

C. All funds collected by the City from the taxes imposed by this section shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

D. Annual Audit. An independent audit or review shall be performed annually to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the purposes stated herein. Tax proceeds may be used to pay for the audit or review.

SECTION 2. This ordinance shall be effective immediately or such later date as required by state law.

SECTION 3. Severability: If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

SECTION 4. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

SECTION 5. There are existing transient occupancy taxes that are general taxes, the proceeds of which are deposited in the general fund. Additional revenues received as a result of this ordinance will be used for the purposes set for in Section 4.24.031 and thus are special taxes.

**FURTHER RESOLVED:** The City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to the next municipal election, to file with the Alameda County Clerk certified copies of this resolution.

**FURTHER RESOLVED:** The City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the recitals and measure language contained in this resolution to be voted on by the voters of the qualified electors of the City of Oakland.

**FURTHER RESOLVED:** The City Clerk is hereby directed to cause the posting, publication and printing of notices of this Resolution and proposed ordinance, pursuant to the requirements of the Charter of the City of Oakland, and the Government and Elections Codes of the State of California.

**FURTHER RESOLVED:** The City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election.

**FURTHER RESOLVED:** The City Clerk is hereby directed to obtain printing supplies and services as required for said election.

**FURTHER RESOLVED:** The City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the laws of the State of California and the Charter of the City of Oakland.

**FURTHER RESOLVED:** In accordance with the Election Code and Chapter 11 of the

Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said measure, and said date shall be posted in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MARCH 3, 2009

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION

Attest: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California

5-15.1  
ORACOUNCIL

MAR 03 2009

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_  
2009 FEB 26 PM 1:15

APPROVED AS TO FORM AND LEGALITY  
**DRAFT**  
CITY ATTORNEY

**OAKLAND CITY COUNCIL**

RESOLUTION NO. \_\_\_\_\_ C.M.S.

RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NEXT MUNICIPAL ELECTION, A PROPOSED ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE IN ORDER TO PROVIDE FOR A THREE PERCENT SURCHARGE TO THE CITY'S TRANSIENT OCCUPANCY TAX (HOTEL TAX) TO THE OAKLAND CONVENTION AND VISITORS BUREAU (OCVB) TO SUPPORT PROGRAMS TO INCREASE TOURISM IN OAKLAND, AND TO THE OAKLAND ZOO, OAKLAND MUSEUM OF CALIFORNIA, CHABOT SPACE AND SCIENCE CENTER AND THE CULTURAL ARTS PROGRAMS AND FESTIVALS

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WHEREAS, the City Council of the City of Oakland desires to amend the Oakland Municipal Code in order to provide for a three percent (3%) surcharge to the City's transient occupancy tax rate; and

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WHEREAS, tourism promotions and marketing programs will build greater awareness of the City of Oakland as a tourist, meeting, and event destination; and

WHEREAS, Oakland visitors and residents benefit from quality cultural and educational experiences and institutions located within the city; and

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WHEREAS, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, and Cultural Arts programs and Festivals are valuable assets that enhance the quality of life of Oakland residents; and

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WHEREAS, the increasing costs of maintenance and operations and dwindling private resources are ongoing threats to the viability of Oakland's most valuable institutions; and

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WHEREAS, it is the desire of the City Council to establish a steady stream of revenue for OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

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WHEREAS, in many cities tourism programs and regional cultural institutions such as these, are funded from hotel taxes; and

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ballot measure increasing tot\_v5\_3%

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OAKLAND CITY COUNCIL

MAR 03 2009

WHEREAS, these institutions attract a large number of visitors to the City of Oakland; and

WHEREAS, all revenues received from any increase shall be allocated as follows: 1.5% to OCVB to promote tourism activities, and .375% each to the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

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WHEREAS, OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals shall coordinate their marketing efforts to promote the City of Oakland; now, therefore be it

RESOLVED: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next municipal election to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

Deleted: June 2, 2009

FURTHER RESOLVED: That the City Council of the City of Oakland does hereby submit to the voters at the next municipal election the following:

Deleted: June 2, 2009

SECTION 1. The Oakland Municipal Code is hereby amended by adding Section 4.24.031 to read as follows:

**Section 4.24.031. Imposition of surcharge.**

A. There shall be a tax of three percent (3% of the rent charged by the operator of a hotel, in addition to the eleven percent tax specified in Section 4.24.030. for the privilege of occupancy in any hotel in the City of Oakland. The surcharge so collected shall be appropriated for the Oakland Convention and Visitors Bureau, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals as follows: 1.5% for OCVB, .375% for the Oakland Zoo, .375% for the Oakland Museum of California, .375% for Chabot Space and Science Center and .375% for Cultural Arts Programs and Festivals.

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B. The Oakland Convention and Visitors Bureau shall include City-funded cultural institutions in their marketing campaign.

C. All funds collected by the City from the taxes imposed by this section shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

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D. Annual Audit. An independent audit or review shall be performed annually to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the purposes stated herein. Tax proceeds may be used to pay for the audit or review.

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ballot measure increasing tot\_v5\_3%

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SECTION 2. This ordinance shall be effective immediately or such later date as required by state law.

SECTION 3. Severability: If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

SECTION 4. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

SECTION 5. There are existing transient occupancy taxes that are general taxes, the proceeds of which are deposited in the general fund. Additional revenues received as a result of this ordinance will be used for the purposes set for in Section 4.24.031 and thus are special taxes.

**FURTHER RESOLVED:** The City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to the next municipal election, to file with the Alameda County Clerk certified copies of this resolution.

**FURTHER RESOLVED:** The City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the recitals and measure language contained in this resolution to be voted on by the voters of the qualified electors of the City of Oakland.

**FURTHER RESOLVED:** The City Clerk is hereby directed to cause the posting, publication and printing of notices of this Resolution and proposed ordinance, pursuant to the requirements of the Charter of the City of Oakland, and the Government and Elections Codes of the State of California.

**FURTHER RESOLVED:** The City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election.

**FURTHER RESOLVED:** The City Clerk is hereby directed to obtain printing supplies and services as required for said election.

**FURTHER RESOLVED:** The City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the laws of the State of California and the Charter of the City of Oakland.

**FURTHER RESOLVED:** In accordance with the Election Code and Chapter 11 of the

ballot measure increasing tot\_v5\_3%

**Deleted:** ¶  
D. Citizen Oversight Committee. A citizen oversight committee shall be established to ensure proper administration of the revenue collection and appropriation mandated by this Ordinance, the Mayor shall appoint one member and each Councilmember shall appoint one member. ¶  
¶  
E. For any year during which this tax is in effect, the City Council may collect this tax only if the General Purpose Fund appropriation for the Oakland Zoo, the Oakland Museum of California, and the Chabot Space and Science Center is maintained at a level that is no lower than the General Fund appropriation for fiscal year 2009-10. ¶

**Deleted:** June 2, 2009

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Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said measure, and said date shall be posted in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MARCH 3, 2009

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION

Attest: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the  
Council of the City of Oakland, California

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tot\_v2\_3%

| ballot measure increasing tot\_v5\_3%

S151

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MAR 03 2009