


City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY PRESIDENT FORTUNATO BAS AND COUNCILMEMBER THAO

RESOLUTION AMENDING RESOLUTION NO. 88227, WHICH, AMONG OTHER THINGS, DIRECTED CITY COUNCIL TO ADOPT AN ORDINANCE CREATING A NINE-MEMBER CHARTER SECTION 601 BUSINESS TAX BLUE RIBBON COMMISSION, TO CREATE AN ELEVEN-MEMBER BLUE RIBBON EQUITABLE BUSINESS TAX TASK FORCE TO REVIEW, ANALYZE AND MAKE RECOMMENDATIONS REGARDING THE PROPOSED PROGRESSIVE, MODERN AND EQUITABLE BUSINESS TAX ORDINANCE APPROVED BY THE CITY COUNCIL ON JULY 14, 2020 FOR PLACEMENT ON THE NOVEMBER 8, 2022 BALLOT AND APPOINTING AS MEMBERS MICHAEL KATZ, REGIONAL ORGANIZER FOR EAST BAY WORKS AND LIZ ORTEGA-TORO, EXECUTIVE SECRETARY-TREASURER FOR ALAMEDA LABOR COUNCIL

WHEREAS, Chapter 5.04 of the Oakland Municipal Code contains the business tax ordinance, which applies to all persons engaged in business activities in Oakland; and

WHEREAS, Oakland's business tax structure has not been critically re-examined in decades; and

WHEREAS, Oakland's current flat business tax structure imposes the same rates on businesses regardless of the amount of gross receipts they earn; and

WHEREAS, neighboring cities, including San Francisco and San Jose, have adopted a progressive tax rate structure that imposes higher rates on business that earn more gross receipts, and Richmond passed a progressive corporate tax measure in November 2020; and

WHEREAS, a progressive tax rate structure would create a more equitable business environment for small businesses, which employ the majority of Oakland workers, and would result in increased revenue to the City's General Purpose Fund, thus providing additional funding for vital city services, which in turn create a more desirable environment in the City for businesses, residents, and workers; and

WHEREAS, on July 14, 2020, Council passed Resolution No. 88227 C.M.S., which, among other things, directed City Council to adopt an ordinance creating a nine-member Charter section 601 Business Tax Blue Ribbon Commission for the purpose of engaging in thorough analysis and community engagement to deliver for Council adoption

a comprehensive recommendation for a modernized, progressive business tax structure that achieves the City's goals for revenue enhancement, reduction of race and equity disparities, tax code modernization, equitable economic development, and living wage job creation; and

WHEREAS, boards and commissions established pursuant to Charter section 601 are typically long-term boards and commissions which perform on-going work for the City; and

WHEREAS, the City Council has always intended for the Business Tax Blue Ribbon Commission to be a short-term, limited duration commission created to obtain community feedback, conduct thorough analysis and provide recommendations for a modernized, progressive business tax ordinance to be placed on the November 8, 2022 ballot, and, therefore, it is not necessary to create a Commission pursuant to Charter section 601; and

WHEREAS, the City Council now wishes to create a limited duration eleven-member Equitable Business Tax Task Force, to fulfill the same functions as the previously contemplated Charter section 601 Business Tax Blue Ribbon Commission;

WHEREAS, the City Council also wishes to appoint Michael Katz, Regional Organizer for East Bay Works, and Liz Ortega-Toro Executive Secretary-Treasurer for Alameda Labor Council as members of the Task Force; and

WHEREAS, Michael Katz and Liz Ortega-Toro represent the diverse Oakland community. Mr. Katz provides expertise on workforce development and industry partnerships across four geographical service regions: Alameda County, Oakland, Contra Costa County and Richmond, through East Bay Works. Ms. Ortega-Toro represents the broad Oakland and Alameda County community of residents and workers that would be impacted by changes in city services, through the Alameda Labor Council's membership of unions representing thousands of Oakland working families. Both individuals are well-suited, together with the other Task Force members, to help conduct analysis and community engagement to develop a comprehensive recommendation to City Council for a modernized, progressive business tax structure that achieves the City's goals for revenue enhancement, reduction of race and equity disparities, tax code modernization, equitable economic development, and living wage job creation; now, therefore, be it

RESOLVED: That Oakland City Council Resolution No. 88227 C.M.S. is hereby amended only to delete the direction to City Council to adopt an ordinance creating a Charter Section 601 Oakland Business Tax Blue Ribbon Commission so that City Council may now create an Equitable Business Tax Task Force to fulfill the same duties and functions as the previously contemplated Charter section 601 Business Tax Blue Ribbon Commission; and be it

FURTHER RESOLVED: That the City Council hereby creates the Oakland Equitable Business Tax Task Force and appoints Michael Katz, Regional Organizer for East Bay Works and Liz Ortega-Toro Executive Secretary-Treasurer for Alameda Labor Council as members of the Task Force; and be it

FURTHER RESOLVED: That the duties, functions and structure of the Equitable Business Tax Task Force shall be as follows:

DUTIES AND FUNCTIONS.

It shall be the duty and function of the Equitable Business Tax Task Force to, after thorough analysis and extensive community and stakeholder engagement, deliver for Council adoption a comprehensive recommendation for a modernized progressive business tax structure that achieves the City's goals for revenue enhancement, reduction of race and equity disparities, tax code modernization, equitable economic development, and living wage job creation.

The goal of revenue enhancement shall be to raise approximately \$27 million in revenue, as estimated in the July 14, 2020 resolution approved by City Council. Recognizing the complexities of the economy as a result of the COVID-19 pandemic, the Task Force may explore potential plans for an incremental phase in of tax rates in order to ensure a strong and effective economic recovery from the COVID-19 pandemic.

The scope of the Task Force's analysis, stakeholder engagement, and deliberation shall include:

1. Provide advice and recommendations to the City of Oakland on how the City Council should establish business tax rates within the ranges described in Section 5.04.205 Tax Rates for Class A Through Class J - Progressive Rates to ensure the economic vitality of the business ecosystem in Oakland and to advance the goals of this ballot measure, including supporting small businesses and increasing annual revenue. The items for consideration by the Task Force may include identifying businesses that should be considered "regulated industries" in order to make recommendations and reviewing the rates of the smallest businesses across all classifications in order to make recommendations.
2. Conduct analysis to inform business tax structure including, but not limited to:
 - a. Impact of the COVID-19 pandemic on business recovery and other impacts on business activity, employment, geographic location, and impact on business tax revenues. This analysis should consider the potential for tying future business tax increases for COVID-19 impacted businesses to an economic trigger such as the unemployment rate;
 - b. Appropriate definition of a small business in Oakland, including whether the definition should be industry-specific, and how alternative definitions might affect the Oakland business landscape;
 - c. Mechanisms for using tax policy to repair harms of systemic racism, e.g., for businesses or sectors located in neighborhoods in need of services like grocery stores, banks, retail, and other investments;
 - d. Alternatives for improved alignment between industries groupings in the tax classification system to include similarities between business activity, typical gross margins;

- e. More detailed and thorough business mobility analysis to gauge a business's propensity to relocate under a shifted tax burden;
 - f. Comparison of proposed Oakland tax rates to those charged by neighboring Bay Area cities and other major US cities that have been recent destinations for departing Bay Area companies, broken down by industry;
 - g. Additional means of providing small business tax relief such as the proposal of providing an exemption to businesses below a specified gross revenue threshold, including the potential operational cost savings to the city for doing so;
 - h. How fixed dollar-value tax brackets could/ should be tied to inflation;
 - i. Consider and analyze possible changes to trucking and transportation tax rate; and
 - j. Consider whether to allow City Council to adjust tax rates by ordinance.
3. Thoroughly engage broad set of stakeholders including, but not limited to:
 - a. Conduct meetings and use other public forums to collect and receive public input on the above subject matter.
 - b. Establish and convene advisory groups to allow greater and more thorough participation from key stakeholders.
 4. Provide recommendations to the City Council about budget allocations to support small businesses and contribute towards a thriving business community in the City of Oakland.
 5. Review, draft and submit in writing for City Council consideration, recommended business tax rates relevant to the above subject matter, by **October 31, 2021**.
 6. Provide analyses and policy recommendations to the City Council of the economic impacts of the recommended business tax rates relevant to the above subject matter, in consultation with the City's Departments of Finance and Economic and Workforce Development, by **October 31, 2021**.

MEMBERS: NUMBER, QUORUM, PAY and TERM.

1. The Task Force shall consist of eleven (11) members including the two members appointed by this resolution.
2. Six (6) members shall constitute a quorum.
3. Each member of the Task Force shall serve as a volunteer without pay.
4. All members of the Task Force shall serve a single term beginning on their respective date of appointment and ending on January 1, 2022. The Task Force

shall be deemed dissolved as of January 1, 2022 unless the term is extended by appropriate Council action.

MEMBERSHIP SELECTION AND REQUIREMENTS.

1. The Mayor and each Councilperson shall appoint one Task Force member, with the goal of creating a diverse Task Force composed of members who can represent the interests of owners of businesses of all sizes and other stakeholder interests.
2. At least eight (8) members of the Task Force shall be Oakland residents.
3. Elected officials **may not** serve as a member of the Task Force.
4. All members of the Task Force shall be persons who have an interest in the economic development and vitality of the City of Oakland as demonstrated by work experience, civic participation, and/or political advocacy.
5. To the greatest extent practicable, at least one (1) but no more than two (2) members of the Task Force shall represent one of the following criteria:
 - a. individuals representing the very small business community (those businesses with gross receipts below \$2.5M);
 - b. individuals representing the small to mid-sized business community (those businesses with gross receipts below \$10M);
 - c. individuals representing large businesses (those businesses with gross receipts above \$25M);
 - d. a member of an organization which focuses on economic development, entrepreneurship, or business development, with experience working in the City of Oakland;
 - e. an economic expert or tax professional who has experience analyzing economic trends and business tax structures; and
 - f. a member of a community organization or labor union who has experience with City budgets and/or City services.
6. The name of each appointee along with a letter of interest describing the appointee's interest in and qualifications for serving on the Task Force shall be submitted to the City Administrator (or his designee) no later than two weeks after the passage of this resolution. The letter of interest shall, at a minimum, state whether the appointee is an Oakland resident and whether the appointee meets one or more of the criteria set forth in subsection 5 above. The City Administrator (or his designee) shall review the letters of interest to confirm that the composition of the Task Force is consistent with the above-noted requirements and criteria. If the composition of the Task Force is not consistent with the above-noted requirements and criteria based on the initial appointments, the City Administrator

(or his designee) shall work with the Mayor or Councilperson(s) to obtain an alternate appointee(s).

7. Once the City Administrator (or designee) is satisfied that the composition of the Task Force is consistent with the above-noted requirements and criteria, a list of the names of all Task Force members shall be made available to the public and posted on the City's website.

VACANCY AND REMOVAL.

1. A vacancy on the Task Force will exist whenever a member dies, resigns, or is removed.
2. A member of the Task Force may be removed for cause by majority vote of all members of the Task Force.
3. A vacancy shall be filled for any unexpired term in the same manner as the original appointment was made. For example, if the vacant seat was originally filled by Councilmember Bas's appointee, Councilmember Bas shall appoint the individual who will fill the vacant seat and serve the remainder of the term.

GOVERNANCE.

1. Officers and Elections

At the first regular meeting, members of the Task Force shall elect a chairperson and a vice chairperson

2. Meetings and Voting

The Task Force shall meet regularly on an established day of the week, and at an established time and location suitable for its purpose. Such meetings shall be considered "regular meetings" of the Task Force. All other meetings scheduled for a day, time or place other than the regular day, time and location shall be considered "special meetings" of the Task Force. Written notice of special meetings shall be provided to the Task Force members and all meetings of the Task Force shall be noticed and conducted in accordance with the Ralph M. Brown Act and Oakland's "Sunshine Ordinance" (Chapter 2.20 of the Oakland Municipal Code).

No later than the third regular meeting of the Task Force, the Task Force shall, in consultation with the City Administrator, establish bylaws, rules and procedures for the conduct of its business by a majority vote of the members present. Voting shall be required for the adoption of any motion or resolution.

Any action by the Task Force shall be approved by a majority vote of members present provided a quorum exists.

3. Staff and Budget

Staff assistance may be provided to the Task Force as determined by the City Administrator pursuant to his authority under the Charter to administer all affairs of the City under his jurisdiction.

The City shall allocate up to one-hundred thousand dollars (\$100,000) towards an economic consultant to provide technical assistance to the Task Force.

and be it

FURTHER RESOLVED: That this resolution shall be effective immediately upon approval by five members of the City Council.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
ASHA REED
Interim City Clerk and Clerk of the Council of
the City of Oakland, California