

CONSENT CALENDAR

June 14, 2024

To: Members of the City Council

From: Mayor Jesse Arreguin

Subject: Elections Code Section 9212 Reports on Initiative Ordinances “Control of Infectious Aerosols in City Buildings” and “Large Buildings Fossil Fuel Emissions Tax”

RECOMMENDATION

Refer to the City Manager to prepare reports under the provisions of California Elections Code Section 9212 on two proposed ordinances that will appear before Berkeley voters on the November 5 ballot: The “Control of Infectious Aerosols in City Buildings” and “Large Buildings Fossil Fuel Emissions Tax” measures. Include analysis of costs to the City and other potential costs, City staffing implications, potential economic impacts and benefits, if any, on local businesses and city tax revenues, and feasibility of implementing the proposed initiative ordinances.

In addition, the Council welcomes any other information and analysis of potential interest to the City or the public, as determined by the City Manager and identified during the review process.

FISCAL IMPACTS OF RECOMMENDATION

Staff time.

CURRENT SITUATION AND ITS EFFECTS**Control of Infectious Aerosols in City Buildings:**

On January 26, 2024, George Lippman and other named proponents submitted a Notice of Intent to Circulate Petition and request for Title and Summary for an initiative ordinance entitled “Control of Infectious Aerosols in City Buildings”.

The proposed initiative would establish a new city law requiring by April 1, 2025 the City to adopt an American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 241-2023 or standard of equal or superior stringency for the control of infectious aerosols in Occupied Buildings owned or leased by the City of Berkeley. The initiative would also require by January 1, 2025 that the City implement interim measures such as requiring all windows that are operable to be open during Operating Hours unless there is inclement weather and purchasing and installing HEPA filters for areas of Occupied City Buildings where windows cannot open.

While this initiative would establish stringent air quality standards that will improve the health and safety of interior spaces for City employees and customers, it is currently unknown what the practical effect of adopting an ASHRAE standard means for existing city facilities. The City Manager should look at the air quality standards proposed in this

measure, and any other air quality standards applicable, including those under consideration by State or Federal government. The report should explain in detail what the air quality standard means and how it would be applied.

If the voters approve this initiative ordinance, the City Manager, Council, and public should understand what is involved in implementing it and the cost and feasibility of implementation. Specifically, several City office buildings including 1947 Center Street and 2180 Milvia Street are historic landmarks. The report should look at the technical feasibility and costs of retrofitting these buildings to apply the new air quality standards and systems. In addition, the installation of new systems would require ongoing monitoring and maintenance which would require city resources. Lastly, the reporting requirements prescribed in the initiative will require staff time to ensure that systems are functioning and continuously meet the required air quality standards.

If significant renovations or installations of new systems are required to meet these standards in existing city buildings, then there needs to be an assessment of the costs, so that the Council can budget sufficient funding if the initiative passes in November.

Large Buildings Fossil Fuel Emissions Tax:

On February 28, 2024, Daniel Tahara and other named proponents submitted a Notice of Intent to Circulate Petition and Request for Title and Summary for the initiative ordinance entitled "Large Buildings Fossil Fuel Emissions Tax". According to the Notice of Intent, if approved, the initiative would add a new Chapter 7.77 to the Berkeley Municipal Code to impose an excise tax on the consumption of natural gas in large buildings, the proceeds of which would fund climate mitigations strategies.

The impact of this measure on restaurants and other businesses is unknown, and additional information is needed to understand the economic impacts of this measure as well as potential benefits. In addition, a detailed analysis is necessary around implementation and resources needed to staff monitoring, enforcement and collection of this new tax measure.

[California Elections Code Section 9212](#) authorizes the legislative body of the city [the City Council] to refer a proposed initiative measure to a city agency or agencies for a report on the impacts of the proposed initiative, including the fiscal impacts or any other matters that Council requests to be in the report. Section 9212 requires that the report shall be presented to the Council within the time prescribed by the Council, but no later than 30 days after the elections officially certifies to the City Council the sufficiency of the petition.

Initiative proponents were notified by the City Clerk that the Register of Voters has verified the minimum number of signatures necessary for these initiatives to qualify for the November 5, 2024 ballot. Council is required to take action on all qualified measures prior to August 9th, 2024.

Given that these measures may be placed on the ballot in the coming weeks and submitted to the voters, this report is time-sensitive so that the Council, staff and public will have information on the effects of these initiatives.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

N/A

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