



Igor Tregub
Councilmember, District 4

ACTION CALENDAR
JULY 30, 2024

To: Honorable Mayor and Members of the City Council
From: Councilmember Igor Tregub
Subject: Alternative Ballot Measure to Large Buildings Fossil Fuel Emissions Tax Ballot Initiative

RECOMMENDATION

Adopt a Resolution to place on the ballot an alternative measure to the initiative-submitted Fossil Fuel Emission Tax Ballot Measure for Large Buildings. This alternative measure was crafted with input from various stakeholders, including labor, environmental organizations, and the small business and nonprofit community.

Or

Direct staff to provide analysis, by the August 5, 2024, Special Meeting of the Berkeley City Council, of placing on the ballot a companion measure to the above-referenced initiative-submitted Fossil Fuel Emission Tax Ballot Measure, and to recommend alternative actions to mitigate certain unintended consequences of the initiative should it be adopted by Berkeley voters.

FINANCIAL IMPLICATIONS

The qualified initiative, if passed, calls for creation and management of a special fund. Per that measure, the assessment of the tax starts in 2025 and collection of the tax commences in February 2026. This timeframe imposes very short timeframe between the passage of the tax and the need to establish a program to properly calculate and assess the tax for individual property owners and manage collection and proper distribution of the proceeds from the tax. All of this will likely impose the need to hire additional staff before any moneys are received by the city from the tax.

The alternative measure aims to prevent and/or mitigate the immediate fiscal impact on the City and aims to provide additional time to incorporate significant up-front expenditures associated with implementing this measure into the mid-cycle budget amendments and/or next two-year budget.

CURRENT SITUATION AND ITS EFFECTS

Numerous efforts have been launched in the City of Berkeley at various points to address the climate crisis we face, including through the decarbonization of its buildings. These include a prohibition on natural gas infrastructure in new buildings, which was unanimously approved as an ordinance by the Berkeley City Council in 2019¹ but struck down by the Ninth U.S. Circuit Court of Appeals,² and a currently proposed effort to regulate nitrous oxide (NOx) emissions in certain new buildings.³

An initiative petition titled “Initiative Ordinance to Adopt a Special Tax on Natural Gas Consumption in Buildings 15,000 Sq. Ft. or Larger” was filed with the City Clerk on May 15, 2024. The petition was certified by the Registrar of Voters as being sufficient on May 28, 2024.⁴

BACKGROUND

The Large Buildings Fossil Fuel Emissions Tax Ballot Measure has qualified as an initiative for the November 2024 ballot. To address numerous concerns from various stakeholders who have the potential to be adversely impacted by the implementation of this initiative, a collaborative effort was initiated by our office. The to-be-delivered redline changes represent an effort to align the intent of the initiative to respond to the climate crisis at the scale it requires with the fiscal limitations and other realities that the City of Berkeley as well as the owners of and tenants in residential, commercial, and industrial properties face, particularly within the context of today’s economy. In particular, the alternative measure seeks to extend the phase-in period for implementation; exempt a broader number of nonprofits, small businesses, and residential and commercial tenants than the initiative-submitted ordinance; and harmonize the process of collecting and levying fees by the City of Berkeley with existing systems and practices, as compared to the initiative-qualified ballot measure.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The environmental sustainability and climate impacts of both the alternative measure and the ballot-submitted initiative are unknown and require further staff analysis. However, the intent of the measure is to align the intent of the initiative to respond to the climate crisis at the scale it requires with the fiscal limitations and other realities that the City of Berkeley as well as the owners of and tenants in residential, commercial, and industrial properties face, particularly within the context of today’s economy.

CONTACT PERSON

¹ <https://berkeley.municipal.codes/BMC/12.80>

² <https://apnews.com/article/berkeley-california-natural-gas-ban-overturned-appeals-court-7dafca58d19963f322100d73caf9c31a>

³ <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2024-05-16%20Agenda%20Packet%20-%20Health.pdf>

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<https://berkeleyca.gov/sites/default/files/documents/07%2009%2024%20Supp%201%20Item%2019%20CAO.pdf>

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Alternative Ballot Measure to Large Buildings Fossil Fuel Emissions Tax Ballot Initiative

Councilmember Igor Tregub
Olga Bolotina, Chief of Staff

Council District 4 510-981-7140

RESOLUTION NO. ##,###-N.S.

Alternative Ballot Measure to Large Buildings Fossil Fuel Emissions Tax Ballot Initiative

WHEREAS, Numerous efforts have been launched in the City of Berkeley at various points to address the climate crisis we face, including through the decarbonization of its buildings. These include a prohibition on natural gas infrastructure in new buildings, which was unanimously approved as an ordinance by the Berkeley City Council in 2019 but struck down by the Ninth U.S. Circuit Court of Appeals, and a currently proposed effort to regulate nitrous oxide (NOx) emissions in certain new buildings; and

WHEREAS, An initiative petition titled “Initiative Ordinance to Adopt a Special Tax on Natural Gas Consumption in Buildings 15,000 Sq. Ft. or Larger” was filed with the City Clerk on May 15, 2024 and certified by the Registrar of Voters as being sufficient on May 28, 2024; and

WHEREAS, To address numerous concerns from various stakeholders who have the potential to be adversely impacted by the implementation of this initiative, a collaborative effort was initiated by our office; and

WHEREAS, The to-be-delivered redline changes represent an effort to align the intent of the initiative to respond to the climate crisis at the scale it requires with the fiscal limitations and other realities that the City of Berkeley as well as the owners of and tenants in residential, commercial, and industrial properties face, particularly within the context of today’s economy; and

WHEREAS, In particular, the alternative measure seeks to extend the phase-in period for implementation; exempt a broader number of nonprofits, small businesses, and residential and commercial tenants than the initiative-submitted ordinance; and harmonize the process of collecting and levying fees by the City of Berkeley with existing systems and practices, as compared to the initiative-qualified ballot measure.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley Adopt a Resolution to place on the ballot an alternative measure to the initiative-submitted Fossil Fuel Emission Tax Ballot Measure for Large Buildings. This alternative measure was crafted with input from various stakeholders, including labor, environmental organizations, and the small business and nonprofit community

Or

Direct staff to provide analysis, by the August 5, 2024, Special Meeting of the Berkeley City Council, of placing on the ballot a companion measure to the above-referenced initiative-submitted Fossil Fuel Emission Tax Ballot Measure, and to recommend

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alternative actions to mitigate certain unintended consequences of the initiative should it be adopted by Berkeley voters.

