

Blue Ribbon Equitable Business Tax Task Force

Special Meeting Agenda

April 15, 2021 6:00pm – 8:00pm,

Location: Zoom Teleconference (see info below)

1. Welcome and Call to Order (20')

Margaret O'Brien (Director of Finance – Interim)

- Introduction of Members
- Introduction of City staff & Consulting Team

2. Training (20')

- Brown Act and Sunshine Ordinance, Robert's Rules of Order, By Laws - Mitesh Bhakta
- Oakland Public Ethics: - Public Ethics Commission representative.

3. Ad Hoc Committee Assignments (5'): The Task Force will discuss and take possible action on assigning Task Force members to work in Ad Hoc Committees - Mitesh Bhakta

4. Election of Chair and Vice-Chair Persons (15')

Task Force members

5. Confirmation of Master Calendar & Regular Meeting Schedule (5')

Rogers Agaba/Huey Dang

6. Designing a Progressive Business Tax (45')

Matthew Newman

7. Agenda Items for Next Task Force Meeting (5')

8. Open Forum (5')

Zoom Teleconference: Please click the link to join the teleconference

<https://us02web.zoom.us/j/81057924825?pwd=MTJySS9lQUZxMDEvUFZYdklBaUx6UT09>

Meeting ID: 810 5792 4825

Passcode: 010601

To Observe: <https://us02web.zoom.us/j/81057924825?pwd=MTJySS9lQUZxMDEvUFZYdklBaUx6UT09>

One tap mobile:

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Dial by your location: +1 669 900 6833 US (San Jose); +1 346 248 7799 (Houston); +1 253 215 8782 (Tacoma); +1 301 715 8592 (Washington DC); +1 312 626 6799 (Chicago); +1 929 205 6099 (New York)

Meeting ID: 810 5792 4825; **Passcode:** 010601

To Comment:

1) To comment by Zoom video conference: please use "Raise Your Hand" button to request to speak when Public Comment is being taken on the eligible Agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted.

2) To comment by phone: please "Raise Your Hand" by pressing "* 9" to request to speak when Public Comment is being taken on the eligible Agenda Item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted.

BROWN ACT AND OAKLAND SUNSHINE ORDINANCE QUICK OVERVIEW

Brown Act & Sunshine provide:

“In enacting [the Brown Act], the legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.” (Ralph M. Brown Act – Gov. Code § 54950)

“All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided [under the Ralph M. Brown Act].” (Gov. Code § 54953.)

“[The Sunshine Ordinance] is intended in part to clarify and supplement the . . . Brown Act . . . to assure that the people of the City of Oakland can be fully informed and thereby retain control over the instruments of local government in their city.” (Sunshine – Oakland Muni. Code § 2.20.010)

- **All meetings of a legislative body must be open and public, except for closed sessions authorized by law.**
- **Closed session authorizations must be narrowly construed.**
- **All persons must be permitted to attend open and public meetings.**
- **Voting by secret ballot is prohibited.**
- **The body must report all actions taken and the vote or abstention of each member present for the action.**

(Gov. Code § 54953)

Legislative Body means:

- Oakland City Council and Board of Port Commissioners.
- *Board, commission, task force established by the Charter (e.g., Public Ethics Commission, Civil Service Board, Police and Fire Retirement Board, Police Commission and Redistricting Commission).*
- Board, commission, task force established by the City Council or Port Board by ordinance, resolution or motion.
- Advisory board, commission or task force created and appointed by Mayor that exists for longer than 12 months.
- Standing committees of the above, with continuing subject matter jurisdiction or a meeting schedule fixed by charter, ordinance, resolution or formal action.

(Oakland Muni. Code § 2.20.030)

MEETING includes:

- **Congregation of a quorum or majority of the Commission:**
 - **Face to face meetings,**
 - **Teleconference participation,**
 - **Meal gatherings (before, during or after a meeting).**
- **Serial communications regarding matters within the subject matter jurisdiction that involve a quorum or more of the Commission.**
- **Use of intermediaries to discuss, deliberate, take action or develop a consensus on matters within the subject matter jurisdiction of the Commission.**

Examples:

- **Email communications among a quorum or more of the Commission regarding matters within its subject matter jurisdiction.**
- **Conversations between a quorum of the Commission at a dinner, conference, party or other social/public event regarding matters within its subject matter jurisdiction.**
- **Asking council aides, staff or city officials about the positions of other Commissioners regarding matters within the Commission's subject matter jurisdiction.**

(Gov. Code § 54952.2; Oakland Muni. Code § 2.20.030)

Provided Commissioners do not discuss City business among themselves, a quorum may attend:

- **Conferences open to the public;**
- **Open and public community meetings organized by persons or organizations other than the City;**
- **Open and noticed meetings of another local agency;**
- **Open and noticed meetings of the legislative body of another local agency;**
- **Social or ceremonial events.**

(Gov. Code § 54952; Oakland Muni. Code § 2.20.030)

Meeting Location and Time

- **Commission meetings must be held within City of Oakland boundaries.**
- **Meetings should be held on weekday evenings “whenever reasonably possible”.**
- **Meetings must be video and audio taped.**

(Gov. Code § 54954; Oakland Muni. Code § 2.20.060 & 2.20.160)

AGENDA REQUIREMENTS

- **Purpose**
 - **Establish the scope of what may be discussed at the meeting – discussions outside the scope of what is described in the Agenda are not permitted;**
 - **Describe the set of permissible action(s) that may be taken at the meeting.**
- **Agenda Description.**
 - **Brief, general description of items, preferably no more than 20 words.**
 - **Clear and specific language sufficient “to alert a person of average intelligence and education whose interests are affected by the item that s/he may have reason to attend the meeting or seek more information.”**
 - **Abbreviations and acronyms must be spelled out in titles and text.**
 - **Time and location of the meeting.**
 - **Contact information to request disability-related accommodations.**

AGENDA REQUIREMENTS, cont'd

- **Agenda Publishing/Posting.**
 - Agendas must be posted at a public, accessible location. [City Hall, 14th Street display cases].
 - Copies of agendas and agenda-related materials must be placed on file in City Clerk's Office and Main Library.
 - Agendas and agenda-related materials should also be posted online; but, failure to timely post online due to software/hardware problem is not a defect in noticing.

(Gov. Code § 54954.2; Oakland Muni. Code § 2.20.030)

PUBLIC TESTIMONY

- **Speaker Cards:** The Commission may require speakers to submit speaker cards for open forum and agenda items for in-person meetings.
- **Open Forum:** Must provide opportunity for public comment on non-agenda matters at beginning or end of meeting. Commission Chair can allow open forum speakers to address agenda items.
- Each member of the public that wishes to speak on an item must be allowed to speak prior to Commission vote on the item.
- Members of the public must be allowed to speak on all items appearing on the agenda, even if the Commission removes the item.

(Gov. Code § 54954.3, Oakland Muni. Code § 2.20.150)

PUBLIC TESTIMONY, cont'd

- **Cannot prohibit speakers from expressing public criticism about City services, procedures, activities, etc.**
- **Public speaker time.**
 - **Two (2) minutes minimum should be allowed for public speakers unless the circumstances described below warrant a reduction.**
 - **Commission Chair may reduce time to 1 minute maximum -**
 - ✓ **Time reduction must be “reasonable” and applied uniformly.**
 - ✓ **What is a ‘reasonable’ depends on several factors, e.g.:**
 - **Time constraints of the meeting,**
 - **Number of agenda items,**
 - **Complexity of the items,**
 - **Number of persons that have submitted speaker cards**

(Gov. Code § 54954.3, Oakland Muni. Code § 2.20.150)

Notice of Meetings

Regular Meetings: **72 Hours Notice.**

Special Meetings: **48 hours.** Weekends and holidays cannot be counted towards the 48 hours.

Exceptions:

- Agendas and agenda-related materials for a special meeting scheduled on a Monday may be posted **by noon, the prior Friday.**
- Special meetings held offsite requires **10 days notice.**
- Special meeting scheduled in place of a regular meeting that falls on a holiday requires **5 days notice.**

Who may call a special meeting?

- Commission Chair (if one is elected).
- Commission by majority vote.

(Sunshine § 2.20.070 & 2.20.080; Charter § 208)

Enforcement & Penalties

Public Ethics Commission (PEC)

- Complaints may be filed with the PEC.
- May investigate and/or conduct public hearing following investigation.
- May issue a cure and correct demand to legislative body.
- May file a civil lawsuit against legislative body.

Civil Actions

- Individuals or district attorney may file action:
 - Injunctive/mandatory/ declaratory relief, or
 - Void the action taken by the legislative body in violation of the Act.
- Legislative body would have opportunity to cure and correct actions.
- Costs and attorneys fees may be awarded.

Criminal Penalties

- District attorney may seek misdemeanor penalties against individual members of the body, who:
 - participate in a meeting of the body where action is taken in violation of the Brown Act,
 - with “intent to deprive the public of information the member knows or has reason to know the public is entitled to receive .
- “Action” = collective decision, commitment or promise reached by the body.

(Gov. Code § § 54959, 54960, 54960.1, 54960.5; Oakland Muni. Code Chapter 2.20, Art. IV)

References

- Board and Commission Member Handbook
<https://cao-94612.s3.amazonaws.com/documents/Board-Commission-Handbook-2019-Final-W-COVER-2-4-19.pdf>
- Oakland's Sunshine Ordinance
https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT2ADPE_CH2.20PUMEPURE

ROBERT'S RULES OF ORDER

Parliamentary Procedure for Motions

WHAT IS A MOTION?

A motion is a proposal to take action or adopt a position.

- Motions can be:

1. **Amended**
2. **Challenged**
3. **Debated**
4. **Voted on**

1. **Amending a Motion:** change some of the wording that is being discussed
 - Inserting or striking words
2. **Challenging a Motion**
 - **Motion to Table:** temporarily set aside from consideration until a majority votes to take it up again
 - **Motion to Call the Question:** terminates debate and vote pending motion
 - Requires 2/3 vote
 - Cannot be used to terminate public participation
3. **Debating a Motion:** subjected to time limits and should be conducted in order* (*next slide*)
4. **Voting on a Motion**
 - Voice vote, roll-call, ballot, unanimous consent

PROCEDURE OF HANDLING A MOTION

I. Obtaining and Assigning the Floor

- Member raises hand when no one else has the floor
- Chair recognizes the member by name

2. How Motion is brought before the assembly

- Member makes the motion: *I move that (or “to”)*..and resumes his seat
- Another member seconds the motion: *I second*
- Chair states the motion: *It is moved and seconded that...Are you ready for the question?*

PROCEDURE OF HANDLING A MOTION

3. Consideration of the Motion

- a) Members can debate the motion
- b) Before speaking in debate, members obtain the floor
- c) The maker of the motion has first right to the floor if claimed properly
- d) Debate must be confined to the merits of the motion
- e) Debate can be closed only by order of the assembly (2/3 vote) or by the chair if no one seeks the floor for further debate

4. Chair puts the motion to vote

5. Chair announces the result of the vote

ORDER OF MOTIONS

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Adjourn	"I move that we adjourn"	No	Yes	No	No	Majority
Recess	"I move that we recess until..."	No	Yes	No	Yes	Majority
Complain about noise, room temp., etc.	"Point of privilege"	Yes	No	No	No	Chair Decides
Suspend further consideration of something	"I move that we table it"	No	Yes	No	No	Majority
End debate	"I move the previous question"	No	Yes	No	No	2/3
Postpone consideration of something	"I move we postpone this matter until..."	No	Yes	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended by..."	No	Yes	Yes	Yes	Majority
Introduce business (a primary motion)	"I move that..."	No	Yes	Yes	Yes	Majority

- The actions above are listed in the established order of precedence.
 - If an action is pending:
 - a. Actions listed above it may be introduced
 - b. Actions listed below it may not be introduced

ORDER OF MOTIONS

To:	You say:	Interrupt Speaker	Second Needed	Debatable	Amendable	Vote Needed
Object to procedure or personal affront	"Point of order"	Yes	No	No	No	Chair decides
Request information	"Point of information"	Yes	No	No	No	None
Ask for vote by actual count to verify voice vote	"I call for a division of the house"	Must be done before new motion	No	No	No	None unless someone objects
Object to considering some undiplomatic or improper matter	"I object to consideration of this question"	Yes	No	No	No	2/3
Take up matter previously tabled	"I move we take from the table..."	Yes	Yes	No	No	Majority
Reconsider something already disposed of	"I move we now (or later) reconsider our action relative to..."	Yes	Yes	Only if original motion was debatable	No	Majority
Consider something out of its scheduled order	"I move we suspend the rules and consider..."	No	Yes	No	No	2/3
Vote on a ruling by the Chair	"I appeal the Chair's decision"	Yes	Yes	Yes	No	Majority

- There is no established order of preference for the actions above
- Any of these actions may be introduced at any time except when the meeting is considering a Motion to Adjourn, Recess or Point of Privilege

Blue Ribbon Equitable Business Tax Task Force

Master Calendar

Task Force Duties and Functions

Pursuant to Resolution [88478 C.M.S.](#), the Blue Ribbon Equitable Business Tax Task Force (“Task Force”) comprises 11 members serving the term from the date of appointment and ending on January 1, 2022. The Task Force is to carry out the analysis of the Business Tax rates, as described in Section 5.04.205 of Resolution No. [88227 C.M.S.](#), engage in community and stakeholder outreach, and provide policy recommendations to the City Council of the economic impact of the recommended business tax rates by October 31, 2021.

Meetings

Regular meetings of the Task Force are held every other Thursday during the calendar year 2021 at 6:00 p.m. unless the meeting is publicly posted to begin at a different time or cancelled at the request of the Task Force.

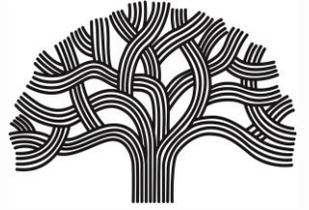
Meetings are to be held via video chat platform Zoom until further notice. Meetings are to open to the public and enable public comments

Date	Time	Location	Notes
April 15, 2021	6pm – 8pm	Zoom	• Special Meeting
April 29, 2021	6pm – 8pm	Zoom	• Regular Meeting
May 13, 2021	6pm – 8pm	Zoom	• Regular Meeting
May 27, 2021	6pm – 8pm	Zoom	• Regular Meeting
June 10, 2021	6pm – 8pm	Zoom	• Regular Meeting
June 24, 2021	6pm – 8pm	Zoom	• Regular Meeting
July 8, 2021	6pm – 8pm	Zoom	• Adoption of Recommended Tax Rates
July 22, 2021	6pm – 8pm	Zoom	• Draft report is to be distributed for review and comments by this date.
August 5, 2021	n/a	n/a	• Summer Recess
August 19, 2021	n/a	n/a	• Summer Recess

Date	Time	Location	Notes
September 2, 2021	6pm – 8pm	Zoom	<ul style="list-style-type: none"> • Discuss/Revise Task Force's Report & Recommendations
September 16, 2021	6pm – 8pm	Zoom	<ul style="list-style-type: none"> • Discuss/Revise Task Force's Report & Recommendations
September 30, 2021	6pm – 8pm	Zoom	<ul style="list-style-type: none"> • Finalize Task Force's Report & Recommendations • Task Force Report is due this date for October 19, 2021 Council Meeting
October 19, 2021	1:30 PM	Tele Conference	<ul style="list-style-type: none"> • City Council Meeting • Task Force Chair or Vice Chair to present report and recommendations • Q&A

Notes: :

- September 13, 2021: Staff is to put in the request to Rules Committee to agendaize the Task Force's Report and Recommendations for the October 19, 2021 City Council meeting.



**Blue Ribbon Equitable Business Tax Task Force
Presentation**

Designing a Progressive Business Tax

April 15, 2021

Presented by

Rogers Agaba

Assistant Revenue & Tax Administrator

Matthew Newman

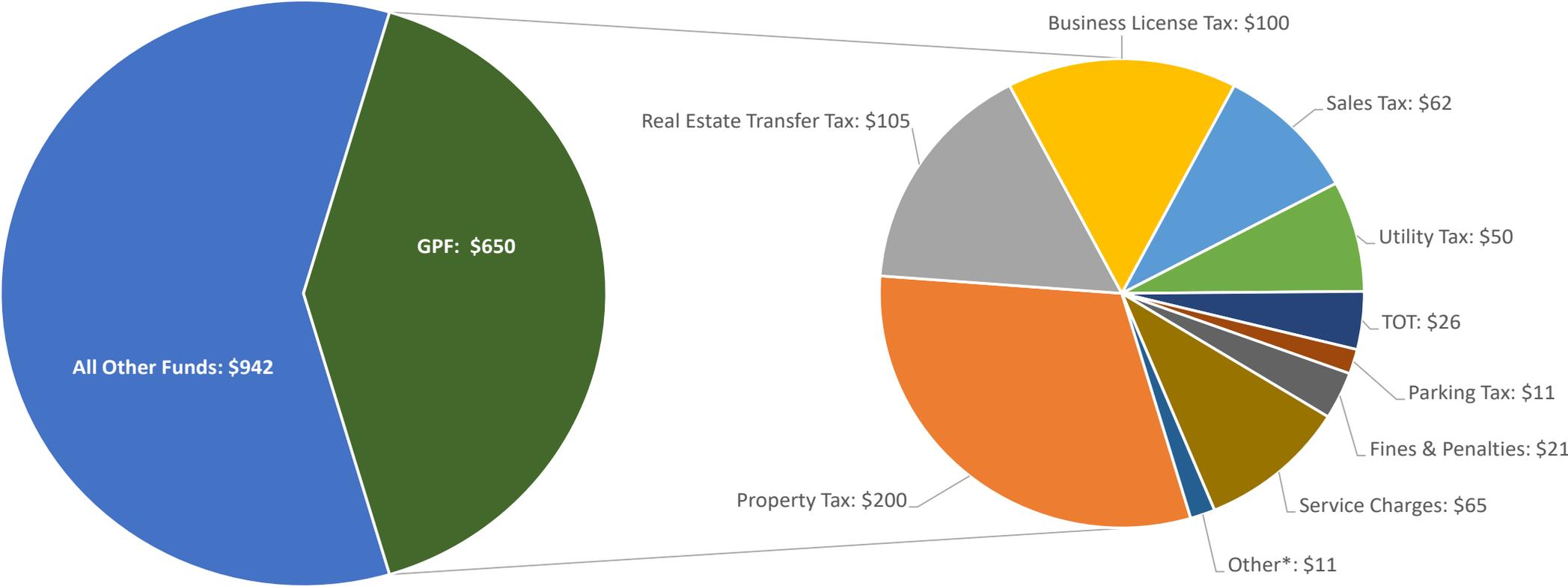
Blue Sky Consulting Group

Overview

- ▶ City of Oakland Revenue Sources
- ▶ Overview of the Business Tax
- ▶ Possible goals for the commission
- ▶ Balancing tradeoffs
- ▶ Discussion and next steps

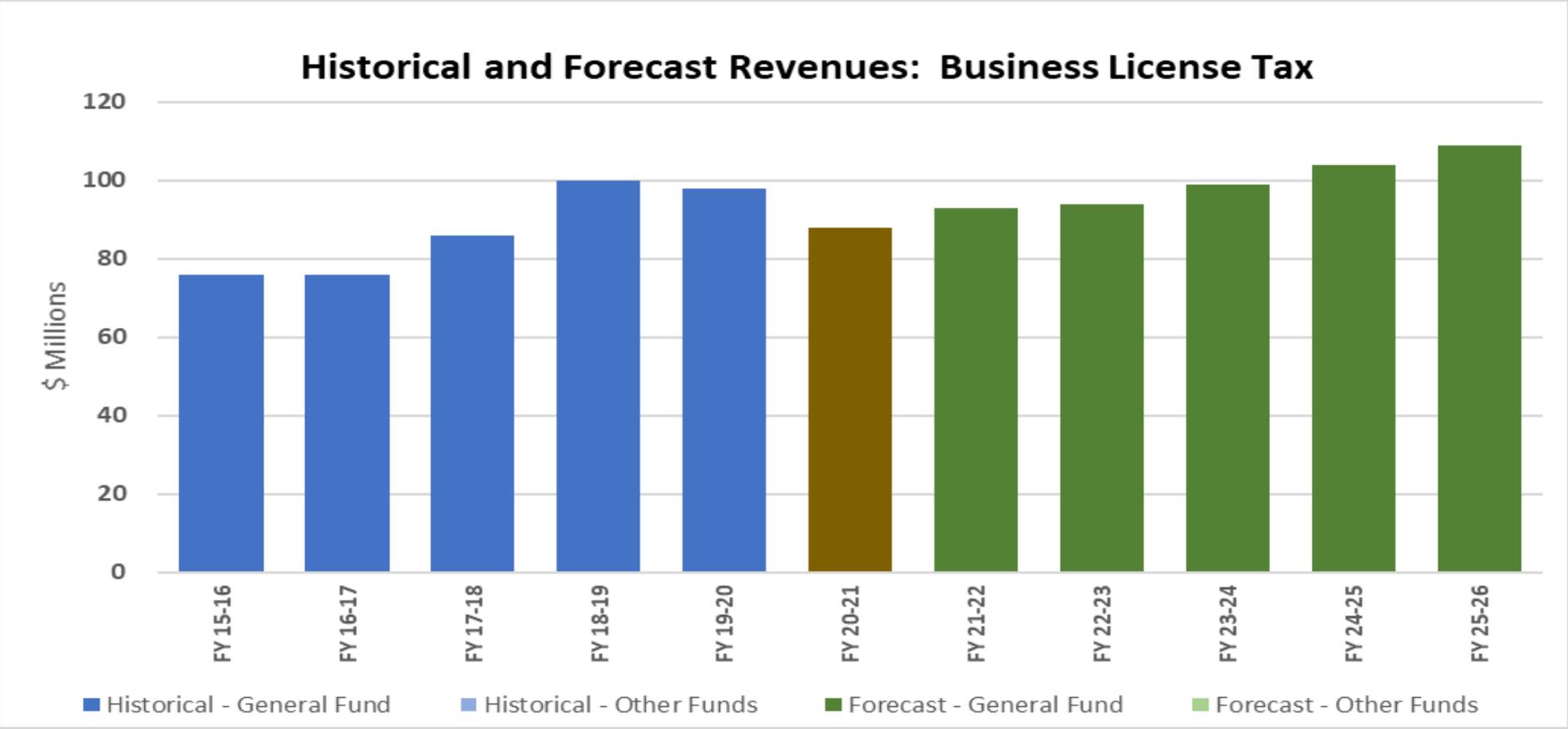
City of Oakland Revenue Sources

City of Oakland FY 18-19 Revenues and General Purpose Fund Detail (\$Millions)



* Other revenue sources include Licenses & Permits, Interest Income, Grants & Subsidies, Interfund Transfers, and Miscellaneous Revenues.

Business License Tax is an Important Revenue Source for the City



Business Tax Overview

- ▶ The City of Oakland Business Tax is a gross receipts tax (i.e., based on total sales rather than profits)
- ▶ Businesses file a tax return in March each year reporting total revenue (gross receipts) for the prior calendar year
- ▶ Tax is assessed at different rates depending on the type of business

Business Tax Rates and Revenue by Sector (FY19-20)

Code	Business	Tax Rate*	Tax per \$1,000	Gross Receipts (mil \$)	% of Total Gross Receipts	Tax Charged (mil \$)	% of Total Tax Charged
A	Retail Sales	0.12%	\$1.20	\$3,603	14.3%	\$4.6	5.1%
C	Automobile Sales	0.12%	\$1.20	\$705	2.8%	\$0.8	0.9%
D	Wholesale Sales	0.12%	\$1.20	\$2,217	8.8%	\$2.7	2.9%
I	Manufacturing**	0.12%	\$1.20	\$729	2.9%	\$0.9	1.0%
K	Admin Headquarters**	0.12%	\$1.20	\$972	3.9%	\$1.2	1.3%
T	Media Firms	0.12%	\$1.20	\$384	1.5%	\$0.5	0.5%
W	Miscellaneous**	0.12%	\$1.20	\$21	0.1%	\$0.0	0.0%
B	Grocers	0.06%	\$0.60	\$790	3.1%	\$0.5	0.6%
E	Business/Personal Svcs.	0.18%	\$1.80	\$2,756	11.0%	\$5.2	5.7%
H	Contractors	0.18%	\$1.80	\$4,022	16.0%	\$7.4	8.1%
P	Hotel/Motel	0.18%	\$1.80	\$253	1.0%	\$0.5	0.5%
F	Professional Svcs	0.36%	\$3.60	\$5,017	20.0%	\$18.4	20.3%
G	Recreation/Entertainment	0.45%	\$4.50	\$283	1.1%	\$1.3	1.4%
M	Residential Rental Property	1.395%	\$13.95	\$1,467	5.8%	\$20.8	22.9%
N	Commercial Rental Property	1.395%	\$13.95	\$980	3.9%	\$13.6	15.0%
U	Utility Companies	0.10%	\$1.00	\$781	3.1%	\$0.8	0.9%
X, L, Y	Taxi, Trucking, Amb / Lim**	N/A	N/A	N/A	N/A	\$0.1	0.1%
Z	Cannabis	0.12% - 9.5%	\$1.20 - \$95.00	\$151	0.6%	\$11.6	12.7%

*Tax Rate only applies to businesses exceeding minimum gross receipts thresholds.

** Based on permits issued (for taxis, ambulances, and limousines), number of employees (trucking), payroll (admin headquarters, miscellaneous), or value added (manufacturing).

Gross Receipts and Revenues by Business Size & Location

	<u># of Businesses</u>	<u>% of Total</u>	<u>Gross Receipts (mil \$)</u>	<u>% of Total</u>	<u>Taxes Charged (mil \$)</u>	<u>% of Total</u>
All Businesses*	53,133		\$25,169		\$91.1**	
<u>By Business Size</u>						
\$0 - \$250k	44,766	84.3%	\$2,062	8.2%	\$19.1	21.0%
\$250k - \$1 mil	4,845	9.1%	\$2,414	9.6%	\$11.6	12.7%
\$1 - \$2.5 mil	1,688	3.2%	\$2,639	10.5%	\$10.2	11.1%
\$2.5 - \$25 mil	1,389	2.6%	\$9,344	37.1%	\$31.3	34.3%
\$25 - \$50 mil	71	0.1%	\$2,510	10.0%	\$7.5	8.3%
Over \$50 mil	52	0.1%	\$6,200	24.6%	\$11.4	12.5%
Permit / payroll-based	322	0.6%	N/A	N/A	\$0.1	0.1%
<u>By Business Location</u>						
Oakland (home-based)	30,838	58.0%	\$2,328	9.2%	\$23.1	25.3%
Oakland (not home-based)	15,132	28.5%	\$17,300	68.7%	\$57.0	62.5%
Outside Oakland	7,163	13.5%	\$5,542	22.0%	\$11.0	12.0%

*Includes all businesses that reported gross receipts or taxable permits or payroll for Tax Year 2020.

**Including fees and penalties, total amounts owed exceed \$90 million.

***Includes all Taxicab, Ambulance/Limousine, and Trucking/Transportation businesses, which pay business taxes based on permits issued or employees on payroll. Firms in these industries officially report \$0 of gross receipts.

Balancing Competing Goals

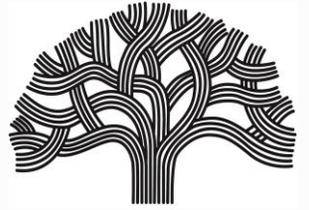
- ▶ Some goals for business tax reform could include:
 - ▶ Raise additional revenue
 - ▶ Increase fairness
 - ▶ Reduction of race and equity disparities
 - ▶ Incentivize certain types of businesses (e.g. small businesses)
 - ▶ Support the city's economy and workforce
 - ▶ Modernize rate categories

Raising Taxes May Involve Tradeoffs

- ▶ Higher rates may raise additional revenue but come at a cost in terms of jobs
- ▶ Increases in Business Tax revenues may result in offsetting decreases in other revenue sources (e.g., lower sales tax revenues) or increased enforcement costs
- ▶ Lower rates may preserve economic activity but may not achieve fairness or revenue goals
- ▶ Tax incidence (i.e. who pays)
 - ▶ Will businesses pass tax increases on to customers, reduce wages, lower profits?
 - ▶ Where are incidence effects felt? Are Oakland residents and workers likely to be impacted, or are customers and business owners living outside of Oakland likely to pay the costs of a tax increase?
 - ▶ What will be the impact on rents and property values?

Next Steps

- ▶ Identify areas for staff research, potentially including
 - ▶ Factors influencing business mobility
 - ▶ Data on tax rates in neighboring and comparable jurisdictions



Discussion

Thank you!