



## Legislation Text

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**File #:** 2022-0482, **Version:** 1

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**To:** Board of Supervisors of Sonoma County

**Department or Agency Name(s):** Economic Development Board (EDB) and Auditor-Controller-Treasurer-Tax Collector (ACTTC)

**Staff Name and Phone Number:** Ethan Brown, EDB, 565-7170 and Brooke Koop, ACTTC, 565-1294

**Vote Requirement:** Majority

**Supervisorial District(s):** Countywide

**Title:**

11:00 A.M. Annual Tourism BIA Assessment Report & Continuation of Tourism Assessment without Change in Fiscal Year 2022-23

**Recommended Action:**

- A) Conduct a public hearing to consider the Sonoma County Tourism Bureau's annual tourism assessment report to support the continuation of the tourism assessment in Fiscal Year 2022-23; and
- B) Adopt a resolution confirming the Tourism Bureau's Annual Report and continuing without change the levy of the tourism assessment for the Sonoma County Tourism Business Improvement Area for Fiscal Year 2022-23.
- C) Approve the Board Chair to execute an agreement to provide services and programs promoting tourism in Sonoma County, funded by assessments from within the Sonoma County Tourism Business Improvement Area from July 1, 2022 to June 30, 2023.
- D) Authorize the Economic Development Executive Director, in coordination with the County Administrator and County Counsel, to execute an agreement with Sonoma County Tourism Bureau, Inc. to provide services and programs promoting tourism in Sonoma County for the period of July 1, 2022 to June 30, 2023. Estimated funding provided through the agreement would be \$2.67 million, based upon Sonoma County Tourism Bureau's share of 1.25% of the first 9% of Transient Occupancy Tax Collected, and estimated collections of \$19.2 million in fiscal year 2022-23.

**Executive Summary:**

Staff recommends the Board approve a resolution confirming the Annual Report prepared by the Sonoma County Tourism Bureau and continuing the program and assessments as levied without change for fiscal year 2022-23. The request includes executing an amendment with the Sonoma County Tourism Bureau (SCTB), which includes expenditure policy restrictions to carry out the services, activities and programs promoting tourism funded by the assessments for the specific benefit of the lodging establishments within the Sonoma County Tourism Business Improvement Area. In addition, staff recommends FY 2022-23 funding agreement renewal awarding \$2.67 million of the county's unincorporated area Transient Occupancy Tax (TOT) to the SCTB to support tourism promotion activities.

**Discussion:**

**Sonoma County Tourism Business Improvement Area Assessment Continuation**

On November 2, 2004, the Sonoma County Board of Supervisors adopted the ordinance creating the Sonoma County Tourism Business Improvement Area (Business Improvement Area) in various cities and in the unincorporated areas of the county. Under the ordinance, lodging establishments generating annual room revenue of \$350,000 or more must pay an assessment equal to 2% of such revenue.

Pursuant to Streets and Highways Code section 36535(d), the levy of the assessment and program to promote tourism has continued without change in the Business Improvement Area since 2004 (BIA).

The Sonoma County Tourism Bureau (Tourism Bureau) is a private, non-profit organization dedicated to increasing overnight stays in Sonoma County. In June 2005, the Sonoma County Board of Supervisors executed an agreement with the Tourism Bureau to carry out services, activities, and programs promoting tourism to Sonoma County, funded by assessments from within the Business Improvement Area.

As it has done every year since 2004, the Tourism Bureau has submitted its Annual Report, which contains information on the activities and corresponding expenditures to carry out in Fiscal Year 2022-23 (attached). The Report also contains a budget showing projected revenue from assessments and all other sources sufficient to carry out the services, programs, and activities set forth in the plan.

#### **Collection of Tourism Assessment**

The Sonoma County Treasurer-Tax Collector collects the BIA assessment from all qualifying entities in the unincorporated areas of the County as well as remittances from member cities, which include the Cities of Santa Rosa, Rohnert Park, Petaluma, Cloverdale, Cotati, and Sebastopol, and the Town of Windsor. The City of Sonoma and the City of Healdsburg have not approved consent resolutions to join the BIA.

County staff are meeting with Sonoma County Tourism and other stakeholders to review opportunities to coordinate efforts to expand enforcement and collection efforts of the business improvement assessment. In the meantime, County staff recommend proceeding with the annual process to continue the levy of the business improvement assessment without changing the ordinance. We are requesting that the Board accept the Sonoma County Tourism's annual tourism assessment report to support the continuation of the tourism assessment in fiscal year 2022-23 and continue without change the BIA assessment.

#### **Potential Modification to BIA Assessment**

Sonoma County Tourism is coordinating with County staff, cities and all lodging operators in the BIA area to consider proposing possible changes to the BIA. This is not a change that would take effect from the action in this Board item. This is a possible modification to the BIA that may be brought back to your Board to consider in a future public hearing in fiscal year 2022-2023. If approved by the cities listed above and your Board, the proposed change would raise the amount of the assessment of lodging revenue in the unincorporated areas of Sonoma County, as well as in the participating cities, from 2% to 3%. In addition, Sonoma County Tourism has proposed removing the \$350,000 revenue threshold for establishments entirely. Removal of this threshold would subject all lodging establishments and vacation rentals to pay the BIA assessment (all lodging operators would pay 3% of their collected rents, including vacation rental income, as an assessment to promote tourism and marketing efforts by Sonoma County Tourism).

Before the changes proposed by Sonoma County Tourism can take effect, a number of steps must be completed.

1. Tourism staff will perform outreach to all of the lodging operators to explain the proposed changes and gather the lodging operators' input.
2. Tourism staff must perform outreach to each of the cities that currently participate in the BIA to assess interest in modification. Each interested city must then pass a new resolution amending the BIA to the

new terms.

3. Should the Board of Supervisors choose to do so, it would then hold a public meeting to discuss changes to the BIA assessment.
4. If policy support exists to make changes, a Resolution of Intent to Modify the BIA must be published and sent to every lodging operator and vacation rental within the BIA that would be subject to the new terms.
5. The Board of Supervisors must hold a public hearing to consider BIA modifications. At the hearing, if there is not a protest received from the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied, the Board of Supervisors may adopt the proposed amendments to the ordinance.

No action to modify the BIA assessment or area is sought through this item. Approval of this item continues the BIA without changes.

### **Award of Transient Occupancy Tax**

In addition to BIA funds, the Sonoma County Tourism Bureau receives funding from the County of Sonoma's Transient Occupancy Tax (TOT). TOT is authorized under State Revenue and Taxation Code Section 7280, as an additional source of non-property tax revenue to local government. The TOT tax levied in Sonoma County is at a rate of 12% for accommodations at lodging and camping facilities in the unincorporated areas of the County. TOT funds are discretionary, in that the Board of Supervisors may direct use of these funds for any legitimate county expense and may grant funds that benefit the community in accordance with Government Code section 26227.

### **Findings and Recommendations**

Staff and the Tourism Bureau, in its capacity as the Advisory Board, recommends that the Board accept and confirm this Annual Report and continue the assessments as levied without change for the Business Improvement Area in Fiscal Year 2022-2023 pursuant to the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code section 36535(d) et seq.), subject to the following findings and recommendations:

1. That the boundaries of the Business Improvement Area should remain the same, with the recognition that the cities of Santa Rosa, Petaluma, Rohnert Park, Sebastopol, Cloverdale and Cotati, and the Town of Windsor, have not withdrawn their consent to be included within the boundaries of the Business Improvement Area.
2. That Tourism Bureau continue to serve as the Advisory Board for the Business Improvement Area.
3. That the method and basis of levying the assessment remain unchanged and continue in Fiscal Year 2022-23.
4. That the revenues generated by the assessment be used in accordance with the requirements of Sonoma County Code section 33-4 to conduct marketing activities including funding of programs, services, and activities outside of the County designed to increase the number of overnight visits to the County.
5. The Tourism Bureau will provide an annual audit of travel and meal expenses per their most recent updated travel and meal reimbursement policy.

**Written and Oral Protests**

In advance of this public hearing, written protests may be submitted to Ethan Brown, Interim Economic Development Board Director, 130 Stony Circle, Suite 130, Santa Rosa CA, 94501, by 5:00 p.m. on May 23, 2022. At the public hearing, the Board will consider all protests, both written and oral, presented to the Board prior to the close of the hearing. Staff has published notice in the newspaper as directed by the Board and as required by Streets and Highways Code section 36535(d).

Staff recommends the Board accept the Annual Assessment Report for Fiscal Year 2022-23, and adopt the resolution supporting the continuation of the tourism assessment without change.

**Agreement for Services to Promote Tourism from 7/1/2022 to 6/30/2023**

Business Improvement Districts are important to California’s economy and provide a number of tourism-related services to California’s tourism industry, including marketing of assessed businesses, tourism promotion, and special events to attract tourists. Sonoma County Code section 33-4 requires that revenues from Business Improvement Area assessments must be used to conduct marketing activities designed to increase overnight visits to the area. The term “area” is defined as the territory within the boundaries of the Business Improvement Area, and the term “marketing activities” is defined as activities designed to market the area as a tourist destination, including the expenditure of funds to place advertising in any media, conduct public relations campaigns, perform marketing research, promote conventions and trade shows, and foster improved contacts within the travel industry, for the purpose of promoting tourism within the area. Revenues from assessments may be used for programs, services, and activities outside the area, if such programs, services, and activities are designed to promote and encourage overnight visits to the area. Revenues from assessments may also be used to pay the ongoing reasonable administrative costs associated with the marketing activities.

The focus on increasing overnight visits to the area constitutes a specific benefit to the lodging establishments that pay the assessments. The fact that others may receive incidental benefits from the expenditure of assessments, such as restaurants serving more patrons, does not change the characterization of assessments as a specific benefit to lodging establishments because no additional cost is imposed on the lodging establishments to provide those incidental benefits.

The type of activities intended to be funded by the Tourism Bureau’s Business Improvement Area assessment and Transient Occupancy Tax revenues include:

- (1) advertising; (2) marketing materials and distribution; (3) tradeshow and sales missions; (4) sales and marketing promotions; (5) destination development; (6) research and development; (7) public relations; (8) sales and marketing tools; (9) labor; and (10) administrative expenses.

Staff recommends contracting with SCTB to provide tourism promotion activities financed with BIA annual assessment and supplemented with a portion of the county’s unincorporated tax collection, which is consistent with [Board policy <https://sonomacounty.ca.gov/CAO/Services/Community-Investment-Program/Community-Investment-Program-Policy/>](https://sonomacounty.ca.gov/CAO/Services/Community-Investment-Program/Community-Investment-Program-Policy/) and it equates to 1.25% of the first 9% TOT recommended budget revenue included in the County’s FY 2022-23 budget. The new term of contracted services ends on 6/30/2023 and includes an estimated \$4 million Business Improvement Area assessment plus \$2.67 million of the county’s TOT.

**Prior Board Actions:**

5/3/2022 - The Board accepted the Sonoma County Tourism Bureau’s annual tourism assessment report and adopted a resolution to hold a public hearing on May 24, 2022 to consider the report and continue the BIA assessment without change.

**FISCAL SUMMARY**

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses			
Additional Appropriation Requested		\$2,670,000	
<b>Total Expenditures</b>		<b>\$2,670,000</b>	
<b>Funding Sources</b>			

General Fund/WA GF			
State/Federal			
Fees/Other: Transient Occupancy Tax		\$2,670,000	
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>		<b>\$2,670,000</b>	

**Narrative Explanation of Fiscal Impacts:**

Business Assessment continuation is estimated to generate \$4,000,000 in revenues, which is supplemented with \$2.67 million sourced from the county's 9% TOT unincorporated tax rate per existing Board policy <<https://sonomacounty.ca.gov/CAO/Services/Community-Investment-Program/Community-Investment-Program-Policy/>>

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

1. 2022-23 Sonoma County Tourism Bureau Annual Report and Budget
2. 2020-21 Sonoma County Tourism Audit Agreed Upon Procedures
3. 2020-21 Sonoma County Tourism Audit
4. Resolution to Continue BIA Assessment without Change for Fiscal Year 2022-23
5. 2022-23 BIA Agreement
6. 2022-23 TOT Services Agreement

**Related Items "On File" with the Clerk of the Board:**

None