



Legislation Text

File #: 2022-0999, Version: 1

To: Sonoma County Board of Supervisors
Department or Agency Name(s): Economic Development
Staff Name and Phone Number: Ethan Brown (707) 565-7170
Vote Requirement: Majority
Supervisorial District(s): Countywide

Title:

Sonoma County Tourism Business Improvement Area Assessment Modifications

Recommended Action:

- A) Adopt a Resolution of Intention to modify the existing Business Improvement Area (BIA) Assessment, and hold (i) a public meeting on November 1, 2022 and (ii) a public hearing at or after 8:30 A.M. on December 13, 2022, to consider and adopt the proposed changes to the BIA Assessment, which would go into effect thirty (30) days after adoption of the ordinance.
- B) Authorize a joint notice of the public meeting and public hearing.

Executive Summary:

County staff have been working with Sonoma County Tourism Bureau (SCTB) to review opportunities to increase revenues generated by the BIA in order to diversify their revenue sources, and better serve the lodging industry through the attraction of overnight guests.

Current year BIA revenue is projected by SCTB to be \$6,160,496. Formed by [Ordinance No. 5525](https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/auditor-controller-treasurer-tax-collector/divisions/revenue-accounting/transient-occupancy-taxes-(tot/bia)) [<https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/auditor-controller-treasurer-tax-collector/divisions/revenue-accounting/transient-occupancy-taxes-\(tot/bia\)>](https://sonomacounty.ca.gov/administrative-support-and-fiscal-services/auditor-controller-treasurer-tax-collector/divisions/revenue-accounting/transient-occupancy-taxes-(tot/bia)) in 2004, SCT BIA boundaries include the cities of Santa Rosa, Petaluma, Rohnert Park, Sebastopol, Cloverdale, Cotati, and the Town of Windsor, in addition to the unincorporated area of the county.

At this time, SCTB has proposed to remove the current \$350,000 minimum revenue threshold, which identifies which operators must collect the current assessment rate of 2%, which as part of this effort will remain unchanged. SCTB estimates that this will result in an additional \$2.1 - \$2.5 million collected per calendar year from the lodging operators located in the seven participating cities and in the unincorporated area.

Discussion:

In accordance with [California Streets and Highways Code, Section 36541](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC§ionNum=36541) [<https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC§ionNum=36541.>](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC§ionNum=36541), this item requests approval of a resolution of intention for modifying the BIA assessment, as well as a public meeting, anticipated to be held on November 1, 2022, and public hearing to enact the proposed changes on December 13, 2022.

The public meeting is an opportunity for members of the public to comment on the proposal. Following the

public meeting and no sooner than seven days thereafter, the Board would conduct a public hearing to consider adoption of the proposed change.

As provided by [California Streets and Highways Code, Section 36523](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC§ionNum=36523) [\(<https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC§ionNum=36523>.](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC§ionNum=36523), the notice of the December 13, 2022 public hearing will be published in a newspaper of general circulation at least seven days before the hearing. Within seven days of the adoption of the resolution of intention, a joint notice and copy of the resolution will be mailed to each owner of a business affected by the proposed modification. It is estimated that there are approximately 2,200 operators within the unincorporated area of the County plus additional operators within incorporated areas who will be impacted by the proposed lowering of the minimum threshold.

In advance of the public hearing, written protests may be submitted to Ethan Brown, Interim Executive Director, Sonoma County Economic Development Board, 141 Stony Circle, Suite 110, Santa Rosa, CA 95401 by 5:00 p.m. on December 12, 2022. At the public hearing, to be held in person if allowed by state health order, or virtually by video and/or telephone, the Board will consider all protests, both written and oral, presented to the Board.

Each written protest shall contain a description of the business, property address, and if a person submitting the protest is not shown on the official records as the owner of the business, the protest shall contain or be accompanied by written evidence that the person submitting the protest is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest.

If written protests are received from the owners of businesses within the SCT BIA boundaries that will pay 50 percent or more of the assessments proposed to be levied, and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to increase the tourism assessment shall be taken for a period of one year from the date of the finding by the Board of Supervisors that a majority protest exists.

If the majority protest is only against the furnishing of a specific type of tourism activity within the SCT BIA boundaries, that type of tourism activity shall be eliminated. If there is not a majority protest as described herein, the tourism assessment shall be modified pursuant to Streets and Highway Code Section 36541.

Background

On November 2, 2004, the Sonoma County Board of Supervisors (Board) adopted Ordinance No. 5255 creating the Sonoma County Tourism Business Improvement Area (SCT BIA). Under the ordinance, lodging establishments generating annual room revenue of \$350,000 or more must pay an assessment equal to 2% of such revenue. Proceeds from assessments are disbursed to SCTB, which uses the revenues to pay for marketing and other efforts to increase overnight visitors to the county.

In January 2005, the Board appointed five members to the SCTB, which is charged with advising the Board of Supervisors on the amount of the Area's Assessments and on the services, programs and activities to be funded by the Assessments. In February 2005, the Board appointed eight (8) of the 22-member body to the Sonoma County Tourism Bureau (SCTB) Board of Directors. In June 2005, the Board executed an agreement with the SCTB to carry out services, activities, and programs promoting overnight stays in Sonoma County,

funded by assessments from within the SCT BIA.

In accordance with the ordinance and state law, each year the SCTB Board submits to the Board of Supervisors an [Annual Report <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5654010&GUID=D6AB010C-B5DB-468C-9F87-F7098E561D61&Options=&Search=>](https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5654010&GUID=D6AB010C-B5DB-468C-9F87-F7098E561D61&Options=&Search=>). The Report contains information on the activities and corresponding expenditures to carry out in the corresponding fiscal year. The Report also contains a budget showing the revenues from assessments and all other sources sufficient to carry out the services, programs, and activities set forth in the plan. The Report also contains the SCTB budget, as well as an independent audit from the last completed fiscal year.

Purpose and Specific Benefit

The Ordinance requires that revenues from 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 SCT BIA, 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 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.

Activities, Marketing, Advertising, and Public Relations Program Expenditures

The type of activities intended to be funded by the SCT BIA and TOT 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.

Findings and Recommendations

As of this writing, the following cities have passed resolutions of consent to be included within the boundaries of the amended BIA:

- Cloverdale (Approved 9/14/2022)
- Petaluma (Approved 9/19/2022)
- Rohnert Park (Approved 9/13/2022)
- Sebastopol (Approved 9/6/2022)
- Windsor (Approved 9/21/2022)

The following cities are set to consider a resolution of consent on their respective dates:

- Cotati (9/27/2022)
- Santa Rosa (10/11/2022)

SCTB, in its capacity as the Advisory Board, recommends that the Board adopt the resolution of intention and hold one public meeting and one public hearing to consider changes to the BIA that would remove the current \$350,000 revenue threshold pursuant to California Streets and Highways Code section 36500 et seq., subject to the following findings and recommendations:

- 1) That the boundaries of the SCT BIA 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 SCT BIA.
- 2) That SCTB continue to serve as the Advisory Board for the SCT BIA.
- 3) That the method and basis of levying the assessment continue in accordance with the terms of the amended Ordinance beginning thirty days after the amendment to the ordinance is adopted.
- 4) That the revenues generated by the assessment be used in accordance with the requirements of the Ordinance and requirements of state law to conduct marketing activities designed to increase the number of overnight visits to the County.

Strategic Plan:

N/A

Prior Board Actions:

11/2/2004 - Ordinance establishing the Sonoma County Tourism Business Improvement Area (Ordinance No. 5525)

Annually since 2004, the Board has adopted a resolution approving the Sonoma County Tourism Annual Report and levy of assessment. Most recently on 6/8/2022.

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

N/A

Staffing Impacts:

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

1. Resolution of Intention
2. Draft Ordinance
3. Draft Ordinance with markup

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

N/A