



# City of Stockton

## Legislation Text

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**File #:** 14-0476, **Version:** 1

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### **APPROVE THE CITY OF STOCKTON'S OFFICE AND INDUSTRIAL SALES TAX INCENTIVE PROGRAM**

#### RECOMMENDATION

It is recommended that the City Council adopt a resolution:

1. Approving the Office and Industrial Sales Tax Incentive Program; and
2. Authorizing the City Manager to take necessary and appropriate actions to carry out the purpose and intent of the resolution.

#### Summary

The City Council identified economic development and fiscal sustainability as two key goals for the City of Stockton. Staff is recommending that the Council approve a new program that will support the City's business attraction/expansion efforts and generate additional revenue for the City. The proposed Office and Industrial Sales Tax Incentive Program provides financial incentives to eligible businesses that are looking to locate or expand in existing or newly constructed office or industrial facilities within the Stockton city limits. Traditional retail stores do not qualify under the program guidelines. Certain criteria must be met and an incentive agreement must be approved by the City Council for each qualifying business. Additional net revenue received as a result of the Program will be used to create an incentive fund in alignment with the City's Economic Development Strategic Plan.

#### DISCUSSION

##### Background

The Stockton City Council has identified several key goals for the City, including economic development and fiscal sustainability. In October 2013, in an effort to further those goals, the City Council adopted an ordinance amending Stockton Municipal Code, Chapter 3.16, to create a new Use Tax Business Incentive Program designed to encourage businesses and contractors that make qualifying purchases from out of state to direct the use tax from those purchases to the City of Stockton. Under that program, the City will rebate a portion of net new use tax it receives to the business.

As a reference, approximately 25% of the City's General Fund tax revenue comes from its sales and use tax. When a taxable transaction occurs in California, sales tax is applied. When taxable purchases occur out of state for consumption in California, use tax is applied. The same rate is paid whether it's a sales tax or use tax.

The Bradley-Burns Uniform Sales and Use Tax Law provides for a city/county rate of 1.25%. One-quarter cent of the levy is sent to the countywide transportation fund, with the one-percent balance going to support local government general funds. In addition to the one-percent Bradley-Burns tax, the City also receives a Measure W quarter-cent tax and a three-quarter cent Measure A tax, recently approved by the public, on taxable purchases.

### Present Situation

In an effort generate additional tax revenues and aid in the attraction of new business and expansion of existing business, staff is proposing a new sales tax sharing incentive. The Office and Industrial Sales Tax Incentive Program will serve as an additional tool to generate new investment and job creation throughout Stockton. Sales tax revenue is most often associated with traditional retail establishments, such as brick-and-mortar storefronts, dealerships, malls and big box retailers; however, certain office or industrial uses also produce sales tax revenue to local jurisdictions.

Examples of the types of office and industrial uses that would be eligible under the program include: eCommerce businesses, fuel distributors, high-tech equipment manufacturers or software developers, medical device manufacturers, and business-to-business sales. In these cases, there must be a physical sales desk located at the office or industrial facility where the transaction occurs. The sale can be between businesses, such as medical devices being sold to a hospital, or directly to an individual consumer as in an eCommerce business.

Unlike traditional retail stores, these types of sales tax generating uses have more flexibility on where they locate these facilities and have started negotiating tax sharing agreements with local jurisdictions. The proposed program provides financial incentives to eligible substantial sales tax producing businesses that are looking to locate or expand in existing or newly constructed office or industrial facilities within Stockton city limits. The program would exclude traditional retail establishments.

Under the program guidelines, a business must meet the following criteria in order to be eligible:

- Generate net new annual gross taxable sales of \$25 million or more
- Generate sales tax to the City corresponding with the gross sales tax amount
- Create a minimum of ten full-time equivalent jobs
- Make a capital investment within the City of \$50,000 or more

A written incentive agreement (Attachment A - Sample Incentive Agreement), requiring Council approval, will be executed between the City and qualifying businesses and include key terms identified under the Office and Industrial Sales Tax Incentive Program guidelines attached as Exhibit 1 to the Resolution. The incentive agreement would be for a term of 10 years, with options to extend up to an additional 10 years, and the rebate amount will be based on the following tier:

Net New Sales Tax Revenue	% of Sales Tax Revenue Rebated to the Business	% of Sales Tax Revenue Retained by the City
Less than \$250,000	0%	100%
\$250,000-\$500,000	50%	50%
Above \$500,000	65%	35%

The sales tax rebate will be based on net new sales tax revenue received by the City and apply to the one-percent Bradley-Burns tax only. No rebates will be provided on tax revenues received from Measures W and A. Further, the agreement will include a provision to indemnify the City against any claim of violation of Government Code Sections 53083, 53084, and 53084.5, which pertain to sales tax sharing agreements.

In addition, the City must demonstrate that there is a direct benefit to the public before any tax sharing agreement could be approved by the Council, which may include, but not be limited to:

- Net new sales tax revenue received by the City of Stockton
- Creation of jobs
- Capital investment by the business

Adopting the Office and Industrial Sales Tax Incentive Program, coupled with the new Use Tax Business Incentive Program, will enhance the City's economic development program and place Stockton in a much more competitive position over other jurisdictions that are attracting similar industries.

The Economic Development Department has been engaged with two firms that are interested in locating or expanding in Stockton that will have a sales tax component to their operations. Both firms have expressed that a sales tax rebate agreement would be necessary in order for them to expand or locate here. As mentioned above, each individual sales tax incentive agreement will require Council approval in accordance with AB 562, which requires local agencies to provide specified information to the public before approving economic development subsidies of \$100,000 or more. This law became effective on January 1, 2014, and also requires that a public notice and hearing be held regarding the subsidy to include, among other things, the name of the company receiving the subsidy and the amount of the subsidy.

Staff is recommending that net new revenue received as a result of the Office and Industrial Sales Tax Incentive Program be used to fund additional economic development incentive programs. These programs will be identified through the completion of the City's Economic Development Strategic Plan in the fall and brought forward for Council approval at a later date.

### FINANCIAL SUMMARY

While one of the goals of the Office and Industrial Sales Tax Incentive Program is to generate additional tax revenue for the City, it is difficult to determine exactly how much new revenue will actually be received. In general, staff believes there is the potential to bring in approximately

\$125,000-\$250,000 in additional tax revenue each year. This amount is expected to increase as the economy improves and new business investment increases throughout the City.

It is proposed that revenue from the Office and Industrial Sales Tax Incentive Program be deposited into General Fund Sales Tax Revenue Account No. 010-0000-314 to be used to further the City's economic development efforts. Business rebates will be charged to Non-Departmental Account No. 010-0131-510 with remaining funds allocated to related Economic Development Department activities. There is no negative impact to the General Fund in implementing the program. However, there is the risk that the City would miss out on the opportunity for revenue without the incentive program encouraging businesses to locate to Stockton.

Attachment A - Sample Incentive Agreement

Resolution No. 2014-06-24-1505

## STOCKTON CITY COUNCIL

### RESOLUTION APPROVING THE OFFICE AND INDUSTRIAL INCENTIVE PROGRAM

The Stockton City Council identified economic development and fiscal sustainability as two key goals for the City; and

In October 2013 the Council adopted an ordinance amending Chapter 3.16 of the Stockton Municipal Code to create a new Use Tax Business Incentive Program to encourage businesses and contractors that make qualifying purchases from out of state to direct use tax to the City of Stockton; and

To further enhance the City of Stockton's economic development program and place Stockton in a more competitive position, a new Office and Industrial Incentive Program has been developed providing financial incentives to businesses that generate net new sales tax revenue to the City of Stockton; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Council hereby approves the Office and Industrial Incentive Program and the guidelines for that program, attached hereto as Exhibit 1 and incorporated by this reference.
2. The City Manager is authorized to establish a separate fund to deposit proceeds received from the Office and Industrial Incentive Program for the sole purpose of supporting economic development programs and activities.
3. All incentive agreements are subject to a public hearing before Council and must be approved by the City Council with findings demonstrating a direct public benefit.
4. The City Manager is hereby authorized and directed to take all necessary and appropriate action to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED June 24, 2014.

ATTEST:

  
BONNIE PAIGE, City Clerk  
of the City of Stockton



  
ANTHONY SILVA, Mayor  
of the City of Stockton