

IMPACT STATEMENT

Legislation title: Amend City Code related to the administration of the Portland Clean Energy Community Benefits Initiative and other housekeeping amendments (Ordinance; amend Code Chapter 7.02, and add Code Chapter 7.07)

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Purpose of proposed legislation and background information:

At the November 6, 2018 general election, Portland voters approved Ballot Measure 26-201, the Portland Clean Energy Community Benefits Initiative (hereafter Clean Energy Surcharge or CES), which imposes a 1% surcharge on the retail sales within Portland of certain large retailers. The CES amended City Code to require Portland retailers with total annual retail revenue over \$1 billion and Portland annual retail revenue over \$500,000 to pay a 1% surcharge on gross revenue from retail sales within Portland. The CES is effective for tax years beginning on or after January 1, 2019.

The Revenue Division is responsible for collecting the CES and has determined that some technical revisions are necessary to PCC 7.02, Business License Law, for clarity and administrability of the tax provisions of the CES. Additionally, the legislation addresses some minor 'housekeeping' changes to PCC 7.02 that are unrelated to the passage of Measure 26-201. Finally, the Portland City Auditor recommended the addition of a new Code Chapter 7.07 to adopt the non-tax portions of the CES.

Financial and budgetary impacts:

The Revenue Division currently estimates annual tax receipts of \$54 million to \$71 million. Because of the timing difference between tax years and fiscal years and the discretionary option for taxpayers to extend their filing deadlines for an additional six months (until October 2020 in most cases), Revenue Division will not have a final accounting of first year (tax year 2019) CES revenues until late 2020 or early 2021. Therefore, a \$10 million partial disbursement of tax year 2019 revenues will be released in May and June 2020 (FY 2019-2020). Remaining tax year 2019 revenues will be disbursed in early 2021 (FY 2020-2021) after final tax returns are received and processed for most taxpayers.

Actual collections will vary based on economic conditions, the proportion of sales that are classified by taxpayers as retail or wholesale (critical information the Revenue Division will not have until tax returns are filed), administrative definitions of exempt taxpayers such as "Utilities", and the definition of terms impacting tax liability such as "Retail Sale" and "Qualified Health Care Services".

Proceeds from the surcharge will be placed in a new Portland Clean Energy Community Benefits Fund to be administered and disbursed for purposes consistent with Measure 26-201. Remaining proceeds may be placed in the PBOT Transportation Operating Fund,

Climate Transportation Investment Account as required by the Measure and the Oregon Constitution, Article IX, section 3a.

The full annual cost of collections is estimated at \$967,000; or between 1.4 and 1.8 cents per dollar collected. The Revenue Division will recover its administrative costs from the Portland Clean Energy Community Benefits Fund. It is expected these costs will include four Senior Revenue Auditor positions (salary and benefits), outside contractor expenses to modify and maintain the Business License Information System or successor system, computers, phones, desks, rent, staff training, and legal costs through an interagency agreement with the City Attorney’s Office. The positions will be hired in May 2020; these expenses will be incurred beginning in FY19-20 (pro-rated for one month). As is typically the case with tax audit positions, audit recoveries from deficient tax remittances are expected to more than cover the cost of the positions.

Community impacts and community involvement:

The proposed Code amendments were posted on the Revenue Division’s website for public comment for six weeks. Of 20 substantive recommendations, the Revenue Division adopted two recommendations in whole and one recommendation in part. The Revenue Division conducted additional outreach to ensure that the proposed amendments were reviewed by stakeholders including businesses, business groups, tax preparers/advisors and the drafters of Measure 26-201. Dozens of comments were received and considered. The Portland Clean Energy Initiative Coalition Steering Committee has reviewed the proposed amendments and supports them. The Steering Committee is comprised of 350PDX, the Asian Pacific American Network of Oregon, the Audubon Society of Portland, the Coalition of Communities of Color, Columbia Riverkeeper, the NAACP Portland Branch 1120, OPAL Environmental Justice Oregon, Oregon Physicians for Social Responsibility, Sierra Club Oregon Chapter, and Verde. Chief Petitioners Rev. E.D. Mondaine and Adriana Voss-Andreae also support these changes.

100% Renewable Goal:

The legislation has no direct impacts on this goal. However, the successful administration of this new program will be key in supporting the clean energy programs that it funds.

Budgetary Impact Worksheet

Does this action change appropriations?

- YES: Please complete the information below.
- NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

~~Exhibit C~~ *Incorrectly labeled as an exhibit*

Amendments to Portland Council Agenda Item 160

February 21, 2019

✓ Amendment #1, Ordinance

Council Finding #11:

Beginning in Fiscal Year ~~2020-2021~~ 2019-2020, the Revenue Division will need four additional Senior Revenue Auditor positions to administer the tax. These positions will be added by later action of the Council.

Reason: Corrects a typo. As indicated in the Council direction and Financial Impact Statement, the positions will be hired in May 2020, which is in FY 2019-2020.

✓ Amendment #2, City Code Section 7.02

Updates and increases intentional database hacking penalties from \$500, \$1,000 or \$5,000 (depending upon the offense) to \$10,000 for any offense.

Reason: These housekeeping changes were posted for public comment along with all other proposed changes but were inadvertently dropped from the version that was filed with the Council Clerk.

7.02.850 Hacking.

(Amended by Ordinance No. 187339, effective October 16, 2015.)

A. Any individual who intentionally accesses the ~~Bureau's~~ Division's computer database without authorization will be fined:

1. ~~\$105,000~~ if the individual acquires any information regarding any business account found in the database;
2. \$10,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
3. ~~\$105,000~~ or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Division's computer database, and, as a result of such conduct, causes damage to the database.

Amendment #3, City Code Section 7.02

Corrects two legacy code references that are not gender-neutral.

Reason: Aligns Code with Council policy on gender-neutral language.

Code Reference #1: 7.02.300 C (Certificate of Compliance)

- ✓ C. A taxfiler is deemed to be doing business within the City within any fiscal year they ~~he or she~~ receives income from business activity conducted within the City, notwithstanding that such activity has ceased. Income from business activity that has ceased includes, but is not limited to, income from installment sales (including sales of real property), collection of accounts receivable, covenants not to compete, and income from contractual agreements related to the trade or business activity.

Code Reference #2: 7.02.800 B (4) (e.) (Refundable Credit)

- ✓ 4. one or more of the following apply:
- e. is an adjudicated youth, meaning that they are or have ~~he/she currently is, or has~~ been, in the Oregon Juvenile Justice System or the equivalent thereof in another state.