CITY OF CUPERTINO

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CITY COUNCIL STAFF REPORT

Meeting: June 1, 2021

Subject

Consider adopting a position on Senate Bill 612 (Portantino) Electrical Corporations and Other Load-Serving Entities: Allocation of Legacy Resources, Senate Bill 792 (Glazer) Sales and Use Tax: Retailers: Reporting, and Senate Bill 780 (Cortese) Local Finance: Public Investment Authorities

Recommended Action

1) Adopt a support position on SB 612,
2) Adopt an oppose position on SB 792,
3) Adopt a support position on SB 780, and
4) Authorize the Mayor to send position letters to the state legislature.

Discussion

At the May 14, 2021 Legislative Review Committee (LRC) meeting, the LRC reviewed SB 612, SB 792, and SB 780. SB 792 and SB 780 could arguably be outside of the Council-approved Legislative Platform and are therefore coming to the full Council for a decision. SB 612 is coming before Council as the LRC was not able to reach a consensus. More information can be found below and in the attachments.

SB 612

SB 612 was put forward by Senator Portantino and requires the California Public Utilities Commission (CPUC) to require investor-owned utilities (IOUs), such as PG&E, to offer community choice aggregators (CCAs) and electric service providers (ESPs) an allocation of the energy products that CCA and ESP customers pay for as part of exit fees, also known as the Power Charge Indifference Adjustment (PCIA). In Cupertino, customers have a choice to receive electricity through PG&E or through our CCA, Silicon Valley Clean Energy (SVCE), and pay exit fees to PG&E if they choose SVCE. These charges are intended to help PG&E pay off long-term contracts they historically entered into to provide electricity for the entirety of the region prior to the formation of CCAs. While it is reasonable for CCA customers to pay for the costs of these long-term contracts, the current set up denies CCA customers the benefits of these contracts. CCA customers pay for the long-term contract costs but then have to separately purchase the renewable and reliability benefits of those contracts again through the open market, basically paying twice for the same product. SB 612 would allow CCAs to have access to the benefits that their customers pay PG&E for through exit fees. This reduces the costs of the long-term contracts because there is a buyer for those resources and reduces the costs on CCAs because they do not have to double procure the same benefits. Currently, 97.4% of Cupertino participates in SVCE and 2.6% use PG&E as an electric provider. More information can be found in the report in Attachment A from the City's legislative consultant, Townsend Public Affairs.

When discussed at the LRC meeting, one committee member supported the bill, and one committee member felt a need for more information before taking a position. Since a consensus could not be arrived at, the LRC unanimously recommended that the Council consider a position on SB 612. One of the concerns was that this was an example of legislation attempting to overrule another government body. SB 612 originated from a consensus proposal that was developed in a working group representing CCAs, IOUs, and ESPs. This consensus proposal was provided to the CPUC and a proposed decision was not developed until over a year later. Due to the delay in action, SB 612 was developed to move the process forward and then the CPUC issued its draft proposed decision just before SB 612 had its first hearing. It is thought that the CPUC may have favored IOU customers in their decisions as their historical role was to protect IOU customers. However, this historical role was from a time before CCAs existed, and CCAs now serve more than a quarter of the population in California.

It is recommended that the Council take a support position on SB 612 as it supports equity for both CCAs and PG&E customers.

<u>SB 792</u>

SB 792 was introduced by Senator Glazer and requires a retailer, whose annual sales of tangible personal property transacted online exceeded $1 million in the previous calendar year, to provide information for each local jurisdiction the gross receipts from the sale of goods shipped or delivered to a purchaser in that jurisdiction. The state legislature has considered several proposals to change how online generated sales tax is allocated. Currently, sales tax from online sales placed outside of the state are allocated to the jurisdiction with the retailer's fulfillment center. While at this stage, SB 792 does not change the sales tax allocations, it is seen as a precursor to shifting sales tax allocations to the point of sale or point of delivery. This would have a significant negative impact to Cupertino's sales tax revenue. More information can be found in the report in Attachment B from the City's legislative consultant, Townsend Public Affairs.

When discussed at the LRC meeting, the commission unanimously recommended that the Council take an oppose position on SB 792.

<u>SB 780</u>

SB 780 was introduced by Senator Cortese and provides a number of changes to current law governing Enhanced Infrastructure Financing Districts (EIFDs) and Community Revitalization Investment Authorities (CRIAs). Both of these tools were developed after the elimination of redevelopment as a means of generating revenue for the purposes of economic development and creating affordable housing. These tools are not widely used, particularly when compared to redevelopment, in part because the process of establishing the authorities is cumbersome and bureaucratic. SB 780 tries to reduce some of the barriers that have prevented public agencies from establishing EIFDs and CRIAs but does not require them. More information can be found in the report in Attachment C from the City's legislative consultant, Townsend Public Affairs.

When discussed at the LRC meeting, the commission unanimously recommended that the Council take a support position on SB 780.

Sustainability Impact
None anticipated.

Fiscal Impact
While not apparent in the current draft of SB 792, it could allow for future bills to change the way sales tax is allocated. This could have a significant negative impact on Cupertino's sales tax revenue. The extent of the impact would need to be determined when specifics of a proposed change are known.

Prepared by: Katy Nomura, Assistant to the City Manager
Approved by: Dianne Thompson, Assistant City Manager

Attachments:

A – SB 612 Report by Townsend Public Affairs
B – SB 792 Report by Townsend Public Affairs
C – SB 780 Report by Townsend Public Affairs