



## Legislation Text

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**File #:** 14-510, **Version:** 2

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ORDINANCE of the City Council of San Leandro Amending Title 2 of the San Leandro Municipal Code to Delete Chapter 15 and to Add a New Chapter 15 Establishing the West San Leandro Shuttle Business Improvement District (BID) in the City of San Leandro (re-establishes the BID for a period of 15 years, until December 2029, and imposes an annual per-employee assessment on businesses within the district)

WHEREAS, the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Sections 36500 et seq.) authorizes cities to establish a business improvement area for the purpose of improving the economic activity within the area; and

WHEREAS, cities may fund these improvements through assessments on businesses for certain purposes; and

WHEREAS, the City Council adopted Ordinance No. 2004-013 on June 21, 2004, amending Title 2 of the San Leandro Municipal Code to add a new Chapter 15 establishing the West San Leandro Business Improvement District (BID) and setting an assessment to be levied on businesses within the BID; and

WHEREAS, the City Council adopted Ordinance No. 2005-017, on October 3, 2005, amending Title 2 of the San Leandro Municipal Code to add a new Chapter 15 re-establishing the West San Leandro Business Improvement District and to sunset June 30, 2009; and

WHEREAS, the City Council adopted Ordinance No. 2009-002 on April 6, 2009 re-establishing the West San Leandro Shuttle Business Improvement District (BID), and setting an assessment to be levied on businesses within the BID; and

WHEREAS, Ordinance No. 2009-002 included a term for the BID assessment to sunset after five years and expire on June 30, 2014; and

WHEREAS, the BID funds approximately fifty percent of West San Leandro Shuttle Service, known as the LINKS Shuttle, administration and operational costs; and

WHEREAS, pursuant to state law, the City has submitted protest ballots to business owners within the BID, and will hold a public hearing on December 15, 2014; and

WHEREAS, unless a majority protest is received, the BID ordinance will continue in full force and effect; and

WHEREAS, in order to do so, the City has determined that the BID needs to be re-established rather than merely amended; and

WHEREAS, the Resolution of Intention (ROI) adopted by the City Council on October 20, 2014 (Resolution no. 2014-115) to re-establish the BID was duly published and copies thereof were mailed as provided by law; and

WHEREAS, as specified in the ROI a public meeting concerning the formation of the district was held on December 1, 2014 at 7:00 p.m. before this City Council in the City Council Chambers at City Hall, 835 East 14th Street, San Leandro, California, 94577; and

WHEREAS, as specified in the ROI a public hearing concerning the formation of the district was held on December 15, 2014 at 7:00 p.m. before this Council in the City Council Chambers at City Hall, 835 East 14th Street, San Leandro, California, 94577; and

WHEREAS, at the hearing all protests, both written and oral, made or filed, were considered and duly overruled and denied and this City Council determined that there was no majority protest within the meaning of Section 36523 of the Act; and

WHEREAS, protests in writing from businesses in the proposed BID paying fifty percent (50%) or more of the proposed assessment have not been received; and

WHEREAS, the City Council finds that all of the businesses within the BID will benefit by the expenditure of the funds raised and the assessment levied hereby in the manner prescribed herein; and

WHEREAS, the existing advisory board established by the City Council may continue to serve as the advisory board as required pursuant to the California Streets and Highways Code; and

WHEREAS, the programs to be provided in the district by the BID will be funded by the levy of assessments on all businesses within the boundaries except as provided herein. The revenue from the levy of assessments within the district shall not be used to provide programs outside the district or for any purpose other than the purposes specified in the ROI; and

WHEREAS, the assessments levied on businesses pursuant to this Ordinance shall, to the maximum extent feasible, be levied on the basis of the estimated benefit to the businesses within the BID.

NOW, THEREFORE, the City Council of the City of San Leandro does ORDAIN as follows:

SECTION 1: Title 2, Chapter 15 is hereby deleted, and a new Chapter 15 is hereby added to Title 2 of the San Leandro Municipal Code to read as follows:

2-15-010 Purpose. The purpose of this chapter is to establish the West San Leandro Shuttle Business Improvement District.

2-15-020 Establishment of the District. Pursuant to the Act, a business improvement district area is hereby created and established and designated as the "West San Leandro Shuttle Business Improvement District" for the area located within one-quarter mile of the West San Leandro Shuttle route excepting therefrom that area within one-half mile of the San Leandro BART Station, as shown on the map attached as "Attachment A" and incorporated herein by this reference into the ordinance

codified in this Chapter.

2-15-030 Amendments. All businesses within the boundaries of the district established by this Chapter shall be subject to any amendments of the Parking and Business Improvement Area Law of 1989, codified as California Streets and Highways Code Sections 36500 et seq.

2-15-040 Assessment. The assessment is to be levied on all businesses, existing and future, within the BID in the City of San Leandro based upon a fee of \$21.00 per employee per year per business. Annually, the assessment may be increased in an amount up to the increase, if any, of the Cost of Living Index for San Francisco-Oakland-San Jose, All Urban Consumers. Businesses that have a Home Occupation Permit, businesses with three (3) or less employees, businesses that have received Internal Revenue 501(c)(3) tax-exempt status, and businesses that are exempt from local assessments under State or Federal law are exempt from the assessment.

2-15-050 Protests to Formation. All protests, both written and oral, are overruled and denied and the City Council finds that there is not a majority protest within the meaning of Section 36525 of the Act.

2-15-060 Review of Annual Report. All of the assessments imposed pursuant to this Chapter shall be reviewed by the City Council annually based upon the annual reports prepared by the advisory board appointed pursuant to Sections 36530 and 36533 of the California Streets and Highways Code. Pursuant to Section 36533(c), the City Council may approve the report as filed by the advisory board or may modify any particular contained in the report and approve it as modified.

2-15-070 Use of Assessments. No portion of the revenues from the assessments within the district shall be used to provide improvements outside of the district for any purpose. The assessments shall be used exclusively to fund the West San Leandro Shuttle, other related transportation activities, and the administrative costs of collecting the assessment, or as modified by the City Council pursuant to compliance with Sections 36534 and 36535 of the California Streets and Highways Code.

2-15-090 Effective Period of Assessment. The assessment imposed by this Chapter shall remain in effect for fifteen (15) years from the effective date of the ordinance codified in this Chapter, unless sooner terminated, as provided in the Act.

2-15-100 Imposition of Assessment. The assessment imposed by this Chapter is levied on an annual basis upon all businesses within the district and the owner of each business shall be solely responsible for paying all assessments when due. The assessment will be collected annually at the same time, and in the same manner, as the business license tax imposed by Title 2, Chapter 2 of this Code. If a new business opens in the district before January 1 of any year in which an assessment is collected, that business will be responsible for paying the full amount of the assessment. If a new business opens in the district after January 1 of any year in which an assessment is collected, that business will be responsible for paying fifty percent (50%) of the assessment. Failure to pay the assessment when due shall be deemed a delinquency, and collection of such delinquency shall be in a manner consistent with the collection of delinquent business license taxes.

SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or ineffective by any court of

competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause and phrase of this Ordinance irrespective of the fact that one or more of them would be declared unconstitutional or invalid. To this end, the provisions of this Ordinance are declared to be severable.

SECTION 3: This Ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council chamber bulletin board for five (5) days prior to adoption.

Introduced by Councilmember Prola on this 1st day of December, 2014, and passed to print by the following called vote:

Members of the Council:

AYES:	Councilmembers Cutter, Gregory, Lee, Prola, Reed, Souza	(6)
NOES:	None	(0)
ABSENT:	Mayor Cassidy	(1)