Meeting Minutes
Finance and Taxation Committee
Taxation and Budget Reform Commission
301 Senate Office Building
Tallahassee, Florida
Friday, January 25, 2008
1:30 p.m. – 5:00 p.m.

Committee Members: *Susan Story, Chair; Barney Barnett, Martha Barnett, Julia Johnson, Bruce Kyle, Patricia Levesque, John McKay, Randy Miller, James Scott, Kenneth Wilkinson, Brian Yablonski*

Members Present:

Susan Story, Chair
Martha Barnett
Julia Johnson (by phone)
Patricia Levesque
Randy Miller
James Scott (by phone)
Kenneth Wilkinson (by phone)

Members Absent:

Barney Barnett
Bruce Kyle
John McKay
Brian Yablonski

Chair Susan Story called the meeting to order at 1:36 p.m. Staff called roll and announced the presence of a quorum.

Chair Story made brief opening remarks to notify audience members that the meeting was to be a workshop, and that no votes would be taken on any issues at the meeting. Public testimony would be accepted, and members would discuss the proposal on the agenda, CP0012, dealing with sales taxes on services and a review of exclusions from such taxes. She then asked staff to provide a summary of the issues to be discussed and an explanation of CP0012.

Commissioner Randy Miller noted that he thought that increasing the number of sales taxes on services is a bad idea for Florida businesses. He said it affects out-of-state businesses doing business in Florida, as well as Florida businesses and gave examples of how Florida businesses use the services of media outlets from other states in the northern part of the state, and how national media campaigns would have to be pro-rated to determine the fiscal impact of the "Florida share" of a national advertisement for something like cereal. He went on to note that the state tried this exercise twenty years ago and it was shelved because it didn't work. Other states have tried and failed, including Michigan, as late as this year. He provided his personal analysis of what possible revenues could be generated from an extension of sales tax to various services and said he thought several big items would need to come off the list at the beginning. He noted that $3.5 billion for health services, $7.7 billion for financial services (including taxation of earned interest), $3.5 billion for labor services for construction, $650 million for institutional services (such as schools, ballet lessons, veterinary services, etc.), and $160 million in personal care services, would leave only items such as $5.7 billion in professional services, $200 million in entertainment and sports related services and other miscellaneous services to be taxed.

Commissioner Martha Barnett stated that she believed that the TBRC has a constitutional mandate to look at the tax structure and its ability to serve the state over the next twenty years. The state derives much of its funding from general revenue and there must be a review of how that funding will hold up over time. She noted that she personally believed that the legislature needs more tools to address budget issues, such as removing a ban on a personal income tax. She indicated that she is in favor of a process to systematically review exemptions and exclusions. She noted that if the state had stuck with the services tax twenty years ago, things would probably be running smoothly now. She said her fundamental concerns were whether there was a need to place a review in the constitution, if there should be an automatic sunset of exemptions and exclusions, and what alternatives to the sunset process may be out there. Commissioner Miller noted that the state faced a lot of the same concerns in 1986 and that the sales tax on services was seen as a way to generate more revenues at that time.

Chair Story then asked for public testimony on CP0012.

Mr. Mickey Jacob, a member of the American Institute of Architects and owner of Urban Studio Architects from Tampa, Florida addressed the committee. He pointed out that 85% of AIA members are small businesses that would suffer in implementation of a sales tax on services. In a competitive environment, competing against local and out-of-state providers, cannot pass on costs of increased taxation and remain viable. Pyramiding is a concern, as architects hire sub-contractors such as engineers and landscape architects on most jobs. He noted that his business is a day-to-day operation and having to wait several years to work out the problems in implementation would be impossible for him. He reiterated that changes to the tax law would not affect just his small business, but would affect the lives of all of his employees and their ability to be productive members of the community. Mr. Jacob noted that six other states have some form of taxation on professional services for architects, but that he was not aware of how those taxes worked. The states are: Hawaii, Delaware, New Mexico, Texas, South Dakota, and Washington.

Mr. Eugene Adams, representing a coalition of Florida businesses, spoke against the proposal. He noted that while businesses did not oppose the review process, the group does oppose any mandatory automatic sunset.

Ms. Nancy Stephens, representing the Florida Minerals and Chemical Council and the Florida Manufacturers' Association, stated that as a matter of policy, the state should not facilitate the loss of manufacturing jobs. She noted that any factor that would increase the cost of doing business for her members would be something they would have to oppose. She said that her associations would particularly oppose having such a change in the constitution as it would make it much harder for the legislature to react to difficult situation which might arise.

Mr. Dominic Calabro, President and CEO of Florida Taxwatch, noted that the "services tax remains the Holy Grail" of state and local taxation. He said that Taxwatch had initially supported the tax in 1987, that a sunset process was a good idea, and that the time was right to reconsider the issue again. He noted that it would be important to have a thoughtful and systematic review while providing for concerns about taxation related to structure, life's necessities and economic development. He said a review in today's environment would need to be more careful based on the failures of the 1987 attempt. He indicated that the legislature needs to do an analysis on the total net effect to economic development of a change, not just the amount of revenue to be generated or lost. While he noted that a constitutional construct was not suitable for such a review, he acknowledged that legislators don't like to tax voters, and voters don't like tax increases, but that continuing to place more and more tax burden on non-voters eventually has a negative effect on the fabric of our state's economy.

Mr. Calabro stated that there were approximately 150 services that could be reviewed for justification of exclusion from sales tax and could begin a thoughtful process that is good for business and acceptable to voters, but he cautioned that the net revenue increase would be more in the range of $1.5 – 2 billion than $10 billion if such an exercise were done. Commissioner Martha Barnett asked Mr. Calabro to draft such a review process and provide it to the committee for review. He agreed that he would do so. Commissioner Randy Miller asked him if he thought that there was a need for constitutional inclusion. Mr. Calabro indicated that a constitutional requirement to have a statutory review could be productive.

Ms. Jennifer Greene, representing the Florida Institute of Certified Public Accountants, addressed the committee and asked that some basic questions about the purpose of the proposal be answered as the group moves ahead. The basic questions related to the purpose of the proposal, if the purpose was to raise revenues, what would be the use of those revenues, when would be the appropriate point to levy the tax, and how much the tax should be. She noted that there was language in the proposal relating to tax fairness, and asked if the point of the proposal was to bring fairness across the board, or to raise more revenue. She then reminded the group that tax law needs to be very fluid and should be placed in statutes, not in the constitution.

Mr. Brian Pitts, representing the organization "Justice to Jesus," agreed with Ms. Greene's comments that language related to operational laws should be statutory and not placed in the constitution. He noted that the portion of the proposal dealing with fairness could draw a very subjective review by a court.

Commissioner Randy Miller asked the Chair how the committee would dispose of all of the pending issues. Chair Story indicated that all of the property tax and consumer tax issues that we have been discussing will be on the agenda for the February 11 – 12 Finance and Tax Committee for purposes of voting.

There being no further business to come before the committee, the meeting was adjourned at 3:00 p.m.