

Meeting Minutes
Finance and Tax Committee
Taxation and Budget Reform Commission
Conference Call
August 30, 2007
4:00 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, Ken Wilkinson, Brian Yablonski*

Members Present:

Susan Story, Chair
Martha Barnett
Julia Johnson
Bruce Kyle
John McKay
Randy Miller
Ken Wilkinson
Brian Yablonski

Members Absent:

Barney Barnett
Patricia Levesque
James Scott

Chair Story called the meeting to order at 4:01 p.m.

Staff called roll and announced the presence of a quorum on the phone call.

Chair Story turned the meeting over to Commissioner Julia Johnson, facilitator for the Sales Tax Base Review Workgroup.

Commissioner Johnson reported that staff had located the 1987 and 1997 legislative review documents on sales tax issues and would distribute that information to members by U.S. Mail. In addition, the staff has had initial discussions with the Office of Economic and Demographic Research about the availability of the REMI modeling tool for specific research on impacts of sales and other taxes. Pursuant to member requests for more information on the short-lived implementation of the 1987 Sales Tax on Services, we have arranged for a follow-up presentation by Department of Revenue staff for our September 13 conference call meeting.

Commissioner Johnson told the group that she had the opportunity to speak at length with Mr. Robert Nabors, representing the Floridians Against Inequities in Rates (FAIR) citizens' ballot initiative, to better understand that group's interests. Unfortunately, Mr. Nabors was unable to join the call, and Commissioner Johnson asked staff to have

Commissioner John McKay, a member of the workgroup and an active member of FAIR, to give a brief description of the three ballot initiatives to set the discussion of whether there is a need for review of sales tax exemptions and exclusions.

Commissioner McKay gave a quick historical overview of sales tax implementation and exemptions over time in Florida. He explained that the sales tax system was originally implemented in 1949 and exemptions have been added over the years. He indicated that while changes have been made to the system over time, he was not aware of any exemptions that had ever been removed. There have been several attempts over the years to review the current exemptions. In addition to the 1987 implementation of a sales tax on services, which was subsequently repealed, the most recent attempts to review the system were in 2002, when the Senate passed a Joint Resolution to place a sunset review on the ballot as a constitutional amendment (The SJR did not pass the House of Representatives), and several attempts by FAIR to place citizens' initiatives on the ballot. The first attempt at placing such a review on the ballot was stricken by the Supreme Court because of the multi-subject prohibition. The Court found that that proposed ballot language contained three separate subjects, and thus, was violative of the rule.

The current ballot proposals, known as 05-02 (Initiative requiring legislative determination that sales tax exemptions serve a public purpose), 05-04 (Extending existing sales tax to non-taxed services where exclusion fails to serve a public purpose), and 05-09 (Initiative directing manner by which sales tax exemptions are granted by the legislature), were described by Commissioner McKay in some detail.

Proposal 05-02 would require a periodic legislative review of all sales tax exemptions except the currently valid exemptions for food, prescription drugs, health services, residential rent, electricity and heating fuel. The sunset review would require that all exemptions not specifically re-enacted would be repealed.

Proposal 05-04 would require a legislative review of non-taxed services to determine whether the exclusion serves a public purpose. If the service is not specifically excluded by the legislature, it would become subject to sales tax.

Proposal 05-09 clarifies that each law providing for an exemption would have to contain specific language explaining the public purpose of the exemption. Further, each exemption would have to be passed in a separate piece of legislation so that no more than one exemption would appear in each bill in order to assure that multiple exemptions were not rolled together in one bill.

Commissioner McKay explained that each proposal must have a Financial Impact Statement which accompanies the ballot summary in the presentation of the issue. The impact of each of the three proposals is identified as "no impact" since the ballot proposals neither raise nor lower taxes, but simply call for a process whereby the legislature would be required to review the current exemptions and exclusions. Commissioner McKay indicated that if the legislature did, in fact, make any changes,

there would be financial impacts, but those would be wholly determined by the actions of the legislature, not the constitutional ballot proposals.

Chair Story asked members if they had any questions or comments regarding Commissioner McKay's presentation. Commissioner Randy Miller asked for clarification on whether the ballot proposals would require the sunset of all exemptions. Commissioner McKay answered that yes, the proposals would require such a sunset and he is aware of opposition by those who now enjoy some of the exemptions, and that such opposition is natural. He indicated that by providing a process that requires the sunset review, it allows the legislature to assess the exemptions without putting any particular individual legislator in political peril for having independently introduced such a review. He said that expecting the legislature to take on such a review independently is just not politically feasible.

Commissioner Miller indicated that he understood Commissioner McKay's rationale, but did not agree with it. He explained that some exemptions are very important to bring businesses to the state and keep them here. There are industries that have relied on those exemptions to develop their long-term business plans. Such a sunset review would hurt the business community. Commissioner McKay agreed with Commissioner Miller that many of the exemptions serve a valid public and business purpose. He indicated that he agreed that he thought a majority of the exemptions would be kept in place, but without a sunset review, it would be very difficult to get rid of the "bad ones." He said he believes that if the process were put in place it would allow the legislature to get some of those exemptions off the books.

Chair Story noted that the group had reached a point where it was clear to her that the will of the committee is to further study the issues related to a sales tax base review. She asked if the next step should be to try to categorize or group the various exemptions into those that appeared to have a valid purpose and those which may be questionable, and then to determine whether it would be best for the committee to look at recommendations on policy related to constitutional change, or to undertake an actual tactical review of each exemption which is determined to be questionable. Commissioner Wilkinson asked if a constitutional ballot recommendation would be appropriate. Chair Story indicated that these were the types of issues that she would like for the committee to discuss at the September 17 Committee Meeting in Tampa. She would like for the committee to have a full discussion on guiding principles, and how to determine which issues should be considered policy, or constitutional, and which should be considered tactical, and better suited as statutory recommendations.

Commissioner McKay asked Commissioner Miller if he could remember there ever being any changes made to exemptions as a result of recommendations made by any outside group to the legislature. Commissioner Miller indicated that he could not remember any, so far. Commissioner McKay opined that he didn't think any legislators would vote to raise taxes unless there was a valid purpose found in a sunset review.

Commissioner Martha Barnett spoke and told the committee that from what she has learned through the work of the Governmental Services Committee, it is clear that services costs will continue to rise. She indicated that she thought it was very important for the group to continue to look at the expansion of the tax base. For better or worse, she stated that it appears that the state is tied to sales tax, and that need could grow in the future. She said it is essential that the committee not dodge this subject. While she has resisted for many years the constitutionalizing of tax policy, she indicated that it is important to discuss the constitutional options for the sales / use tax base.

Chair Story agreed with Commissioner Barnett's comments and indicated that it would be a good exercise for the committee to look at specific exemptions to determine which ones the committee feels strongly about. She outlined that first the group should look at what policy positions should be adhered to, then whether the exemptions should be grouped into those that should remain, those that should be reviewed and those that aren't sound, and then make decisions on what final recommendations should be put forward.

Commissioner Barnett indicated that she was not sure that the committee had the luxury of enough time to accomplish each of those steps in a sequential manner. Chair Story agreed that such a review may need to be in concurrent phases. Commissioner McKay agreed that the sequence for review was logical, but that it was probably not the appropriate role of the TBRC to make judgment on each exemption. He indicated a concern about any actions that would undermine the legislative process but reiterated that he thought it was the commission's role to consider constitutional guidelines for such reviews by the legislature.

Commissioner Kyle wanted to be sure that the committee was not taking any action at this meeting to take a position on sunset reviews. Chair Story assured him that the discussion was not to take a position, but to determine whether to continue to look at the issues. Commissioner Kyle reminded the committee that it needed to consider unintended consequences of setting a sunset review timetable, as that could place the outcome of a particular review at the mercy of political schedules dependent on election cycles and the positions of presiding officers at the appointed time. He made it very clear for the record that he is not yet ready to consider action in support of sunset review issues. Chair Story recognized that concern and reiterated that the group was not yet ready to take positions on any issues.

Chair Story called on Commissioner Johnson to discuss next steps for the working group. Commissioner Johnson indicated that the plan would be for the working group to have a full debate on the issues discussed at this meeting at its next meeting. Commissioner Randy Miller concurred that the issue needs a full discussion with all sides heard. Commissioner McKay concurred and noted that commissioners should recall the comments of Amy Baker from the Office of Economic and Demographic Research at an earlier TBRC meeting related to the fact that Florida's overall demographic is becoming less affluent so that an income tax would be a poor vehicle for supporting state governmental service needs. Likewise, Ms. Baker indicated that property taxes would be less reliable if property values continue to fall. Commissioner McKay indicated that in

his opinion, that narrowed the available revenue sources to some form of sales tax and if service costs continue to grow, the options are to either increase taxes, which he does not support, or to expand the sales tax base to increase the things that are taxed. Chair Story remarked that if this discussion were being held two years ago, the conversation would be entirely different, but that current and projected future conditions are causing the committee to have to face the realities of the increased needs of the population.

Members then discussed the best time for a meeting of the workgroup and all agreed that the group should meet on September 17 in Tampa. Meeting times for the full committee meeting will be adjusted to accommodate a two hour meeting of the Sales Tax Base Review Workgroup prior to the full committee meeting that day.

There being no further business before the committee, the meeting was adjourned at 4:55 p.m.