

Meeting Minutes
Finance and Taxation Committee
Taxation and Budget Reform Commission
Conference Call
Thursday, September 13, 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
Barney Barnett
Martha Barnett
Julia Johnson
John McKay
Randy Miller
Ken Wilkinson
Brian Yablonski

Members Absent:

Bruce Kyle
Patricia Levesque
James Scott

Chair Story called the meeting to order at 4:00 p.m.
Staff called the roll and announced the presence of a quorum on the call.

Lisa Echeverri, Deputy Director of the Department of Revenue, made a presentation to the committee on the short-lived implementation of the 1987 Sales Tax on Services, the difficulties faced by the department in that implementation and specific details on which services were taxed (fully or in increments) and which were exempt. Buzz McKeown and Jeff Kielbasa, both current DOR employees who were involved in the 1987 implementation process, were available to comment on specifics during the presentation. In addition, Mr. Glenn Budonie, representing the Florida Institute of Certified Public Accountants, attended the call. Mr. Budonie is a former employee of DOR and was closely involved with the other presenters (excluding Ms. Echeverri) in the formulation of the Emergency Rules that were created in 1987 to address the implementation.

Director Echeverri indicated that in a 2005 report by the Federation of State Administrators it was noted that Florida and Massachusetts were the only two states to try to implement a total sales tax on services and that both states had repealed the original legislation (Florida in 1987 and Massachusetts in 1999.) She noted that other states, such as Hawaii, New Mexico, South Dakota and West Virginia have broad categories of

services that are taxed (over 100 of the 164 defined services in the report.) Florida taxes approximately 64 of those defined services today.

Commissioner Martha Barnett thanked the presenters for an excellent presentation then asked about the viability of implementing a broad services tax in today's current business and technology environment. She wanted to know if the impediments to implementation in 1987 still exist, and are the diminished or exacerbated by technology and business model changes. Director Echeverri acknowledged that services currently being taxed in Florida today are generally related to real property or tangible personal property in some way, i.e., pest control services for non-residential structures. She indicated that she thought in some instances technology would be assistive, but given the change in the global service markets, the difficulties from 1987 would be extensively magnified and that compliance would be incredibly difficult with some service taxes. Mr. McKeown noted that the record on compliance is difficult to quantify as the compliance with the 1987 implementation was just beginning to fall into place when the tax was repealed.

Commissioner Randy Miller asked Mr. Budonie to make some observations about the implementation process. Mr. Budonie indicated that he would point to the American Institute of CPAs guiding principle that taxes should be simplified whenever possible. He noted that the implementation of the services tax, then and now, is in direct contradiction of this principle. It is an extremely difficult tax to implement and with which to comply. He reiterated the comments of the director in noting that in 1987 we didn't have the internet or global service markets, and even then the department had to hire 125 new auditors to try to keep compliance in line.

At 4:55 p.m. Chair Story asked for a motion to extend the meeting until completion of the agenda. Several members so moved and a second was taken. The meeting was extended until its completion at 5:21 p.m.

Mr. Budonie continued with his remarks and noted that one of the strongest considerations in looking a new tax should be on its implications on Florida businesses. He said that the services tax had the potential to drive businesses out of state and penalized Florida based businesses.

Commissioner John McKay then asked Director Echeverri if it would be virtually impossible to administer a broad services tax in today's environment, and if the difficulties of administration are any greater than those of other forms of taxation. Director Echeverri responded that there are aspects of a services tax that would be very difficult due to situsing while others, like those already in place related to real property, would be less difficult to administer. Other states are administering some additional taxes and the director indicated that she thought some would be extremely difficult, while others would not be so bad. There are different challenges depending on the type of service.

Commissioner McKay then asked the department to inquire of other states to try to demarcate which services are difficult to administer and which are not. He indicated that

the committee should be reasonable in discussing which may be feasible and which are not. Chair Story asked the department to consider the request, but noted that the information would not be expected to be detailed, just a broad assessment. Commissioner Miller then asked to have the department contact the State of Massachusetts to determine why the service tax was repealed in that state.

Commissioner McKay then asked Director Echeverri about the total percentage of exemptions and exclusions were represented in the services tax. She responded that 27.8% of the total \$34 billion identified of services tax eligible would be exempt. Of the total available tax base, the exemptions represent 1.8%. Commissioner McKay then commented that the common belief is that service provision is the fastest growing part of the economy. He asked the department if there was a way to determine if the things we are currently taxing are growing or declining in a way that makes sense relative to our tax base and revenue needs. He was concerned that taxing the wrong things could place too much emphasis on areas with declining growth. Director Echeverri indicated that DOR could work with the Legislative Office of Economic and Demographic Research to try to provide answers for the committee.

Chair Story complemented all of the presenters and the Department of Revenue for the excellent presentation. She then called on Mr. James Dwyer, representing the Office of the Auditor General, to discuss local and state government reserve funds and their effects on bond ratings.

Mr. Dwyer gave a brief presentation on the interaction of a government's revenues, its ability to generate revenues to pay off bonds, and the various types of reserve funds used by governments to assure positive cash on hand, thus assuring positive bond ratings. He indicated that bond rating organizations are most interested in positive revenue flow and a healthy fund balance. There are multiple ways to reach those goals and bond companies will look at each government's structure separately to determine that government's ability to assure that bond indenture funds are available. He indicated that a bond company will take all of the variable parts of a government's budget assets and debts into consideration, including unreserved and reserved fund balances in determining the bond rating or eligibility.

Commissioner McKay asked if that meant that unreserved funds in and of themselves do not positively affect a government bond rating. Mr. Dwyer stated that such a fund balance could interact with other factors to affect a bond rating and would probably have some part to play in a decision. He indicated that generally the bond companies are looking for trends that indicate positive cash flow and enough money to pay off the debts owed over time.

Commissioner McKay then asked if there was a point of diminishing benefit to having an unreserved fund balance. Mr. Dwyer answered that while having such fund balances was generally a good thing, there was no magic number that was required. Anything over and above the bond indenture amount would be considered a good thing, but the real concern

of the bond rating company is whether there is a good track record and the ability to continue to guarantee adequate funds to meet the bond requirements.

Chair Story thanked Mr. Dwyer for his remarks.

Commissioner Martha Barnett raised the issue of the Strand v. Escambia County Supreme Court ruling and asked if the committee should take up a review of the case due to the impacts that the ruling will have on local government bonding capabilities. Staff indicated that the Governmental Procedures and Structure Committee staff is following the case, but that information will be provided, as requested, to members and to the full Finance and Tax Committee, going forward.

There being no further business before the committee, the meeting was adjourned at 5:21 p.m.