

State-County Functions Working Group (Transient Accommodations Tax)
(Established by Act 174, Session Laws of Hawai'i 2014)
State of Hawai'i
<http://auditor.hawaii.gov/task-forceworking-group/>

Minutes of Meeting

Date: Wednesday, July 1, 2015

Time: 10:00 a.m.

Place: State Capitol
415 S. Beretania Street
Conference Room 414
Honolulu, Hawai'i

Present: Simeon R. Acoba, Chair, Chief Justice Appointment
Sananda Baz, County of Maui Appointment
Ed Case, House Appointment
Mary Alice Evans, Governor Appointment
Steven Hunt, County of Kaua'i Appointment
George Kam, Senate Appointment
Deanna Sako, County of Hawai'i Appointment
Ray Soon, City and County of Honolulu Appointment
Tina Yamaki, House Appointment
Kerry Yoneshige, Governor Appointment

Jan K. Yamane, Acting State Auditor, Office of the Auditor
Kathleen Racuya-Markrich, General Counsel, Office of the Auditor
Jayna Oshiro, Analyst, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

John Kirkpatrick, Belt Collins Hawai'i
James Mak
Margaret Wille, County of Hawai'i Councilmember
Nandana Kalupahana, Committee Clerk, House Finance Committee

Excused: Neal Miyahira, Governor Appointment
Jesse Souki, Governor Appointment
Ronald Williams, Senate Appointment

I. Call to Order: Chair Acoba called the meeting to order at 10:02 a.m., at which time quorum was established. The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawai'i Revised Statutes, Section 92-7 (b).

II. Public Testimony

At this time, there was no public testimony. However, public testimony was provided at the end of the meeting.

III. a. Announcements, introductions, and correspondence

Chair Acoba welcomed Ms. Tina Yamaki, Executive Director of Surfrider Spirit Sessions, who is replacing Member Szigeti. Member Yamaki has also worked at Roberts Hawai'i as its Director of Sales, and at the Hawai'i Lodging & Tourism Association.

b. Minutes of May 6, 2015 meeting

It was moved by Member Baz, seconded by Member Yoneshige, and unanimously carried to approve the minutes of the June 3, 2015 meeting.

c. TAT Legislation – Discussion (handout)

ASA Yamane briefed the WG on the list of TAT legislation as of June 25, 2015. She and Chair Acoba testified on all dead bills to let the legislators know that the WG is continuing its work.

The following measures passed and were enacted into law:

HB 169 relating to taxation (Act 93);
HB 444 relating to beach protection (Act 117);
HB 1214 relating to the State-County Functions Working Group (Act 134); and
SB 284 relating to the transient accommodations tax (Act 121).

ASA Yamane prepared a handout that compiled the bills that passed to be codified under Section 237D-6.5(b), HRS, relating to the TAT distribution as of July 1, 2015. She noted the legislative history in the WG's interim report shows quite a bit of legislation over the past 20 years. This year, there has been a fair amount of significant changes, despite the WG's efforts to stave off TAT-related legislation.

She explained the following:

- (1) A big change was new language added "in the following priority" to the distribution of the TAT collected in the introduction paragraph.
- (2) \$1.5 million allocated to the Turtle Bay Conservation Easement Special Fund beginning July 1, 2015, for the reimbursement to the general fund of debt service on reimbursable GO (government obligation) bonds, until the bonds are fully amortized is new.
- (3) \$26.5 million allocated to the Convention Center Enterprise Special Fund has not changed.
- (4) \$82 million allocated to the Tourism Special Fund has not changed.
- (5) Allocated to the counties \$103 million for FY 2014-2015 and FY2015-2016; and the counties allocations have not changed. However, in the FY 2015-2016 allocation to the counties, language was included to appropriate \$165,000 for the purposes of this WG—\$15,000 for actual expenses and \$150,000 for procurement of a consultant.
- (6) Beginning FY2018-2019, the State director of finance may retain TAT revenues "If the county fails to remit the total amount of its required annual public employer's contributions into the EUTF (Employer-Union Trust Fund)." This language was passed last year.
- (7) Of the excess revenues, this is the \$3 million that goes to DLNR has not changed.

ASA Yamane will check with the Legislative Reference Bureau (LRB), who is the revisor of statutes, to verify the changes in the law. She explained that LRB plays an important role

because the Auditor's office uses its services for drafting legislation such as the proposed measure to amend the law based on the WG's recommendations. When the final draft report is ready, it will be shared with LRB, probably around November.

Member Case clarified that measures listed as dead may be taken up next legislative session so we may be dealing with 20 plus measures. ASA Yamane agreed, stating that it's possible the list of bills could double in size next year. It was a lot of work this session, it could be the same next session or even more.

IV. Consultant Services – RFP Status (handout)

ASA Yamane reported that one response to the scaled back version of the RFP (Option 2) issued in June was received and the Auditor's office procurement officer made a selection. The process is pending Chief Procurement Officers' approval from the Legislature before the contract can be awarded and executed. We cannot recognize anyone as a consultant until the process is finalized, but we will have a consultant.

State-County Functions Working Group Significant Dates and Deadlines, 2015-2016 (Handout)

To stay on track, ASA Yamane updated the handout by adding the deliverable dates in the RFP (Option 2) to the WG meeting dates and other important dates needed to finalize the report. The final report approval will be at the November 4th meeting. The final meeting the WG will have to finalize the report is December 2nd. The deliverable date of the report is December 30th.

ASA Yamane explained that in the past working groups or task forces that have worked with the Auditor's Office, have issued reports with a WG's letterhead in the consultant's form. Other kinds of work the office has done with consultants was put under the office's report cover and format, which is geared towards an audit report. She stated that a draft of Chapter 1 has been developed using the office template. The meat of Chapter 2 will be for the consultant to draft based upon the minutes as well as the investigative groups' reports.

Member Soon asked ASA Yamane for the highlights of the scope for RFP 2. ASA Yamane stated there are two objectives: 1) to assist the WG in developing models on the appropriation allocation of the TAT revenues based on the evaluation of duties and responsibilities between state government and counties relating to the provision of public services; and, the provision of public services relating to tourism; and 2) to assist the WG in providing research, analysis, and report writing.

Member Soon asked if the Allocation Models Investigative Group could interact with the consultant because that's where the WG needs assistance. ASA Yamane explained that the IGs were set up for very specific purposes; and by Sunshine Law, IGs must identify the objective and answer the objective and each member is given specific responsibility. To comply with the Sunshine Law, it's preferable for IGs to close their work according to what was designated in the scope worksheets. It doesn't preclude the WG from interacting with its consultant once they are on board. At the WG meetings, the consultant can reach out to individual members, or as an alternative and, if there's interest, another IG can be created for the purposes of interacting on certain topics.

Member Soon said their investigative group is set up specifically to look at allocation models. They kept it open and the WG hasn't accepted or approved it. The IG expected to continue with its work. He asked when the consultant is looking at models, does the WG need to change the role of their investigative group. ASA Yamane stated the way the Investigative Groups were set up, the scope was limited to reporting back. The Allocations Model IG reported back last month and the document is on this meeting's agenda for the WG to accept. The definition of the scope of the investigation was to aid the WG to consider various allocation models for the distribution of

TAT funds. The scope of each member's authority was to present the range of models, lay out possible advantages and disadvantages of models, and contribute to the discussion of various models. The report that was submitted, addresses those things. From a Sunshine Law perspective, it would be difficult to keep IGs open because they would need to continuously report back and the WG's decision to approve or accept the report would not occur until subsequent meetings.

Member Soon stated he doesn't want to get in the way of investigative groups but would like to foster detailed discussions on allocation models. He would like to find a way to facilitate those types of conversations or have a re-constituted investigative group. ASA Yamane stated a re-constituted group could work if it has the same reporting mechanisms. The consultant can speak to any WG member in a meeting, but cannot have serial communications or reach out to a group of members.

Referring to the schedule in the handout, Chair Acoba stated that the WG can continue to discuss these subjects. ASA Yamane said the WG is not foreclosed from scheduling more meetings. Currently, the meetings are scheduled for the first Wednesday of each month. It was discussed to have meetings every two weeks in order to meet the challenging deadline.

Chair Acoba stated the history of the WG should be included so the reader has an idea of when the moneys were available for a consultant and what obstacles if any, the WG had to overcome. Regarding the final report, he's satisfied there is a format to drop in information. He asked if there is an attempt to change or have a different format. ASA Yamane said the office has always worked with consultants on format. Many consultants have their own format. The office's responsibility is to publish the report; that's what part of that money is to be used for.

Chair Acoba would like the WG to get as much done as possible on matters agreed upon and have the information dropped in for the WG's preliminary approval. He expects the WG will spend more time discussing the more controversial parts of the report. ASA Yamane said some of the IG reports are in and can be easily dropped into a section of the report describing what the IGs were designed to do, what they discussed, and what's delivered. Chair Acoba would like to see drafts early, even if they're incomplete. ASA Yamane said as soon as the consultant is on board we could work with them to expedite some of the drafting.

V. Investigative Groups – Status, discussion, and acceptance of report(s)

- a. County Duties and Responsibilities Investigative Group – Status, discussion, and acceptance of report, *County Expense Summary with Nexus to Visitors* (handout)

Member Hunt reported that the counties' handout was updated from the previous one to include Maui County's entire operating budget. Maui County's revised total operating expenses noted in the third column is \$557,071,759. Member Baz stated that items related to the TAT, CAFR expenditures, and TAT allocation are included. Expenditures are based on allocations similar to other reports. Chair Acoba asked how the figure changed. Member Baz said they didn't include all of the CAFR. Member Evans noticed an interesting difference in the general government category between the City and County of Honolulu and Maui County, given the relative difference in size. The City and County of Honolulu has a fairly large amount (\$556,531,854) in the miscellaneous category compared to the general government totals (\$163,119,879). Member Baz said all the counties report different functional areas. Oftentimes, it's by department, and even though the department may have different functional areas, it all gets reported in one area; the easiest one is general government.

It was moved by Member Baz, seconded by Member Yoneshige, and unanimously carried to accept the County Duties and Responsibilities Investigative Group report.

- b. State Duties and Responsibilities Investigative Group – Report on Visitor allocated CAFR Expenses (May 2015) – Accepted at the June 3, 2015 Meeting

This item was not discussed. The State Duties and Responsibilities Investigative Group report was accepted at the June 3, 2015 meeting.

- c. Allocation Models Investigative Group – Status, discussion, and acceptance of report (handout)

Member Soon indicated the group did not meet again and is looking forward to meeting with the consultant.

DBEDT TAT Allocation Calculations Based on Recommendations Proposed by Allocations Models IG (Handout)

Member Evans distributed a handout prepared for informational purposes only by Dr. Eugene Tian, State Economist and Economic Research Administrator, Department of Business, Economic Development and Tourism. Based on the WG's discussion and recommendations from the Allocation Models IG, and assuming TAT revenue of \$400 million (FY 2015 = \$395 million), Dr Tian calculated the TAT allocations as follows:

HTA first allocation = \$83M
 State allocation = $90\% \times (400-83) \times 60\% = \$171.2M$
 County allocation = $90\% \times (400-83) \times 40\% = 114.1M$
 Remaining = $\$400M - \$83 - \$171.2M - \$114.1M - \$31.7M$

These calculations result in a county share of 28.5 percent.

Dr. Tian prepared the following table that compares each county's current TAT allocations based on different criteria currently in legislation.

County	Current TAT allocation	If based on daily visitor census	If based on visitor spending	If based on place of hotel operation
Honolulu	44.10%	47.30%	51.30%	42.50%
Maui	22.80%	26.70%	26.30%	34.50%
Hawaii	18.60%	14.40%	12.70%	13.20%
Kauai	14.50%	11.50%	9.70%	9.80%

Member Evans stated that Dr. Tian used the TAT collection by hotel operation data, based on DoTAX 2003 data. Member Evans recommended the WG make a request through the Auditor's Office to DoTAX for updated data on TAT collections by hotel operation.

Chair Acoba asked for any objections and Member Soon objected. It was moved by Member Evans, seconded by Member Yoneshige to ask the Auditor's Office to request the DoTAX for updated information on locations where TAT is collected by county.

Member Soon stated the four counties came to the WG in agreement that the allocation between the counties works and they can live with that. How to allocate the counties' share should not be part of the WG's discussion. The key question for the WG is how to allocate the TAT between the State and counties, not between the counties. He believes asking for the information from DoTAX continues that tangential conversation.

Member Hunt said another important issue is whether someone is staying in a \$400/night hotel or \$100/night hotel, that same person who may need a lifeguard or firefighter to rescue them is the same cost to the government regardless of how much revenue they've generated. The impact is the count more than the revenue. Pursuing the revenue side doesn't necessarily impact the services as well. We don't want to re-visit the allocation amongst the counties.

Member Baz agrees with Member Hunt. The WG group shouldn't discuss the allocation between the counties as part of its effort; it wasn't part of the original discussion. The focus is the TAT allocation between the State and counties. The information may be useful—hotel operation, is it a room count, room revenue, not sure what is being asked to be updated; the information might be great, but not relevant to this WG discussion.

Member Case stated he is in support of the motion to further an ongoing discussion with this WG. He is prepared to accept that the counties want to keep their split of the TAT allocation as is. But he wants to know what the information looks like. Whether the counties want it or not, questions will come up during discussions as part of the recommendation. We already have information on the differential between allocations. The issue of where is TAT collected on the county level is for informational purposes only. It's not a judgment on the underlying issue. He would like to know the answer and whether things have changed since 2003.

Member Yoneshige agrees with Member Case that it's good information to have and it is good to be able to say, we did look at the split between the counties.

Chair Acoba stated the legislators are smart enough to ask that question and the report would be incomplete knowing they would like that information. That split is in the statute and it's been carried out through all of the different versions of the statute. It's a natural inquiry that will arise. If we don't provide this information, the question will arise. When DoTAX did their presentation to the WG, the report attributes the income to where the reporting address is and so that doesn't necessarily represent where people are. The issue needs to be recognized in the report. We don't want to provide to the Legislature data from 2003. Getting the data would be helpful.

Member Sako said the assignment is to allocate between the State and counties, not to look at the TAT allocation among the counties.

Member Hunt stated he doesn't have a problem receiving the data, he has a problem if we need to update. There are reasons why the allocation may be different. For example, due to the geographic size of the Big Island, the cost of maintaining their roads is much higher than anyone else.

Member Baz stated the WG's two tasks are based on what public services are being provided by the State as one entity and the counties as another entity; not the State as an entity and the four counties as separate entities. He said if the WG sticks to the two task items we're supposed to be doing, he doesn't see a breakdown on allocation between the counties as the WG's responsibility.

Member Kam agreed with all the members, but stated having the information would be helpful.

Member Yamaki agreed that having the information is great because we always get questions from legislators. Based on past experiences, if you have data that's 12 years old, some of the legislators may get upset; so having the information is helpful.

Member Evans said there's no guarantee DoTAX has updated data. Member Yamaki said at least we can report that we asked for the data, rather than report this is all the data we have.

Chair Acoba asked for a vote to request the information. Members Yoneshige, Case, Evans, Kam, Yamaki, and Chair Acoba voted in favor. Members Sako, Hunt, Baz, and Soon voted in opposition. The motion carried to have the Auditor's Office obtain updated data from DoTAX.

Status, discussion, and acceptance of Allocation Models IG report

Member Evans suggested the IG may not be ready to have its report finalized and accepted. There were questions raised in the last meeting to look at whether the HTA should get a fixed amount, or be capped at \$82 or \$83 million, or have the ability to reflect increases in the cost of living, and avoid the Legislature having to re-visit this every year. Member Baz added that the IG may want to further discuss other options; and specifically analyze whether to provide HTA funds at variable percentages instead of at fixed dollar amounts.

Member Case said he's intrigued by Dr. Tian's analyses. The trend in the counties' share is pretty stark. This tells the story why the counties need a predictable and stable source of funding from the TAT. This does nothing to change his view, that the counties should have a guaranteed minimum in the TAT split. Dr. Tian's analysis indicates the counties' share seems to be on the low side. If the WG's recommendation is applied to the current TAT, \$400 million roughly, that would yield 28 percent to the counties, which is actually more than the last couple of years, but that just depends on the total take from the TAT. The issue is the trade-off we talked about. What if the TAT declines? Does the counties' share go up in that situation? It should, if we are following that approach. In return for some predictability for HTA and the counties, the State gets the up side of \$400 million, and the counties' share does go down. The counties' share is not really the issue. The issue is more, what is the end take to the counties and the ability to depend on that.

Looking at the distribution, Member Hunt suggested an alternative recommendation could be to carve out \$283 million—\$83 million to HTA; \$100 million to the State; \$100 million to the county. Even above that, you would have 2 percent to HTA; 10 percent to the Legislature; and 88 percent to the county and State together. The State-County distribution, could be 65/35, which is more in line with Kaua'i's CAFR, or 70/30 whatever the relationship is. The excess would be shared, but the first \$283 million would essentially be a fixed and guaranteed amount. If for some reason, the total intake dips below the \$283 million, then, the counties and State would still share 50/50 of that floor. Bringing HTA into having that share when things are good would at least avoid having to go back to the Legislature when the \$83 million, ten years from now doesn't represent the costs of operating at the current level of the budget.

Member Yamaki said the percentages are not really telling because back in 1990, TAT was at 5 percent and now it's up to roughly 17 percent. Also, the revenue and room rates may fluctuate too. Member Hunt stated the 5 percent TAT with 95 percent sharing, if the counties were to share in that, it would be a whole lot better off.

Chair Acoba stated there's always a problem with setting a dollar amount. The built in assumption is there's going to be enough to give the counties \$100 million; and always have at least, \$283 million. When you go on absolute numbers, circumstances may be far-fetched where it's not going to work. The formula may not have an enduring effect because circumstances change.

Member Soon stated the IG envisioned allocating \$83 million first to HTA. If TAT collections dropped below the \$283 million, the State and county shares would drop together. The assumption is \$100 million is not fixed, just next in line.

Chair Acoba asked if the investigative group considered percentages because \$83 million is about 20 percent of the \$400 million. He thinks they are looking at relationships—how much do you want to give to the tourism industry versus how much you want to reimburse the counties and split up the revenues.

Referring to the proposed recommendations, Member Soon explained the fixed number was \$83 million; the next 90 percent was 60/40 but no less than \$100 million; the last 10 percent is discretionary for the Legislature to address visitor industry issues of the day. If the HTA needed less or more than the \$83 million, the Legislature would have that 10 percent discretionary TAT moneys to address HTA and visitor industry issues. The problem today, with percentages, if you take anything out, you're taking from both the county and the State. The IG was trying to provide predictability for the county and the State and leave the Legislature some discretion to deal with the fluctuating nature of the industry.

Chair Acoba asked if the 10 percent can be separated from the excess amount that goes to the general fund or is it a special fund. Member Baz stated it would be unallocated and left to the State Legislature to decide how to allocate. The 60 percent of the 90 percent goes to the State general fund; 40 percent of the 90 percent will go to the counties' general fund; and the HTA will get the fixed amount. So, the 10 percent is basically another unallocated amount from the TAT. The Legislature would decide what to do with it. They have over 70 percent to allocate because they were taking 10 percent off the top and dividing up the rest of the 90 percent.

Chair Acoba asked if the 10 percent is allocated to the general fund or would the statute describe it as a special fund. Member Case said the Legislature will allocate it by their budget process or by statute, for example Turtle Bay; and the Convention Center would come from that share. Member Baz said theoretically the 10 percent goes to the general fund. Member Case said it could go to a special fund if they create a special fund. Member Sako stated, each year they will have to work on it through their budget process. Member Yoneshige said the Legislature could identify how that 10 percent would be transferred to, whether it's the general fund, special fund, DLNR, HTA. If the budget gets tight again, they will designate the 10 percent by law, to the general fund for the next two years.

Chair Acoba asked if we're supposed to give the Legislature a formula that has some permanence would you want something to be adjustable in terms of circumstances where the Legislature, every session decides on a new statute. That is what they wanted to get away from, every year it kept changing. Member Yoneshige stated the Allocation Models Investigative Group thought putting the 10 percent aside for the Legislature would allow them the flexibility to utilize the funds for initiatives that arise during session.

ASA Yamane introduced Nandana Kalupahana, Committee Clerk, House Finance Committee, as the person in the room who could offer some expertise about the budget process.

Member Yoneshige added the Legislature could allocate the 10 percent by proviso in the budget bill every year.

Member Soon asked what happens to the excess money from the TAT, if it doesn't go to them, does it go back to the general fund. Member Baz stated the 10 percent is for the

Legislature to control. If they did the split, take off the \$83 million and split 100 percent of the balance, 70 percent as the State's share and 30 percent as the counties' share, or 60/40, then the administration, in their proposed budget, will have allocated 100 percent of the 60 percent. Whereas, if it's written into the bill, that 10 percent is to be allocated by the Legislature, then when the administration presents their budget, they can only use 90 percent of the amount, not the extra 10 percent.

Member Yoneshige stated the 10 percent reduces the opportunity to continue to use the TAT as a source of funds for all different sorts of things.

Member Yamaki stated that no matter how many buffers are set up, the TAT collected is a huge revenue source that tourists pay and everyone will try to get it. Everyone has seen it happen for the past 20 plus years.

Chair Acoba stated he's trying to comprehend the 10 percent and how it will be written in the statute where it actually becomes part of the general fund.

Member Case asked whether the group has gravitated towards the 60/40 as a split to be used in the formula. From his perspective, the 60/40 is a good working model for the sake of the WG discussion. For general purposes, does it work, or are they way off? Member Soon referred to Member Yoneshige's analysis at the last meeting about delving deeper into the State's allocations and talking about the 60 percent as being reasonable.

Chair Acoba asked if it made sense to use, \$83 million, in a tiered formula until the Legislature changes its mind. Would the \$83 million have an impact on the rest of the formula? If you have a dollar number and somehow it doesn't work out, then it starts affecting the rest of the formula.

Member Soon stated the philosophy was to protect the HTA when TAT goes down. If it goes down, HTA's share wouldn't go down. We could prevail on the Legislature to borrow from the 10 percent. He would be comfortable using percentages.

Member Baz built a formula with a set \$83 million plus two percentage point variable of the balance that's available, including the Legislature's designated 10 percent, the counties' 40 percent, and the State's 60 percent. We could make the formula work. Member Soon asked about the two percent. Member Baz explained that by giving a set dollar amount plus a small percentage of the total, then instead of having 100 percent left available for distribution, it's 98 percent. Member Hunt stated the 90 percent will become 88 percent, that would be the 60/40 split with the caveat being the next \$100 million each to State and county. The excess would start kicking in over the \$283 million.

Member Yoneshige was concerned that it's assumed the \$82 million is HTA's budget. The HTA would need to go to the Legislature with their budget to ask for the 2 percent and if the Legislature approves their budget the adjustment can be made to the TAT allocation, as opposed to automatically getting the 2 percent without asking for it in their budget. What he doesn't want to see is HTA getting a slush fund. The time to protect HTA is when the TAT is down or when tourism is going down. If HTA needs to increase its budget, they need to go through the normal budget process mechanism.

Member Case stated the argument is still from HTA's perspective. HTA as well as the counties need predictability and certainty. HTA should not have to beg the Legislature every year and defend a minimum amount. What has hampered HTA is the uncertainty. HTA doesn't get enough of the TAT dollars to market the State to the rest of the world. Hawaii has one of the lowest shares of tourism marketing to actual interest in tourism in the whole world. From his perspective, HTA should get the first share because that's

what the TAT was originally supposed to be doing, a joint marketing effort. The State is given a lot of TAT money to use flexibly. What's important in this formula is a minimum level of guaranteed funding to HTA first because these are tourist dollars.

Member Yamaki agrees with Member Case. When the TAT was first created, HVCB (Hawai'i Visitors and Convention Bureau) was coming to the Legislature year after year asking for money, which is why the HTA was created to strengthen the tourism industry. The stronger the industry, the more TAT will be collected.

Member Evans left the meeting at 11:22 a.m.

After discussing the Allocations Model Investigative Group report, Chair Acoba asked whether the WG wanted to accept some of the recommendations or the entire Allocation Models IG's report.

Member Baz stated it may be premature to adopt the report at this meeting until a consultant is on board since part of their responsibility is to provide us with allocation models. He wasn't sure if the WG's acceptance could be partial.

ASA Yamane explained that the charge to the investigative group is fairly broad, that is to "aid the WG to consider various allocation models for distribution of TAT funds." The IG would have to come back with their models to present to the WG. The charge was not for the IG to try and weed out the options, that's for the WG to do.

Chair Acoba asked if there's anything that prevents the WG from saying option 2 is not something we will accept. Member Case was not comfortable dismissing any one category.

Chair Acoba then asked the WG what they wanted to do with the report. Do they want to accept part of it?

Member Soon asked if they could meet again or do they need to reconstitute a new investigative group. ASA Yamane said it depends on what the IG is planning to do. Referring to Section 92-2.5, HRS, she explained that it would be permissible for the group to interact again to consider questions it originally set up to do, but it would need to report back to the WG and final decision-making would not occur until the next meeting. The investigative group would bring its options to the WG as a whole. It would be cleaner to accept the entire report as opposed to pieces of it.

Member Soon suggested accepting the report or reconstituting a new investigative group.

It was moved by Member Soon, seconded by Member Case, and unanimously carried to accept the Allocation Models Investigative Group report.

Member Case left the meeting at 11:31 a.m.

- d. Visitor-Industry Investigative Group – Report on Visitor Industry Views on Visitor-Related Needs for State and County Services – Accepted at the June 3, 2015 meeting.

This item was not discussed. The Visitor Industry Investigative Group's report was accepted at the June 3, 2015 meeting.

- e. Establishment of other investigative groups – Discussion

ASA Yamane distributed the instructions for reconstituting a new investigative group.

Member Soon stated the Allocation Models IG was interested in brainstorming with the consultant as they are doing their work. Member Yoneshige suggested reconstituting the IG with a different purpose; that is, to work with the consultant.

ASA Yamane explained that the IG could be reconstituted for the purpose of working with the consultant, provided no decisions are made and the scope of the investigation is defined along with the scope of each member's authority, and the resulting findings and recommendations are brought back to the WG. The deliverables and decision-making must occur at a noticed meeting, held subsequent to the meeting at which the findings and recommendations are presented to the WG.

Chair Acoba asked if the WG could work as a whole to get information. ASA Yamane said yes and suggested that an alternative would be to set more WG meetings, every two weeks for a month and a half. By doing so, everyone will be included and feel involved; we don't want anyone to feel that their voices are not being heard.

Member Soon agreed that having more meetings on the allocation models where the WG can voice their ideas and principles was better and another investigative group was not needed.

No new investigative groups were established at this meeting.

Scheduling additional WG meetings with the Consultant

ASA Yamane stated that currently meetings are scheduled on the first Wednesdays of every month. An idea might be to have a second meeting on the third Wednesday of the month or whatever date works for the majority of the group.

Member Yamaki asked if a meeting contingent on the consultant being on board could be scheduled. ASA Yamane said yes provided an agenda is filed, but if the consultant is not on board by a particular date, we can always cancel the meeting.

The WG agreed to hold its next meeting on Tuesday, July 28th at 10:00 a.m. Conference room to be determined.

For purposes of an agenda, Chair Acoba said we could list items IV – VII on this meeting's agenda.

Chair Acoba raised issues for discussion to be covered at the next meeting on the TAT allocation models.

Chair Acoba stated the legislative history says the Legislature wanted to set a permanent model. Would we have a formula that meets all of the circumstances? The WG realizes the Legislature can accept, not accept, or change the WG's formula at the next legislative session. The more it's like a statute, the less the persuasive power given that the Legislature can allocate \$83 million or \$100 million, and are doing that already. The idea of permanency is key because what the WG's work is subject to amendments unless it has enough persuasive power that the Legislature will be persuaded to give it a long-term effect. The only other way to make it permanent would be to suggest a constitutional amendment. It could be included as a footnote, but that's a possibility, we could have a constitutional amendment.

Chair Acoba said the WG did a great job because they talked about giving the counties the power to tax and this should be in the report. DoTAX also suggested that as an

alternative. The question is, does the WG agree or disagree with using that alternative? The tiers models suggest, if you plug in specific dollar amounts, a lot of assumptions are being made of what the future holds thus making the model less flexible because, if the \$83 million doesn't work out along with the \$100 million each, then the Legislature would be obligated to change our recommendation, i.e. change the model.

Chair Acoba said in Act 174, there were a lot of set-asides—the Convention Center has to come from the State. Also, do we retain the provision regarding the counties' share relating to the Employer-Union Trust Fund? Has the money already been appropriated for the North Shore project or does it come out from funds in the future? Whatever the WG suggests may have to be modified as suggested by all the pending legislation where moneys have already been obligated.

Member Soon stated it sounds like Chair Acoba is leaning towards some listing of principles around the model in which we develop. To get the Legislature to agree on certain principles would help to keep the model intact longer. We may want to come to the table and see what principles we want to see vested in the model. Chair Acoba suggested setting up a model in the statute separate from one that allocates money.

Member Baz indicated it's done at the county level. They set up the philosophy of something in the county code and then allocate during the budget process.

ASA Yamane stated if it is crafted the right way, you can imbed a preamble, even if it doesn't get codified, it becomes part of the legislative history. A preamble can express the intent of the group, the models you worked through, and the principles adopted that stand behind those models. As the work moves ahead, the WG would want to ensure that the legislative committees in the committee reports refer to certain principles that are part of the legislation.

Chair Acoba thought the consultants could help with arriving at certain figures with certain percentages. What kinds of justification do we have except for the fact that the Legislature, for whatever reasons came up with that specific figure. We don't really know what the rationale is. If you take the last three years or last five years and annualize it and say, over the last five years, this is the average and use that as a justification for a figure for the last three years, it has limited value because you also have to project that into the future. Maybe the economist/expert can make some projections based on the past into the future to justify the amount we arrive at. Percentages may work better if we are trying to establish formulas.

ASA Yamane stated the parts of the TAT that are considered debt service must remain within that context, including the \$1.5 million for Turtle Bay and the debt service for the Convention Center. Member Sako stated the debt service will be fixed and not have a percentage for the entire time. ASA Yamane said for those things, you're looking at a specific figure.

Member Baz shared that debt service was discussed within the investigative group. The debt service for the Convention Center, for example, varies over the years because other things were built and added to it. So, if you give a certain amount, it could restrict them from investing more into that; having debt service pay. He doesn't know if it's special revenue bond or G.O. bond. The State in general has the responsibility to pay all of its debts as provided in the Hawai'i State Constitution; that money cannot be removed. Another item discussed, was should taxing authority be reviewed—should the counties have their own taxing authority for TAT. Having that full discussion at the next meeting is appropriate because all of those things can be discussed as a whole, instead of with just a few of the members.

VI. Evaluate the division of duties and responsibilities between state and counties relating to the provision of public services

This item was not discussed.

VII. Allocation of TAT Revenues

This item was not discussed.

Public Testimony

Ms. Margaret Wille, Councilmember, County of Hawai'i, provided public testimony. The county's TAT allocation is down to 23 percent from 44.8 percent. She agrees with Member Case that HTA should be allocated an amount off the top, whether it's 28 percent, or no less than \$83 million, under extenuating circumstances. She thinks a 50/50 allocation between the State and counties is fair. She referred to principles discussed in the Department of Taxation's report to highlight the importance of giving the counties the authority so that every year, the counties are not going to the Legislature. She said there is one question on the authority to tax; whether the counties can tax up to five percent.

VIII. Adjournment: With no further business to discuss, Chair Acoba adjourned the meeting at 12:00 p.m.

Reviewed and approved by:



Jan K. Yamane
Acting State Auditor

[X] Approved as circulated.

TATWG/20150701