

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, April 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
Ed Case, House Appointment
Mary Alice Evans, Governor Appointment
Steven Hunt, County of Kaua'i Appointment
George Kam, Senate Appointment
Neal Miyahira, Governor Appointment
Deanna Sako, County of Hawai'i Appointment
Jesse Souki, Governor Appointment
George Sziget, House Appointment
Kerry Yoneshige, Governor Appointment

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

Margaret Wille, County of Hawai'i Councilmember
Dan Purcell

Excused: Sananda Baz, County of Maui Appointment
Ray Soon, City and County of Honolulu Appointment
Ron Williams, Senate Appointment

I. Call to Order: Chair Acoba called the meeting to order at 10:05 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

Two members of the public provided testimony at the beginning and end of the meeting:

1. Margaret Wille, Hawai'i County Council, Councilmember, is Vice Chair of the Committee on Governmental Relations and Economic Development. She presented her personal views opposing the direction of the Working Group's (WG) work. She explained that it was the understanding back when TAT was changed that the cap was temporary. She stated that the original intent of the TAT was for the counties to receive 95 percent of the TAT revenues and 5 percent to the State for administrative fees. She did not favor a cap on the amount of money to the counties because it was a disincentive.

Member Case explained that the WG is mandated to evaluate the division of duties and responsibilities between the state and the counties; and recommend an allocation of the TAT between the state and counties. At this point, the WG has not drawn any conclusions. He asked if she had any general ideas or comments on the breakdown of responsibilities between the state and counties, particularly tourism related, or how the TAT allocation should be split.

Ms. Wille responded that the TAT is a main source of revenue for the counties. Ms. Wille also stated that more direct grants should go directly to the counties rather than through Hawai'i Tourism Authority (HTA). She further stated that tourism impacts land, roads, water, beaches, and trash. In her District 9, North and South Kohala, she said there are more tourists than residents on any given day.

Member Souki arrived at 10:10 a.m.

2. Mr. Dan Purcell commented that Hawai'i County has the motherload of venues that impact county services. He also asked that the public be given a chance to comment at the end of the meeting after presentations by investigative groups are made.

III. Chair's Report

- a. Announcements, introductions, and correspondence (handout)

Handout from the National Conference of State Legislatures (NCSL) provides information on what other states' lodging taxes and advantages and disadvantages of local taxes.

- b. Minutes of March 4, 2015 meeting

It was moved by Member Hunt, seconded by Member Evans, and unanimously carried to approve the minutes of the March 4, 2015 meeting.

- c. Legislation - Discussion of TAT and SCFWG bills and testimony (handout)

ASA Yamane summarized the following handouts:

1. List of bills alive and dead relating to the TAT
2. List of testimonies presented to the Legislature

ASA Yamane thanked the Chair for attending and testifying at hearings. She said it is an immense responsibility to cover all these hearings on very short notice. She also stated that House Bill No. (HB) 1214, which is the WG budget bill, has not been scheduled by the Senate Ways and Means Committee for a hearing at this time.

IV. Presentation by the Department of Taxation (DoTAX)

Ms. Mallory Fujitani, Public Information Officer and Legislative Coordinator
Mr. Don Rousslang - Tax Research and Planning Office
Mr. Jacob Herlitz - Administrative Rules Office

Mr. Rousslang led the discussion with an overview of the following handouts:

- 1) Excerpts on county revenues and policy options from the 1988 Tax Review Commission Report, pgs. 51-57;
- 2) *Taxes on Hotel Rooms – An Informal Survey of Various Cities*, dated March 27, 2015, obtained from the 2010-2013 Tax Review Commission developed by the PFM Group;

- 3) DoTax chart of *Transient Accommodations Tax Collections and Distribution* for FY1987 to present FY2015, showing shares in millions distributed to the counties, the Tourism Special Fund, the Convention Center Fund, and the General Fund; and
- 4) *A Brief History of the Transient Accommodations Tax Allocations.*

Mr. Rousslang summarized the percentages from the *Taxes on Hotel Rooms – An Informal Survey of Various Cities*; State and local jurisdictions. This handout was prepared to compare Hawaii's taxes on hotel rooms compared to other jurisdictions and visitor destinations. Member Szigeti observed that most of the higher percentages in other destinations are driven by business travelers whereas Hawaii's are from leisure visitors.

Member Case stated that the WG's legislative mandate is to recommend the allocation of the TAT between the State and the counties. He said what we do with the TAT impacts the other taxes such as real property, GE tax, and presumably the way the TAT is allocated will have some impact on how the State and counties treat those other taxes. He asked from a tax perspective, should the TAT be weighted. Mr. Rousslang said it's a very deep question. He said that a study done from the 1988 Tax Review Commission, *Intergovernmental Fiscal Relations in Hawai'i*, talks about how tax responsibility should be divided between the State and counties and how responsibilities for providing services should be divided between the State and jurisdictions.

Ms. Fujitani stated that the Tax Review Commission convenes every five years. The next report to the Legislature is expected by the end of 2016. All commission reports and attachments are available at DoTax's website: <http://tax.hawaii.gov/stats/>

Mr. Rousslang stated the 1988 Tax Commission Report, which is 25 years old, addressed the TAT.

Member Evans asked if the counties in the State are able to vote for and levy fees or taxes on hotel use in their counties or is it reserved under the State Constitution. Ms. Fujitani said it's best to look at it as the State has the taxing authority except as provided under that constitutional amendment that provides taxation for real property to the counties.

Mr. Rousslang stated that the handout on *TAT Collections and Distributions* includes historical data on collection and distribution of the TAT from FY1987 to present FY2015.

Member Case asked from a taxation perspective, are the allocations weighted from the state side or city side of the TAT. Mr. Rousslang said the Tax Review Commission study looked at what other states do and noted that Hawai'i's has one of the lowest property tax rates in the nation.

Member Souki stated that one struggle is on equity--what is the right way to tax. In the absence of a TAT, the counties have property tax. There has never been an intent for the TAT to cover, specifically, the impact of tourism. There's never that nexus or link. Mr. Rousslang replied, the reasons given in the committee report for choosing the TAT as opposed to other options was that they could have added smaller taxes instead of allocating some of those revenues to the counties, but they thought they needed a bigger tax because the administrative costs of doing county apportionments would be easier if done from one tax rather than doing it from several taxes. He also stated that the Tax Review Commission Report provides a breakout as to how much of the public outlays that directly support tourists is from the counties and the State. Increased pressure from the visitor industry means greater demands for county services.

Member Miyahira stated property tax in Hawai'i is not a model; there are different classifications on properties. Mr. Rousslang stated if the county uses its present real property tax to selectively impose a heavier burden to other industries who are currently paying non-residential real property tax, the Legislature may re-examine this TAT sharing mechanism.

Member Hunt commented that there are a lot of centralized companies reporting revenue in Honolulu. If the WG looks at population, it needs to look at the population of visitors in relation to residents. Certain counties have a much higher visitor impact than other counties.

Member Yoneshige arrived at 10:50 a.m.

Chair Acoba asked if there is a way to categorize taxes. Further, he asked how would the TAT be categorized as a tax and what is the tax supposed to do. Mr. Rousslang stated that the purpose of taxes is to provide government services. Taxes come from revenues that are dedicated to the general fund to cover general operations; fees are generally imposed to cover costs of providing a particular use.

Chair Acoba stated the TAT is not only focused on tourism issues or concerns, but it also has a provision for covering the counties liability on health benefits. How is this tax characterized if the TAT is being used for that? Mr. Rousslang said this is a county general fund type issue and the reason they tied the TAT to this is because for the State, they tied it to the GET. The counties didn't have this, so they used the TAT. Member Hunt said it's Act 268 (SLH 2013) where it deals with the health benefits.

Chair Acoba asked if there was a revenue purpose behind the bill because the legislative history says the counties can use the taxes for any purpose; but apparently, there is a nexus between the collection of taxes and tourism. Mr. Rousslang replied it would be very hard to earmark TAT funds for public services that benefit tourists; for example roads which are paid from fuel tax. Chair Acoba asked in the formulation of what the counties would receive, you would be able to consider what expenses the county had in terms of tourism. Mr. Rousslang replied, the legislation that allocated to the counties basically gave them all of the TAT, only 5 percent for collection fees and the counties bear a lot of the costs for tourists. The study by the Tax Review Commission says 53 percent is paid for by the counties. So obviously, they didn't follow the 53 percent, they gave the counties all of it. So, the Working Group's job is very hard.

V. Consultant Services - RFP

ASA Yamane reported the office will release the RFP depending on the moneys provided in HB 1214. We will have a better idea at the end of April when the budget is finalized and will report back to the WG in May.

VI. Investigative Groups - Status and discussion (handouts)

a. County Duties and Responsibilities Investigative Group

Member Hunt reported that their investigative group is still in process of naming a chair and the group is still working on their duties and responsibilities.

b. State Duties and Responsibilities Investigative Group

Member Yoneshige reported that their group has started to look at state expenses in the CAFR and expenses directly related to, and not directly related to tourism, but support the basic line operations. The group will convene again in April.

Chair Acoba stated in terms of the evaluation of state and county duties and obligations could the state and counties CAFR line up. Member Yoneshige stated to the extent the expenditures are similar, it will line up. There are also components that won't line up.

ASA Yamane reminded the investigative groups each has very specific duties and responsibilities. She cautioned that interaction and decisions between two groups is not allowed.

Member Hunt stated there are going to be areas where there will be not only expenses related to tourism but also other revenue sources related to tourism. For example, the counties have real property tax, tax class for hotels and resorts, so we have county revenues that are related to the visitor industry. Whereas, airports and harbors, they charge fees and have concessions; so highways may align better because both have vehicle weight taxes and registration fees. He stated that the WG should not only look at expenses but also revenues.

c. Visitor Industry Investigative Group

Member Case reported the following:

Scope: To review and summarize visitor industry and other views on visitor related needs for state and county services.

Methodology: The investigative group surveyed their own constituencies to find out what types of government services provided by both state and counties that relate to tourism needs. The group surveyed Maui Visitor's Bureau, Waikiki Improvement Association, Outrigger Hotels statewide; and the hotel and lodging industry. The group reached out statewide online and through surveying the neighbor islands.

The top four tourist-related issues were: 1) transportation; 2) parks and recreation; 3) public safety; and 4) homeless.

Member Case provided the following comments:

- 1) Transportation issues included airports that need improvements such as upgrade, tourism friendly, security, and restrooms. Improvements to road conditions, better signage, and public transportation were also issues raised.
- 2) Parks and recreation issues included beach restoration, DLNR hiking trails, and lifeguards. In addition, facilities in parks, including public restrooms, need to be clean, safe, and usable.
- 3) Public safety issues, in general, related to law enforcement. Provide for the health safety, and welfare of our visitors.
- 4) Homeless in Waikīkī and across the state.
- 5) Marketing - tourism marketing money to HTA is not factored in, but should be discussed.
- 6) Education needed for workforce development in the tourism industry and cultural education.

Member Szigeti added that an important factor to consider is health, safety, and welfare for our locals as well as visitors on homelessness. It's a statewide issue.

Member Souki stated parks are a big issue. If we freeze the amount of services we are required to provide, we don't have enough, even if you allocated a large portion of TAT to that, it still wouldn't be enough to cover.

Member Case said the number one priority is transportation and airports. Roads are part of being tourist-related and how the TAT should be allocated. The group may need to re-visit areas such as parks and recreation and public safety.

Chair Acoba agrees with Member Case and said if parks need to be upgraded, or there should be some responsibilities because of the impact of tourism, that seems to fall within the category of allocation.

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

Chair Acoba stated the evaluation of duties and responsibilities is a very simple issue. Lay out what functions clearly fall within the state's purview and what falls within the counties. If there are areas that overlap or seem to present some issues, then these issues may be raised in the report.

- VIII. Allocation of TAT Revenues

Chair Acoba stated the report needs to set out what the WG considered. The WG does not have to accept the relationships, ratios, formulations, but can look at population, tourist, who collects the most TAT revenues, expenditures, length of stay of visitors, and use that as a different ratio allocation. He pointed to Member Hunt's chart as a good model, which lays out all the ratios--the counties collecting the most TAT revenues--and the percentage compared to other counties.

ASA Yamane distributed instructions for the investigative groups and due dates for agenda items for the next meeting. The office will look to Members Hunt, Yoneshige, and Case as the contacts for reporting.

Public Testimony

Chair Acoba invited members of the public to comment on the investigative group presentations.

Ms. Wille stated she appreciates the WG looking at all different levels. The State controls tax at every level. She agrees there is a need to look at transportation, parks, and HTA. She appreciated the opportunity to lobby for the county.

Mr. Purcell commented on the investigative groups. He has been advocating for more diversity. The tourism industry provides low-paying jobs. Homelessness is a problem. Tourism is creating a poverty problem.

- IX. Adjournment

With no further business to discuss, Chair Acoba adjourned the meeting at 11:46 a.m.

Reviewed and approved by:

Jan K. Yamane
Acting State Auditor

[] Approved as circulated.