

**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: January 6, 2016

Time: 10:00 a.m.

Place: State Capitol  
415 S. Beretania Street  
Conference Room 225  
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  
George Kam, Senate Appointment  
Deanna Sako, County of Hawai'i Appointment  
Tina Yamaki, House Appointment  
Kerry Yoneshige, Governor Appointment

Jan K. Yamane, Acting State Auditor, Office of the Auditor  
Jayna Oshiro, Analyst, Office of the Auditor  
Pat Mukai, Secretary, Office of the Auditor

John Kirkpatrick, Belt Collins Hawaii LLC

Excused: Steven Hunt, County of Kaua'i Appointment  
Neal Miyahira, Governor Appointment  
Ray Soon, City and County of Honolulu Appointment  
Jesse Souki, Governor Appointment  
Ronald Williams, Senate Appointment

I. Call to Order: Chair Acoba called the meeting to order at 10:01 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

None

III. Chair's Report

a. Announcements, introductions, and correspondence

None

b. Minutes of December 2, 2015 meeting

It was moved by Member Evans, seconded by Member Yoneshige, to approve the minutes of the December 2, 2015 meeting. Member Case requested a change to

page 3, last paragraph, line 7, the words "allot able" should be "a laudable." It was unanimously carried to approve the minutes of the December 2, 2015 meeting, as amended.

#### IV. Presentation of the Final Report to the Legislature - Discussion

ASA Yamane stated that the final report was delivered to the Legislature on December 28, 2015 and released to the press/public on December 29, 2015. The report has been posted to the Auditor's website.

ASA Yamane stated that a request will be made to Senate President and House Speaker to introduce the bill in Chapter 4 of the report that was drafted by the Legislative Reference Bureau. The bills should be companions—one on the House side and one on the Senate side. We are in the process of scheduling meetings with leadership, chairs of the money committees, as well as with chairs of tourism committees. We would like to schedule the meetings next week, if possible, before session starts. We know all the agencies are going through their budget briefings right now so the money chairs are very busy. We will try to schedule the meetings with leadership first. Once we set those meetings, if any members would like to attend, please let us know. However, no more than six members can attend the meeting—to avoid having quorum.

The office provided the group with links and pdf files of news articles on the Working Group's report. There have been some Star-Advertiser articles as well as Civil Beat articles that referenced the Working Group's report in the budget briefing of the Director of Finance.

ASA Yamane also stated that the office has distributed an errata sheet regarding the report. Mr. Kirkpatrick informed the office that on page 2-14, that there was an error in Exhibit 2-12. Hard copies of the errata sheet have been sent to all members as well as to all who received hard copies of the report. The page has been corrected on the office's website.

Member Evans wanted to thank ASA Yamane and the staff for the exceptional support for this working group. They did an amazing job and she shares with everyone appreciation for their work.

Chair Acoba asked Mr. Kirkpatrick to discuss the errata sheet. Mr. Kirkpatrick indicated there was an error in the spreadsheets. When Chair Acoba had asked Mr. Kirkpatrick for more information on the methodology behind the various ratios, Mr. Kirkpatrick discovered the error and sent out the correction. Member Yoneshige said it was better that he found it rather than someone else bringing it to their attention and appreciates his frankness. Mr. Kirkpatrick said he felt the error was misleading and they needed to correct it.

Member Sako had some questions. When the group was going through the process and one of the decisions was based on some of those numbers; it's gross and net, net of what? It's highly unusual that gross and net come out identical; it's usually a net of something. In her mind, it was the gross expenditures on the government-wide worksheet from the CAFR and the net was after the general revenues. She would like to see the numbers; they have been relying on numbers this whole time. Mr. Kirkpatrick replied the numbers are from the CAFR and from different CAFR tables. The government activities gross; total spending for State and counties, the gross is \$11 billion; net is \$11.4; net comes to 7.6 and the actual ratios end up being the same. He did find in the CAFR two different ways to consider net and the alternative way that came out with slightly different numbers instead of being 81/19 the alternative count was 83/17.

Member Sako asked Mr. Kirkpatrick if he used the Statement of Activities. Mr. Kirkpatrick answered yes. She asked not the Governmental Statement of Activities. Mr. Kirkpatrick said yes.

Member Evans asked what is the proportional share of the WG's recommendation based on the current state and counties revenues and expenditures, looked at with the above the line items of the Tourism Special Fund (TSF), Turtle Bay, Convention Center, and DLNR fund counted into the State's proportional share, do you happen to have a calculation on what the two proportional shares would be? Mr. Kirkpatrick said yes, if we divide the State as above the line items, we would come up with the FY2015 numbers, \$203 million for the State; \$115 million for the above the line items; \$103 million for the counties—48 percent for the State; 27 percent for the above the line items; 24 percent for the counties. So the way Member Evans asked the question, what's the State, including all the above the line items which is 75 or 76 percent. She asked about the counties' share, in which Mr. Kirkpatrick said it would be 24 percent. That's the current situation.

Member Sako asked if all the tables in the report are correct. Mr. Kirkpatrick replied he reviewed all the tables prepared by his firm. He said the reports from the investigative groups were handled and reviewed by the Auditor's Office.

Member Evans asked Chair Acoba if the consultant could provide the proportional share of the FY2015 in writing in case they are asked. Chair Acoba said he asked Mr. Kirkpatrick to break out the percentages for the set-asides State and counties' shares from inception of the TAT tax up to the present so we can see how the break out in percentages are with respect to the total amount of the tax revenues and the breakout as far as the remainder after the set-asides are accounted for.

Member Evans also stated that there appears to have been a misunderstanding on the part of a legislator or so as to the role of the Governor's appointees on this working group. She wasn't personally there when comments were made but apparently there was a misunderstanding that Governor's appointees represented state departments and that is definitely not the case. The Governor's appointees are appointed as individuals; they do not represent departments and they participated in the working group as individuals and it's an important point when discussions of our recommendations is undertaken by the Legislature; so she would like that noted. Chair Acoba said the statute did not refer to any specific office as having to be represented on the Working Group so if you look at the statute, it pertains only to individuals as being appointed by the different appointing authorities. He would look at it as you are serving as individuals with the expertise you bring from your departments; you are acting as individuals and selected by the appointing authorities. He is very thankful for the expertise brought forward to the group. Member Evans wanted to be sure that the group understands that her participation was not based on input from her department per say but whatever experience she can bring to the Working Group.

Member Baz stated an example of that is when Member Souki who was employed at a state department agency, retained his membership when he left the state agency to go somewhere else. Member Case said it would be true for anybody else because a legislator is not asking if he represented the visitor industry or not but he's there as an individual as well. It doesn't say a visitor industry representative had to be appointed. He thinks they are all trying to be fair and balanced. He thinks it's important and it applies to everybody.

Chair Acoba asked Mr. Kirkpatrick, regarding the total expenditures, 77 percent and 23 percent, does that include the CAFR figures for primary government, business, and component units. Mr. Kirkpatrick said yes, it includes all three. Chair Acoba asked are the direct expenditures on tourism; item No. 2 in Exhibit 2-12. Mr. Kirkpatrick replied that analysis was taken from the report of the State investigative group, extended to the counties; and following the practice of the State investigative group, the analysis for line item No. 2 excludes the component, for example, University of Hawai'i and Hawai'i Health System are not included. Chair Acoba asked when using the State categories that the group identified as approach, the term direct expenditures

refer to the categories of the State identified as being directly related to tourism. Mr. Kirkpatrick said of the State investigative group, yes. It was their practice and he was following their practice.

Chair Acoba said when looking at No. 6, direct expenditures related to tourism, it's the same set of categories as for the State. Mr. Kirkpatrick answered yes, that's correct. Chair Acoba asked if the same is true for No. 9, direct expenditures. Mr. Kirkpatrick said yes. Chair Acoba asked Mr. Kirkpatrick if he's right on No. 3 that he didn't attempt to value indirect expenditures. There's a sentence in the report that says, "There is no methodology that they could come up with in the amount of time they had." Mr. Kirkpatrick said for the State, they applied the same analysis to very broad budget categories, modeling the decision made on the counties and the visitor share was calculated following procedures used by the county investigative group. The simple answer is they did the best they could. What the county investigative group did was get together the people who knew the budget the best and have them make decisions about line items and obviously for the State, he was in no position and he didn't ask anybody in that position to go through the entire State budget the same way because it was a gigantic task. For No. 3, the analysis excludes the component units, the primary government and business activities.

Chair Acoba said Nos. 5 and 8 are somewhat similar because they come from the same CAFR categories. Mr. Kirkpatrick said yes. Member Sako said even though it's not in the report, it would be nice to get a copy of the spreadsheet that has the gross expenditures.

Mr. Kirkpatrick stated he has two requests—the first one (TAT distributions) he can supply now because he had made copies of it. Mr. Kirkpatrick distributed the handout and explained that it was developed in response to Chair Acoba and it basically follows the table in the report that shows over time; it has a series of columns, page 1-10, Exhibit 1-3, the exhibit provided by DoTAX. He said if you refer back to the minutes, it not only has the nice columns, it also has numbers. The only thing they have added is to finish up 2015. It gives us total collections—State, counties, Convention Center, TSF columns.

The next set of percentages is the total divided by State, counties, Convention Center, and TSF and that's for the historical. They also calculated, simply taking the general fund amounts, not including the tourism-related additions and took the sum of the general funds, how much went to State and how much went to counties. It's the final two columns. When you get to the bottom, it goes into the proposed forecast; skipped 2016 and immediately goes to 2017 because that's the year the forecast kicks in. If you go to the far right column on the proposed, then there's the 55/45 because that was the Working Group's decision to have that for the residual amounts that went to the general fund. If you look at the three columns to the left, you will see the State's share goes from 42 to 43 percent State general fund; the counties' share 34 to 35 percent; TSF plus Land Fund 24 to 23 percent. They are small changes and obviously, amounts that are fixed which is Convention Center, etc. to say, the above the line items, are slightly declining share of the total if as we expect, total revenues won't increase.

This is not quite in the same order that Member Evans had asked for. If they want to, he can reorganize it but he thinks this has all the information. Member Evans said she would like to request that because she's getting asked how does the recommendation compare with, not divided into the four categories that are shown in the table of State, counties, Convention Center, Tourism Special Fund, and Land Fund, but into two aggregated proportional shares, State and counties. It would be helpful for her and maybe other members as well to have the other break out of, for instance, 2017, if you add across; you've got State, counties, and CC+T (Convention Center and TSF) and Land Fund and it comes up to 76 percent and the counties' share of 23 percent. Mr. Kirkpatrick said the counties' share is 34 percent and the others come out to 66 percent. Member Evans said that would be helpful.

Member Case stated some of the initial confusion out of the box has been the 55/45 total not including the Convention Center, TSF, and Land Fund and you're trying to say, no, that's not right. If you added in the Convention Center, TSF, and Land Fund and took that as a total amount it would be 66/34. Member Evans said the questions she's been asked is more of the State's perspective and it would be helpful to have that information.

a. Consultant's slides (final) – Information only (handout)

Chair Acoba said the slides are the outcome of the last meeting. The Chair has asked Mr. Kirkpatrick to number the slides. Member Baz stated there's still a lot of confusion of the slide on page 6 labeled, "CAFR Data Provide Several Ways to Estimate State's and Counties' Share of Expenditures" because of the net expenditures. A lot of people are going to assume, the net expenditures are net expenditures related to tourism; not net expenditures of components or business activities. Member Evans stated she also shares Member Baz's concern and would request to delete the table. Member Sako said it just adds more confusion. It was agreed to delete that slide.

Chair Acoba said it would be helpful to use the exact terms from CAFR; he knows they tried to simplify it but when you start looking for those terms, it's difficult to find. Mr. Kirkpatrick said the complication is what the consultant team provided is from CAFR; direct expenditures on tourism, weighted directly and indirectly related expenditures on tourism and those were derived from the analysis of the investigative groups. It's still in the report and it does need to be explained but it is a long explanation. Chair Acoba asked to the extent that you can, to use the CAFR terminology.

Member Sako suggested coming up with better definitions for the expenditures on public services, referring to page 5, the slide labeled, "Expenditure on Public Services: 3 Types," Primary Government Activities; Business-type Activities; and Component Units. She's trying to read what they have in their CAFR because there are several distinct categories—general government, public services, highways. What is listed doesn't apply to each and every one of them. Mr. Kirkpatrick replied, for the County of Hawai'i, the primary government divided into government activities and then, business-type activities. Member Sako said she doesn't disagree with the three captions; it's how they are describing them. Member Baz said water department is in their business activities, not in component for the Maui County. Mr. Kirkpatrick said they actually moved Maui because there was the one case in manipulating the CAFR because water was a component unit in three but not in Maui.

Member Sako suggested maybe using Basic Government Activities, which includes public safety, highways, etc., and maybe the Legislature already knows but everyone defines primary activities a little differently to the CAFR. Mr. Kirkpatrick said that is what made it a challenge. Chair Acoba said the counties don't have component units in their CAFR. Member Sako said they have water supply and it is set up differently from Maui because Maui's water supply is under the business-type activities.

Referring to the slide page 7, labeled, "Agreement on Approach," Chair Acoba stated it may be repetitious but they separated out the TSF and then the split, they need another component to cover existing obligations or something to that effect; there are three parts to it. Member Evans suggested it could say, "Continue to Honor Existing State Obligations" since that's the case. Member Yoneshige said it's good to put that in because it is part of the recommendation. Chair Acoba asked that the slide be amended to what Member Evans suggested. Mr. Kirkpatrick said in following the order of the recommended models slide, it should go TSF then Existing Allocations, then, State, Counties' shares.

Chair Acoba referred to the second to the last page, the slide labeled, "Additional Consideration," it should be changed to "Additional Considerations" and the second sentence should be in line with the first.

Member Baz referred to the slide on page 8 labeled, "Recommended Model," the second bullet, Existing allocations per Legislature (\$31 million). He asked Member Evans if it should be consistent. Member Evans said in other words, it's stated in two different ways, it could be confusing. Mr. Kirkpatrick replied to say, Existing State Obligations. Member Yoneshige said yes so that people won't get confused. Chair Acoba asked how would it read. Member Yoneshige replied, Existing State Obligations (\$31 million). It follows the second bullet from the previous page, Continue to Honor Existing State Obligations.

Mr. Kirkpatrick referred to the forecast table on page 9 and the columns that follow, he used the expression, Other Existing Appropriations, he asked if it should be changed to Obligations? Member Evans said yes.

Member Evans referred to page 2, second slide labeled "Working Group Composition," the concern that the appointees be perceived as representing state departments; referring the right hand column where it says, "State administration, County administration, and Visitor industry." Chair Acoba said it's fine if she wants the designation taken out. The group does imply that there's representation in early parts of the report. Member Evans stated it has become an issue. Mr. Kirkpatrick replied, it could say, "Members with Experience in." Member Evans said in Act 174 simply says, "The working group shall be composed of thirteen members appointed as follows...." Chair Acoba asked if she wanted the right side of the slide deleted. She said yes and expanding the left side of the column. Mr. Kirkpatrick verified getting rid of the right side column of the slide. Chair Acoba said "staff" to be left on the right hand side.

ASA Yamane stated the Auditor's Office often prepares slides and the way it's done is to pull language directly from the report because it's already embedded. This discussion here is based upon page 1-2 of the report, the Working Group members' designations. The Auditor's Office will pull the headings and populate it with the language directly out of the report; that way, it tracks the report. Even from a presenter's perspective, if you're looking for something, you can follow the report along with the slides.

ASA Yamane stated you can use the headings from working group members; it has the name and affiliation where they work and their appointing authority. Member Evans said it wouldn't be accurate in the case of Member Souki. It would get way too busy in changing the affiliation, she's suggesting not including that. Member Sako agrees with Member Evans, but the part she likes about the slide is to make it known that we do have members from the visitor industry on the working group just because they were appointed by the Senate or House, it's not a logical conclusion and people are going to guess they are from the visitor industry.

Chair Acoba said in a sense, it doesn't matter to him. Either Mr. Kirkpatrick or he would be covering this. It is in the report and the slides are just augmenting the report. Member Sako suggested taking out the three bullets which is the concern but has something like, "Members Representing the Visitor Industry," etc. because people can guess they have State and county people there. They try to make it real clear, for the Big Island, the key components were there's people from all three areas—State, county, and visitor industry and that's why the TSF is the number one allocation. Member Yamaki stated she thinks it's important to state who is on the Working Group so it validates members having a

voice of the working group. If you have a slide like this, it will alleviate the question of who was on the committee. It doesn't say state departments who are represented, it's just administration, it could be anybody.

Member Yoneshige stated a little different perspective, he doesn't have a problem with, "Members from State, county, etc." What he would like to see is a parenthesis that shows how many members came from those different groups because it's important to him that people who read this report understand that no one controlled the Working Group; everybody had an equal say, and the Chair was an overriding vote if it came to a split, but each vested group had an equal say. Mr. Kirkpatrick said, the problem with the count is, what they do with members like Member Souki who started off as a State member, then went to a private sector, and now is with HART. Member Yoneshige said maybe we can say, "Members Originally From." Member Case suggested saying, "Members with Experience from State, County Governments and the Visitor Industry." Member Evans said as long it clarifies the misperception that the state administration appointees represent their departments because that has been made an issue and it is a mistake. Member Sako said she agrees with what Member Evans is saying and she doesn't want that confusion, but one of the nice things about the group is that it has been roughly 1/3, 1/3, 1/3 and we do have people that crossover. Mr. Kirkpatrick clarified, "Members with Experience in State, County Governments and the Visitor Industry."

Chair Acoba asked if the group has another meeting set. ASA Yamane stated we have a meeting scheduled for February 3, 2016. By that time, bill introduction will be completed; the cut-off for bill introduction is January 27<sup>th</sup>. By February 3<sup>rd</sup>, we should have a complete list of all the bills. She stated last year, we had put in standard testimony as we were trying to stave off TAT legislation. We didn't pass out all the bills for the group to review because the nature of the testimony was a little different. She doesn't know what the group's approach will be for this year.

Member Sako said last year when the Auditor's Office did the summary sheet, she thought that was really helpful. Member Baz asked if a hyperlink could be added to the bills' web address that would be really helpful. His opinion is that he thinks they will be asked what they think about a certain bill. The last time, we were opposing everything that had to do with the TAT but we may be asked, "what does the Working Group think of this bill," and maybe it's a compromise bill and do we want to provide that input or not; we could say, no, we are sticking to our report; or do we want to have that discussion and make a decision to support one bill over another especially when it gets close to end of session.

ASA Yamane said to recognize that even though the Working Group meets during session, it's not always going to be right on top of the date in order to hear whichever version is being floated; that's going to be a bit of a challenge. Member Evans said she would think it would come down to a workload question for the Office of the Auditor because it's a lot of work to compile bill summaries and to get them out. ASA Yamane stated to build a list on the Capitol website is actually pretty good; they have new tools on the site and we can build a list with them. Member Evans said bill numbers are fine with her, she doesn't need text. Chair Acoba said as time gets closer, we can assess.

Member Case asked what we thought the referral would be on this, double referral, Tourism and Finance. ASA Yamane said that is what she would guess. The media coverage from the money chairs and comments that were made hasn't been very favorable. Member Case said the reason he asks is because last year, there was a heavy workload especially on ASA Yamane and the Chair who followed a lot of bills to slow them down because the Working Group was under way and we wanted to buy time.

Frankly, he doesn't know if the group has the obligation to do that anymore; the group submitted the report and the legislation is there. Presumably, the Legislature or the primary decision-makers of the Legislature staff will know that the Working Group has taken a position that there should be no special carve outs from the tourism fund. He doesn't know if they need to testify on every single bill that proposes to carve out \$1 million to TAT to support our plant quarantine or whatever it might be. He raises it for discussion because it is a lot of work; to go and testify at 25 hearings again, unless you want to. Member Baz said it is a good recommendation because you can say anything related to carving out more money out of the TAT, we will oppose. Member Case said he will think further that any proposals to carve out the TAT would go through the tourism committees on first referral. He would hope we would get a hearing from both sides for the bill; it would be a courtesy. The tourism committees would know our position at that point and we can testify, "We made our recommendations, so no carve outs." There are all these bills and it may come up in conference. He doesn't know if we need to say so at every single hearing. ASA Yamane stated as an alternative, we can always have standard testimony, submit, and just say we are not going to be present and it becomes part of the record and you don't have to physically be there.

Chair Acoba asked if double referral means it goes to both houses. ASA Yamane answered companion bills are one for the house and one for senate. The double referrals would mean committees of referral and there could be a joint committee as one of the referrals but typically these measures will go to the tourism and money committees. Chair Acoba asked if multiple referrals would indicate much disfavor. Member Case said yes.

Announcement

Member Yamaki stated that this is her last meeting and wanted to thank everyone. It was an honor and pleasure to be on this committee with everyone but her new job prevents her from continuing on the working group. She is now working for PBS Hawai'i. The group congratulated Member Yamaki on her new job.

- V. Adjournment: With no further business to discuss, Chair Acoba adjourned the meeting at 11:05 a.m.

Reviewed and approved by:

Jan K. Yamane  
Acting State Auditor

[ ] Approved as circulated.

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