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

Minutes of Meeting

Date: Wednesday, September 2, 2015

Time: 10:00 a.m.

Place: State Capitol
415 S. Beretania Street
Conference Room 225
Honolulu, Hawaiʻi

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 Kauaʻi Appointment
George Kam, Senate Appointment
Neal Miyahira, Governor Appointment
Deanna Sako, County of Hawaiʻi 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
Jayna Oshiro, Analyst, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

John Kirkpatrick, Belt Collins Hawaii
James Mak, Ph.D
Cheryl M. Palesh, Belt Collins Hawaii
Elizabeth Spleth, Belt Collins Hawaii
Joseph M. Toy, Hospitality Advisors LLC

Excused: Jesse Souki, Governor Appointment
Ronald 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 Hawaiʻi Revised Statutes, Section 92-7 (b).

II. Public Testimony

None

III. a. Announcements, introductions, and correspondence

None

b. Minutes of August 5, 2015 meeting

Member Baz commented on page 10, paragraph 2, it should state that he is Maui County *Budget* Director instead of *Finance* Director.

It was moved by Member Baz, seconded by Member Evans, and unanimously carried to approve the minutes of the July 1, 2015 meeting as amended.

IV. Consultant Services

a. Notice of Award – Belt Collins Hawaii LLC (James Mak, Ph.D.; Joseph M. Toy, CPA; Cheryl Palesh, P.E.; John Kirkpatrick, Ph.D.; and Elizabeth Spleth) (handout)

ASA Yamane stated that the contract for consultant services was awarded to Belt Collins Hawaii LLC. The Belt Collins team includes Dr. James Mak, Professor Emeritus at the University of Hawai‘i (UH); Cheryl Palesh, Elizabeth Spleth, and John Kirkpatrick of Belt Collins; and Joseph Toy of Hospitality Advisors LLC. Information on Belt Collins and the team resumes were distributed as a handout. ASA Yamane stated that the information provides the WG the strength that it needs for the tax policy questions and to develop allocation models. The consultant team gives the WG a lot of leeway in terms of the types of questions they may have and the kind of work they may expect.

Also, included in the handouts are excerpts of the contract. ASA Yamane asked the consultants to approach the table and to briefly introduce themselves.

Member Soon arrived at 10:10 a.m.

1. Ms. Cheryl Palesh introduced herself as the Principal with Belt Collins. She stated that she will be working closely with Joseph Toy.

2. Dr. James Mak stated that he has been a Professor of Economics at UH Mānoa for almost 40 years and has since retired, almost six years ago. He was asked by Mr. Kirkpatrick if he could join their team since he’s been working on public finance issues in Hawai‘i for more than 30 years. He also taught economics at UH with specialties in public finance, tourism economics, and Hawai‘i’s economy. He also stated that he was the Tax Review Commission Economist back in 1989 and until today, he has looked at the Hawai‘i fiscal situation more closely and thoroughly than any subsequent Tax Review Commission. Further, he stated that he has been studying the hotel room tax issue for more than 30 years and that he will do anything to assist the WG.

3. Ms. Elizabeth Spleth introduced herself as a Senior Planner with Belt Collins. Her background for over 10 years was as an Airports Planner so her focus will be on the Airports Division and how it relates to the State and allocations.

Member Evans stated that the Department of Business, Economic Development and Tourism (DBEDT) has a State Economist, Dr. Eugene Tian, in the Research and Economics and Analysis Division. She would like to invite the consultants to utilize him as a resource and feel free to contact him for any information DBEDT can provide.

ASA Yamane stated that she has already met with Mr. Kirkpatrick and Mr. Toy ahead of this meeting to lay the foundation for the work to come. She also encouraged everyone to go to the Office of Information Practices website and review the Sunshine Law training materials. The WG meetings are considered Sunshine Law meetings. She indicated that the consultants can reach out to individual members but reminded everyone that there should be no serial communication. All decision making must happen at the WG meetings so it’s transparent to the public. The work of the WG is the work of the public.

4. Dr. John Kirkpatrick introduced himself as Project Manager for Belt Collins.

Member Soon asked if the WG will be discussing the contract and what the consultant will do for the WG. Mr. Kirkpatrick answered they will be delivering the WG models, background information, and analysis to help the WG say, “Yes, we have reached a consensus decision,” because it’s the WG’s report, not the consultants’. They have done some work based on a range of alternatives and looked at them closely. They want to the help the WG reach and justify its conclusions and establish that the WG looked at appropriate alternatives as well.

ASA Yamane stated that the work of this WG doesn’t end with the delivery of the final report. As part of the final report, we will attach proposed legislation. We also have to prepare testimonies during the legislative session. It will be the charge, mostly of the Chair—but all members may weigh in during session—to provide testimony in support of the WG’s proposal. Members may testify in their capacity as a WG member, or switch their hats and testify in their county or State capacity.

ASA Yamane also stated that a legislative briefing may be included, as well as one or two bills requiring anywhere from 4 to 5 committee hearings. She also noted that it is important to know that legislators “think on their feet” and may say, we see proposal A, B, and C; is it possible to add in D? We will be asking the consultant to provide that type of support. Chair Acoba and ASA Yamane will be testifying at all the committee hearings, but the technical expertise will need to be provided by the consultant.

Mr. Kirkpatrick said he would like to be able to say that the WG looked at it, judged it on this basis, and made its recommendation. Member Soon stated he assumes the consultants will be at the meetings supporting our conversations, discussions, and disagreements, and providing information we need to come to a preferred alternative.

5. Mr. Joseph Toy introduced himself as the President and CEO of Hospitality Advisors LLC. He stated that he does a lot of work with the hotel industry from strategic planning to investment, anything having to do with hotels. He produces monthly hotel surveys. He also does the monthly surveys published in the newspaper on hotel occupancy as well.

b. Ratification of Consultant Contract (handout)

Excerpts from the consultant contract were distributed to the WG. Chair Acoba asked if the contract amount of $150,000.00 is something that can be modified. ASA Yamane answered, no. Chair Acoba explained that originally the WG contemplated there will be a longer term in terms of help from the consultant. ASA Yamane said we tried to build some of those discussions into Chapter 1. Rather than expand the time that is needed to do the work, the WG talked about compressing it into the available timeframe. From the consultant’s perspective, the work is doable. They are comfortable with compressing the workload and bringing the work to the WG early enough to finalize the report and provide whatever information is needed for the upcoming legislative session.

It was moved by Member Evans, seconded by Member Yoneshige, and unanimously carried to ratify the contract awarded to Belt Collins Hawaii LLC.

c. Significant Dates and Deadlines (handout)

ASA Yamane referred to a calendar prepared to provide the WG with a schedule of critical dates and deadlines. It’s also a guide for when we need to get materials ready for meetings. She highlighted that the WG is on a very fast track for the next couple of months and has scheduled two meetings a month. She requested that the WG revisit the November 18th date as both ASA Yamane and Ms. Oshiro will not be available. She stated that as much as possible, because the WG will be heading toward critical discussions and decisions, she would like to request that members make themselves available for meetings. We need each member's voice at the table. The regularly scheduled WG meeting in December will be held on December 2nd. Although not all members may be able to make every meeting, the main thing is that we have quorum.

The WG agreed to schedule an additional meeting in November on Thursday, November 12, 2015, at 10:00 a.m.

Chair Acoba asked if the November 12th date is the date the WG shares the draft with the Legislative Reference Bureau (LRB). ASA Yamane said we hope to have the working draft by that time. She stated that LRB needs time to review the draft and develop the proposed legislation. She explained that we try to get reports to LRB before December.

Member Baz asked, what will the November 12th meeting consist of if the draft report is approved at the first November meeting. Is this meeting just in case the report is not approved at the November 4th meeting? Member Yoneshige stated it might be a contingency meeting. ASA Yamane stated it might be better to hold it open. We can cancel it if there's no business.

Chair Acoba stated in terms of LRB, will the WG have the opportunity to review the proposed legislation. ASA Yamane said it's all a question of timing. Ideally, we include proposed legislation in the final report. The WG may want to include a preamble in the legislation that articulates a little bit about the WG and the WG meetings held during this year. It gives more strength to the proposal. LRB is pretty fast at drafting, it just depends upon timing.

Chair Acoba stated the WG has one meeting in December and asked whether we need another meeting in December? ASA Yamane said she hopes the Office of the Auditor will be producing the report by then. The office has other reports to produce. Member Yamaki stated it's easier to cancel than schedule a meeting.

The WG agreed to schedule an additional meeting in December on Wednesday, December 16, 2015, at 10:00 a.m.

Member Soon stated the most important piece of work they have is the allocation models and questioned whether it's realistic to be expected to approve an allocation model at the following meeting. He voiced concern that the timeframe might be overly ambitious. There's no more important work than that piece. He asked if there's a suggestion on how long it will take. Mr. Kirkpatrick said at the September 16th meeting, a workshop is being planned to cover some of the things the WG would like the consultants to present and review to determine the implications. The WG might want to think about doing a morning and afternoon meeting—workshop in the morning and a meeting after lunch for the group to pull everything together. Being able to get everything done on the 16th strikes him as difficult.

Member Evans stated she wouldn't be available for an all-day meeting. However, she would like to participate in the discussions. She suggested October 7th could be the continuation of discussion. As to Member Soon's issue, she's looking at the October 7th meeting and realizing that having the WG approve the allocation models and the consultants submit preliminary findings and recommendations at the same meeting would be brilliant.

Member Baz stated based on the calendar, on September 30th, the consultant is supposed to submit the allocation models to the WG based on the discussion at the

September 16th meeting. The vote on the allocation models is on October 7th but he was not sure what the preliminary findings and recommendations will be. Chair Acoba suggested moving the vote to October 21st. Member Baz said if the consultants submit before the October 21st meeting, we will have time to analyze it before the October 21st meeting. He's assuming their preliminary findings and recommendations will be based on the WG's allocation models that are approved and what the implications might be. It may work out fine that the allocations models are submitted on September 30th to vote at the October 7th meeting. Then they will have one week to prepare the preliminary findings and recommendations based on the allocation models. It can then be finalized on October 21st. We would need to take a vote on October 7th in order to finalize the report.

Mr. Kirkpatrick stated that October 7th is scheduled for WG approval of the allocation models. Group and consultant discussions of implications, etc., will be in handouts for distribution on October 16th, to be discussed on October 21st. He explained it's basically dividing the work for October 7th in half and putting the second half into the next meeting.

Chair Acoba asked if the group will be able to decide on the allocation models by October 7th. Member Baz said it depends on how good the work is and what is submitted on September 30th.

Member Miyahira asked Mr. Kirkpatrick when the workshop would take place; Mr. Kirkpatrick replied at the September 16th meeting. The use of white boards and a wall display from the laptop could be used to assist the WG with the implications. This would help achieve agreement on the models based on the WG review of alternatives.

ASA Yamane asked if it's doable within a two-hour meeting. She suggested adjusting the time to either 8:00 a.m. or 9:00 a.m. if workshopping will take place. Member Sako suggested having a meeting from 9:00 a.m. to 1:00 p.m. because 8:00 a.m. would be challenging for neighbor island members. Member Evans agreed that 9:00 a.m. would be better than 8:00 a.m.

The WG agreed that the next meeting scheduled for September 16, 2015, will begin at 9:00 a.m. instead of 10:00 a.m.

ASA Yamane asked Mr. Kirkpatrick if he will be providing his own whiteboard and laptop. Mr. Kirkpatrick said he needs to see the room in order to decide what he needs to bring. However, they will provide laptop, projector, and easel.

V. Final Report to the 2016 Legislature

a. Draft Chapter 1 (handout) – Discussion

ASA Yamane stated that a draft Chapter 1 has been distributed; it is based upon the interim report and provides background information. Even though the information was provided in the interim report, it should be included in the final report because the public may wonder what happened historically. She explained that the chapter provides information on members (i.e., the comings and goings of certain members and changes in their circumstances); historical information on creation of the WG; the work of the WG; and the methodology used. There is a placeholder for Belt Collins if it would like to include information on its methodology. She said that we are open to all comments, noting that Member Sako has already submitted her tech edits.

Chair Acoba asked if there is any discussion on Chapter 1 (draft). Member Evans stated on pages 2 and 3 which outlines the WG members, some of the changes for membership were not clear. ASA Yamane said the language will be clarified and asked WG members to forward edits to the Office of the Auditor.

Member Hunt indicated on page 6, Exhibit 2, he would like to have an update of the exhibit by adding a last column for FY2014 to show the TAT trend. The amount for FY2014 was $395,228,992.

Mr. Kirkpatrick stated they prepared for distribution at the next meeting a background TAT study done by Professor Mak which covers some of the same material. The WG could like to include it as an appendix to the report and incorporate some of the information into Chapter 1. Mr. Kirkpatrick said he will have it for distribution at the next meeting. Chair Acoba stated that he had some tech edits to Chapter 1 (draft) and passed them to the Office of the Auditor.

Chair Acoba suggested on the last page, to include the Auditor as submitting testimony. He also asked if WG members will testify in their individual capacity or in their county or State capacity. If members do testify, they will be testifying either to modify the WG proposal or in opposition. Do we want to include that in the report or do we want to think about it.

Member Soon said that from the very beginning he reserves the right to prepare a minority report. His problem from the very beginning was the idea that we would be basing the model strictly on allocations of State and county expenditures and he continued to have reservations on that. The WG has not veered too far away from it. It's a disservice to the county government to strictly adhere to that. He would like to express his contrary opinion and hopes they don't go there. In the conversations on allocation models, they have ventured beyond that. It's possible but it's unlikely because they have meandered slightly off and it depends how much they meander back. He said if you read very carefully, the beginning part about what the Legislature says, there is no room for HTA; it is State and county allocations, there is no mention of HTA and he would expect that none of them would agree with that.

VI. Allocation of TAT Revenues

Before going into discussions with Belt Collins, Chair Acoba asked whether the proposed legislation should have a preamble. Member Baz said that Maui County has a statutory section that sets out principles to guide the council. It might be helpful to draft some language—call it a preamble or have it as part of the statute—a section on principles, to guide what the Legislature can and cannot do. Chair Acoba's preference would be to have a section in the statute and not a preamble because then, it would have a binding effect on the Legislature; it would have a stronger impact.

Member Baz agreed and said the purpose of the proposed legislation is important. He's not familiar with State laws and creating HRS, however, adding in the purpose is helpful because if some other group looks at this 10 years from now or sometime in the future, they will have something to go on as far as why we or the Legislature made the decision. Chair Acoba encouraged the proposal have at least have a set of principles.

Member Case asked if you're referring to legislative findings, they're in the session laws. If it's strictly legislative findings, he agrees with that. It's just a statement in the beginning wherein the Legislature actually states its legislative intent. Chair Acoba stated he was thinking more in terms of principles that the Legislature would have to follow under the statute; not so much a reiteration of what the intent was but guidelines on how the Legislature should implement it. The reason he says that is because this will be a statute that if people are persuaded by it, it can't be amended. In the absence of a constitutional amendment, a set of principles that are part of the statute might be stronger. Member Case said the Legislature still has to adopt it and agree.

Chair Acoba would like the minutes to reflect that the group did talk about, very briefly, the possibility of a constitutional amendment. We are not requesting or proposing that but legislative history does talk in terms of some permanency; a statute is not permanent. The only thing that would come close is a constitutional amendment.

Chair Acoba also said that the WG discussed giving the counties the power to tax and that the report should reflect that. It may be outside the scope of what the WG was assigned to do.

Chair Acoba said in light of the principles, the WG should set up a general statement of the purpose of taxes. We are talking about implementing a tax policy, what's the general purpose of that, and what are we trying to accomplish through our proposal. If you look at the legislative history, one is equity; it was measured by population although the Department of Taxation said it really wasn't based on population when you look at the data. But the legislative intent was to make it equitable amongst the counties. Another characteristic might be some flexibility, certainty, and predictability which is something that the investigative group proposed when they said there should be a certain amount for HTA. We can also talk about some of the characteristics of what the WG would like to accomplish through the statute. He's trying to anticipate what might be asked when appearing before legislators who will be critical of the proposal. It will be nice to have some kind of framework.

Member Baz suggested a recommendation to include in the report that the group did discuss the allocations between the counties but decided that the WG's focus should be on allocation between the State and county portions, not re-distributing the counties' portions.

Chair Acoba stated another argument was what Member Soon said that it is outside of the scope of the legislative intent. When we aligned the allocation for tourism-related expenses, it was pretty close to the 44 percent allocation among the counties. He said that this sort of validates what the split would be. These are the reasons to support the present allocations.

ASA Yamane stated there was some discussion on the 7.25 or 9.25; the rate had gone up; the visitor industry was very strong on wanting it to stay at 7.25, not at 9.25. She's not sure if that's something the group would also like to include.

Member Hunt stated he agrees with Member Soon and would like to reserve the right for a minority opinion depending on the results of this because they primarily looked at only expenditures, not revenues. The 7.25 percent versus 9.25 percent, they would be willing to look at that for Kaua‘i, provided they restore it to the historical 44.8 percent of the sharing. If basing it on the 7.25 percent, defer 2 percent to the State and revise the counties overall share to about 35 percent.

Member Yamaki stated going back to the background in Chapter 1 (draft), it doesn't say what the intent is. She believes the intent was to go beyond the State to get more tax revenues. The focus was more on funding to support marketing Hawai‘i. It wasn't just a free-for-all tax. ASA Yamane asked what section is she speaking about. Member Yamaki indicated under the section, *Background on Hawai‘i's Transient Accommodations Tax*. It says, "The Legislature sought to tax the tourism industry for the benefit of the state, while at the same time minimizing the impact of the tax on the industry by excluding general excise taxes collected from calculation of gross income or gross proceeds." She said it doesn't say anything in there that the intent of the TAT was basically to help marketing and to put all the grant-in-aids under one umbrella and to be a little more comprehensive on how we spend the money. It wasn't just the tax to go into the general fund and everybody can use it, there were specific reasons why it was made and it needs to be put in there somewhere.

ASA Yamane stated the legislative history does not reflect that, but she will look again at the references.

Member Evans suggested to Member Yamaki, it may have been one of the discussion points for the visitor industry that spent a number of years opposing the room tax and wanting to ensure that some portion of the tax be used for marketing.

Member Yamaki stated because that's how the Legislature sold it to the visitor industry that it was all going to marketing but at the last minute, it got split up. They were promised one thing but at the end of the day, at the last hour, they split it up. Member Yamaki wants to make it clear that the Transient Accommodations Tax is not like the General Excise Tax—it was for a specific reason and purpose.

Chair Acoba stated early on, the WG did talk about the uses of the TAT. Initially, we said it seemed to reimburse the counties for their tourism-related expenses. It was also a revenue-generating tax. The State uses it to cover its budget shortfall, so the purpose of the TAT has evolved. In fact, in the original TAT bill, the legislative committee reports said you can use this money for any purpose. The legislative history didn't limit the use of moneys strictly for tourism.

a. Consultant's Report – Summary and comparison of allocation models based on Working Group discussions and presentations (handout)

Mr. Kirkpatrick referred to a memorandum that was distributed to the WG. He stated in reviewing the various handouts and materials prepared by members of the WG, he noted that materials covered a lot of ground, but didn't have any footnotes. BCH had to guess at some of the intent and there were things prepared that described the counties but didn't describe the State. The most important thing they could do is to give the WG an inventory of the counties' share under various scenarios.

Mr. Kirkpatrick stated they brought together materials from different places and that any calculations on the handout are preliminary. They looked at the range of variation of the counties' share under different approaches to the problems in front of the WG.

Mr. Kirkpatrick said there are three models, the first three came out of the Allocation Models Investigative Group. Then it's the counties' share of expenditures. We tried to understand what is the counties' share on all those?

Chair Acoba referred to the handout from Belt Collins and referred to model 5.1. The questions posed by the Legislature were to make an evaluation of the duties and responsibilities between the State and counties. The WG didn't delve deeply into that simply because it would have been way beyond what the WG would be able to do. The second question was to do an allocation based on the division of responsibilities and duties with respect to public service. A suggestion was to look at the Comprehensive Annual Financial Reports (CAFRs) for the State and counties because it's uniform and is somewhat standard in expressing expenditures. So, maybe the CAFRs are a proxy of what public service is. Model 5.1 relates to the work the WG did; we didn't define the specifics of how it's divided, but did look at the CAFRs.

Member Soon commented as we focus on these models, part of the value of the consultants, given the quality of the people of their team, is to suggest other models. The investigative groups were very limited with time and would welcome a conversation of other models.

Member Soon left the meeting at 11:18 a.m.

Member Yoneshige shared the same thought as Member Soon. Given the consultants' background, what model do they think would address the situations and assumptions that were in the law. The WG has an opportunity to look at not only what was developed, but also what else is out there. They've seen articles on what other states are allocating TAT, but the structures may be different. Based on our structure and our economic environment, does the consultant have models the WG should consider.

Referring to the handout, *Summary and Comparison of Allocation Models based on Working Group Discussions and Presentations*, the WG discussed the following:

<u>Model 1: Current Allocation</u>
Chair Acoba stated model 1 is basically what exists today. Mr. Kirkpatrick agreed.

<u>Model 2: Tiered "Historical Intent"</u>
Mr. Kirkpatrick stated model 2 is the allocation described in the report from the Allocation Models Investigative Group for historical intent. Member Evans stated it would be helpful if the tiered historical intent, tiers 1, 2, and 3, are in relation to changes in the law. Mr. Kirkpatrick said yes. She requested annotation of tiers 1, 2, and 3 with the dates. She also asked if the tiers are the counties' share and how was it derived.

Member Hunt stated looking at tiers 2 and 3, going from 5 percent of the rate, it looks like you would add the 2.50 percent. He doesn't remember the 7.50 percent but remembers the 7.25 percent. Mr. Kirkpatrick replied it should be the 7.25 percent. Member Hunt said tier 3 should be 2 percent not the 1.75 percent. Mr. Kirkpatrick said they would re-calculate. Member Hunt then stated there is a transition period, that one year should be worth mentioning because of the escalation to 9.25 percent. Mr. Kirkpatrick said the description they took was directly or indirectly from the Allocations Models Investigative Group report prepared by Member Soon so there's nothing about the 8 percent here, they can re-write that. He said tier 2 should be 2.25 rather than 2.50 percent and tier 3 should be 2 percent instead of 1.75 percent. That will not change the basic county share calculations. Tier 1 stays the same.

Chair Acoba asked, what does tier 3 represent in model 2? Mr. Kirkpatrick replied, the suggestion made by the investigative group was to basically dice it out by the amounts each time the TAT was increased. The 5 percent gelled around the 95 percent to the counties and 5 percent to the State. From 5 percent, it went up to 7.25 percent. At that point, the Convention Center and tourism moneys were added. When they went from 7.25 percent to 9.25 percent, that was additional moneys to the State and it didn't put in any more detail. Member Evans said that wasn't a recommended model.

Member Baz suggested it may be better to have one column for rates and another column for distribution. In tier 1, the 5 percent is the TAT tax rate and the 9.25 percent is the distribution so the readers can identify that those are different rates and an increase of 2.25 percent of the rate to 2 percent. Chair Acoba asked if tier 3 represents anything else.

Model 3: Allocation IG "Recommended"

Member Evans stated "recommended" is kind of a strong term as this is presented for discussion. There was discussion that portions to the State would include the Convention Center debt. Things that would fall into the category of legislative prerogatives, it's not an option to the State. Member Baz said it was included in the State's allocations and yes, obviously, it's a debt we have to pay. Member Hunt said that discussion revolved around diluting the percentage every time the State wants to make a debt first priority over distribution. Incorporating that into the State's share potentially dilutes future county shares if the Legislature decides to cover debts for other projects. That was the intent of that discussion.

Member Baz said this specific model was one of the Allocation Models Investigative Group models. Subsequent to that, they discussed variations of this base structure but with different percentages based on different things. This was the starting point of discussions on whether the Legislature should be taking things off the top and making it 50/50. If you look at the minutes of the August 5th meeting, it describes their discussions. Member Hunt said he recalls that and there was a minimum share of $100 million for State and counties.

Chair Acoba referred to tier 1, Hawai'i Tourism Authority, one issue that came up was the $83 million fixed figure. Or, should we say it should be 20 percent. What has been the historical amount allocated to HTA? Member Baz said it goes back to Member Yoneshige's point, that's the budgeted amount HTA justified. Chair Acoba asked if the $3 million is for DLNR. Member Yoneshige said no.

Chair Acoba asked how do you justify a figure like $83 million into the future. Member Evans stated, the investigative group had talked about when the economy contracts, that's when the visitor industry needs additional marketing funds. It's also the time when the Legislature looks at the TAT revenues to help the general costs of government and yet additional marketing may be one of the ways to increase general revenues because the visitor industry contributes to the general excise tax as well as other general services of government. That amount may need to be re-visited; it's easier to handle a flat amount.

Chair Acoba said in terms of a formula, it's sort of asymmetrical with 60/40; $83 million seems like a set figure you would freeze into the future; it's easily amended; why don't we make it $90 million, which would cut into the 60/40.

Chair Acoba stated a fixed figure invites the Legislature to amend the statute. Mr. Kirkpatrick suggested for the next meeting, they could look at different ways to set the floor and look at the implications of set amounts over a 5 to10 year run. You can set the floor using nominal dollars or real dollars. If you say $82 million for 2015, what would that look like in the future if you run this as nominal dollars. Are percentages another possibility or as a percentage of the historical TAT revenues? There are different ways to set it out.

Member Hunt said a floor provides certainty, provided the floor is set at a low level that is stress tested on hurricanes, recessions, and wars. It should be at some level where it's reasonable and won't go below the floor. As the revenue increases, so does the impact of costs for visitors.

Member Yoneshige stated for the HTA allocations, the $83 million is their current level of funding. The floor can be the $83 million but his concern becomes how you calculate the ceiling. If you start getting into the CPI, there are different types of CPIs even for Hawai'i.

Then you have the first half of the year, and then second half, and the yearly average. It's good to have these indexes, but we need to be simple so that the people who are applying it can easily calculate the index to calculate the appropriation amount. He has voiced his concern about not having a ceiling for HTA allocation because if tourism goes up by 30 percent and the TAT revenue goes up by 30 percent, he doesn't think it's justifiable that HTA's budget goes up by 30 percent. The index idea is a good one but his idea is to keep it simple.

Chair Acoba said his feeling is that the $83 million doesn't make it simple in terms of trying to apply and justify. We talk about inflation, deflation, what is the $83 million 5 to 10 years from now. A percentage would be easy to apply and it puts everyone on the same level which reflects reality. If you take a certain percentage, you can predict an amount; you cannot predict perfectly.

Member Case stated that amongst the members, there was a consensus. One is to make sure that a set minimum is provided for the HTA and that the Legislature is not tempted to play with that every year; that's the floor. We are trying to leave the Legislature some discretion to do what it's going to do anyway, which is to scrutinize HTA but possibly have that scrutiny be on an excess over the minimum. TAT collections will go up and down; so, what's the trade-off. The basic trade-off they were talking about was the HTA and the counties get some certainty on the downside in return for sacrifice of some certainty on the upside. In other words, the State got more of the benefit on the upside.

Member Case further stated that the State can choose to spend it on HTA, counties or anything else but the trade-off was, the counties were not going to get short-changed if the down-side came. So, this is the basic deal they are all trying to talk about. Why doesn't the county share deviate from dismal collection to a healthy collection? His thought was that the county side should escalate on a good side to have a stable source of funding. Mr. Kirkpatrick replied because the State gets the bulk of the benefit. Because the 60/40 is the 90, it doesn't matter which 10 percent is listed first. There's no difference in hierarchy in tiers 2 and 3 in that model.

Member Hunt said he's not familiar with State budgeting but from the legislative allocations proposed under tier 2, could that be split further into earmarking, let's say 7.50 percent, unrestricted; and 2.50 percent restricted to visitor-related only one of which could be additional funding for HTA. The 2.50 percent of this surplus of TAT has to be spent for tourist-related and allow one of those to be additional contributions to HTA. That still makes the argument, you have to justify your budget but at least the funding is there. As things change, instead of having a fixed $83 million, the State and counties would have a floor of $100 million.

Chair Acoba stated when looking at it, it's not equitable. The State ends up carrying the burden for everybody. HTA is guaranteed a certain amount and the counties are guaranteed a certain amount and if there's a shortfall, it comes out of the State's share. Member Baz said the State should have a minimum as well. Chair Acoba said in tier 3, of the 40 percent, if the funds are less than that, the counties receive a minimum and the State's share in tier 3 is reduced. The State ends up picking up the shortfall.

Chair Acoba stated there are two issues. One is the rationale for $83 million or 20 percent. The second rationale is how you allocate these items that are already set forth in the statute as between the county and the State. The investigative group shifted everything into the State. His question is, how do you justify or is there some rationale or criteria that says the Convention Center goes to the State when most of the conventions stay in Honolulu. Why does Turtle Bay debt service go to the State when it directly benefits the City and County of Honolulu, shouldn't it go to the county? The Tourism Special Fund benefits everyone. The DLNR one-time $3 million payment, does that repeat itself? And what about the Employer Union Trust Fund shortfall, he believes something should be said about that; it's part of the statute. Is it realistic to think the Legislature is going to unravel all these commitments made in the statute? How would you fit the 60/40 formula inside/outside the statute?

Member Baz had thought they came to a fair conclusion that those commitments were State commitments. The State decided to purchase Turtle Bay and the State sold the benefit of the Convention Center to the tourist industry. Those were State initiatives and the City and County of Honolulu benefits the most out of all counties.

Chair Acoba asked what is the rationale? Does Turtle Bay belong to the State but the direct beneficiary is the City and County of Honolulu?

Member Case said the State does things on the other islands as well and the counties can do the same thing. They can take their TAT general fund and say they are going to carve this out and fund the Maui Coastal Land Trust acquisition. The State will have its discretional amount of TAT and if it wants to spend it on Turtle Bay or Maui Coastal Land Trust, or some project on the Big Island, the counties will get their share and they can spend it however they want.

Chair Acoba said when this commitment was made it wasn't made in the context of having the allocation reduced because they took on the financing for the purchase of Turtle Bay. It would be really nice to have some rationale that makes sense and treats everyone equally.

Member Baz stated if we can constrain those future decisions, when the Legislature says to fund the purchase of Turtle Bay, do they fund it or do they tell the counties, we are already giving you a certain amount of the TAT; if it benefits only your county, you pay for it. It may be more of a rationale for future decisions.

Member Sako commented that the WG is trying to make it fair for everyone and there's always going to be something. The Legislature will always make decisions.

Member Case said he agrees and would like to construct this in a way the Legislature will agree with the WG and accept our rationale. But he doesn't think the WG should be shy about saying that the State's approach to carve out the TAT for special funds is not healthy in the long run. It's a rationale for the investigative group. If they could have figured it out, we wouldn't be sitting here.

Member Kam agrees with Member Case and would like to hear what Mr. Toy and Dr. Mak have to say because they probably have a lot of great insight. He wants to hear their thoughts and their guidance. The WG can keep going around talking about the $83 million, but he thinks there is a bigger picture. If we can start with a clean slate, what would that look like? With the consultant's expertise, we can make recommendations and share the benefits for all of Hawaiʻi. We all have the same interest. Mr. Toy who has been in the industry forever and Dr. Mak's insight and resumé are just priceless. To share all the information and to have that legacy that puts it into perpetuity, you don't want to say your best work was in 1989, your best work was in 2015. This is for the consultants to help guide us.

Dr. Mak asked how does the WG want input from them? Member Kam stated that the conversation every week is the same argument, the HTA, 20 percent, $83 million, $3 million to DLNR, etc. He would like to see fresh ideas from the consultants, the ones who have put their lives behind this in guiding the State because they have a history of credibility. We have the opportunity to do something great. We have a funding mechanism with a lot of eyes on it—how do we make sure we keep Hawai'i special and make it unique and distinct and to work together to fund this. We're hearing that Japanese tourists are saying their experiences are getting worse. If you look at the beachfront properties, for what you get compared to any place in the world, we need to re-invest. The $3 million in funding is probably not enough to make improvements. At the last meeting, they talked about partnering with DLNR and HTA to create memorable experiences for our guests.

Mr. Toy said they will be supporting Mr. Kirkpatrick and inputs will be coming in, for example, from the workshops. Their collective concepts will be presented during that time. A lot of issues will go into the alternative allocation models. Other issues that are tangential, that may not be from the allocation models, for example, allocation methods based on expenditures by the counties for the industry in a more broad perspective, do we talk about the issues with respect to taxation on hotels and protecting that revenue base? This meeting was basically to understand what the baseline is.

Chair Acoba asked the consultants if they could provide different alternatives. Mr. Kirkpatrick replied at the next meeting, they should present some ideas that haven't been talked about. They will introduce some new ideas and do a workshop on various things that have been talked about.

Dr. Mak said he will share with the group some of the information he came up with. He would appreciate feedback as well.

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

ASA Yamane stated Chapter 2 will have two parts. One is to evaluate the duties and responsibilities. The second is on the allocations. The work that was done in the various investigative groups, except for the Allocation Models Investigate Group, will be pulled together for the first part of Chapter 2. It will be more of a narrative of how the groups were set up, the scope, etc. The investigative group reports will be attached as appendices. The Auditor's Office will provide Chapter 1 and the first part of Chapter 2 and the consultants will be developing the second part of Chapter 2. Piecing them together will create the final report. At some point, we will have a draft of the first part of Chapter 2.

VIII. Adjournment: With no further business to discuss, Chair Acoba adjourned the meeting at 12:03 p.m.

Reviewed and approved by:

Jan K. Yamane
Acting State Auditor

[ ] Approved as circulated.

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