

Meeting: Local Taxes Advisory Task Force Public Meeting

Date: 11/27/2023

Task Force (TF) Member Attendees: Commissioner Paul Marquart (Chair), Members Lisa Bode, Pat Dalton, Jenny Max, Jill Sims, Michael Williams

Wilder Research: Heather Britt and Ananya Matewos

Agenda

Task Force Meeting 9:30-11:30am

- Welcome and check-in (Chair Marquart) **(5 min)**
- Expert Panel Department of Revenue Q&A **(25 min)**
- Work Group Activities **(80 min)**
 - Continue Discussion: High Consensus Determinations (25 min)
 1. Wilder will continue to present member-proposed prompts for local sales and use tax policies that appear to require no further discussion and can move toward voting
 2. Identify non-consensus items
 3. Plan for voting at next task force session
 - Revisit Discussion: Vote on Principles (20 min)
 1. Wilder will present member-proposed principles that have been synthesized
 2. Members will review and vote on principles they would like to keep
 - Whiteboard activity (35 min)
 1. Visualizing the life cycle of local taxes – viewing synthesized model from homework on MIRO board
 2. Members will provide feedback and improvement suggestions
- Debrief **(10 min)**
 - Follow up with Department of Revenue Panel and Parking Lot
 - Adjournment (Chair Marquart)

Notes

Welcome and check-in

- Chair Marquart: Review of LTATF objectives
 - Guidelines to evaluate proposed local taxes before lawmakers discuss and vote on them in legislative committees.
 - What organization or entity should conduct these evaluations.
 - Improving the legislative approval process for creating and revising taxes.

Expert Panel Department of Revenue Q&A

- Eric Willett (Department of Revenue): The question of remote sales is complicated. National studies indicate 50% of purchases are remote- purchases include items that are not subject to the sales tax. Minnesota sales tax are reported in aggregate (remote and brick and mortar are reported together). Given national number of 50%, confident it will be in the 20-50% range.
- Member Bode: There is growth in remote sales. It's probably true locations have more remote sales than brick/mortar.
- Willett (Department of Revenue): Wouldn't expect it to be 80-90% that has a lot of brick/mortar retail. Will provide additional information with the limited data available. There is a local specialty taxes fact sheet (https://www.revenue.state.mn.us/sites/default/files/2023-08/fs164s_0.pdf). Regarding recommendations having to be budget neutral- that is beyond area of expertise. Read the statute, and duties within statute are specific to criteria. It doesn't say anything about budget recommendations. Will look into tax payer receipt further.
- Martha Burton (Department of Revenue): Going back to discussion last week around special local taxes. There is a department fact sheet. Trying to understand how special local taxes have changed over years.
- Member Sims: Wilder sent out an Excel spreadsheet that we could sort and review. The way these are used are very different. (There are 23 special taxes). Looks like there are 11 food/beverage and 6 lodging.
- Member Dalton: I'm worried less about lodging and more interested in food/bev. We don't have very many of them out there, since they have been allowed since 1971. We could say those also have to go to the legislature.
- Member Sims: There is a wide use of food/bev. If you go to Detroit Lakes- they use it for construction (Hwy 10). St. Cloud uses it for convention center. I wonder if they had a challenge getting a local tax and that's why they went food/bev? There isn't rhyme, reason or criteria in that respect.
- Member Williams: It's capital projects- food/bev pays the debt of the convention center. I think they are talking about increasing it in the coming year.
- Chair Marquart: Let's put special taxes for food/bev and entertainment in the parking lot. There isn't specific language or requirement for local sales taxes.
- Member Dalton: Don't they have to run referendum language past revenue?

- (Department of Revenue): It has to include what each project will cost and duration of project unless there is an exception in the authorization.
- Member Dalton: We have been talking about general sales tax- focused on rural cities. We have lost sight of suburbs, and some have enormous tax bases already (property tax). Does Department of Revenue have info they can give for property tax sales base per capita vs. sales tax base. Bloomington/Edina compared to others. Important when we look at equity, and we need more information.
- Josh Sisterman (Department of Revenue): We don't have the authority to tell them what needs to be on the ballot. If they have multiple projects, each has to be voted on separately. We get questions regarding, "Is it okay if I do say, if this is voted no, we are going to raise your property tax." We refer them to the Secretary of State.

Review of Synthesized and Original Principles

- Principle 1: To the extent possible, the cost of administering (including future enforcement of) local taxes should be borne by the local governments and not individuals, the state, or businesses.
 - Suggested by Members Bode, Dalton, Williams
 - Member Bode: Keep it as simple as possible. Consider enforcement as part of administration, not sure if it is needed.
 - Member Dalton: borne by the local governments "imposing" taxes.
 - Member Bode: Not going to use LGA or other revenue source to pay for administration of sales tax, should that be referenced here?
 - Chair Marquart: I think that is covered in the statute.
 - Approved: To the extent possible, the cost of administering local taxes should be borne by the local governments imposing the taxes and not individuals, the state, or businesses.
- Principle 2: Voters in the jurisdiction imposing the tax must approve in a referendum. Prior to referendums, voters should be provided with information on the burden and benefits of all proposed taxes and projects so they can make informed decisions on whether to impose a local sales tax.
 - Suggested by Members Dalton, Marquart, Williams
 - Chair Marquart: This gets to transparency. Comments/thoughts?
 - Member Williams: This has to be in a general election doesn't it?
 - Chair Marquart: Yes, it does. Consensus of members is to have a system where Legislature is not involved. Then the criteria has to be specific rather than the principle. At that point, you can talk about which election. It can be in the recommendation.
 - Member Sims: Voters should or "must".
 - Member Dalton: Legislative should be "must". We have put these in a passive voice, and haven't said who has to provide the information.
 - Member Sims: Does it go in the recommendation or principle?
 - Chair Marquart: A principle is broader than a recommendation

- Approved: Voters in the jurisdiction imposing the tax must approve in a referendum. Voters must be provided with information on the burden and benefits of all proposed taxes and projects so they can make informed decisions on whether to impose a local sales tax.
- Principle 3: To ensure that local sales taxes do not increase inequality between local governments, local sales tax revenues should only be used to fund projects of regional significance.
 - Suggested by Members Bode, Dalton, Williams
 - NOTE: This was originally Principle 4.
 - Chair Marquart: Are we defining regional significance?
 - WR Matewos: No, just the term. Definition of regional: *“Pertaining to more than the city or county imposing the tax, that funds projects that provide benefits and contributions for beyond local residents.”*
 - Chair Marquart: Principle 3 [now Principle 4 below] already says it has to be regional, this is to make sure we don’t increase the inequality. Is regional significance the only thing that could increase inequality?
 - Member Max: I want to understand “only”, are we saying there isn’t an option to go to legislature if it is potentially not regionally significant?
 - Member Dalton: Can we switch the order of the principles. This principle is fundamental. If you don’t want to increase inequality, you should only be using it to fund regional significance. Principle 3 is criteria. We don’t want people to use this just to fund something they can’t justify as regional. Only fund projects of regional significance, don’t have to go to legislature if truly regional.
 - Member Max: That does help. Are we trying to develop criteria for what regional significance is? I’m fine with broad term providing benefits for local residents. Creating a box that is small for cities/counties. Regionality is unique depending on community.
 - Chair Marquart: It’s OK to change the order of principles.
 - Member Bode: In the future, we will want to review them all on one sheet of paper, may change more than those 2 around.
 - Chair Marquart: move 4 to 3 and 3 to 4. Then come back and look at order these should be in. Are they in the most important order?
 - Approved
- Principle 4: Cities and Counties should have the flexibility and autonomy to pursue sales taxes for regional projects in consultation with their voters. Cities and Counties should not have to go to the Legislature for such pursuits.
 - Suggested by Members Bode, Dalton, Max, Williams
 - NOTE: This was originally Principle 3.
 - Member Dalton: Principle is only cities/counties should have the support. Understand why in 2 sentences, but breaking it up into 2 sentences makes it more ambiguous than it needs to be. Want to give them the autonomy without going to legislature, but still subject to their voters.

- Member Bode: For qualified regional projects? Already discussed hard to find one-size fits all for regionality. Add qualified or pre-approved (product rather than legislation), but that is the concept I'm thinking about.
- Member Bode: Everyone has own definition of what regional project is. Does it include transportation in remote area, child care facility? Are we going to say who defines regionality? I thought we were going to try and attempt that.
- Member Williams: If we use the language we have been using, it will meet the criteria- whatever the criteria ends up being.
- Chair Marquart: Even if not going to legislature, who is going to pre-approve or say it's qualified?
- Member Dalton: Member Bode has good point- may get beyond principle to recommendation. Maybe legislatively identified. We are going to give them recommendations of how to do it. But by saying legislatively identified project, we are saying there may be some we couldn't legislatively identify and those have to go to legislature.
- Member Bode: I agree.
- Member Sims: Cities should have autonomy. What is a principle vs. recommendations? We need to dig into criteria with the amount of time we have left. Want to empower cities/counties to not have to go to legislature.
- Member Dalton: Criteria-based, we are trying to develop those criteria.
- Approved: Cities and Counties should have the flexibility and autonomy to pursue sales taxes for criteria-based regional projects in consultation with their voters, without going to the legislature.
- Principle 5: Transparent and fair parameters around qualified projects and maximum tax rates must be in place. These parameters and the process must be simple and transparent.
 - Suggested by Members Bode, Dalton, Marquart, Williams
 - Member Bode: Gets to local governments being treated equally. Have examples in recent years where local government is told project doesn't qualify and next year someone gets to use that same criteria. This is trying to get to qualified uses. Local governments should be held to same opportunities and restrictions as another.
 - Chair Marquart: Look at it for individual transparency. Agree, understand, and looked at it from voter perspective.
 - Member Dalton: Looking at it the same way as Member Bode. Transparency for voters is in Principle 2. Here local governments should know what the rules are, and should be the same for everybody.
 - Chair Maquart: Should we add cities/counties again?
 - Member Dalton: Yes, I think putting in local cities/counties.
 - Member Sims: Agree with Members Bode and Dalton. Should be fair, and all know the rules to abide by.
 - Chair Marquart: You are right, Principle 2 is for voters.

- Approved: To ensure fairness, all cities and counties should have access to uniform, modern, and transparent parameters regarding sales tax authorization and criteria for projects.
- Principle 6: To ensure equity, payment of the tax by non-beneficiaries of the funded project should be minimized and/or compensated. An equalization system to help address and recognize the capacity differences of local governments to raise local sales tax revenue must be in place.
 - Suggested by Member Sims.
 - Member Dalton: Thinking of disadvantaged community and how they pay for a convention center they will never use. Example of Twins stadium, required to allow schools to hold state championships and to use money from it to provide ball parks in disadvantaged neighborhoods. Recognition that you have people paying for it that will never use it. You could use St. Cloud, a portion goes to the project, another goes to fund special projects.
 - Member Williams: Communities around St. Cloud still do projects that are regional. Convention center example- they build it so community events can happen there, but by and large it is to bring other people in. Not expected that everyone will directly benefit or use that facility. Brings people in to hotels and restaurants. You can argue there is a broad benefit
 - Member Dalton: Twins and Vikings have requirements that they are doing something for communities for the people that are paying for it, even though they may never go to a Vikings or Twins game. I do know this is one of Representative Gomez's comments. Maybe it's to the extent possible.
 - Member Max: Example of stadiums- they are so unique and specific to very few circumstances that we are going to have. We have captured the components with the other principles, is this one really necessary? Absent a national team- that's a standalone issue. Struggling with this one a bit.
 - Member Dalton: Allow sub-regional in greater Minnesota, like a water park being paid for by people coming into the community to buy groceries and do shopping. I want to make sure the people in surrounding township don't have to pay extra to use that facility. Shouldn't be a difference in the admission price for resident and non-resident.
 - Chair Marquart: Sales tax is regressive and hits different income levels differently. Not sure how to work in system, maybe compensation like Member Dalton mentioned. Have to recognize there is a different impact based on socio-economic status. Maybe that is in the recommendations, don't know if you need to add compensation right now. The second part is the question that Member Dalton asked. We should look at sales tax capacity and property tax capacity on this too. Not sure if it's part of sales tax revenue, getting at suburbs vs. rural. Look at picking it up via property tax. Depending on how we want to equalize things.
 - Member Bode: You are talking about sales tax in general. We are talking about local sales tax, and it makes up a small portion of the total tax.

- Member Dalton: State taxes- the legislature is aware of regressivity of sales tax and addresses it through specific programs that already exist. Working family credit and things like that. They do tax incident study every two years- made it more or less regressive- overall statewide. Don't know if we need to focus on state tax in this discussion. Need to focus on local tax and taking into account that regressivity.
- Member Williams: We have been talking about city projects. Wondering how this will apply to county. Correctional facilities and jail, no one wants to build them. Our example, half of people in and out of criminal justice system don't have Stearns county address. I don't know how we would apply in that instance.
- Member Dalton: Not sure we need to apply that principle in all circumstances. This principle needs to exist, in some cases this may lead to inequality. I'm not worried about poor people in Edina subject to local sales tax. I'm worried about it in Minneapolis, in small communities that are retail waste-lands and have to go to their regional center to do their purchasing. That's where this principle comes into play- not everywhere.
- Member Bode: This is the hardest one we have been working on thus far.
- Member Williams: Would it help if we separated out these two issues? We talked back and forth and I think they are distinct.
- Chair Marquart: Can we go to definition of equity?
- Member Dalton: Equity really deals with local government.
- Chair Marquart: Burden?
- Member Dalton: Is individual.
- Chair Marquart: We have to go back and make sure the word burden is in there for individuals.
- Member Dalton: Can offer free membership as a way to compensate individuals.
- Member Bode: I object to compensation- applies financial remediation of some kind. Use "benefit" or maybe it is "remedies" for socio-economic groups. I think we're getting there.
- Approved: To ensure equity, local sales tax policies should recognize and remedy to the extent possible, disparate burdens on socio-economic groups.
- Principle 7: Implementation of a local sales tax by Cities or Counties should be done so through a modern process.
 - Suggested by Member Sims.
 - NOTE: Added modern to Principle 5 and replaced this principle with- An equalization system to help address and recognize the capacity differences.
 - Chair Marquart: Trying to address between the have and the have nots. Not further widening the gap between the cities that have the economic where with all- remedy and recognize that difference.
 - Member Williams: Creating a system may be too specific.
 - Member Bode: A counter to that is regional centers also have a greater burden to provide some services like jails, justice centers. Agree from sales tax this simplified version works but counter to what is expected of larger or regional units of government.

- Member Dalton: I don't want cities of population 500 to think about what they would have to provide on their own.
- Member Bode: Need to have capacity to raise revenue.
- Member Bode: Differences in capacity to raise revenue and potential overburdens- not all will have overburdens. Don't know if differences carries into the overburdens.
- Approved: Local sales tax policies should recognize cities and counties have differences in capacities to raise revenue and/or potential overburdens in providing services.

High Consensus Determinations

- No changes should be made to the current law under Minn. Stat. 469.190 regarding the imposition and use of local lodging taxes. Any entity looking to use the tax for another purpose would continue to have to seek special legislation. (GENERAL AGREEMENT ON 11/22)
 - WR: Suggest addition of one change to the lodging tax law that reinforces safe harbor for occasional lodging rentals but parallels payment of lodging taxes by entities that have to report rental income (as currently required for the federal income tax law for VRBO and AirBNB).
 - Member Dalton: Spoke with Willett about income tax de minimis if focused on local sales tax
 - Willett (Department of Revenue): It's a suggestion not a legislative proposal.
 - Member Dalton- believe this should be a safe harbor- recommendation without saying it has to be the federal- but should be some safe harbor.
 - ACTION ITEM: This recommendation will be reviewed later.
 - Approved: No changes should be made to the current law under Minn. Stat. 469.190 regarding the imposition and use of local lodging taxes. Any entity looking to use the tax for another purpose would continue to have to seek special legislation.
- The authority to impose a general local sales tax always requires voter approval. Changes needed to approved local sales taxes related to extensions due to economic changes can be made without additional voter approval (recommend: referendums should include the 'later of this date or amount' or 'earlier of this date or amount' depending on local needs). (GENERAL AGREEMENT ON 11/22)
 - Member Dalton: I'm onboard with first part, not the second.
 - Chair Marquart: That might be a recommendation. That is what has been done in some cases.
 - Member Williams: I don't know if we want to make changes to the term or amount.
 - Chair Marquart: During the pandemic- people had years of deferral. You might not get the needed amount in the time period. We approved those and said you didn't have to go back to the Legislature
 - Member Dalton: Once you reach that amount you are done. Under current circumstances we estimate the length the tax will be in effect. If you raise more money than originally anticipated, then go back to voters. If circumstances are out of control, like the pandemic, and it takes you longer to raise money.

- Chair Marquart: Let's vote on the first one. The others are recommendations. Every local sales tax will require a referendum.
- Member Dalton: Do we want to say general election? But then some may have to wait a couple years, or on the XX year when you don't have a general election day.
- Member Max: The details will be in the recommendations for consideration. It should always require voter approval.
- Chair Marquart: I think if it is a general election, it needs to be defined more specifically and can be discussed later as a recommendation. Needs to go for vote and should be some sort of general election.
- Approved: The authority to impose a general local sales tax always requires voter approval.

Debrief & Adjournment

- TF requests for Department of Revenue:
 - Additional information regarding remote vs. brick/mortar sales.
 - Property tax base per capita vs. sales tax base
 - Tax payer receipt
- TF requests for WR:
 - Provide principles on one document and review order.
- Parking lot:
 - Special tax use- food/bev
- Next meeting is Wednesday, December 6th, 2:00-3:30pm
- December 12th, 1:00-4:00pm, review of draft report. The draft will be sent to members a couple days before the meeting.