

1. Welcome and Introductions STAFF

Called to order at 10:17 AM

In attendance:

- Kenneth Cosgrove
- Jack Shuler
- Bob Steelman
- Ken Wingate
- Burnie Maybank
- Brian Moody
- Don Weaver
- Ray Stevens
- Ben Kochenower

Absent:

- Jimmy Addison
- Charles Way

Craig Parks, SFC staff, opened the meeting. Parks thanked commissioners for service in light of working without pay of any kind, not even the typical mileage, subsistence, or per diem that is usually allowed for members of state boards, committees and commissions. Noted importance and timeliness of task. Reviewed chart titled "Percent Change in SC General Fund Revenue" and highlighted fact that in the 50+ year period between 1953 and 2007, SC experienced "negative" revenue growth just 2 times - and those occurrences were spaced 50 years apart. Noted entering our 3rd consecutive year of negative revenue growth. Noted BEA has reduced its revenue forecasts an unprecedented 7 times in the past 12 months. Cuts add up to more than \$1.3 Billion in lost revenue. Noted that South Carolina has not been alone in this regard and read excerpt to you from NCSL highlighting that. Noted purpose as a commission is not to "make up" the \$1.3 Billion we've lost over the last year. Reviewed purpose stated in statute - charged with designing a tax system that is "adequate, equitable, and efficient" so as to enhance the state as "an optimum competitor in efforts to attract business and individuals to locate, live, work and invest in South Carolina." Parks noted that adequacy involves stability - and the "stability" of our state's tax structure is an issue - as it is in almost every other state. Parks introduced each commissioner to audience, noted that Charlie Way, Sen. Land's appointment and Jimmy Addison, the Speaker's other appointment were unable to attend, but sent their regrets. Noted commissioner bios will be available to the public on the website shortly after the meeting. Two last housekeeping items 1) website; reminded audience that they'll be able to follow TRAC's progress on the legislature's website by using the link from the "citizens interest" tab. Also, for those who want to be placed on the TRAC email notification list; to receive updates about upcoming meetings, there is a signup sheet in the hall by the door. Parks opened floor for nominations for Chairman (below).

2. Election of Chair and Vice Chair

Motion: Bob Steelman makes motion, Ken Wingate seconds motion for Burnie Maybank to be Chairman. Adopted – voice vote.

- Chair: Burnie Maybank

Motion: Jack Shuler nominates Bob Steelman for vice chair and Brian Moody made second. Adopted– voice vote.

- Vice Chair: Bob Steelman

3. Opening Comments of Commissioners

4. Policy Considerations (for TRAC operations)

- a. Department of Revenue ex officio - Clarify non-voting Ray Stevens

Motion: Ray Stevens makes motion to be non-voting and Ben Kochenower made second. Adopted – voice vote.

- b. Lobbyist Prohibitions relating to Commissioners
Staff explanation STAFF

Parks reviewed relevant documents behind Tab 2 in commission notebook. Noted General Assembly created a truly independent commission to examine and make recommendations about the future of taxation in SC. Noted evidence of their intent; ie, “struck” from the legislation was the ability for the General Assembly to appoint “themselves” to the commission. Also removed was language making service “at the will and pleasure” of appointers. Added was a section specifying exactly what interactions lobbyists could (and therefore could not) have with TRAC commissioners. Read section from the bill stating: “Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with the Freedom of Information Act. Any lobbyist violating the provisions of this subsection is deemed guilty of a misdemeanor and, upon conviction, must be punished as provided in Section 2-17-130 of the 1976 Code.” Parks reviewed sections 1, 4, 5, and 6 from Ethics Commission memo. Noted commissioners receiving improper communication should report immediately to the Chairman who will work with staff to notify the Ethics Commission.

- c. Lobbyist Procedures - relating to Staff
Staff explanation
Discussion and Motion to Adopt STAFF

Parks noted not directly addressed in statute is the relationship between lobbyists and staff. However, Ethics Commission speaks to that, refers commissioners back to Page 3 of the Ethics letter; reviews #1 and 2 from Ethics memo. Explains that in plain terms lobbyists can have contact with staff, but can’t turn around and tell commissioners anything about what was discussed, unless done so in a public meeting. If staff does, then lobbyist is in violation of the law. Noted staff doesn’t want to be put in a position where its actions might accidentally cause

someone to go to jail or lose their lobbying license. Parks reads recommended policy to adopt. Notes once adopted, will place on website.

Motion: Ben Kochenower moves to adopt staff/lobbyist interaction memo.

Concerns: Don Weaver expresses concerns over when these limitations will end. Ken Wingate expresses concern over which specific staff is prohibited from communicating with lobbyist. In response, Parks noted staff includes just SFC and W&Ms staff (all) as well as staff of the BEA and Office of Econ Research.

Adopted – voice vote.

d. Role of outside staff / consultants - Budgetary constraints
Staff explanation

Parks notes initial legislation provided for an independent Executive Director for the Taxation Realignment Commission, as well as permitted the hiring of consultants as needed. Due to the current economic climate, hiring an Executive Director and consultants simply isn't feasible. Notes the Budget and Control Board adopted a 4.04% across the board cut which translates into a \$340,698 budget reduction to Senate and a \$651,427 budget reduction to the House of Representatives. Notes staff of SFC and W&Ms are not technically "staff" of the commission but per the legislation, will be available to assist TRAC in any way possible.

e. Role of BEA - proposed policy and procedures
Staff explanation STAFF

Parks notes "TRAC" bill only requires the BEA to prepare a revenue impact statement for the commission prior to the commission submitting its final report to the General Assembly. Notes the BEA, assisted by the Office of Economic Research, is responsible for providing revenue impact statements for the General Assembly, and conducting economic research generally, for the State. Parks notes, given this, and the fact that TRAC has no funds to hire outside consultants at present, the commission, from time to time, will require general economic analysis and other assistance from the BEA and Office of Economic Research staff, during, and not just at the conclusion of, their work. Parks notes that because BEA is not TRAC staff, and because they "have day jobs too", he recommends an informal protocol to follow so BEA is not inundated with "what if" questions. Questions should go through commission chairman and staff; staff will put questions in writing.

5. Overview of Legislation STAFF

a. History

Parks notes TRAC concept was over a year in the making. S. 1242 creating the Commission was originally introduced in 2008 by Sen. Leatherman and others. Passed the Senate that year but did not advance out of the House. Because 2nd year of 2-year session, the bill "died", meaning it would have to be "re-introduced" the following year. That's what happened. Last year 3 bills were introduced, 2 in the Senate (S. 12 by Sen. Leatherman and others and S. 182 by Sen. Setzler and others) and 1 in the House (H. 3415 by the Speaker and others). Parks noted all 3 bills, in varying degrees, were "modeled" after the "BRAC" commission. Parks noted BRAC had the challenge of recommending which military bases within the United States were to be retained, realigned

or ultimately decommissioned and noted that's not unlike the challenge TRAC has related to our state's tax structure. Parks noted BRAC's charges: 1) "As directed by law, the Commission will provide an objective, non-partisan, and independent review and analysis of the list of military installation recommendations issued by the Department of Defense." 2) "The recommendations provided by DoD are extremely complex and interrelated and will require in-depth analysis and careful attention to detail." 3) "The Commission will follow a fair, open, and equitable process, as set forth by statute." 4) "While giving priority to the criteria of military value, the Commission will also take into account the human impact of the base closures and will consider the possible economic, environmental, and other effects on the surrounding communities."

b. Bill Summary

Parks reviewed the staff bill summary for the commission (can be found behind Tab 6 of the commission notebook.)

c. Scope of Project / Tasks

Parks reminded commissioners statute requires within 3 months of passage TRAC has to develop a "blueprint" by which to measure the effectiveness of the state's current **tax structure** from the standpoint of **adequacy, equity and efficiency**." He defines Adequate: I.e., revenues are "sufficient" to finance desired services today and in future years (revenues should not be highly cycle against the ups and downs of the economy) and Equitable: Has to do with "fairness" – has to do with "horizontal (how taxpayers with the same ability to pay are treated) and vertical (how taxpayers with different ability to pay are treated) equity" and Efficient: Has to do with low administration and compliance costs. Parks notes S 12 calls for TRAC to ensure our current system is competitive to attract and keep businesses in the State. Notes TRAC will have to study tax structures in **OTHER STATES** in order to measure or compare how competitive SC's structure is or isn't. Notes that by March 15, 2010: Deliver to the General Assembly a "...detailed, comprehensive, and careful" evaluation to include ALL OF THE FOLLOWING: **ITEM A**: An assessment of the state's Sales Tax Exemptions with recommendations of ones to 1) Keep, 2) Delete, or 3) Add. Parks noted the more than 75 sales tax exemptions on the books totaling an estimated \$2.8 Billion per year. Parks noted we currently "exempt" more sales tax than we collect in SC. **ITEM B**: An assessment of **STATE** taxes generally including sales, income (individual and corporate). Parks notes there are over 20 other types of taxes levied at the state level in SC. **LOCAL REVENUE (from the locals)**: Parks notes while "Act 388" is off the table, the legislation does call for a local review and reminds the commissioners that property tax goes beyond just the 4% assessment on homes. There is the 4% on ag; the 6% on rental and other and the 10.5% on manufacturing and other. He also notes the "fee in lieu" and the fact that there are over 60 property tax exemptions. There are local option sales taxes, business licenses and permits as well as service charges. Parks also notes TRAC must review "other funds" as well as the so called "Fair Tax".

i. Timelines

1. Assessment Criteria to General Assembly (w/in 3 months of enactment)
2. Initial Report (March 2010)

6. Review of Notebook materials STAFF

Parks provided a brief overview of what is included in the commission notebooks

7. Proposed meeting schedule and agenda STAFF
- September 30, 2009
 - Review and adoption of “Assessment Criteria”
 - “Revenue Situation”, Presentation by William C. Gillespie, PhD, Chief Economist
 - Sales Tax Exemptions presentation (Part I), DOR and BEA
 - October 21, 2009
 - Sales Tax Exemptions presentation (Part II), DOR and BEA
 - November 12, 2009 - November 11, 2009 is Veteran’s Day, State Holiday
 - Sales Tax Exemptions - Public Testimony
 - December 2, 2009
 - Other issues related to Sales Tax (services, internet sales, etc.)
 - Accommodations Tax and Admissions Tax review
 - January 6, 2009
 - Fair Tax Presentation(s)

Chairman would like to see sales, accommodation, admissions and fuel tax addressed first.

Concerns over dates being expressed by commissioners. Commissioner Kochenower and Commissioner Cosgrove cannot do the week October 21ST. Jack Shuler, Ken Wingate have conflict with Sept. 30.

2009

M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S								
SEPTEMBER						OCTOBER						NOVEMBER						DECEMBER									
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27	28	29	30			25	26	27	28	29	30	31	29	30						27	28	29	30	31			

2010

S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
JANUARY							FEBRUARY							MARCH						
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3	4	5	6	7	8	9	7	8	9	10	11	12	13	7	8	9	10	11	12	13
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24	25	26	27	28	29	30	28							28	29	30	31			
31																				

8. Adopt meeting schedule and proposed agenda(s) and location

Motion: Motion made to adopt tentative schedule by Commissioner Brian Moody. Adopted - voice vote.

*Chairman noted that adopted schedule is likely to change.

9. Adjournment

Meeting adjourned at 11:37.