

**B&O and Licensing Task Force
Meeting Notes
Tuesday, August 23, 2016
Department of Revenue – Tacoma Field Office**

Attendees

- Marcus Glasper, Chair, Department of Revenue (Department)
 - Andy Cherullo, City of Tacoma
 - Mark Johnson, Washington Retail Association (WRA)
 - Peter King, Association of Washington Cities (AWC)
 - Patrick Connor, National Federation of Independent Businesses (NFIB)
 - Ron Bueing, Association of Washington Business (AWB)
 - Kim Krause, City of Burien
 - Eric Lohnes, Association of Washington Business (AWB)
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- Patti Wilson, Department of Revenue (staff)
 - JoAnne Gordon, Department of Revenue (staff)

Absent

- Glen Lee, FileLocal

Welcome/agenda overview

Marcus welcomed everyone to the fifth task force meeting. He noted that Eric would arrive later in the morning.

Follow-up to August 19th meeting

Patti and Marcus responded to questions from the August 10th meeting:

- **Does the Department have enough resources to bring on multiple new partners?**

Answer: The Department does not know what its resource needs will be if it becomes necessary to on-board multiple cities at the same time. No cities have become BLS partners since before the new licensing system was rolled out on June 6th. No additional cities will be on-boarded until the beginning of 2017, after the 90-day periods for stabilization and optimization.

After the beginning of 2017, BLS plans to on-board one city. Limiting the initial on-boarding to one city will allow BLS to identify where they can streamline the process and make potential improvements. At that time, BLS will be better able to estimate how many cities can be on-boarded at one time with current resources and to estimate the additional resources necessary to add multiple cities.

- **Does DOR know where the breaking point is for requesting an increase in the new business and renewal licensing fee?**

Answer: The Department's Research and Fiscal Analysis division has developed a fiscal estimate based on a set of assumptions. Based on these assumptions, BLS revenue would

be sufficient to bring on new cities. The Legislature would, however, need to appropriate the funds from the BLS account.

- **Can a city pay the cost for the Department's vendor to program a change if the priority of their change will make the city wait too long?**

Answer: The Department has not previously considered this possibility. Further discussion is necessary between the Department and its vendor. There also needs to be a discussion as to the ethics involved.

- **Is there a process for a partner to talk to BLS to discuss where they're at in priority or to elevate a priority?**

Answer: This wasn't an issue before the June 6th rollout because the BLS was able to make changes as needed. BLS was able to prioritize changes based on the needs of individual cities.

- **Is there a way to track how long it takes to complete a change request?**

Answer: No. Since 2011, when the Department became responsible for administering BLS, there have been about 200 various local changes. A SharePoint site was used to track the changes so determining the length of time to complete each change isn't possible.

- **Can the Department complete a fiscal note to estimate the resources required to bring on 30 cities per year over five years?**

Answer: Yes. The Department's Research and Fiscal Analysis Division developed a fiscal estimate based on a current set of assumptions. The fiscal estimate was provided to task force members.

Marcus confirmed for the task force that the fiscal estimate does not make assumptions for incentives that could be provided to cities as an incentive to partner with BLS.

In response to a question about whether the on-boarding of cities could be accomplished by using the vendor rather than DOR employees, Marcus responded that the vendor's role is currently limited to providing programming and development services while actual on-boarding of cities is performed by BLS' partnership services unit that works directly with cities.

Licensing Discussion

Marcus provided a proposed task force recommendation for discussion purposes. The proposed recommendation, which was previously emailed to task force members, included the following elements:

The Task Force recommends:

- Provided funding and resources are available, cities who require businesses to license within their jurisdiction be required to join the state’s Business Licensing Service (BLS) as the entry point for licensing and be phased in over 5 – 7 years;
- That an advisory committee be established with partners to provide input to the Business Licensing Service on service level agreements/expectations, partner portal changes, and administering priorities of partner changes;
- That the Department pilot the on-boarding of new cities with licensing requirements under its new system to estimate the rate at which cities can be phased into the BLS and report back to the legislature by January 1, 2018;
- That a waiver process be established that allows cities without the staffing or adequate resources to “opt-out” of joining BLS;
- That the Department transfer appropriate licensing information to FileLocal on behalf of cities that have a business and occupation tax and participate in FileLocal;
- As an incentive, that the legislature appropriate grant funding to cities who do not have the staffing or resources to join BLS to be used exclusively for technical support, kiosk establishment, and data transfer; and
- The Department provide an annual report to the legislature on its progress to onboard new licensing cities in the timeframe established.

Peter commented that he:

- Believes that both FileLocal and BLS should be available as options.
- Likes the idea of an advisory committee, although he believes there may be a question as to whether it should be one committee for both city partners and state partners.
- Questions whether the transfer of information would work both ways (BLS to FileLocal and FileLocal to BLS).

Marcus explained that there is a challenge transferring data from FileLocal to BLS. FileLocal does not collect the same type/amount of data that BLS collects for other partners. This means that certain businesses would still have to go through BLS to obtain licenses for which FileLocal does not collect the data required for those licenses.

There was discussion about one single entry point for licenses versus more than one:

- From a business perspective, it makes sense to have a single entry point.
- Would it be confusing for businesses to go to one location for licensing and then another location to file B&O taxes?
- There should be one entry point and it makes sense to have BLS as that one entry point.
- Most businesses find out after the fact that they need a business license from another jurisdiction. It’s preferable for a business to be able to enter one site/system and identify the requirements for multiple jurisdictions rather than having to use multiple sites/systems.
- If all the common questions for a basic business license are lined up and the systems talk to one another, will anyone care where the entry point is?
- It is easier to bring information in at one point and push out as opposed to going back and forth.
- The data interchange behind the two systems is more important than one entry point.
- There is concern about whether BLS has the capacity to add multiple cities within a certain timeframe.

- A requirement for cities to partner with BLS could be phased in over time.
- There is concern about two different architectures and the complexities of integrating systems run by two different agencies.

There was discussion about licensing versus B&O tax:

- The Department doesn't collect local B&O today, but BLS does have the capability to provide information about what the cities require from a tax perspective and an ability to hyperlink to the various B&O tax cities.
- Does it make more sense for FileLocal to concentrate on the B&O tax side as opposed to licensing – which DOR has built.
- There could be a seamless interface into FileLocal to direct taxpayers for payment instead of toggling back and forth between cities.

There was discussion about voluntary partnering with BLS by cities as opposed to required or mandated partnering and the potential for waiving participation under certain circumstances:

- Business representatives have a preference for mandatory participation while providing a waiver.
- Who would determine if the requirement for participation should be waived?
- Cities believe there's a need to demonstrate BLS's capacity before making requirements.
- There is concern that if there is no eventual requirement to partner with BLS that everyone will have to look back at the study and be no further along than right now.
- There is a preference to set a course of action to move forward except for those cities that have a legitimate reason to not partner with BLS.
- Some members believe that a pilot for 2017 is critical.
- The idea of a pilot is to determine the rate at which it is feasible to join BLS.
- There could be a trigger after the pilot period ends.
- There is an issue of trust by the cities – the demonstration that it will work would go a long way towards establishing trust.

There was discussion about reasons for allowing a waiver and the conditions for doing so:

- Potential reasons for waiving a requirement to partner could include a lack of internet presence/technology, inadequate staffing levels, population.
- There was a suggestion to link waiver for participation to the Department's "good cause" exception to the requirement to file state tax returns electronically.

Incentives to encourage cities to partner with BLS could include:

- Consulting services
- Temporary staffing
- Technical support
- Kiosk placement
- Additional technical support for transitioning

There was discussion about establishing metrics by on-boarding cities already waiting to partner with BLS with a goal of on-boarding a certain percentage of cities by 2021.

After lunch, Marcus presented revised elements of a potential recommendation. The discussion included the following comments and questions:

- FileLocal should be a part – it doesn't matter whether a business uses FileLocal or BLS.
- Does this mean having two parallel systems?
- There could be a formal requirement for FileLocal and BLS to work together on data exchange. Both FileLocal & ATLAS licensing have just come out this year. Why not recommend that discussions occur between FileLocal and BLS with BLS as the primary portal and exchange information with FileLocal.
- The mandate to partner with BLS should be removed.
- Some of the challenge is overcoming the deficiencies of the old system, which is why fees were increased to support the technology changes.
- The proposal doesn't put things in a different trajectory.
- Co-marketing by AWC and the Department would be a new element.
- The goal of business is to have a one-stop shop. This goal should be stated, which is what a mandate does. If the mandate is removed, then you still should have a stated goal.

Patrick proposed a revised recommendation as a compromise for the task force to consider. It included key elements such as:

- Using Calendar year 2017 to continue on-boarding cities in the queue.
- The Department developing a report and action plan to the Legislature outlining the achievement of 90% participation by 2021.
- The Legislature appropriating sufficient funding in the out years for the Department to onboard cities as outlined in the action plan, where funding would be used for additional staffing and technical support.

After discussion of any concerns, Marcus agreed to take these suggestions back and craft a refined recommendation for the task force to consider based on these elements.

Nexus Brainstorm

The business community has concerns about what establishes nexus for purposes of licensing:

- There was discussion about a threshold based on gross receipts that provides consistency and a bright line.
- The theory of a threshold is about being engaged in business in a location as opposed to one delivery in a location.
- The amount of B&O tax due for business without a physical location in a city may be significantly less than the cost of the license.
- At some point, businesses will consider whether it makes sense not to do business in a jurisdiction where it only makes intermittent deliveries.
- It is overreaching to ask a business to pay \$90 for a license if the business makes an intermittent sale/transaction for \$500 or less a year.
- It is overreaching and disruptive to small businesses.
- There should be a line.

Patrick suggested that a potential nexus proposal could require a business to obtain a city business license if a business:

- Is physically located in a jurisdiction; or
- Conducts intermittent activities, and;

- The revenue from such intermittent activities is in excess of specified amount related that could be related to the small business state B&O tax credit provided by RCW 82.04.440; or
- The number of deliveries or service calls is more than 4 in a calendar year

The cities:

- Want the flexibility to set levels based on the needs of their individual cities.
- Establishing a licensing nexus threshold may negatively impact the revenue of small cities.

Homework for next meeting and Wrap-up

For the September 7, 2016, task force meeting:

- The Department will refine the proposed licensing recommendation using the comments provided during the August 23rd meeting and send out to the task force in advance of the next meeting.
- Business representatives should talk with their constituencies to determine what they need with respect to nexus thresholds for city business licensing.
- City representatives should think about what they can offer to be responsive to the needs of the business community.

Options	Advantages/Opportunities	Challenges	Strategies to Address Challenges
Provide that a business must obtain a city business license if the business: <ul style="list-style-type: none"> • Is physically located in a jurisdiction; or • Conducts intermittent activities, and; <ul style="list-style-type: none"> ○ The revenue from such intermittent activities is in excess of specified amount related that could be related to the small business state B&O tax credit provided by RCW 82.04.440; or ○ The number of deliveries or service calls is more than 4 in a calendar year. 			