

**B&O and Licensing Task Force
Meeting Notes
September 7, 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)
 - Glen Lee, FileLocal
 - 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 (staff)
 - JoAnne Gordon, Department (staff)

Welcome/agenda overview

Marcus welcomed everyone to the sixth task force meeting.

Proposed Licensing Recommendation 2nd draft

Marcus discussed the major changes/additions from the 1st draft recommendation, which was discussed during the last task force meeting..

Mark provided two suggestions:

- Make the 6th bullet the 2nd bullet.
- Include a business representative on the advisory committee

Peter talked about an advisory versus a governance committee.

What are the parameters around a governance committee? Marcus noted that most concerns seemed to be around changes. It's difficult for a governance committee to recommend changes relative to overall system maintenance that affect the relationship with the vendor and that would be of concern.

Andy asked who decides who ranks what? He says that's where governance comes in, but who decides what's done first. Is DOR still the driver? Marcus said it's hypothetical. DOR should be clear with cities that state legislation may take precedence over city priorities. Marcus explained that in the past this hasn't been an issue so we're not sure if this will happen. Statutory changes typically require a fiscal note and DOR provides information as to what it will take to get things done by when. There's always an expenditure estimate associated with fiscal notes – for state agencies today. In the past for cities, DOR has prioritized changes for cities in accordance with when those changes are needed. Cities have not had a lot of changes in the past. Rate changes, for example, are small changes and don't take much time.

The following points were made during the discussion:

- The larger committees are, the more they slow things down.
- It needs to be clear to a city how things work.
- Cities that on-board sign a partnership agreement, a copy of which was handed out during the meeting.
- Cities want meaningful input. There was a discussion about FileLocal's governance committee. All four cities have a seat, hash out the budget, priorities, and work plans. oard member versus subscriber – a board member has a vote while a subscriber has a service level agreement. Right now, FileLocal only has board members. Subscribers further on down the road as they add perhaps smaller cities.

Mark asked if there are any state agencies with governance committees. Marcus explained that a governance committee cannot override DOR's statutory requirement to collect taxes. Andy noted that it would not be governance over collection of tax. Marcus noted that ATLAS will be an integrated tax and licensing system. Changes in state taxes will override everything else. Mark asked how the members of an advisory would be chosen. Would it be DOR who chooses? Marcus guessed DOR would reach out to AWC like it did for this task force. Mark asked who would decide who gets to serve. Marcus believes it would be a collaborative agreement.

There was a discussion about maintenance updates. Marcus indicated DOR will have scheduled maintenance and he envisions the schedule will be provided to all partners well in advance of when maintenance will occur. There is a user group for all states that use this vendor and the vendor provides advance notice of new versions and when they will be released.

Andy asked about what notifications BLS provides when there are system changes or outages. Patti explained that BLS has an email distribution list and also a Blog where updates are posted.

Patrick asked if it would make sense for cities to indicate what an advisory or governance structure would look like. Not sure about how to vote on a recommendation that's this nebulous.

Marcus asked if conceptually the recommendation makes sense.

Additional discussion:

- Initial report should be September 30, 2017 not January 1, 2018, which gives a chance to put something in front of the Legislature if ready. If not, that's what the report says from a practical perspective.
- Dates should be moved out so that complete information is available.

Other task force members feel the current proposed dates will delay implementation for close to 10 years, which is not acceptable.

- Eric asked if DOR will bring on a city before the end of the year. Marcus said stabilization is not complete and decision was to wait until stabilization is completed.
- Eric noted that the report is just that – a plan. There could be a report September 30, 2017 with addendum in January if needed.
- Because the current version doesn't have a mandate, there was discussion about whether the status report be based on nine months of experience and be submitted in September based on that experience.

- There was concern that if there is no plan to implement, and then everyone will be back at the table in a few years.
- This puts a lot of pressure on DOR.
- Is 7-8 months enough time to have information? Marcus thought the original intent was to have a year of data but if the report date is moved up, then it would include both actual and projected data.
- A new suggestion was to change date to have Revenue report by October 31, 2017, to have three quarters of data and an outlook for the last quarter.

Task force members agreed to add a new bullet relative to incentives:

Revenue shall provide technical support and incentives to cities interested in joining BLS. Such support to include financial assistance, staffing support, hardware and software, broadband/internet access, kiosks, and other services to assure successful implementation.

There was a suggestion to add limiting language so that not everyone would receive incentives to partner with BLS. Incentives should be used as they are needed or appropriate.

There was a discussion about modifying the 4th bullet to talk about hardship cases – which may include and list out the items. Task force recommends the legislature appropriate funds for revenue to provide the incentives. Marcus will add a separate bullet for hardship requirements.

Other changes the task force discussed:

- Change the first bullet to clarify city business licenses and provide softer language concerning regulatory licenses. Patti suggested that the task force may not want to specifically exclude regulatory licenses. She noted that BLS offers two regulatory licenses currently – home businesses and rentals. These two regulatory licenses are common to many cities that have business license requirements and it made sense to offer them through BLS. There could be the potential to add an endorsement if feasible based on the amount of work and number of cities that have the same endorsement.
- Add “General” in front of licensing and include language to “direct taxpayers as possible to other licensing requirements.”
- Ron suggested adding “primary” before “entry point” to resolve the concern that businesses still may have to go to local jurisdictions to get other specialty or regulatory licenses.

There was a discussion about what the goal should be for city participation as BLS partners:

- Is 90% a realistic goal? Maybe 95% to put pressure on DOR?
- Need to figure out what it will take to meet targets. Marcus pointed out that the issue of what the cities need to do remains. It will become clear in a report what DOR can do and how its scope of operations is limited.
- Could remove the percentage as goal but change to what participation could be obtained given current resources. And then add how to get to higher levels of participation with additional funding.

Peter asked if the technical staff at DOR and FileLocal could get together to talk about the process and feasibility of data information exchange. Glen noted that FileLocal has tried before but DOR has expressed need for stabilization with the new system. Glen noted FileLocal is also in a stabilization period. Marcus stated a high level exchange may be possible but not at the

architectural level right now. Patrick would like to see details transmitted to the point where there isn't a need to keep entering basic business information.

Andy noted that we may have to consider what the plan is with bringing on state agencies from a resource perspective. The plan can note what resources are needed to continue work with state agencies. Can mention the impact that the same resources are used for on-boarding both state agencies and cities. However, Marcus noted there is currently no mandate by the legislature to bring on other state agency licenses, and that this task force is focused on local licensing.

Nexus

Marcus noted that there seems to be two nexus concerns:

- For licensing purposes, this seems to be biggest concern.
- For local B&O tax purposes, this is established by the Model Ordinance.

Option

An option from the last meeting was that a business must obtain a city business license if the 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;
 - The number of deliveries or service calls is more than 4 in a calendar year; or
 - Does business with the local jurisdiction (new requirement added during September 7th meeting).

Challenges

Peter believes the option is dead on arrival. Cities:

- Want to know who's doing business in their cities.
- Don't want to lose revenue.

The business task force members noted the following:

- A de minimis threshold:
 - Is a reasonable expectation.
 - Would be easy for businesses to understand and comply with.
 - Would increase compliance because it would be consistent for all cities.
- The cost of a business license for a one-time delivery may exceed the profit from the sale. Assuming that the average profit margin is five percent, there must be \$2,000 of revenue for a \$100 profit.
- Cities have varying thresholds for business license requirements.
- There's an inconsistency that if you're doing business in a city if you deliver using your own vehicle but you're not doing business in a city if you have a common carrier make the delivery.
- Having to license in a city for intermittent activities is painful for small businesses.

Peter asked if the problem is the cost of the license or getting the license. The business task force members responded that it's both, especially for small businesses.

Peter put forth the issue of a business licensed in a city that complains that an out-of-area business that delivers goods is taking sales away from the licensed business. Ron's response is that it provides the same rules for all businesses.

Glen noted that he would like to see what Burien has for dealing with businesses that occasionally travel into the city. He also wants to see what the state is doing. He wants to work with Burien and state to see what can be done with this issue. Is there some language at the state level that could be used at the local level rather than coming up with something new?

Peter noted that the average license fee is \$45. Seattle is \$110, Burien is \$90.

Marcus surmised that there may be more room for big cities to move versus smaller cities.

There is a potential for reciprocity for businesses between cities.

There was discussion about if an annual threshold should be set at \$2,000?

Glen proposed that his staff look at how Burien and the state treat intermittent activities and play around with what a proposal would look like for different structures.

Mark suggested maybe adding "actively marketing" in a city as a requirement to license. Glen noted that may be very difficult based on large markets. Andy noted they look at advertising/marketing when determining if a business is doing business in their city.

Marcus asked if Tacoma would be willing to consider a threshold above zero. Andy said he would go back and look because they do have a lot of small businesses whereas Seattle has a different flavor with big business and corporate headquarters. He's not sure if they would see a big increase in revenue because they just did an emphasis/amnesty program and he's pretty sure that folks are doing what they need to.

Peter asked what happens with consistency if task force recommends a threshold and there are cities out there with an existing higher threshold?

Homework for next meeting and Wrap-up

- Glen will take the lead to craft a recommendation for nexus. He will look at Burien's (and perhaps other cities) and state requirements to propose something and also work with Peter to see what other cities would say.
- Marcus will refine proposal #3 for licensing and send out to the group.
- Peter will work with his members about potential proposals for licensing nexus.
- Patti will work with Jamie for demonstration of ATLAS and high level conversation on data exchanges.

Options	Advantages/Opportunities	Challenges	Strategies to Address Challenges
<p>A business must obtain a city business license if the business:</p> <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; • The number of deliveries or service calls is more than 4 in a calendar year; or ○ Does business with the local jurisdiction 	<ul style="list-style-type: none"> • Consistency • Businesses will know the rules. • Potential increased compliance 	<ul style="list-style-type: none"> • Cities will not know who is coming in to their city. • Cities will lose revenue because businesses that are not required to obtain a license, as an example, for one delivery, would no longer be required to obtain the city business license. 	<ul style="list-style-type: none"> •
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