

FLORIDA DEPARTMENT OF REVENUE

PUBLIC MEETING

DATE: Monday, January 28, 2013

TIME: Commenced at 1:30 p.m.
Concluded at 2:40 p.m.

LOCATION: 2450 Shumard Oak Blvd.
Tallahassee, FL

REPORTED BY: Tracy L. Brown
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MEMBERS:

Marshall Stranburg, Chair

MEMBERS APPEARING BY TELEPHONE:

Brian Smith

Gary Resnick

Sharon R. Fox

Gary S. Lindsey

Kathleen Kittrick

Charlie Dudley

Davin Suggs

Also Present:

Andrea Moreland

PROCEEDINGS

1
2 **MR. STRANBURG:** Good afternoon, everyone. I
3 would like to convene the eighth meeting of the
4 Communication Services Tax working group. My name
5 is Marshall Stranburg and I am the interim
6 executive director for the Department of Revenue.
7 I will be chairing this meeting.

8 At this time, I would like for Andrea to call
9 the role.

10 **MS. MORELAND:** Charles Dudley.

11 **MR. DUDLEY:** Here.

12 **MS. MORELAND:** Sharon Fox?
13 Kathleen Kittrick.

14 **MS. KITTRICK:** Present.

15 **MS. MORELAND:** Gary Lindsey?

16 **MR. LINDSEY:** Here.

17 **MR. RESNICK:** Mayor Resnick?

18 Alan Rosenzweig?

19 Brian Smith?

20 Davin Suggs?

21 **MR. SUGGS:** Here.

22 **MS. MORELAND:** Marshall Stranburg?

23 **MR. STRANBURG:** Here.

24 We have five of our members here so far. Have
25 any of the members joined the call?

1 **MR. RESNICK:** This is Gary Resnick, Marshall,
2 I'm on.

3 **MR. STRANBURG:** Thank you, Mayor.

4 All right. Sharon, have you joined us yet?

5 **MS. FOX:** I've been here since the beginning.

6 **MR. STRANBURG:** Okay. We did not hear you,
7 I'm sorry, when we called your name initially. So
8 thank you.

9 And then, Alan, have you joined us? Or Brian?

10 **MR. STRANBURG:** Okay. Well, we've got most of
11 the members here, so we're going to go ahead and
12 get started on our administrative items.

13 This is a nonrule public meeting. It is held
14 under Section 120.525, Florida Statutes. A notice
15 of the meeting was published in the Florida
16 Administrative Weekly on January 3rd, 2013 in
17 volume 39, number two. A corrected notice was
18 published on January 10th, 2013 in volume 39,
19 number seven. The corrected notice provided the
20 meeting room location to those members of the
21 public who wish to participate in the telephone
22 conference at the Department of Revenue.

23 The meeting agenda and materials are posted on
24 the Department's website. We have a court reporter
25 who is creating a transcript of the meeting today.

1 The transcript will be posted on the working
2 group's web page. For those of you participating
3 in the room today or by telephone, I ask that you
4 identify yourself before speaking and who you
5 represent so the court reporter may reflect this
6 information in the transcript. You can also make a
7 public comment by sending an e-mail to
8 CSTworkinggroup@DOR.state.FL.US. Again, that's
9 CSTworkinggroup, all one word, at DOR.state.FL.US.
10 In the subject line, please use CST Working Group.
11 Please keep your comments brief, your e-mail will
12 be printed and read into the record.

13 We have created a web page on the Department
14 of Revenue's website for the working group.
15 Agendas, meeting materials, transcripts and other
16 information relevant to the working group are
17 posted to the website. The meeting is scheduled
18 today until 4:30.

19 Does anyone have any questions before we get
20 started?

21 Okay. Moving on. In your meeting materials
22 are the minutes of the January 18th, meeting.

23 Does anyone have any comments or suggested changes
24 to make to those minutes?

25 All right. Hearing no comments, the minutes

1 are adopted.

2 Also in your materials, you will find
3 suggested changes to the draft report from Mayor
4 Resnick. We have incorporated -- our staff has
5 incorporated those suggestions into the revised
6 draft which was sent to you on Friday. And moving
7 on to that revised draft report that was sent to
8 you on Friday, as indicated, we included in those,
9 items that were agreed upon at the last meeting.
10 We color-coded them so that those items that were
11 agreed upon in the last meeting are highlighted in
12 yellow. We'll go through those and touch on those
13 briefly during the meeting to make sure we've
14 accurately captured the group's wishes. You will
15 also see changes that are highlighted in gray.
16 These changes reflect additions or revisions that
17 were suggested at the last meeting. The gray
18 highlighting also includes suggested changes that
19 were received after the meeting. What we plan to
20 do today is start on page one of the revised draft
21 and work through the report to discuss the
22 highlighted provisions.

23 So moving right into that, we'll start on page
24 one. You'll see on line 54, we've made a change
25 there. That was discussed at the last meeting.

1 Any comments on that change?

2 **MR. SMITH:** Marshall, this is Brian Smith. I
3 just wanted to let you know I joined the call.

4 **MR. STRANBURG:** Okay. Great. Thanks, Brian.
5 Appreciate that.

6 **MR. SMITH:** Sorry for interrupting.

7 **MR. STRANBURG:** And what we'll do is we'll
8 proceed on the same method that we did at the last
9 meeting. If no one has -- raises any objection to
10 a proposed change, we'll consider that adopted and
11 we'll just keep moving on.

12 The next change is at the bottom of page one,
13 line 61. And over at the top of page two, line 62
14 and 63.

15 Okay. Then on --

16 **MR. RESNICK:** Marshall, I'm sorry. It's Gary
17 Resnick. On line 61, not a major change, but just
18 where it says "be revenue neutral for the local
19 governmental entities," it should say for each of
20 the local government entities.

21 **MR. STRANBURG:** Okay. And I think the reason
22 why we had not put local in -- each local in there,
23 Mayor, was because that was also -- this statement
24 is also to cover state government as well as local
25 governments.

1 **MR. RESNICK:** I'm sorry, right. Take out
2 local and just make it revenue neutral for each of
3 the government entities.

4 **MR. STRANBURG:** Okay. Does anybody have any
5 issue with adding each of the governmental
6 entities?

7 Okay. Moving on. We're over now to line 67
8 and 68. Again, some changes that we had talked at
9 the last meeting that I believe everybody was okay
10 with. And then the same thing for the change on
11 line 74. Any problem with any of those changes?

12 Okay. Moving on. Now we have some language
13 that was added that starts on line 77 and runs down
14 through line 84. Any comments on that language?

15 **MR. DUDLEY:** This is Charlie. I have a
16 problem with the language on lines 83 and 84. If
17 we're going to have that in there, I'd like to have
18 some recognition that the cities and counties have
19 already been paid once for the use of the
20 right-of-way. Because franchise fees as well as
21 permit fees were included in replaced revenues.
22 And that's spelled out in the statute, that's not
23 my opinion.

24 If you want to say one member representing
25 local government supported having communication

1 providers pay a second time for the use of the
2 right-of-way or pay multiple times for the use of
3 the right-of-way, I'd be okay with that. But I
4 don't like this sentence the way it is.

5 **MR. STRANBURG:** And I guess, Charlie, if that
6 is not changed, is that going to in some way change
7 your support for the report as a whole or do we
8 need to --

9 **MR. DUDLEY:** Well, it's just not accurate,
10 Marshall.

11 **MR. STRANBURG:** Okay.

12 **MR. DUDLEY:** Because providers are paying for
13 the use of the right-of-way, but you know, 202.20,
14 you know, spells out the replaced revenues that
15 were included in the local CST when they were
16 calculated in 2001. And the statute is very clear
17 that those rates included all the historical
18 franchise fees paid by cable and other dealers as
19 well as actual permit fees. There's a whole list
20 of things that were going to be included. So I
21 mean, if we want to -- you know, it does say one
22 member. So I understand, it's not the majority of
23 the task force folks, but it's just not an accurate
24 sentence.

25 **MR. RESNICK:** Well, it is an accurate

1 sentence, Charlie, because one member representing
2 local government also supported having the
3 communications providers pay for the use of the
4 public rights-of-way. That's absolutely an
5 accurate statement. You want to add some
6 additional --

7 **MR. DUDLEY:** I'd like to say one member,
8 unless people want to join me, one pointed out that
9 communication providers already -- you know, the
10 local CST and the existing CSTs already include
11 these payments.

12 **MR. RESNICK:** I have no problem with that.

13 **MR. DUDLEY:** Okay.

14 **MR. RESNICK:** If you want to say one member
15 representing the cable industry, you know, whatever
16 you just said, exactly.

17 **MS. KITTRICK:** You could say two members
18 because I would support that statement as well.

19 **MS. FOX:** Mr. Chairman, this is Sharon, I
20 agree that the -- that all of the providers are
21 paying for use of the rights-of-way under the
22 current CST provision, and that we had a lot of
23 discussion about paying for usage of rights-of-way
24 when we were talking about the fixing the CST and
25 options to the fix the CST. But I also agree that

1 with the providers in that, if we're going to
2 replace the entire CST with the holistic approach,
3 that that includes the franchise fee portion.

4 Because this is, again, replaced revenues and the
5 CST were replaced revenues for the franchise fees.

6 **MR. STRANBURG:** Okay. The sense I'm getting
7 is that if we can reflect in this that the current
8 communication services tax structure has payments
9 for the use of right-of-way included in it, but
10 there is one member representing local government
11 who felt that if you went to this holistic
12 approach, that member felt as though there -- his
13 belief was there should be some support for having
14 some right-of-way payment included under the
15 holistic option.

16 **MR. RESNICK:** Well, it's not only
17 communication providers that currently pay CST for
18 the rights-of-way, and I don't know how we would
19 deal with this, but there are other communication
20 providers that are not paying CST and pay a
21 pass-through fee or amount per mile for use of the
22 rights-of-way. So I don't know how we would deal
23 with that. Because apparently everybody's going to
24 be paying -- if everybody pays the sales tax, then
25 how would you deal with those companies that aren't

1 paying now a CST? And I don't know if they would
2 continue to pay the pass-through provider fee or if
3 they would be exempt from that.

4 **MR. SUGGS:** This is Davin. Mayor Resnick, I
5 mean, look at the sentence, and I agree with the
6 other folks. I mean, if we implemented your
7 sentence and we switched to a sales tax and then
8 had them pay right-of-way fees, then we'll be
9 contradicting our desire for this to be revenue
10 neutral because then we're producing increasing
11 revenue and we're not looking for that.

12 **MS. FOX:** Again, this is Sharon. But Mayor
13 Resnick does have a valid point in that currently
14 those rights-of-way users that put communication
15 facilities in the rights-of-way that do not pay the
16 CST, the cities have the option to charge them a
17 pass-through provider fee. And if the CST goes
18 away, then there would still need to be some type
19 of a provision for entities that put communication
20 facilities in the rights-of-way but do not -- let's
21 say that they do not charge for services or they do
22 not fall into the regular telephone and cable
23 service provider pocket, so to speak, because
24 they're providing some other use, I guess, for
25 those communication facilities that are in the

1 rights-of-way.

2 **MR. LINDSEY:** Well, would it make sense
3 then -- this is Gary Lindsey -- to suggest an
4 interest or an interest or consideration of keeping
5 a similar provision in the law going forward as
6 it's currently in the statutes, for any provider
7 whose customers are not, you know, providing
8 services, not, you know, not subject to sales tax,
9 but who otherwise use the right-of-way? Or
10 alternatively -- let me leave that and see if
11 there's any interest in that.

12 **MR. RESNICK:** Maybe the way to phrase it is
13 just -- I'm sort of thinking out loud as to the
14 language of that. If we say that we need to ensure
15 that all communication providers are paying for use
16 of the rights-of-way as they currently do under the
17 existing statute, that would cover it.

18 **MR. DUDLEY:** Yeah, this is Charlie Dudley. I
19 was thinking something to replace this sentence
20 that said, you know, the legislature should
21 review -- you know, I think it's 337.401 is where
22 all that language is. The legislature, you know,
23 needs to ensure that, you know, providers of
24 communication services whose services do not pay --
25 you know, are not subject to this sales tax --

1 increase sales tax continue to pay right-of-way
2 fees under that section or something. Because I
3 think --

4 **MR. RESNICK:** Right. That's fine. I mean,
5 that's the same idea that I was just getting at --

6 **MR. DUDLEY:** Right.

7 **MR. RESNICK:** That we maintain the current
8 structure with respect to ensuring that there's
9 payment for use of the rights-of-way.

10 **MS. FOX:** I agree with that. Because we have
11 several companies that place facilities in the
12 rights-of-way, but they do not provide service
13 that's taxable under the CST. And we don't want to
14 create an additional ratification on local
15 governments by restricting them if it's not a
16 company that is currently a competitor and it's
17 paying for the use of the rights-of-way through the
18 current CST tax system.

19 **MR. STRANBURG:** Charlie, are you in a place
20 where you could possibly put down in an e-mail to
21 us what you just said?

22 **MR. DUDLEY:** Yeah, to Andrea or to --

23 **MR. STRANBURG:** To the CST working group
24 e-mail address.

25 **MR. DUDLEY:** Yeah. I'm sorry, can you give me

1 that again real quick?

2 **MR. STRANBURG:** Okay. It's CSTworkinggroup,
3 all one word, at DOR.state.FL.US.

4 **MR. DUDLEY:** Yeah. Okay. I'll work on that
5 while you go on.

6 **MR. STRANBURG:** Okay. Super. Thank you.
7 Appreciate that.

8 **MR. RESNICK:** Marshall, I had a change in the
9 beginning of that paragraph on line 77. Gary
10 Resnick, again.

11 **MR. STRANBURG:** Okay.

12 **MR. RESNICK:** Where you have the members
13 representing local governments conditioned their
14 support upon the option being revenue neutral. I
15 don't think that's correct anymore. I think the
16 working group conditions their support upon the
17 option being revenue neutral.

18 **MR. STRANBURG:** Does anyone have any problem
19 with that? We'll change it to that then.

20 **MR. RESNICK:** Instead of these members, you
21 can just make it the members, et cetera.

22 **MR. STRANBURG:** Right.

23 **MR. RESNICK:** So it doesn't recite that it's
24 just two of us.

25 **MR. STRANBURG:** Okay. We will make any other

1 changes to reflect that as well within the rest of
2 that language.

3 **MR. RESNICK:** I had one additional or
4 basically just two words to add to line 79 where it
5 says "These members emphasized the need to hold the
6 state and each municipality and county harmless."

7 I would say instead of revenue neutral in the
8 aggregate, since that's what we were talking about.

9 **MR. STRANBURG:** So when you say that
10 revenue --

11 **MR. RESNICK:** Right after harmless, instead of
12 revenue neutral in the aggregate.

13 **MR. STRANBURG:** We're a little confused here
14 just how that would read. The members emphasized
15 the need to hold the state and each municipality
16 and county revenue neutral?

17 **MR. RESNICK:** No, no. Where it says harmless.
18 You can go to the end of the sentence also which
19 would be fine. It actually would work better at
20 the end of the sentence. So it would read: the
21 members emphasized the need to hold the state and
22 each municipality and county harmless by ensuring
23 that the amount of revenues received under this new
24 approach would be at least equal to the revenues
25 that the each government is currently receiving

1 from the communication services tax.

2 I would then just add the language, as opposed
3 to in the aggregate.

4 **MS. FOX:** It really reads the same. It seems
5 redundant.

6 **MR. RESNICK:** It's redundant, but it's
7 probably important. This is only a summary, but we
8 can put it in later also.

9 **MR. STRANBURG:** All right. If no one has any
10 major objection, we'll move on.

11 Okay. Line 87, we just replaced there the
12 word "this" with holistic replacement.

13 And now we're on then, the next change is on
14 page four. We added some language in line 103.
15 Does anyone have an issue with that?

16 All right. Then moving on to lines 105
17 through 110, that was some language that we
18 discussed at the last meeting. Is there any
19 problem with that language?

20 Okay. Over to page five, lines 121 through
21 131.

22 **MS. FOX:** This is Sharon. On line 127, should
23 the word "application" be plural?

24 **MS. KITTRICK:** Yes, it probably should.

25 **MR. STRANBURG:** Okay. We'll make that change.

1 Any other changes in those lines?

2 Okay. The next group of revisions on page
3 eight. We had plugged in, up on lines 186 through
4 189, the rate language that had been down a little
5 bit lower in this section. Is everyone okay with
6 the revision of that language there?

7 Okay. Now we're down to lines 202 through 206
8 on page eight.

9 All right. That's fine. And then that last
10 page on page eight was just the language that we
11 plugged in up on lines 186 through 189.

12 And then finally over on page nine, lines 211
13 through 213.

14 Next change was on page ten, lines 240 through
15 242.

16 Okay. Then moving over to page 11, we added
17 some language in lines 275 through 282.

18 **MR. RESNICK:** I'm sorry, Marshall, this is
19 Gary. I had a question on 241.

20 **MR. STRANBURG:** Okay. Go ahead.

21 **MR. RESNICK:** Just -- and this is really more
22 of a question. Where it states non-internet bundle
23 charges, if a company bundles internet and video,
24 then that -- they're not allowed to apply their
25 books and records to determine the taxability for

1 the charges that are taxable?

2 **MR. STRANBURG:** Mayor, I think -- and some of
3 the others can correct me if I get this wrong --
4 but I think the reason why we did that was, prior
5 to 2012, Internet charges were already subject to
6 the unbundling provisions. There was a requirement
7 in Florida law already that said Internet charges
8 could be pulled out and treated separately. The
9 2012 language dealt with other charges that were
10 non-Internet bundled charges. So I think that's
11 why we phrased it this way and why it looks this
12 way.

13 **MR. RESNICK:** Okay. All right.

14 **MR. DUDLEY:** Yeah, this is Charlie, that's
15 correct. I think the other change for Internet was
16 done in 2005.

17 **MR. RESNICK:** All right.

18 **MR. STRANBURG:** Okay. Back over then to page
19 11, lines 275 through 282.

20 All right. Then our next change is on page
21 12, lines 286 through 296.

22 **MR. DUDLEY:** Yeah, this is Charlie. I mean, I
23 understand what's trying to be said here, I'm just
24 concerned again, like I said earlier, that
25 especially on lines 289 through 291, it's true

1 they're not allowed to charge for the use of public
2 right-of-way because it's already part of the CST,
3 you know, again, for those providers that are
4 paying but whose services are subject to CST. So
5 I'm concerned that this doesn't have that qualifier
6 in there.

7 **MR. RESNICK:** I can't hear what's being said,
8 I'm sorry.

9 **MR. DUDLEY:** What I'm saying is after the --

10 **MR. RESNICK:** Not you, Charlie, I thought
11 somebody else was speaking after you.

12 **MR. STRANBURG:** Those of you on the phone, if
13 somebody is on the call, has their phone on
14 speakerphone and we're hearing a lot of background
15 noise and background conversations, so whomever
16 that might be, if you could please maybe mute your
17 phone so that you're not causing a lot of
18 background noise and interference on the rest of
19 the call, we would appreciate that.

20 **MR. RESNICK:** Thank you.

21 **MR. LINDSEY:** This is Gary. I thought
22 everybody already said that local governments are
23 not allowed to charge communication riders that pay
24 the local CST; I thought it already qualifies that.

25 **MR. DUDLEY:** Yeah, I'm just concerned that if

1 someone reads that, they're going to say, well, how
2 come they don't pay right-of-way fees? And the
3 answer is, well, because those were included when
4 the local CST rates were set. And it doesn't say
5 that, though. I mean, you could say local
6 governments aren't allowed to charge communication
7 services that pay local CST, a fee for use of the
8 public rights-of-way as such revenues were already,
9 you know, part of the local CST replacement rate.

10 **MS. FOX:** And I think that that's not a bad
11 idea. I think that I can understand Mayor
12 Resnick's position to try to emphasize this. And
13 we have emphasized it in other places. But I think
14 it's going to be important as we go forward that if
15 communication service providers aren't paying it in
16 one way as in through the holistic approach, that
17 there needs to be some provision for local
18 governments to receive it in another way if they
19 end up paying it through the -- instead the
20 legislature decides to fix it some way so that
21 providers in one genre or venue don't pay the CST
22 anymore. So --

23 **MR. RESNICK:** I think -- your point is now. I
24 didn't get it at first when -- but maybe on line
25 289, as a new second sentence, we could just add

1 that the CST was also a replacement for such
2 franchise fees. And then we could add the word
3 "accordingly" with the enactment of the CST. I
4 mean, would that cover it?

5 **MS. FOX:** I think the words that Charlie
6 provided were a little bit better. Can you
7 remember what you said, Charlie?

8 **MR. DUDLEY:** Yeah, so I guess after public
9 rights-of-way on line 291 at the end of the second
10 sentence, I guess I would say as such right-of-way
11 fees were included as replaced revenues in
12 calculating the local CST.

13 **MR. RESNICK:** Yeah, that's fine.

14 **MR. LINDSEY:** Can I suggest a slight word
15 change to -- no pride of authorship here, but if we
16 said -- because the CST already includes the
17 right-of-way -- recoupment of right-of-way fees in
18 the CST -- or we could say because the CST includes
19 a component of the right-of-way fee within the CST,
20 local governments do not charge communication
21 providers to pay a local CST fee for the use of
22 public right-of-way. Maybe Charlie's is better.
23 I'll leave that alone.

24 **MR. DUDLEY:** Well, I think what's important to
25 Gary and Sharon is the concept that they agree they

1 were replacements for -- that was included in the
2 CST, it's just not losing sight of the fact that if
3 some service or some provider is a communication
4 provider but for some reason that service isn't
5 paying CST, they want to make sure that they don't
6 get to use the right-of-way without any charge at
7 all. I didn't understand that at first, but now I
8 do, so --

9 **MR. LINDSEY:** Yeah. Okay. Got it.

10 **MR. STRANBURG:** Okay. So we've captured --

11 **MR. RESNICK:** I'm fine with the language that
12 Charlie suggested adding.

13 **MR. LINDSEY:** Yeah, I agree. This is Gary.
14 You can dismiss my attempt at wordsmithing.

15 **MR. STRANBURG:** All right. Thank you, Gary.
16 So we've got that language. We will add it then at
17 line 291.

18 All right. Anything else on the language, 286
19 through 296?

20 **MR. DUDLEY:** You know, I'm not trying to -- to
21 be nitpicky -- the last sentence, I'm trying to
22 remember, Gary -- and I tried to look, and I think
23 Andrea may have tried to look over the weekend, for
24 any data we had that Florida's the only state that
25 does not allow -- and I'm not questioning your

1 truthfulness, I'm just -- I don't recall that being
2 in front of the committee. I know we had a lot of
3 information and I may have just missed it --

4 **MS. KITTRICK:** You know, Virginia is a state
5 that has a statewide right-of-way fee and they do
6 allow local governments who maintain all of their
7 roads and don't accept any local -- or any state
8 funding to have their own fee. But the majority, I
9 would say a 98 percent of them, because they do
10 accept state funding for their roads, do, you know,
11 have this -- they follow the state right of way
12 fee, so I don't know if you want to throw that in
13 there or not, but --

14 **MR. DUDLEY:** I was just trying to figure out
15 how to --

16 **MR. RESNICK:** You want to put a note saying
17 something to that effect or Virginia has
18 incorporated a state right-of-way fee that most
19 local governments have adopted or follow?

20 **MS. KITTRICK:** I think --

21 **MR. RESNICK:** I mean, that's fine. I didn't
22 want to --

23 **MR. DUDLEY:** Yeah, I know.

24 **MR. RESNICK:** I don't want to make too much of
25 this, to be honest.

1 **MS. KITTRICK:** Texas is another one.

2 **MR. DUDLEY:** What does Texas do?

3 **MS. KITTRICK:** I think they have a statewide
4 right-of-way fee, as well.

5 **MS. FOX:** Would it be true to say that Florida
6 is unique in the way that the franchise fees have
7 been incorporated into the communication services
8 tax?

9 **MS. KITTRICK:** No, because Virginia also --

10 **MR. DUDLEY:** -- stand alone, Virginia?

11 **MS. KITTRICK:** No, they have a stand-alone
12 right-of-way fee, but their franchise fees for
13 cable were eliminated when they did the CST. So --

14 **MR. DUDLEY:** Isn't Florida unique in that CST
15 replaced right-of-way fees on communication
16 providers? Isn't that what Sharon's trying to say,
17 or is that not accurate?

18 **MS. KITTRICK:** Well --

19 **MR. DUDLEY:** I had a hard time trying to
20 figure out how to redo the sentence.

21 **MS. KITTRICK:** Right.

22 **MR. STRANBURG:** Charlie and Kathleen and
23 others, we went back and looked at -- this was part
24 one of French Brown's presentations, I think in
25 July or August time frame, I can't remember exactly

1 when right now. And what we found was we had asked
2 other states to submit information in one of our
3 surveys about local fees, whether they were
4 franchise fees, whether they were permit fees,
5 whether they were rights-of-way fees, and we only
6 got responses back from about seven or eight
7 states. And the answers we got back were things
8 like for the most part maybes, not awares. There
9 were very few either yeses or no response in that
10 area. And I think what we were drawing from that
11 is while we reached out and got information from
12 other states about these types of fees, we really
13 got limited responses back from them and it really
14 didn't give us a good definitive answer as to
15 whether other states and local governments did or
16 did not impose such fees so that we could determine
17 whether Florida was with the majority or whether
18 Florida was unique and of their own way of doing
19 this.

20 So, again, we could maybe try to add some
21 information in there about particular states, but I
22 think the overall flavor in going back and looking
23 at the meeting materials that Andrea and I pulled
24 from it was we just didn't really have good
25 information on this to give a call one way or the

1 other about whether Florida was doing something in
2 line or Florida was out there on its own.

3 **MS. KITTRICK:** Yeah, I mean, it's definitely a
4 complicated issue. I mean --

5 **MS. FOX:** Do we lose anything? And I'm sorry
6 to interrupt, Kathleen. But do we lose anything if
7 we just lose the last sentence of this paragraph?

8 **MR. RESNICK:** I think -- see if it's already
9 covered. What if we said, you know, based on
10 information available to the working group, the
11 majority of states still have fees for using the
12 rights-of-way? I mean, I do think we lose
13 something because we have a discussion later on
14 about how Florida's tax rate, I think, we're
15 correcting some of that language, but when the DOR
16 did the survey, they wanted -- they concluded that
17 Florida's tax rate was generally higher than other
18 states, but it didn't have the apples-to-apples
19 comparison. So I think that's the only point of
20 having that in there.

21 **MS. FOX:** And, Mr. Chairman, I think that
22 Charlie -- and Charlie, correct me if I'm wrong --
23 reached out to your constituents and that was --
24 the fact that there was a majority of jurisdictions
25 that charged franchise fees, am I mistaken about

1 that?

2 **MR. DUDLEY:** No, I think that's accurate. The
3 reason, Mr. Chairman, if I can, the language on
4 lines 347 to 352 that is shaded, it's not bolded
5 which I guess means it came -- we agreed to on the
6 last call, Gary, I was reading that, skipping ahead
7 and reading that and trying to determine if that
8 really -- because it has the uniquely included
9 language that Sharon mentioned. If you look at
10 that language.

11 **MR. RESNICK:** Right.

12 **MR. DUDLEY:** I wonder if that kind of captures
13 what you're really trying to get at here.

14 **MR. RESNICK:** All right. That's fine. I'll
15 take out the last sentence. That was my only -- if
16 that was my change and no one else minds that
17 coming out.

18 **MR. STRANBURG:** Okay. So we'll take out that
19 last sentence in that paragraph and then we've got
20 it covered over there as Charlie points out on
21 lines 347 through 352.

22 **MR. RESNICK:** All right.

23 **MR. STRANBURG:** Okay. Moving on. That is
24 those lines there. And then the language in line
25 352 through 354 are our next changes. Any

1 additional comments on that? On those changes?

2 **MR. DUDLEY:** This is Charlie. I'm sorry, but
3 the new sentence that's bolded there, 352 to 354,
4 I've seen two studies now that show Florida was the
5 third highest tax and fees in the country. So, the
6 problem I have is at the end there, if any other
7 states, they may be higher than such amounts of
8 Florida, the document I've seen says we're number
9 three, so that would mean only two would be higher.
10 I'm not saying those studies are -- you know,
11 because I haven't read all the details in them, I'm
12 not saying they're perfect, but I kind of have a
13 problem with the end of that sentence there because
14 I don't know that I have seen anything to
15 contradict the studies I've seen.

16 **MS. KITTRICK:** Yeah, I don't think it's
17 accurate. This is Kathleen.

18 **MS. FOX:** Well, unfortunately, we don't have
19 the benefit of those studies. Did they include
20 franchise fees and permitting fees and all those
21 other things, Charlie?

22 **MS. KITTRICK:** I think if you look at it from
23 a wireless perspective, wireless doesn't pay
24 franchise fees or right-of-way fees in any other
25 state except for -- you know, it's included in the

1 basis of Florida CST. I mean, I think you'd have
2 to maybe break out -- I mean, if you're going to go
3 forward with a statement like this, you'd have to
4 break out cable versus landline versus wireless. I
5 don't think it's accurate to say that.

6 **MR. RESNICK:** Well, then let's -- where's the
7 language -- hang on one second. On page 13. I
8 mean, if we are not going to characterize Florida
9 with respect to other states, then we shouldn't
10 characterize it at all as being --

11 Marshall, do you recall in the report, any
12 existing language, or anybody else for that matter,
13 if there's a summary of the survey with respect to
14 Florida versus other states?

15 **MR. STRANBURG:** Well, I think what you may be
16 talking about, Mayor, is on page 13, we talk about
17 the results from the initial survey and then
18 reference back in the appendix of materials; if you
19 want to look at the complete survey results, that's
20 where you go to find them. I think the only
21 reference we have about the survey is what you find
22 there on page 13 that carries over to the top of
23 page 14.

24 **MR. DUDLEY:** Yeah, and I thought the language
25 on lines 350 to 352 was designed to capture what I

1 think Gary and Sharon are concerned about. But
2 that's what we accepted at the last meeting and I
3 thought that's what it was designed to do, to say
4 these jurisdiction when it talks about fees and
5 taxes, it may be apples and oranges because they
6 may have not included, you know, all the fees in
7 one and they may have included all the fees in
8 another. I thought that's what the concern was.

9 **MR. RESNICK:** I'll take out the last sentence
10 because I'm looking at the report and there's no
11 statement as to how Florida ranks compared to other
12 states generally with respect to taxes and fees on
13 this product, so you can take out the last
14 sentence.

15 **MR. STRANBURG:** Okay. Thanks, Mayor. We'll
16 do that then.

17 I believe our next set of revisions are over
18 on page 18. We have a couple of additions we had
19 agreed on on lines 432 and 433.

20 Then our next revision is over on page 20,
21 lines 484 and 485, we took out the reference to
22 landline telephone penetration.

23 Moving on then over to page 24, we added a
24 couple of references to clarify that the couple of
25 statements that we talked about in the retail

1 perspective area were statements by Mr. Townsend
2 and that they weren't any kind of indication of the
3 working group's feelings on those couple of issues.

4 And then moving over to the bottom of page 25,
5 line 621 and 623 where -- another change that we
6 talked about at our last meeting.

7 Then we're over on to page 27. We added some
8 information, lines 674 and 675. And then in that
9 same paragraph on the next page, page 28, lines 677
10 through 683, we did some restructuring of the
11 sentences there about the Department's audit
12 efforts. Any comments on those changes?

13 **MS. FOX:** This is Sharon and this is
14 wordsmithing, but I would like to propose that the
15 last line at 683 say -- instead of it starting with
16 "of the," I would say "of the 129 million in
17 revenues collected through these audits."

18 **MR. SMITH:** Sharon, this is Brian, where are
19 you saying to put that?

20 **MS. FOX:** On line 683, I would write it to
21 say, "of the 129 million in revenues collected
22 through these audits."

23 **MR. SMITH:** Okay. Thanks.

24 **MS. FOX:** It just seems to flow a little bit
25 better. I don't think it changes the meaning at

1 all. And I think that the rewording more
2 appropriately identifies the point that Charlie was
3 trying to make, if I'm not mistaken, Charlie.

4 **MR. DUDLEY:** Uh-huh. Correct.

5 **MR. STRANBURG:** Okay. Does anybody have any
6 additional comments on that? Okay. We'll make
7 that change. Thank you, Sharon.

8 Over on page 29, we corrected a little typo in
9 line 700. And then we're over to page 30, lines
10 725 through 733.

11 **MR. DUDLEY:** Marshall, this is Charlie. I
12 don't -- well, I guess people can correct me now, I
13 don't recall hearing any testimony or anything
14 about consumer confusion. I agree we did not have
15 any presentations from consumer groups, but it says
16 members of the working group pointed out there is
17 significant confusion among consumers.

18 **MR. STRANBURG:** Yeah, Charlie, I think you're
19 right, we did not have any testimony, but I think
20 we did have some significant discussion among the
21 members of the working group on this topic. And I
22 don't know, maybe if we rewrite that to reflect
23 that that's what took place, we didn't necessarily
24 get testimony or presentations, but we did have a
25 discussion about billing issues and, you know, as

1 part of that discussion, it came out that no
2 governmental entity has the ability to regulate
3 consumer billing and that there were options
4 submitted by members to address these issues and
5 you'll find those options as part of the list of
6 options submitted by members in the appendix.

7 **MR. DUDLEY:** That's fine.

8 **MR. STRANBURG:** Does something along that line
9 sound okay to others for reworking that paragraph?

10 **MR. RESNICK:** Marshall, that's what it already
11 states. It says exactly that, but you can rework
12 it if you'd like to.

13 **MR. STRANBURG:** Yeah, we'll do that. And I
14 think we're not changing the topic, I think we're
15 just trying to clarify so that everybody
16 understands that this was not a presentation, it
17 was a discussion among the members of the group
18 where all this came out. And I think that covers
19 it. I think the information's there, it's just how
20 the discussion came up is all we're clarifying.

21 Okay. Then over on page 31, lines 756.
22 Another one of those conforming changes that we
23 talked about at the last meeting.

24 And then after that. We have some changes
25 that start on line 758 on page 31 and flow over to

1 page 32 on 781. If y'all remember, we had some
2 discussion about the holistic option and the
3 information that Sharon had submitted with respect
4 to that. And we just plugged verbatim in what was
5 in her submission into the report to reflect that
6 was something that had been submitted.

7 **MS. FOX:** Mr. Chairman, this is Sharon, again,
8 this is wordsmithing and I don't think that it
9 changes anything except maybe it's a little bit
10 more tactful. But if we change the wording of line
11 766 and 767 to -- it starts, the last word of line
12 766, I propose that we word it to say the
13 replacement revenue stream must be enacted as a
14 direct substitution to the CST without any required
15 action by a city or a county. So, it mostly just
16 changes the tone as opposed to the intent.

17 **MR. STRANBURG:** Sharon, could you possibly say
18 that again? Because I'm not sure my fingers were
19 going as fast as they needed to, to capture all of
20 that.

21 **MS. FOX:** Okay. I'll start with the bullet as
22 it starts on 766. Really the first sentence
23 doesn't change.

24 **MR. STRANBURG:** Right. And then you said the
25 replacement that -- 766 to -- the last word on 766,

1 I think we can just pick it up from there. So --

2 **MS. FOX:** Right. The replacement stream --
3 excuse me, the replacement revenue stream must be
4 enacted as a direct substitution to the CST without
5 any required action by a city/county. Really, I
6 just took the words "legislature must enact the"
7 and stuck in "must be enacted" after stream. So
8 the replacement revenue stream must be enacted as a
9 direct substitution to the CST without any required
10 action by a city/county.

11 **MR. STRANBURG:** Okay. Is everybody okay with
12 that change?

13 All right. Any other comments on lines 758
14 through 781?

15 **MR. RESNICK:** Marshall, it's Gary. On 758, I
16 think it's -- this is now the suggestion or this is
17 adopted by the working group, not just the members
18 who represent local government. So I think we can
19 just say the working group indicated that the
20 following requirements were necessary. We should
21 probably get rid of the words "in order." It's
22 just not correct.

23 **MR. DUDLEY:** I had one question, I guess
24 maybe, Sharon, you could help me or Gary, on line
25 762, to include a growth factor. Can someone

1 explain to me how you do that or what's involved in
2 doing it? I mean, I thought we wanted to get the
3 base as broad as we could, subject -- one of the
4 reasons of going to a sales tax approach is you've
5 got a lot of online and other things and prepaid
6 that we can capture in here so that your base is as
7 broad as it can be. How does the legislature or
8 anyone else guarantee that it's going to create
9 more tax revenue? I'm just having a problem with
10 that included growth factor.

11 **MS. FOX:** Well, from my perspective, and this
12 is my interpretation of the way that CST was
13 enacted to begin with, as different services
14 evolved and were made available by new or different
15 methodologies or technologies, that those new
16 technologies or those new services would stay in
17 and be incorporated into the tax base. It appears
18 now, because of the technology that is so
19 encompassing of Internet, that more and more things
20 are being denoted as Internet service as opposed to
21 communication service. And so I was trying to
22 capture -- and I know that we have no control over
23 the Internet situation, but I was trying to capture
24 the intent that as we progress and as the services
25 progress, that that doesn't mean that we get to

1 start carving out this section and that section of
2 a like service that's being provided differently so
3 that we end up in the same place that we are now,
4 but that all of these things as they morph stay in
5 the revenue base.

6 You're right, we can't ensure that --

7 **MR. DUDLEY:** Like in the definitions of
8 communication services, we talk about, you know, or
9 other medium or method now in existence or
10 hereafter advised, regardless of protocol. You're
11 just trying to capture that same sort of policy
12 statement, I guess, right? I just don't know if
13 people will get that from this sentence, a growth
14 factor generally. That means, oh, okay, so you're
15 going to increase the rate over here by some sort
16 of a COLA or something. I don't think you mean
17 that. I think you mean what you just expressed.
18 I'm just struggling with when someone reads this,
19 are they going to say -- how are they going to take
20 that phrase. Maybe it's just me, so maybe it's
21 okay. So I'll defer to others.

22 **MR. STRANBURG:** Well, Charlie, unless
23 anybody's got any better language to put in there,
24 I'm not sure that we've got a option for changing
25 that.

1 **MR. DUDLEY:** Okay.

2 **MR. STRANBURG:** All right. We'll just leave
3 it the way it is and if somebody thinks of
4 something before the end of the call, we can come
5 back to that and talk about it some more.

6 All right. Our next revision then will be
7 over on page 32. Again, another conforming note
8 there in line 800.

9 Over on page 33 then, we had some changes that
10 we agreed to that are reflected in lines 807
11 through 812. Then down on line 816 on page 33,
12 again, that other -- another conforming change.
13 And then on lines 823 through the bottom of page 33
14 and then over to the top of page 34 through line
15 855, some conforming changes that we worked on
16 based upon discussions on the last -- at the last
17 meeting.

18 Anybody have any comments on those changes?

19 **MR. RESNICK:** Marshall, on line -- This is
20 Gary -- on line 827, it's my understanding that
21 Scott Mackey volunteered to do this analysis. I
22 would just like to reflect that on line 827 in the
23 last sentence. We should say Mr. Mackey
24 volunteered to provide an analysis to the working
25 group. Unless he was paid to do it. I don't know

1 if he was paid or not actually.

2 **MS. KITTRICK:** No, he wasn't paid.

3 **MR. RESNICK:** Okay. So if we could just make
4 that change.

5 **MR. STRANBURG:** So could we change in line 827
6 then -- let me start then up on line 825: One of
7 the members on behalf of the working group agreed
8 to reach out to Scott Mackey who is an economist
9 and partner with KSE Partners, LLP, who volunteered
10 to assist in this effort.

11 **MR. RESNICK:** That's fine.

12 **MR. STRANBURG:** Okay. We'll make that change
13 then, since no one seems to have a problem with
14 that.

15 Anything else on the -- again, through line
16 823 and 855?

17 **MR. RESNICK:** Just on line 853, it continues
18 the same paragraph. It shouldn't be a new
19 paragraph.

20 **MR. STRANBURG:** Okay. We'll remove that
21 indent.

22 Okay. Then down on lines 858 and 859, again,
23 another conforming revision based upon our
24 discussions at the last meeting.

25 And then over on to page 35, again, lines 864

1 through 868, we had some, again, conforming
2 changes. And then one other change that maybe
3 isn't technically a conforming change on line 868.

4 Okay. Next change over on -- revision over on
5 page 37 lines 924 through 928.

6 And then hearing nothing on that, our last
7 revision is on page 28, lines 938 through 941.

8 **MR. RESNICK:** Sorry, Marshall, I know the rule
9 against going backwards. But on line 932, just to
10 keep consistent with the format, that should be
11 indented.

12 **MR. STRANBURG:** Okay. Yeah. No, thanks,
13 appreciate that.

14 Okay. And now in the spirit of Mayor's
15 last -- going back. Let's go back to the
16 discussion we had a little bit earlier about the
17 language of lines, I believe, it's around lines 83
18 and 84 about the franchise fee and rights-of-way
19 usage. Charlie has sent us some language. And let
20 me go ahead and read that. I'll read that a couple
21 of times slowly so everybody can hear it. But we
22 would take out that sentence that goes from the
23 middle of line 83 through the end of line 84 and
24 replace it with something along this: The
25 legislature should review this change in

1 conjunction with Section 337.401, Florida Statutes,
2 to ensure that those providers of communication
3 services whose services may not be subject to the
4 sales tax continue to remain subject to the
5 rights-of-way fees authorized under current law.

6 **MR. RESNICK:** That's fine.

7 **MS. FOX:** That's great, Charlie. Thank you.

8 **MR. STRANBURG:** Okay. Super. We will plug
9 that change in as well.

10 **MR. RESNICK:** This is a summary, though,
11 right, Marshall, so there's probably -- and I don't
12 know what section you would go to, but there's
13 probably a section in the actual report that that
14 language should go in.

15 **MR. STRANBURG:** Mayor, I'm looking at over on
16 page 12 where we talk about public rights-of-way
17 and permit fees. Is that where you think maybe it
18 ought to go?

19 **MR. RESNICK:** Yeah, that's fine. Or maybe
20 actually in the discussion on the option that we're
21 recommending.

22 **MR. STRANBURG:** No, I think you may be right.
23 That probably should be something back there
24 instead of where I talked about on page 12, so --
25 Probably somewhere in the discussion that

1 starts at the bottom of page 34 about the
2 implementation of the holistic option. Maybe we
3 should add that in that discussion as well.

4 **MR. RESNICK:** That would be fine. I mean,
5 maybe it could be a stand-alone sentence around 876
6 as a continuation of that paragraph.

7 **MR. STRANBURG:** Or do you want us to -- okay.
8 We can add that as a continuation sentence there
9 after line 8 -- actually it's 875. I think 876 is
10 a blank line. But after -- insert it after line
11 875 as a continuation of that paragraph.

12 **MR. RESNICK:** That will be fine.

13 **MR. STRANBURG:** Okay. We'll add it there
14 then.

15 Okay. Any other matters with respect to the
16 report?

17 Okay. Hearing none, what we will do is we
18 will prepare the report to reflect those changes.
19 And I guess we technically ought to take a -- some
20 type of indication of affirmation of the working
21 group's approval of us submitting this report on
22 their behalf to the legislature.

23 So what I'd like to do is to -- with the
24 understanding that we will be making the changes
25 that we've talked about in this meeting, to run

1 through and find if -- what level -- you know, how
2 everyone feels about the draft report reflecting
3 the work of this group.

4 So let me just run through a quick roll call
5 to get that. And again, this is the purpose of
6 approving the report as it's constituted to submit
7 to the entities that we are, pursuant to the
8 statute, required to send this to by February 1.
9 So, I guess a simple yes saying you're in agreement
10 with us submitting the report as it's constituted
11 and no indicating nonsupport. So I'll just run
12 through the members.

13 Charlie Dudley?

14 **MR. DUDLEY:** Yes.

15 **MR. STRANBURG:** Sharon Fox?

16 **MS. FOX:** Yes.

17 **MR. STRANBURG:** Kathleen Kittrick?

18 **MS. KITTRICK:** Yes.

19 **MR. STRANBURG:** Gary Lindsey?

20 **MR. LINDSEY:** Yes.

21 **MR. STRANBURG:** Mayor Resnick?

22 **MR. RESNICK:** Yes.

23 **MR. STRANBURG:** Alan Rosenzweig?

24 Brian Smith?

25 **MR. SMITH:** Yes.

1 **MR. STRANBURG:** Davin Suggs?

2 Okay. So six members present affirm that.
3 We've got two that we're missing. What we will do
4 is we will reach out to them to make sure that we
5 are accurately collecting their point of view with
6 respect to the report. And we will let all the
7 other members know if there's any problem with
8 those two members that are missing right now about
9 their support or nonsupport of the report.

10 Moving on, what we'll do as we did for this
11 last meeting that was held, we will prepare draft
12 minutes of the meeting which we'll include in the
13 report, but also we'll note that we've not had a
14 chance to vote upon them or ask the members to vote
15 on them.

16 Is there any other business that the members
17 believe we need to cover today?

18 **MR. RESNICK:** Marshall, this is Gary, just
19 from a procedural standpoint then, if this is the
20 last meeting of the working group, is this group
21 then over, is Sunshine over for us, things of that
22 nature?

23 **MR. STRANBURG:** Technically, that's a good
24 question. I would -- let me make this request,
25 Mayor, that until we submit the report, it's

1 probably best that we still maintain the posture of
2 being under the government and the Sunshine
3 requirements. We will send you a copy -- send all
4 the members a copy of the report and the
5 transmittal of that report. I believe it goes to
6 the Speaker, the President and the Governor's
7 office. So we will do that.

8 And I think once that report has been
9 submitted, then I think we're okay as far as our --
10 we fulfilled our statutory requirement and I think
11 we will consider the group to have accomplished its
12 goal and, therefore, I don't think we're going to
13 have to worry about meeting again. We will have
14 done what's been asked us of us and the working
15 group members then would not be covered under, I
16 think, the requirements of the Sunshine law. We
17 will double-check with our legal staff to be sure
18 that's accurate. If that is not accurate, we'll
19 let you all know. But --

20 **MR. RESNICK:** I tell you what, if I could
21 request this, why don't -- I think it would be
22 helpful if DOR actually sent out a formal
23 communication to us indicating that the working
24 group is terminated and that the Sunshine and other
25 requirements of the statute no longer applies to

1 us.

2 **MR. STRANBURG:** Okay. We will do that. We'll
3 be glad to do that.

4 **MS. FOX:** Mr. Chairman, this is Sharon. I
5 would like to thank each of the members on the
6 working group. It was a pleasure to meet those of
7 you I have not met before and always a pleasure to
8 work with each of you.

9 **MS. KITTRICK:** Thank you, Sharon. I feel the
10 same way. This is Kathleen. Appreciate your work
11 on the committee politically.

12 **MR. DUDLEY:** This is Charlie, to thank you
13 all.

14 **MR. RESNICK:** Actually, ditto. Everybody was
15 very diligent in this. I appreciate everybody's
16 effort.

17 **MR. SMITH:** This is Brian and I'll ask that
18 you guys come to California next time.

19 **MR. STRANBURG:** And, again, I want to thank
20 each one of the members. I appreciate your effort,
21 your contributions. I also want to take this time
22 to acknowledge all the DOR folks again, you know,
23 Andrea Moreland who I don't even want to think
24 about what I could have done had she not been here
25 to assist, and her staff from Lynne Moeller, Jamie

1 Peate, Debbie Thomas, who spent countless hours
2 working on this, too. I can't think them enough.
3 And as I said, a number of members of the
4 Department of Revenue who've spent a lot of time
5 providing support to you, getting information to
6 you so that you can put together a report that I
7 think we're proud to say is one that had a lot of
8 thought that went into it, a lot of effort, and has
9 given the legislature something to consider in the
10 area.

11 So, with that again, I want to thank you all.
12 Appreciate your efforts and we will adjourn this
13 meeting of the Communication Services Tax working
14 group.

15 (Meeting concluded at 2:40 p.m.)

16 * * *

