

Clean Water and Flood Abatement Task Force

**Thursday, May 5th, 2016
10:00 a.m. – 12:00 p.m.
Tidewater Utilities**

Meeting Attendance

Task Force Members:

Present:

Senator Bryan Townsend
Senator Bryant Richardson
Secretary David Small
Roy Miller
Brenna Goggin
Lew Killmer
Thom May
Paul Morrill
Gerard Esposito
Jen Adkins
Patty Cannon
Bruce Jones
Michael Riemann
George Haggerty

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Absent:

Representative Ronald Gray
Gerald Kauffman
Robert Baldwin
Holly Porter
Joseph Corrado
Gina Jennings
Andrew Jakubowitch
Representative Michael Mulrooney
Jeffrey Bross
Secretary Jennifer Cohan
Sam Lathem
Howard Morrison
William Lucks
Dian Taylor
Thomas Unruh
Christine Mason

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Attendees:

Kelly Glenn
Andrew Homsey
Charles Postles
Marjorie Crofts
David Gregor
Michael Bard
Frances Hart
Chuck Schonder
Terry Deputy
Scott Kidner
Maria Evans
Doug Hokuf

Organization:

NAWC
UD
N/A
DNREC
Department of Finance
Delaware Nature Society
Inland Bays Foundation
N/A
DNREC
WRA
DAR
NCC

The Task Force meeting was brought to order at 10:10 a.m.

Consideration of Meeting Minutes

Senator Bryan Townsend, Co-Chair, welcomed Task Force members to the meeting and thanked everyone for coming. Next, the Senator reviewed the materials and topics that the Task Force would discuss. He also asked DNREC (Department of Natural Resources and Environmental Control) to send their list of projects in because that is a big piece of the discussion that the Task Force still needs to have. Next, he directed the conversation to Mr. Paul Morrill and Ms. Brenna Goggin.

Paul Morrill, Committee of 100, commented that his group reworked the synopsis to reflect the updates from the last meeting.

He continued by noting that they had a discussion with the Department of Finance, based off of the Task Force's discussion about a \$20 million program and collecting the fee through the Department of Finance. The Division of Revenue answered Mr. Morrill's questions and told him that a fixed fee complicated their process. They prefer a percentage based off of an individual's ability to pay. Mr. Morrill asked Revenue to put together a series of caps so as to combine the two features. One would be a percentage surcharge with a cap. He continued by saying that the Task Force has a tendency to support a modest fixed fee, so he did not want to stray too far from that feature. Additionally, Mr. Morrill introduced David Gregor, representing the Delaware Department of Finance, who had developed the documents that the Task Force would be discussing during this meeting.

Minutes prepared by Caitlyn Gordon, Legislative Aide

Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

Senator Townsend asked Mr. Terry Deputy if the Task Force would also have a presentation on how this would work out on an annual basis in terms of bonding.

Terry Deputy, member of the public and DNREC, commented that DNREC is not ready for their presentation during this meeting but will be ready to discuss it at a future meeting.

Mr. Morrill noted that DNREC has prepared amendments that they could discuss today.

Senator Townsend moved the Task Force discussion to Mr. Gregor's presentation from the Department of Finance.

Water Infrastructure Investment Fact Sheet

David Gregor, Deputy Secretary of Department of Finance, introduced his Water Infrastructure Investment Fact Sheet. He continued by saying that the Department has had many conversations about the legislation. The taxes that the Department levies are built on the foundation of "ability to pay." There are features of the code that say if an individual is below a certain level, then he or she will not have to pay anything. However, this concept is different from the concept that the Task Force has been discussing, which is whoever benefits pays. Moreover, they are working to take two concepts and blend them together. Next, Mr. Gregor began to discuss the sheet that he prepared for Task Force members.

The Water Infrastructure Investment Sheet is inserted on pages 4-6.

PIT Surcharge on Net Liability (After All Deductions and Credits)

Revenue Impact (millions) -- Surcharge Applies to all Taxpayers -- Residents and Nonresidents

Rate	<u>Cap</u>								
	<u>\$25</u>	<u>\$45</u>	<u>\$50</u>	<u>\$75</u>	<u>\$100</u>	<u>\$125</u>	<u>\$150</u>	<u>\$175</u>	<u>\$200</u>
1.00%			\$7.6	\$8.4	\$8.8	\$9.1	\$9.4	\$9.5	\$9.7
1.25%			\$8.9	\$10.0	\$10.6	\$11.1	\$11.4	\$11.6	\$11.8
1.50%			\$10.0	\$11.5	\$12.3	\$12.9	\$13.3	\$13.6	\$13.8
1.75%			\$10.9	\$12.8	\$13.8	\$14.6	\$15.1	\$15.5	\$15.8
2.00%			\$11.7	\$13.9	\$15.3	\$16.2	\$16.8	\$17.3	\$17.7
2.25%			\$12.4	\$15.0	\$16.6	\$17.7	\$18.5	\$19.0	\$19.5
2.50%			\$13.0	\$16.0	\$17.8	\$19.1	\$20.0	\$20.7	\$21.3
2.75%	\$8.3		\$13.5	\$16.8					
3.00%	\$8.5	\$13.1	\$14.0	\$17.6					
3.25%	\$8.6	\$13.4	\$14.4	\$18.3					
4.00%		\$14.3	\$15.4						
5.00%		\$15.0	\$16.3						

Cap Applies to All DE AGI In Excess of*

Rate	<u>Cap</u>								
	<u>\$25</u>	<u>\$45</u>	<u>\$50</u>	<u>\$75</u>	<u>\$100</u>	<u>\$125</u>	<u>\$150</u>	<u>\$175</u>	<u>\$200</u>
1.00%			\$96,076	\$133,955	\$171,833	\$209,712	\$247,591	\$285,470	\$323,348
1.25%			\$80,924	\$111,227	\$141,530	\$171,833	\$202,136	\$232,439	\$262,742
1.50%			\$70,823	\$96,076	\$121,328	\$146,581	\$171,833	\$197,086	\$222,338
1.75%			\$63,608	\$85,253	\$106,898	\$128,543	\$150,188	\$171,833	\$193,478
2.00%			\$57,241	\$77,136	\$96,076	\$115,015	\$133,955	\$152,894	\$171,833
2.25%			\$52,236	\$70,823	\$87,658	\$104,493	\$121,328	\$138,163	\$154,998
2.50%			\$48,232	\$65,773	\$80,924	\$96,076	\$111,227	\$126,379	\$141,530
2.75%			\$44,956	\$61,336					
3.00%	\$27,141	\$39,223	\$42,226	\$57,241					
3.25%	\$25,908	\$37,144	\$39,916	\$53,776					
4.00%		\$32,466	\$34,718						
5.00%		\$28,412	\$30,214						

* Assumes Single taxpayer, no dependents & standard deduction.

GRT Summary			
	Cap		
Rate	None	\$15/transaction (\$180/yr)	\$30/transaction (\$360/yr)
1.00%	\$1.97	\$0.45	\$0.66
2.00%	\$3.95		
2.25%	\$4.44		
2.50%	\$4.93		
3.00%	\$5.92	\$0.60	\$1.03

Revenue Source	5/2/16 Request			Alternative 1.			Alternative 2.			Alternative 3.		
	Rate	Cap	Amount	Rate	Cap	Amount	Rate	Cap	Amount	Rate	Cap	Amount
PIT	5.00%	\$45	\$15.00	2.25%	\$75	\$15.00	3.00%	\$50	\$14.00	2.25%	50	\$12.40
GRT	3%	\$15/trans	\$0.60	2.25%	None	\$4.44	2.00%	None	\$3.95	2.25%	None	\$4.44
License	\$45		\$3.67	\$15		\$1.22	\$45		\$3.67	\$45		\$3.67
TOTAL			\$19.27			\$20.66			\$21.62			\$20.51

Below, are the questions that were asked during Mr. Gregor's presentation:

Lew Killmer, Delaware League of Local Governments, asked if there will still be a line item on the tax form.

Mr. Gregor answered yes, the Department would be looking at the net liability, multiply it by 2 percent, and if that amount is greater than \$50, to add \$50 to the residual amount. He said adding a line would be the best-case scenario for collections.

Senator Townsend asked what the percentage is a percentage of.

Mr. Gregor answered that it is a percentage of net liability. He also said that if this is passed in June, they would be able to implement the framework right after that.

Patty Cannon, Delaware Economic Development Council, asked Mr. Gregor if he were to make a recommendation to the Task Force, what percentage and cap would he prefer in order to make the process as efficient as possible.

Mr. Gregor replied that from an administrative standpoint, it doesn't necessarily matter.

Mr. Killmer asked for clarification whether people who do not file a tax return, because they do not make enough, are not paying anything.

Mr. Gregor answered that Mr. Killmer's statement is correct.

Mr. Killmer noted that his only problem with this is that the entire State is using water.

Senator Townsend noted that the Task Force may have to give examples of a variety of scenarios that showcases each kind of person or entity that would be paying the fee, how much they would be paying, and why.

Ms. Cannon asked if the Task Force stuck with the plan that Mr. Gregor presented, if it would raise enough revenue without the business license fee or increasing the gross receipts tax.

Senator Townsend responded that it depends on the numbers.

Senator Townsend also asked Mr. Gregor if, for a dual income household with both spouses eligible to pay the personal income tax fee, whether both individuals would pay \$75 each, meaning the household would pay \$150.

Mr. Gregor answered yes.

Senator Townsend commented that now the Task Force is talking about \$150 from one household, which is much different than \$35-45. He referenced this back to Ms. Cannon's question on whether or not they were going to only collect the fee on personal income taxes

(PIT). Senator Townsend referenced another concern that Ms. Cannon had raised: if adding a fee to the gross receipts tax would change the Code for gross receipts taxes.

Mr. Gregor answered that they could create a new Section of the Code and then list every type of gross receipts tax payer in Delaware that would receive the surcharge. Moreover, if the Task Force did it this way, they wouldn't have to go into every section of the current gross receipts tax code and change it. The gross receipts tax is not just one tax. It is a collection of taxes levied on activities.

Senator Townsend responded by saying that they were talking about a flat fee on the gross receipts tax, so that wouldn't be opening up the Code.

Mr. Gregor noted that he is talking about a much broader version of the HSCA (Hazardous Substance Cleanup Act) tax, with lower rates. He continued by saying that the HSCA tax has a similar set up in the Code, which this Task Force could implement with gross receipts.

Senator Bryant Richardson commented that there is a system now, to fix all of the problems that the Task Force is trying to fix. He continued by asking if the Task Force should concentrate on developing the lockbox first, since it takes two General Assemblies to put it in place.

Mr. Gregor responded by saying that there is a worry here that the money this Task Force wants to collect will get dispersed somewhere else. The good thing with the lockbox is the money will stay where it needs to stay.

Senator Townsend noted that as a general agreement, although it takes two General Assemblies to institute a lockbox via a constitutional amendment, they wouldn't have to wait for the second leg to be implemented to start using the collections system.

Senator Richardson noted that he is concerned about adding more taxes instead of using money that the State already has.

Mr. Gregor stated the Department of Finance is not taking a stance on what the Task Force should and should not do. But, if they choose to collect a fee, then the way Mr. Gregor presented is the best and most efficient way for the Department of Finance to collect the fee.

Mr. Killmer asked if there were administrative costs to having the Department of Finance collect the fees.

Mr. Gregor replied that there would be a small amount of costs. What he is talking about now is taking existing systems and tweaking them a little bit, instead of creating a whole new system.

Senator Richardson commented that the focus should be on job creation to increase the number of taxpayers, instead of exempting a certain group of people from paying taxes just because they

don't make enough. He continued by saying that there are many jobs in Delaware that need to be filled but there aren't enough qualified people to do those jobs.

Senator Townsend responded that the Task Force sometimes forgets to talk about the large quantity of projects they will be investing in, which will lead to infrastructure and adding jobs. There is a multitude of economic multipliers that result from investing in infrastructure. The Task Force has not spent enough time emphasizing all of the tremendous benefits that will come out of the work they are doing.

Jen Adkins, Partnership for the Delaware Estuary, asked why they couldn't just add a line on the tax forms with a flat fee, to simplify the message for the public.

Mr. Gregor replied that the people who are at the bottom of the income distribution are not going to find this fair. They don't want to pay the same amount that the millionaire is paying.

Senator Townsend commented that with this system, if a person is just one dollar over in terms of liability, then there is a smooth transition as to how much more he or she will have to pay.

Ms. Adkins stated that there could be a cap saying that a person has to have a liability of at least \$500 more before they pay a higher fee. She continued by saying that they could put a threshold on the liability, so that a flat fee wouldn't kick in until they have a liability of at least \$500 more.

Mr. Gregor responded that Ms. Adkins' scenario is basically what he has proposed except his system is more gradual with a cap. He added that there could be separate caps for joint-filers, a separate cap for a married couple filing, and then another separate cap for single filers.

Mr. Killmer noted that this system is catching non-residents, which is the only system that has been able to do this so far.

George Haggerty, on behalf of the New Castle County Executive, commented that the County Executive has never raised taxes.

Next, Mr. Haggerty put his name card down to speak as a practitioner, not on behalf of the County Executive. He stated that if the General Assembly allocates \$20 million, he wouldn't care, as long as they get the money somehow. Additionally, at the end of the day it comes back to DNREC being in charge of these problems, and they need to be adequately funded so they can fix the problem and start to address the problem. After his comments, Mr. Haggerty put his name card back up.

Senator Richardson noted that he agrees with a lot of Mr. Haggerty's comments. He continued by saying that he supports the idea of a lockbox but will need more persuasion on the other aspects of the proposed system.

Michael Reimann, Delaware Homebuilders Association, commented that the State has infrastructure problems and he sees it firsthand all of the time. He added that the fact that infrastructure has not been considered a priority in Delaware is affecting business and the economy. Additionally, cleaning up the water and streams is attractive to prospective Delaware residents, which is good for Delaware. Lastly, taking \$20 million out of \$4 billion shouldn't be this hard.

Ms. Cannon stated that she could support 3% at a \$50 cap, and if it is capped three times per family she would support it. Ms. Cannon also stated that she supports the business license fee but would go on record opposing the gross receipts tax.

Ms. Goggin referenced Mr. Haggerty's comments. She continued by saying that one point he glossed over was the Task Force isn't talking about raising money to find a solution to the clean water problems. They already have a solution to this problem, they just don't have the money to pay for it. She added that Senator Richardson has a constituent base on the Task Force, who he would normally represent, telling him that they are okay with the Recommendations because Delaware needs it. Additionally, the benefits will outweigh the costs.

Senator Richardson responded that he has no problem with understanding the things Ms. Goggin said, but he would rather use the money that the State already has.

Mr. Morill asked Mr. Gregor what would happen if the Task Force did a \$45 cap and made the adjustment back to household but raised the rate further, like 10% instead of 5%.

Mr. Gregor replied that if it's changed to 10%, then they would hit the cap sooner, and it really just looks more like a flat \$45.

Senator Townsend asked what it would look like to constituents if there was a 10% charge on every taxpayer's income tax liability with a \$50 cap.

Mr. Gregor replied that if someone made more than \$15,000 he or she would pay \$50. He noted that it was a rough estimate, and not exact.

Mr. Morrill commented that they could explain by saying they are adding a surcharge to the income tax for clean water, and not one household will pay more than \$50.

Senator Townsend concluded that the Task Force will be ending consideration of the gross receipts charge.

Ms. Goggin asked whether if someone had multiple business licenses they would have to pay the fee multiple times.

Mr. Gregor answered yes. He continued by saying that it is important to remember that if someone has multiple business licenses, they get an \$100,000 exclusion every month for each

activity. A person could have \$300,000 in receipts, and if that person has four business licenses, and it lines up right, they may not pay anything. Each business gets counted, and if they separate their receipts they get the full \$100,000 for each one. So, it is probably worth it to pay the \$75.

Draft Legislation

Senator Townsend asked DNREC to give the group a summary for what's to come with their edits.

Marjorie Croft, member of the public on behalf DNREC, commented that nothing DNREC has done will make substantive changes to the bill but there was a lot of cleanup of inconsistencies in the bill. This included definitions of "projects" by throwing it all into one single definition and using "P" for "Projects" to define them throughout the legislation. They also tweaked the definition of "local government unit."

Senator Townsend asked Ms. Croft to talk with Mr. Morrill, offline, about her changes so that they can go through every change thoroughly prior to the following week's meeting.

Ms. Goggin asked that everyone at DNREC edits the legislation together because they have been going back and forth with DNREC for months working on edits.

Senator Townsend noted for the record that Mr. Gregor will not need more staff to implement the clean water fee and whatever is going to be discussed within the next week from DNREC will be discussed as a whole.

Secretary David Small commented that as DNREC read the bill, there was reference to a "clean water plan." But, this plan is not actually defined, so it is left to the reader's assumptions as to what that means. He noted that they have worked on some language to construct a clean water plan.

Mr. Morrill reminded members that they took the word "infrastructure" out because it is too broad to define.

Mr. Reimann added that the Task Force should also focus on how they are going to convince the public that the clean water problem is a real problem and that is why the Task Force is asking for more money.

Gerard Esposito, Delaware State Chamber of Commerce, commented that members could use Mirror Lake as an example. That is one that the Governor has used. It is quantifiable and Delawareans can see it.

Bruce Jones, American Council of Engineering Companies (ACEC) of DE, referenced the term "infrastructure." He continued by saying that a lot of the economic benefits are specifically tied to water infrastructure.

Mr. Morrill noted that when the original bill was rolled out, they put a hard number on it. So, somehow they need to give the sense that if we do this we will make things better in a shorter period of time.

Senator Townsend stated that Mr. Jones supplied the Task Force with some materials from ACEC. He added that they didn't make copies for members yet, but they will introduce them at a later date.

Ms. Adkins told members that as a member of the public and not a Task Force member, her organization is having an event on May 12 that is trying to highlight clean water. The event is at Painted Stave Distilling from 6:00 p.m. to 8:00 p.m.

Senator Townsend announced the next meeting, which is on May 12, 10 a.m.-12 p.m. at the Tatnall Building.

Senator Townsend asked members of the Task Force and members from the public if they had any more questions or comments. As there were none, the meeting was brought to a close at 12:15 p.m.