

**ALLEGANY COUNTY BOARD OF LEGISLATORS
COMMITTEE OF THE WHOLE**

May 4, 2022

CALL TO ORDER: Chairman Philip G. Stockin called the meeting to order at 3:28 p.m.

LEGISLATORS PRESENT: P. Stockin, G. Barnes, J. Burdick, A. Cyr, K. Demick, D. Fanton, G. Hanchett, B. Harris, S. Havey, D. Healy, J. Ricci, J. Ricketts-Swales, D. Root, J. Rumfelt (Absent: P. Curran) *(Pursuant to Board Rule 130, Legislators signed a waiver consenting to holding the Committee of the Whole meeting without the required 48-hour meeting notice.)*

OTHERS PRESENT: T. Boyde, A. Carrow, C. Jones, C. Knapp, B. Riehle, T. Ross

Fuel Tax Suspension

Chairman Philip Stockin stated that the meeting was scheduled to discuss the possibility of a tax cap on motor fuel in Allegany County. During discussion at yesterday's Committee of the Whole meeting in Houghton, it was our understanding that we had missed the deadline to suspend the local sales tax on motor fuel beginning June 1, and there was some discussion on the possibility of doing it beginning September 1. Last night around 7:30 p.m., NYSAC sent an update indicating that the State Legislature passed a Governor Program bill (S.8947/A.10079) that provides counties with additional time to pass a local law or resolution to opt in to suspending the local sales tax on gasoline. The new deadline is now May 16, 2022, for a June 1 start date. Governor Hochul is expected to sign this bill within the next few days as she requested the introduction of this legislation.

Chairman Stockin went on to share a primary reason to participate in suspending the tax as well as a primary reason for not participating or postponing the action. The primary reason to support the option is that there would be a small financial benefit for some of the County residents. The primary reason for opposing or postponing it would be the loss of sales tax revenue. Chairman Stockin noted that our main two sources of revenue are sales and property taxes. Some of that sales tax revenue is actually charged to people that do not live in Allegany County. The County's fuel costs are going up along with inflation, and the tax suspension would not benefit the County at the pumps, as we are already tax exempt. There is no guarantee that the consumer will see any benefit, and as Legislators, we have due diligence before taking action. It is our responsibility to research the long-term effects. There has been a very short window to generate the information we would like to have to make this decision. In our previous discussion, we mentioned the possibility of using the estimated amount in other ways if we do not participate in the tax suspension.

County Attorney Allison Carrow explained the procedures and what the Legislators needed to consider as follows:

1. Whether or not the Board wishes to proceed with a resolution suspending the tax on motor fuel.
2. If yes, does the Board want to start the suspension on June 1 or September 1? If it's June 1, the deadline is now May 16 so the resolution would need to be considered

at our Board meeting next Wednesday, May 11. If you want to wait until September 1, we have time to meet the August 1 deadline.

3. Would you want to cap it at \$2/gallon or \$3/gallon?
4. Set a sunset date.

Legislator Brooke Harris asked if a motion using the parameters the County Attorney described could be amended to find consensus, and Attorney Carrow indicated that it could.

Legislator Dwight "Mike" Healy asked County Treasurer Terri Ross if she had had an opportunity to run any numbers and do any research. Ms. Ross stated that unleaded gasoline was \$4.29 and diesel was \$5.99 at Crosby's this morning. Allegany County's tax is 4.5 percent, which means we would receive about \$.18 on unleaded and \$.26 on diesel fuel per gallon. It is very difficult to get an accurate raw gas price, but based on this information; if we capped our tax at \$3/gallon, the revenue that Allegany County would receive would drop approximately \$.05 on unleaded and \$.12 on diesel per gallon. If we capped our tax at \$2/gallon, the revenue that Allegany County would receive would drop approximately \$.09 for unleaded and \$.17 for diesel per gallon.

County Treasurer Ross stated that per the New York State Association of Counties (NYSAC), Allegany County sells approximately 4.251 million gallons of gasoline per quarter. Legislator Brooke Harris asked if we have a breakdown of regular gas versus diesel, and if there is any way to figure it out. Ms. Ross said we do not have that breakdown. If we cap the tax at \$3/gallon and base our loss in revenue only using the gas price for unleaded we are looking at a loss of \$211,431.32. If we say that 75 percent of the gas sold is unleaded and 25 percent is diesel, we are looking at a loss of \$289,230.72 a quarter. For two quarters, it would be \$578,461.44, and for an entire year, we would be looking at a \$1,156,922.87 loss. If we lower our cap to \$2/gallon and assume that same 75/25 split between unleaded and diesel, we are looking at a loss of \$480,525.72 per quarter, \$961,051.44 for two quarters (six months), or \$1,922,102.87 for 12 months.

Chairman Stockin asked County Treasurer Ross to explain the cap, and Ms. Ross gave a brief description, noting that if we cap our sales tax at \$3/gallon for motor fuel, then we would only receive tax revenue on \$3/gallon regardless of how high the price of gas may go.

Legislator Gretchen Hanchett stated that when we put our annual 2022 budget together, we put it together assuming that gas would be \$3/gallon. Treasurer Ross stated that we look at sales tax overall for a year and individual products are not taken into consideration.

Legislator Dwight "Mike" Healy asserted that if we adopt a sales tax suspension on motor fuel, there is no guarantee that it will be passed on to the consumer, and Ms. Ross confirmed that is correct. Gas prices fluctuate daily and some of the price depends on when they purchased the gas. A vendor may purchase some gas cheaper; however, if the competitor is selling it for more, they may not reduce the price.

Deputy County Administrator Tim Boyde stated that when we look at prices at the pumps, the tax is included, and we do not have the raw fuel price. Legislator Healy asked how this might affect gas being sold at the Seneca Nation pumps, and County Treasurer Ross said

there is no tax on the reservation, and this will not impact them. If we do this, we have to decide if we want to cap it on \$2/gallon or \$3, and for how long we want it to be in effect.

Legislator Jennifer Ricketts-Swales asked if the state has a sunset date. County Attorney Carrow indicated that the New York State's sunset date is December 31, 2022; however, the new amendment indicated it could be extended into any of the quarters. You can also name just one quarter if you want to see what the results are. Legislator Healy remarked on the state's sunset of December 31, noting that elections are in November.

County Treasurer Ross stated that if a law is adopted, it is permanent, which is why counties are using a specific sunset date. Seneca County capped their tax at \$2/gallon back in 2005, and it has been that way ever since.

Legislator Harris asked Ms. Ross if there is a significant difference in sales tax per quarter, and if the revenue is typically larger during the summer months. Ms. Ross noted that there is a significant difference, and gas sales increase by about 500,000 gallons during the summer.

Legislator Havey asked from a timing perspective if we could implement the change for the quarter starting June 1 and ending August 31, 2022, and renew it for the September 1 quarter if we choose. Attorney Carrow said we could reconvene and extend it for another quarter if wanted.

Legislator Janice Burdick stated that sales tax is one of our main sources of income, and she does not understand why we would want to reduce any revenue, noting that with sales tax you always budget a little less than you hope to receive. Legislator Burdick indicated that she is very concerned about the increased prices, and she does not want to see us reduce a revenue source.

Legislator Adam Cyr stated that it is no secret that he is in favor of this cap. Legislator Cyr stated that he is thinking about the trucking companies, single moms, and the elderly -- it is something that we can do to put money in the hands of people that are driving daily.

Legislator Dwight Fanton expressed concern about inflation, noting that we will not have a large fund balance to move to next year due to increased expenses we are incurring. As we look at next year's budget, the chance of being able to reduce our property tax rate is going to be very difficult. Do we want to give them a tax break now, or help them more next year?

Legislator Healy said that for those listening in, we might need to explain what the tax levy is. Legislator Healy asked Legislator Fanton if he was concerned that the property tax rate per thousand of assessed value might go up, and Legislator Fanton confirmed that he was.

Legislator John Ricci stated that it might take 250 gallons to fill a large truck with diesel fuel, and they might end up saving \$30. If we offer the cap, it might encourage other truck drivers to stop at one of our exits, and we might end up seeing revenue we might otherwise never have seen. Legislator Cyr agreed and stated that if we have a truck going westbound, they may stop, rather than going on to Olean. At least we could get some revenue, rather than none.

Legislator Debra Root stated this is not an easy decision. We have a budget that we put together, and we are being hit with inflation that we were not expecting, and we need to act in a fiscally responsible manner. We have a budget and increased costs in many areas and we need to look at the mandates. We need to look long-term, and determine the best long-term solution for Allegany County residents.

Legislator Harris indicated that he asked a gas station owner that he knows if an establishment receives a break on the price of gas, do they typically pass it along to the consumer, and the owner indicated that they do not. Legislator Harris remarked that applying that particular revenue is not as simple as just applying it to the levy. Gas tax hits everyone in the County, and if we reflect it in the levy, it is only helping a portion of our County residents. Legislator Healy countered that many residents are not property owners, and they do not pay property taxes, whereas, the property owners pay both property and sales taxes. Legislator Gary Barnes stated that renters pay property tax through their rent. Any owner of rental property is obviously going to pass a portion of that on to the renter. Legislator Barnes asserted that it is not just property owners that pay property tax. Chairman Stockin asked if he believes that property owners will pass the savings on. Legislator Barnes indicated that he believes that gas stations would pass the savings on due to competition.

County Administrator Carissa Knapp stated that she wants to make sure that the Board members have all the pros and cons. Think about diversification of sales tax. We do not have many points of sale. Some of our surrounding counties that have approved a motor fuel tax suspension have many retail stores, and we do not so when you hit fuel tax, it hits us proportionally more. Administrator Knapp remarked that Seneca County has had a \$2 reduction for a long time, and we may want to look at the prices at the pump in Seneca County. Legislator James Rumfelt quoted one number; however, Administrator Knapp indicated that she had also seen some prices that were higher in Seneca County.

A motion was made by Legislator Gretchen Hanchett and seconded by Legislator Steven Havey to cap our sales and compensating and use taxes on motor fuel at \$3/gallon for one quarter.

Legislator Ricketts-Swales asked if we did it for one quarter, if we could extend it if we wanted? County Attorney Carrow said that she would contact the NYS Department of Tax and Finance to check the deadlines that will be required to cap the tax for the following quarter.

County Administrator Knapp stated that we do not have all of the information. This came as a surprise in the state budget. Even up until last week, no one could get us hard numbers on how this is calculated. They are changing legislation constantly, even as recently as last night. Mrs. Knapp asked that Board members keep this in mind and to please be patient with their answers.

Legislator Harris noted that the action must go through the Committee of the Whole at this meeting in order to be pre-filed for the May 11 Board meeting. Legislator Healy stated that if the motion and second do not pass today, it could still come off the floor on May 11 if the Committee of the Whole met that day, or if action was taken at the Ways & Means Committee meeting.

Legislator Hanchett stated that it's nice to give back when you can, and it's the right thing to do. Legislator Ricci remarked that we do not know how much positive PR this might be worth.

Legislator Ricketts-Swales wondered if we should just cap the tax at \$2/gallon. Attorney Carrow reminded the Board that there is a motion on the floor for the \$3/gallon cap, noting that it is fine to discuss options, differences, and possible amendments, but there is already a motion on the floor that will need to be acted on in some way.

Legislator Havey stated that this is what the constituents want us to do, and we are trying our best to do something for them. The motion that Legislator Hanchett put forward is a fair motion for both the County and our residents. We can decide if we want to extend it one quarter, and see the figures from the first quarter. Legislator Barnes asked if any information on the results from the first quarter would be available in time to renew for the next quarter. County Treasurer Ross confirmed that the final sales report for that quarter would not be available for a while, and the state does not generally break it down into categories although hopefully NYSAC will receive information to put a report together.

Legislator Kevin "Fred" Demick asked if we make our sunset date December 31, 2022, can we rescind that and make it sooner, and Attorney Carrow indicated that she does not believe it can be changed.

Legislator Root stated that she can control how many miles she drives as well as the type of vehicle she drives. As a resident, she has no control over what the County is going to charge for our property taxes. We do not have enough answers regarding how this is going to impact our property tax next year. Mrs. Root would rather wait a full quarter and make an informed decision.

Legislator Healy stated that our budget process will start shortly and it is financially irresponsible to pass it at this time just to make everyone feel good, noting that we could look at it down the road.

Legislator Cyr stated that we are all Republican, and when was the last time a Republican didn't take an opportunity to cut taxes?

Chairman Stockin stated that while he is concerned about what people have to pay, he believes we can do more for them in the long term, rather than the short term if we hold off on offering the cap, as we have not had an opportunity to look at it thoroughly.

Legislator Fanton stated that one quarter is a compromise he is comfortable with. Next year is going to be very uncomfortable due to inflation, but he is willing to make the one-quarter compromise.

Legislator Burdick stated that just because the state extended the deadline, does not mean we should rush. She would be more comfortable waiting until the last quarter of the year.

A vote was taken on Legislator Hanchett's motion and Legislator Havey's second to cap our sales and compensating use taxes on motor fuel at \$3/gallon for one quarter. A roll call vote was taken with 9 ayes, 5 noes, and 1 absent. (Voting yes: Cyr, Demick, Fanton, Hanchett, Harris, Havey, Ricci, Ricketts-Swales, Rumfelt) (Voting No: Barnes, Burdick, Healy, Root, Stockin) (Absent: Curran) Attorney Carrow indicated that she would pre-file the resolution in the Clerk of the Board's office for consideration at the May 11 Legislative Board meeting.

Prepare Resolution

ADJOURNMENT:

There being no further business to come before the committee, the meeting was adjourned at 4:24 p.m. on a motion by Legislator Fanton, seconded by Legislator Hanchett, and carried.

Respectfully submitted,

Brenda Rigby Riehle, Clerk of the Board
Allegany County Board of Legislators