

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, May 16, 2014

The Arkansas Legislative Council met at 9:00 a.m., Friday, May 16, 2014 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair John Charles Edwards called the meeting to order and recognized a quorum of members present.

Moment of Silence

Co-Chair Edwards asked that those present today take a moment of silence now to remember and honor the people who were victims of last month's tornado.

Minutes of the Last Meeting

Co-Chair Edwards referred the members to the minutes of the last Legislative Council meeting on April 18, 2014 (Exhibit C) and asked if there was a motion to approve the minutes. **Senator David Johnson moved the adoption of the minutes of the Legislative Council meeting on April 18, 2014. The motion was seconded by Representative Edwards and passed by voice vote.**

Presentation of April 2014 Revenue Report

Co-Chair Edwards recognized Richard Wilson, Assistant Director for Research Services with the Bureau of Legislative Research, to present the April 2014 monthly revenue report (Exhibit D). Mr. Wilson reported that after ten months of fiscal year 2014, gross general revenue collections were \$50.4 million dollars ahead of collections for the same period last year for a growth rate of one percent (1%). The net revenue is \$ 22.2 million dollars ahead of the same period last year for a growth rate of one half of one percent (0.5%). Mr. Wilson stated that the growth rates appear low due to corrections to income shifting witnessed last year when there was a windfall and the growth rates appeared abnormally high. The graph shows that collections were about \$78 million dollars ahead of the official forecast after ten (10) months. Mr. Wilson reported that the spreadsheet reflects that gross receipts are growing better now at a rate of three point three percent (3.3%) and income tax receipts appear flat because of the correction that was experienced in April. There were no questions regarding the revenue report.

Standing Subcommittees

Co-Chair Edwards stated that there is no report from the Executive Subcommittee as the subcommittee has not met since the last report. Co-Chair Edwards referred members to the reports of the standing subcommittees and stated that reports from the subcommittees meeting since the last meeting would be heard.

Administrative Rules and Regulations Subcommittee

Co-Chair Edwards recognized Senator Johnny Key to present the report of the Administrative Rules and Regulations Subcommittee (Exhibit F.1). Senator Key reported that the Administrative Rules and Regulations Subcommittee met on May 7, 2014 and reviewed all items of business with the exception of the items two and three on page 4 of the report. Item 2 is a proposed rule from the Department of Education that was referred to the Interim Committees on Education. Item 3 is a proposed rule from the Department of Labor, Labor Standards Division that was referred to the Interim Committees on Public Health, Welfare, and Labor.

Senator Key reported that he had received a request this morning from Representative Nickels that the proposed rule on State Employee Dispute Resolution Appeal Rules and Procedures be re-referred to the subcommittee for further review. At the conclusion of his report, Senator Key answered questions.

Senator Key moved that the Report of the Subcommittee on Administrative Rules and Regulations be adopted with the exception of the proposed rule on State Employee Dispute Resolution Appeal Rules and Procedures that was referred for further review. The motion was seconded.

Co-Chair Edwards recognized Senator Stephanie Flowers who asked for further explanation of the amended TANF State Plan Section 8, Parental Responsibilities (see page 4 of the report). Senator Key responded that both of the proposed TANF rules were changes required by the federal government. Mary Cameron, staff attorney with the Bureau of Legislative Research, was recognized and explained both TANF rule changes were due to federal requirements, and that the rule concerning parental responsibilities concerned an explanation of sexual crimes. Senator Flowers asked to see a copy of the proposed rule and Ms. Cameron stated she would provide the rule for Senator Flowers to review.

Co-Chair Edwards recognized Senator Key. **Senator Key moved to amend his motion and that the report be adopted with the exception of the proposed rule on State Employee Dispute Resolution Appeal Rules and Procedures and to hold out the amended rule on the TANF State Plan Section 8 on parental responsibilities until later in the meeting when the question could be answered. The motion was seconded and passed by a voice vote.**

Game and Fish/State Police Subcommittee

Co-Chair Edwards recognized Senator Jon Woods to present the report of the Game and Fish/State Police Subcommittee (Exhibit F.4). Senator Woods reported that the subcommittee met on April 23, 2014 at the State Police headquarters in Little Rock and heard a presentation on the operations of the Crimes Against Children Division (CACD) of the State Police. The subcommittee also observed technology demonstrations related to the digital video camera system, the Aircraft Down Link avionics technology, and the E Citation GPS project. There were no questions.

Senator Jon Woods moved that the report of the Game and Fish/State Police Subcommittee be adopted. The motion was seconded and passed by a voice vote.

Hospital and Medicaid Study Subcommittee

Co-Chair Edwards recognized Representative Andy Davis to present the report of the Hospital and Medicaid Study Subcommittee (Exhibit F.6). Representative Davis reported that the Hospital and Medicaid Study Subcommittee met on May 15, 2014 and heard from Dr. Joe Thompson, the Arkansas Surgeon General and Director for the Arkansas Center for Health Improvement, and from Mr. Bo Ryall, President and CEO of the Arkansas Hospital Association. Representative Davis reported that Dr. Thompson and Mr. Ryall released preliminary hospital data that shows a twenty-four percent (24%) decline in uninsured patients in the first four (4) months, which was based on a survey of 83 acute care hospitals to which 42 hospitals responded. Representative Davis reported that this information has been sent to all members of the General Assembly. There were no questions.

Representative Andy Davis moved that the report of the Hospital and Medicaid Study Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Edwards recognized Senator Bruce Maloch to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit F.8). Senator Maloch reported that the PEER Subcommittee met on May 8, 2014 and approved the following three items: an appropriation transfer for the Department of Education; the 2015-2017 Biennial Budget Forms for the institution of higher education; and a request for a reallocation of resources from the Department of Human Services.

Senator Maloch reported that the subcommittee also reviewed numerous pay plan appropriation requests, of which the request from the Fire Protection Board and the request from the Department of Career Education, were released by the Department of Finance and Administration on an emergency basis to meet this week's payroll obligations. Senator Maloch reported that all other items were reviewed and no items were held. There were no questions.

Senator Bruce Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted. The motion was seconded and passed by a voice vote.

Review Subcommittee

Co-Chair Edwards recognized Representative Jeff Wardlaw to present the report of the Review Subcommittee (Exhibit F.10). Representative Wardlaw reported that the Review Subcommittee met on May 7, 2014 and reviewed various methods of finance, discretionary grants, and professional consultant services contracts. The subcommittee held two contracts for the Arkansas Heritage Department, which will be considered by the subcommittee in June. There were no questions.

Representative Wardlaw moved that the report of the Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Personnel Subcommittee

Co-Chair Edwards recognized Senator Uvalde Lindsey to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit F.11). Senator Lindsey reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met at 9:00 a.m. on May 14, 2014 and reviewed the following: reports of grid movements; the employment reports; the provisional positions reports for higher education institutions; reports from the Department of Finance and Administration; a request from the Insurance Commissioner to surrender positions in exchange for two new positions; a request from the Agriculture Department to surrender two positions for one new position; a request from the Department of Information Systems for fifteen new positions that was previously reviewed by the Committees on Public Health, Welfare and Labor with the recommendation of do pass; a request from the Department of Higher Education for growth pools positions at Southern Arkansas University Tech, Northwest Arkansas Community College, College of the Ouachitas, and Rich Mountain Community College; and a request for the establishment of a new classification for the Disability Determination for Social Security Administration.

Senator Lindsey reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met again at 1:00 p.m. on May 14, 2014 and discussed the interim study regarding the inequities of pay between current members the trial court assistants and court reporters for circuit judges. Senator Lindsey reported that the subcommittee has completed the investigative phase of that study and has developed recommendations. The subcommittee will prepare a concept white paper of those recommendations, which will include impacts to the Judicial Council, the Administrative Office of the Courts, the State of Arkansas, and all the affected funding mechanisms. Senator Lindsey reported that the subcommittee hopes to conclude the recommendation phase of the study over the summer and to present a final report to either the Legislative Council or the Joint Budget Committee during the fall hearings. There were no questions.

Senator Uvalde Lindsey moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion was seconded and passed by voice vote.

Review of Communications

Co-Chair Edwards referred members to the communications listed as Exhibits H.1 through H.15 and stated that Exhibit H.5a and Exhibit H.5b require action by the Legislative Council.

Arkansas Teacher Retirement System

Co-Chair Edwards referred the members to requests from the Arkansas Teacher Retirement System listed as Exhibit H.5a and Exhibit H.5b. Co-Chair Edwards recognized George Hopkins, Executive Director of the Arkansas Teacher Retirement System to explain the requests.

Mr. Hopkins explained that first request is for the Legislative Council's retrospective review of the imminent need partial equity ownership investment with Thoma Bravo XI, L.P., submitted pursuant to A.C.A § 19-11-1303 (Exhibit H.5a). Mr. Hopkins stated the investment with Thoma Bravo XI, L.P. has already closed and is a \$20 million allocation in the Thoma Bravo XI, L.P.

fund that is a specialized private equity manager that operates in the software space and which has an annual rate of return of about thirty-four percent (34%) on previous funds. There were no questions regarding this request.

Mr. Hopkins explained that the Arkansas Teacher Retirement System is also requesting the Legislative Council's review of the partial equity ownership investments with LaSalle Asia Opportunity Fund IV L.P. and Carlyle Realty Partners VII, L. L. C., which are submitted pursuant to A.C.A § 19-11-1302 (Exhibit H.5b). Mr. Hopkins explained that LaSalle Asia Opportunity Fund IV L.P. is a real estate fund that is based in Asia and which targets various kinds of commercial real estate opportunities in the Asian market. Mr. Hopkins stated this helps the ATRS to diversify its real estate holdings more on a global basis and this is a \$30 million investment. Mr. Hopkins stated that Carlyle Realty Partners VII, L. L. C. is based in the United States and focuses on senior housing, apartments, and various commercial buildings across the United States. Mr. Hopkins asked for a favorable review of these investments and offered to answer questions. There were no questions.

Senator David Johnson moved that the Arkansas Teacher Retirement System investment with Thoma Bravo XI, L.P. submitted for retrospective review be filed as reviewed. The motion was seconded and passed by voice vote.

Senator Linda Chesterfield moved that the Arkansas Teacher Retirement System investments with LaSalle Asia Opportunity Fund IV L.P. and Carlyle Realty Partners VII, L. L. C. submitted pursuant to A.C.A § 19-11-1302 be filed as reviewed. The motion was seconded and passed by voice vote.

New Business

Co-Chair Edwards referred the members to the Report to the Legislative Council of the Emergency Action taken by the ALC Co-Chairs and the Review Subcommittee Co-Chairs (Exhibit I.1) regarding contracts with two providers of medical detoxification services with the Division of Behavioral Health Services within the Department of Human Services. Co-Chair Edwards recognized Representative Jeff Wardlaw to present this report.

Representative Wardlaw reported that the request was for the emergency review of the contracts between the Department of Human Services Division of Behavioral Health Services with Quapaw House, Inc. and Department of Human Services Division of Behavioral Health Services with Recovery Centers of Arkansas to provide medical detoxification services. He explained that the emergency review was required because the current provider of these services would no longer provide the services as of May 1, 2014.

Co-Chair Edwards recognized Senator Eddie Joe Williams who asked that someone from the Department of Human Services come forward to answer questions. Co-Chair Edwards recognized Joy Figarsky, Director of the Division of Behavioral Health Services, and Jeff Wood with the Department of Human Services, to answer questions.

Senator Williams asked for an explanation of the thirty-day notice in the contract with the current provider of medical detoxification services. Mr. Wood responded that according to the contract the provider can give a thirty-day notice to terminate the contract, and that thirty days is

not enough time to put out another bid for solicitation of services. Mr. Wood stated that the thirty-day notice clause is usually standard contract language and he believes that is why there is a provision in the state law to provide for emergency review. Mr. Wood stated that there were two providers of these services in the area and the department contracted with both to keep them in place until the contract for these services could be re-bid. Ms. Figarsky stated in response to a question that the contract with Little Rock Community Mental Health Center that operated Mid-Ark Detox with the Department of Human Services was terminated by the provider because they moved their entire community mental health center operations and were unable to find the available space needed to offer the detox services. Ms. Figarsky stated space is not an issue with the current two providers and that service was seamless so that people were being treated on the date of the contract, May 1, 2014. Ms. Figarsky stated the net for the old contract was \$1,011,394 and the new eight-month contract is \$862,000.00 for both providers.

Discussion of Rule Held in PEER Subcommittee Report

Co-Chair Edwards stated the amended TANF program rule on parental responsibilities had been provided for review by Senator Flowers and he asked if she was satisfied with the information. Senator Flowers commented that the phrase, parental responsibilities, does not line up with what the rule does and that the rule has nothing related to parental responsibilities, but that she is satisfied with the rule. Senator Flowers commented that in the future the title of the rule should be more descriptive of what the rule actually does.

Co-Chair Edwards recognized Senator Johnny Key who stated he could not speak for the federal agencies and the language they choose to use and that he was glad that Senator Flowers' questions had been answered.

Senator Johnny Key moved that the amended rule on TANF State Plan Section 8, Parental Responsibilities, listed as item b under the Department of Workforce Services on page 4 of the report, be filed as reviewed. The motion was seconded by Senator Flowers and the motion passed by voice vote.

Supplemental Agenda

Co-Chair Edwards referred members to the Supplemental Agenda and recognized Senator Jason Rapert.

Senator Jason Rapert moved that the rules be suspended in order to consider Interim Resolution 2013-003. The motion was seconded by Senator Williams.

Co-Chair Edwards stated this was a proper motion and it is not debatable. Co-Chair Edwards recognized Representative Greg Leding who asked for a roll call vote and division of the vote. Co-Chair Edwards stated the roll call and division of the vote required a showing of three hands and called for a voice vote on the motion to suspend the rules.

Following the voice vote, Co-Chair Edwards recognized Representative Greg Leding who asked for a roll call vote with division of the vote. Upon a showing of hands for the roll call and division of the vote, Co-Chair Edwards called for a roll call vote with division of the vote.

Co-Chair Edwards recognized Senator Chesterfield who asked what number is required to pass the motion. Co-Chair Edwards stated that the votes are being tabulated, but that the number is based upon the quorum with a minimum floor of thirty (30).

Co-Chair Edwards recognized Senator Rapert who commented that it is stated in the rules that it is two-thirds of the membership and asked for the rule pursuant to the vote. Co-Chair Edwards stated the it is Rule 8(a)(3) and that a minimum quorum is required to do business.

The roll call and division of the vote on the motion by Senator Rapert to suspend the rules failed to pass with nineteen (19) yes votes and six (6) no votes in the House and eight (8) yes votes and six (6) no votes in the Senate.

Co-Chair Edwards recognized Representative Terry Rice who asked if the question for separate vote had to be made before the vote. Co-Chair Edwards stated that he found that there were two separate motions made simultaneously by Representative Leding who had called for a roll call vote and division of the vote prior to the vote.

Senator Rapert made a motion to reconsider the suspension of the rules. Co-Chair Edwards recognized Representative Leding who called for a roll call vote with division. After a brief discussion, Co-Chair Edwards stated that a protest regarding the separate vote should have been made when Representative Leding had requested the roll call vote and division.

Adjournment

At 9:40 a.m., Co-Chair Edwards stated there is no further business before the Legislative Council and the meeting was adjourned.

Respectfully submitted,

ATTEST:

Representative John Charles Edwards
Co-Chair, House

Marty Garrity
Executive Secretary