

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, December 18, 2009

The Arkansas Legislative Council met at 9:00 a.m., Friday, December 18, 2009 in Room 171 of the State Capitol, Little Rock, Arkansas. Co-Chair Wilkins called the meeting to order and dispensed with the calling of the roll. The members who attended are listed on the sign-in sheets.

Adoption of Minutes of the Last Meeting

The minutes of the November 20, 2009 Legislative Council meeting were adopted without objection.

Revenue Reports

November 2009 Revenue Report

Co-Chair Wilkins recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for November 2009. Mr. Wilson reported that after five months of fiscal year 2010, gross collections were down \$69 million compared to same four months of last year for a growth rate of negative three point one percent (-3.1%). Due to a transfer of \$61 million from allotment reserve, the adjusted net available for distribution is down \$15 million dollars, for a negative growth rate of eight-tenths of one percent (-.8%).

The graph reflects that net general revenues are \$34 million below the revised official forecast, of which \$11 million was due to corporate refunds being different from the projection. Mr. Wilson referred to the spreadsheet reflects general revenues collected by each tax and noted the figures for the corporate income taxes look odd. This is due to a \$80 million injection of one-time money, which was expected and built into the forecast. Mr. Wilson concluded his report by noting that unemployment and the negative eleven percent (-11%) in gross receipts continue to be a problem. Mr. Wilson answered questions from the members.

Unemployment Insurance Trust Fund

Co-Chair Wilkins recognized Artee Williams, Director of the Department of Workforce Services, to respond to questions. Mr. Williams introduced Ron Calkins and Bruce Waller who are senior managers for the Unemployment Insurance Division.

The following information was provided by Mr. Williams in his remarks and in response to questions:

- The Department of Workforce Services Advisory Council is aware of the issue and are in attendance because of their interest.
- The State Chamber of Commerce has volunteered to travel around the state to explain the increase in the employer's contribution to the Unemployment Insurance Trust Fund to employers.
- There is not yet an answer as to how much of an increase will be required and there are a couple of things to consider. One consideration is the federal government does not require states to pay interest on the advances they receive for calendar years 2009 and 2010. The other consideration is that there is national debate about limiting the amount that has to be repaid or for forgiving the advances totally.
- The Advisory Council will meet in early January 2010 to develop answers to these questions.
- Measures were enacted in the last legislative session to increase the solvency of the trust fund such as the increasing in taxable wage base from \$10,000 to \$20,000 beginning January 1, 2010 and changes to the disqualification period to require people to find a job to qualify for benefits.
- The State of Arkansas will have received approximately \$223 million in Title XII advances by the end of calendar year 2009. The projections for the end of calendar year 2010 is \$353 million and \$381 million by the end of 2011. The advances are from moneys contributed by employers and the state must repay the advances without interest through calendar year 2010.
- The average tax rate paid by employers is 2.4 percent on a \$12,000 taxable wage base. Collections in penalties and interest per year is approximately \$1.5 to \$2 million, which is deposited to the Unemployment Insurance Special Fund.
- The National Association of Workforce Agencies met with Jane Oaks, the Assistant Secretary of Labor, and these concerns were discussed. In February, the National Association of Workforce Agencies will go to Washington to address Congress on these issues.
- The State of Arkansas paid \$650 million in unemployment claims for calendar year 2009. Revenue for raised the Unemployment Trust fund in calendar year 2009 is \$344 million, of which \$50.4 million was AARA stimulus money. The net collection outside of AARA is \$295 million. The Arkansas collection is \$245 million.

Co-Chair Wilkins recognized Representative Pennartz for a question. Representative Pennartz asked that the Legislative Council be provided with answers to the following questions:

(1) What was the fund balance at the beginning of the fiscal year; (2) How much has been collected; (3) How much have we borrowed to date. The Department of Workforce Services agreed to provide this information.

The members of the Legislative Council also received a handout, entitled "Summary of Unemployment Insurance Trust Fund Projections" (Exhibit D.2a)

Co-Chair Wilkins asked Richard Weiss, Director of the Department of Finance and Administration, to come forward and respond to questions. Mr. Weiss responded to questions regarding whether or not more budget cuts would be necessary this year and explained that injection of \$80 million dollars this month was the result of a payment received after the audit of several corporations.

Co-Chair Wilkins recognized Representative John Burris who asked whether time would be set aside for a discussion to address these issues when there no business for consideration. Co-Chair Wilkins stated that a time would be set to do that.

Co-Chair Wilkins recognized Representative Hutchinson for a question. Representative Hutchinson requested a list of any account that has taxpayers' money, whether it is a bond, loan, trust that does not fall under the requirement that we balance our budget. Mr. Weiss agreed to provide this information.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Wilkins recognized Representative Burris to present the report of the Administrative Rules and Regulations Subcommittee. Representative Burris reported that the subcommittee met on December 15, 2009 and referred members to the written report in the meeting packet. There were no questions regarding the report.

Representative Burris moved the adoption of the report of the Administrative Rules and Regulations Subcommittee and the motion passed by voice vote.

Higher Education Subcommittee

Co-Chair Wilkins recognized Senator Baker to present the report of the Higher Education Subcommittee. Senator Baker reported that the subcommittee met on December 18, 2009 and heard from Mr. Michael Abbiatti, Executive Director of the Arkansas Research and Education Optical Network (AREON). There were no questions regarding the report.

Senator Baker moved the adoption of the report of the Higher Education Subcommittee and the motion passed by voice vote.

Litigation Reports Oversight Subcommittee

Co-Chair Wilkins recognized Senator Lavery to present the report of the Litigation Reports Oversight Subcommittee. Senator Lavery reported that the Litigation Reports Oversight

Subcommittee met on December 17, 2009 and heard a proposed settlement agreement between *Mandy Griffin v. DHS and John Selig*, which was settled for \$15,000 in past wages and was not reinstated. The Subcommittee voted to favorably review the settlement agreement in *Griffin v. DHS and John Selig*. The Subcommittee also reviewed 26 cases of new litigation, 15 closed cases, 6 monitored cases from the Office of Attorney General, and 2 new cases of litigation from the Department of Finance and Administration. There were no questions concerning this report.

Senator Lavery moved the approval of the report of the Litigation Reports Oversight Subcommittee and the motion was passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wilkins recognized Representative Dismang to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Representative Dismang reported that the PEER Subcommittee met on December 16, 2009 and reviewed and approved all items on the agenda with the exception of item A.5. Item A.5, the cash fund appropriation for the Arkansas State Library was held for more information. There were no questions concerning this report.

Representative Dismang moved the adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the motion passed by voice vote.

Policy-Making Subcommittee

Co-Chair Wilkins recognized Senator Miller to give an report from the Policy-Making Subcommittee. Senator Miller reported that the Policy-Making Subcommittee met on December 16, 2009 and reviewed interim study proposals filed directly with committees and found the filings to be germane. The subcommittee also reviewed interim committee balances discussed and approved the transfer of \$14,000.00 additional funds to the Senate Public Health, Welfare and Labor Committee.

The Policy-Making Subcommittee discussed a referral from the Executive Subcommittee concerning the reports routinely filed with the Legislative Council. The subcommittee passed a motion to instruct the subcommittee staff to further research the issue and to make recommendations to the subcommittee at a later meeting. There were no questions regarding this report.

Senator Miller moved the adoption of the Policy-Making Subcommittee report and the motion passed by voice vote.

Review Subcommittee

Co-Chair Wilkins recognized Senator Horn to present the Review Subcommittee report. Senator Horn reported that the Review Subcommittee met on December 2, 2009 and all items on the agenda were reviewed. There were no questions regarding report.

Senator Horn moved the adoption of the report of the Review Subcommittee and the motion passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wilkins recognized Senator Faris to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Faris reported that the subcommittee met on December 4, 2009 and reviewed the following items: a routine report of provisional positions established in institutions of higher education for a total of 43 positions in eight schools; OPM pool position requests from the Department of Correction and the Arkansas Minority Health Commission; pay plan correction pool position requests from the Arkansas Oil and Gas Commission and the Natural Heritage Commission; a request for salary administration grid from the Public Service Commission; and a request for hazardous duty compensation differential from the Arkansas Forestry Commission. Senator Faris reported that the subcommittee referred item 4, the request for pool position from the Arkansas Fire Protection Licensing Board back to the Uniform Personnel Classification and Compensation Plan Subcommittee. There were no questions regarding the report.

Senator Faris moved the adoption of the report from the Uniform Personnel Classification and Compensation Plan Subcommittee and the motion was passed by voice vote.

Review of Communications

Co-Chair Wilkins referred members to the communications in their packets and asked if there were any questions regarding these communications.

Co-Chair Wilkins recognized Bruce Waller to answer questions regarding the Quarterly Report of the Special Fund for the period of July 1, 2009 through September 30, 2009, submitted by the Arkansas Department of Workforce Services (Exhibit H.2b). Mr. Waller stated this fund would receive approximately \$1.5 million to \$ 2 million from penalties and interest and is used primarily for one-time operational expenses of the Department of Workforce Services that would not be covered in the normal administrative budget. Mr. Waller also explained the use of reimbursements listed on report.

Co-Chair Wilkins recognized Representative Dismang who recommended that collections for penalties and interest be applied to the Unemployment Trust Fund and that this revenue not be used for operating expenses. Representative Dismang also suggested that a public hearing issues with the Unemployment Trust Fund be held to allow members adequate time for discussion and to make recommendations.

Co-Chair Wilkins stated he wanted to consult with the co-chair and with staff to determine the appropriate committee to take responsibility for having a hearing and the all members will be notified of the hearing.

There were no further questions and the communications were filed without objection.

Business Carried Over from Previous Council Meeting

Co-Chair Wilkins referred members to the information from the Arkansas Department of Health concerning the implementation of the trauma system created by Act 393 of 2009 and recognized

Representative Lea who had requested the information. Representative Lea stated she had requested additional information from the Department of Health and asked if discussion of this item could be postponed until the next Legislative Council meeting. Co-Chair Wilkins agreed to postpone the discussion.

Recognition of Senator Michael Lamoureaux

Co-Chair Wilkins took this opportunity to recognized newly-elected Senator Michael Lamoureaux, who was applauded by the membership.

New Business

Co-Chair Wilkins asked if there was new business to come before the Legislative Council and recognized Representative Buddy Lovell.

Representative Lovell moved that the rules be suspended to consider a motion by Representative Lovell. The motion was passed by voice vote.

Representative Lovell moved that the state library budget be a part of the budget hearings held in anticipation of the 2010 fiscal session. The motion was passed by voice vote.

Co-Chair Wilkins recognized Representative Lowery who stated he had a request of the Legislative Council and noted the recent court ruling allowing the display on the State Capitol grounds next to the nativity scene. Representative Lowery commented that he objected to this and that he was speaking for the people of his district and the State of Arkansas when he says that people are upset, dismayed, angry, and fearful that the display was allowed. He further commented that this is proper forum for this discussion. He stated that history tells us that when this is allowed to happen in high places by people in authority that societies become chaotic, economies collapse, and those nations are taken over by other nations. He stated he is fearful for our nation if we don't rise to this occasion and speak and voice our objections. He stated that nativity scenes and the singing of Christmas carols are traditions of hundred of years and the other display is not. He stated that when idols are allowed to be set up on government grounds and we do not voice our objections, he fears for our country, our nation, our state, and for us as individuals. He asked that the Legislative Council go on record as objecting that the erection of the display and that this is not of our mind or of our spirit.

Representative Lowery moved that the Legislative Council go on record as objecting to the Free Thinkers display allowed to be erected on the grounds of the State Capitol by court order. The motion received a second from Senator Miller and was passed by voice vote.

There was no further new business to come before the Legislative Council.

New Proposals and Resolutions

Co-Chair Wilkins recognized Representative Greenberg to present Interim Study Proposal 2009-202. Representative Greenberg stated this study proposal concerns the expansion of the program for alternate community services waivers that was not implemented due to Medicaid budget cuts in 2009. This program serves people with developmental disabilities and there is a long waiting

list for the services. Interim Study Proposal 2009-202 requests a study of ways to move people from the waiting list and into programs that help them become productive citizens. He also stated that one reason for the interim study proposal is the State of Arkansas could be subject to a court challenge could result in a court mandating services. There were no questions regarding Interim Study Proposal 2009-202.

Representative Greenberg moved that Interim Study Proposal 2009-202 be referred to the Public Health, Welfare, and Labor Committee and the motion passed without objection.

Adjournment

There being no further business to come before the committee the meeting was adjourned at 10:20 a.m.

Respectfully submitted,

ATTEST:

Senator Henry "Hank" Wilkins, IV
Co-Chair, House

David Ferguson
Executive Secretary