

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, May 21, 2010

The Arkansas Legislative Council met at 9:00 a.m., Friday, May 21, 2010 in Room 171 of the State Capitol, Little Rock, Arkansas. Co-Chair Maxwell 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

Co-Chair Maxwell referred members to the minutes of the April 16, 2010 meeting of the Legislative Council and asked if there were questions. There were no questions regarding the minutes of the last meeting.

Senator Wilkins moved that the minutes of the April 16, 2010 Legislative Council meeting be adopted and the motion passed by voice vote.

Revenue Report

Co-Chair Maxwell recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for April 2010. Mr. Wilson reported that the April 2010 revenue report shows that after ten months of fiscal year 2010, gross collections were \$184 million behind the same ten months of last year for a growth rate of negative three point nine percent (-3.9%). The adjusted net available for distribution is \$113.3 million dollars lower than the previous year, for a growth rate of negative three point one percent (-3.1%).

Mr. Wilson stated the graph page indicates there was about a \$32 million drop in net general revenue from the forecast, which is about \$16 million behind the forecast for the current year. There has also been a revision in the forecast by the executive branch, which will show up in next month's report. The spreadsheet indicates a positive growth rate of two point seven percent (2.7%) in individual withholding tax collections when 2009 figures are compared to the 2010 figures, which is better than past years. Mr. Wilson also noted that the report had been prepared in a larger font to make it easier to read. There were no questions regarding this report.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Maxwell recognized Senator Malone to present the report of the Administrative Rules and Regulations Subcommittee. Senator Malone reported that the subcommittee had met on May 11, 2010 and the subcommittee reviewed all items on the agenda. There were no questions regarding the report.

Senator Malone 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 Maxwell recognized Senator Jimmy Jeffress to present the report of the Higher Education Subcommittee. Senator Jeffress reported that the Higher Education Subcommittee met on May 20, 2010 and heard presentations from Dr. Jim Purcell on (1) the Partnerships between two-year and four-year institutions of higher education; (2) the cost of attendance of institutions of higher education; and (3) the stacking policies of two-year and four-year institutions of higher education. The subcommittee also heard a report from Dr. Pat Bailey, Provost and Vice Chancellor for Academic and Student Affairs for Arkansas State University at Mountain Home, on the partnerships on associate science in business transfer degree and health professions programs. There were no questions regarding this report.

Senator Jeffress moved that the report of the Higher Education Subcommittee be adopted and the motion passed without objection.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Maxwell recognized Senator Bryles to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Senator Bryles reported that the PEER Subcommittee met on May 6, 2010 and approved all items on the agenda. There were no questions concerning this report.

Senator Bryles moved the adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee and the motion passed without objection.

Review Subcommittee

Co-Chair Maxwell recognized Senator Horn to present the Review Subcommittee report. Senator Horn reported that the Review Subcommittee met on May 5, 2010 and at the time of the meeting two contracts with Piney Ridge and the Department of Human Services had been pulled for more information. The hold on these two contracts was released and with that all items on the agenda were reviewed. There were no questions regarding this report.

Senator Horn moved the adoption of the report of the Review Subcommittee and the motion passed without objection.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Maxwell recognized Senator Faris to present the Uniform Personnel Classification and Compensation Plan Subcommittee report. Senator Faris reported that the subcommittee met on May 13, 2010 and reviewed several routine reports, heard a request for special entry rate for an exceptionally well-qualified applicant from the Arkansas Minority Health Commission; Office of Personnel Management position requests from three different agencies; a request for one temporary transition pool position from the State Board of Public Accountancy; and ten requests for miscellaneous federal grant positions. There were no questions regarding this report.

Senator Faris moved the adoption of the Uniform Personnel Classification and Compensation Plan Subcommittee report and the motion passed without objection.

Report of Interim or Special Committees

Co-Chair Maxwell recognized Senator Randy Lavery to present a report from the Community Services Oversight and Planning Council. Senator Lavery informed the members that the Community Services Oversight and Planning Council was formed to allow the providers of services to DHS some input into how the funds for the DHS are utilized. Senator Lavery commented that incremental increases are built into the DHS budget for increased costs to the department, but the providers of services had no way to obtain additional funds unless they obtained a rate increase. The rate increase has to be approved by CMS usually.

Senator Lavery reported that the Community Services Oversight and Planning Council met on May 20, 2010 and heard comments from service providers on the following: (1) fees for intermediate care facilities for individuals with developmental disabilities; (2) the Medicaid budget; (3) the human development centers; (4) provider cost-of-living adjustment; and (5) stimulus funding expiration. Senator Lavery commented that he appreciates the department managers and administrators who attended and listened to the comments.

Senator Lavery moved that the report from the Community Services Oversight and Planning Council be accepted and the motion passed by voice vote.

Review of Communications

Co-Chair Maxwell referred members to the communications in their packets and noted that action is necessary on Exhibit H.5b, Exhibit H.5c, and Exhibit H.5d. Co-Chair Maxwell asked if there were any questions regarding the other communications.

Co-Chair Maxwell recognized Representative Flowers. Representative Flowers referred to Exhibit H.1f, the Monthly report of out-of-state and in-state placements for May 2010, submitted by the DHS Division of Children and Family Services pursuant to A.C.A. § 20-46-106, and asked for an explanation of the report. Co-Chair Maxwell recognized Rex Jones, with the DHS

Contract Support Office, who stated this report concerns the out-of-state placements of foster care children. Mr. Jones stated one placement was for a sex offender who required placement with therapeutic foster care and sometimes there are not enough foster parents in-state who are willing to accept children with disruptive behavior. Mr. Jones offered to obtain the case-specific information and to follow-up with Representative Flowers.

Arkansas Building Authority

Co-Chair Maxwell referred members to the request for the Legislative Council's review of the lease agreement between Jonathan Barnett and the Revenue Division (Exhibit H.5b), submitted by the Arkansas Building Authority pursuant to A.C.A. § 21-1-403. There were no questions concerning this report.

Senator Faris moved that the lease agreement between Jonathan Barnett and the Revenue Division be filed as reviewed and the motion passed by voice vote.

Arkansas Natural Resources Commission

Co-Chair Maxwell referred members to the request from the Arkansas Natural Resources Commission for the Legislative Council's review of the general obligation bond program Plan of Work for construction of the Bayou Meto and Grand Prairie Irrigation Projects, submitted pursuant to A.C.A. § 15-22-707 (Exhibit H.5c). Co-Chair Maxwell recognized Randy Young, Director of the Arkansas Natural Resources Commission, to explain the request. Mr. Young provided the following information in response to questions from the members:

- The source of the revenue stream to pay for these bonds was included in the Governor's balanced budget to pay the debt service on the bonds;
- The Commission is proposing funding of three projects: (1) the Ozark Mountain Regional Water Authority Project in the amount of \$6.7 million as incentive money to encourage commitment of USDA stimulus money; (2) the Bayou Meto Irrigation Project in the amount of \$30 million to match the \$37 million in stimulus funding by U.S. Corp of Engineers; (3) the Grand Prairie Project for which the Commission is preparing in the event federal stimulus money is available for this project, but this may be unlikely;
- The bonds would be sold for a ten-year payment and the debt service would be approximately \$4.7 million;
- This is money currently set aside in the budget and it will not be an increase from what was approved and the money set aside for debt service is not going to increase;
- If bonds are not issued for the Grand Prairie Project, the \$30 million in bonding authority could be utilized for other projects;
- The law requires the advice of the Legislative Council before the Governor issues a resolution authorizing the sale of the bonds;
- The federal OMB has the final authority in deciding which projects are selected to receive stimulus money.

Senator Wilkins moved that the general obligation bond program Plan of Work for the Bayou Meto and Grand Prairie Irrigation construction projects be filed as reviewed and the motion passed by voice vote.

Arkansas State Parks Division

Co-Chair Maxwell referred members to the request for the Legislative Council's approval of expenditures from the Parks and Museums System Special Maintenance fund (Exhibit H.5d), submitted by the Arkansas State Parks Division. There were no questions regarding this request.

Senator Terry Smith moved that the Legislative Council approve the expenditures from the Parks and Museums System Special Maintenance fund and the motion passed by voice vote.

Business Carried Over from Previous Council Meeting

Co-Chair Maxwell referred the members to the information in their packets concerning the use of one-day sentences at the Department of Correction (Exhibit I.1), which was provided by the Arkansas Department of Correction.

Co-Chair Maxwell recognized David Ferguson who explained that the difficulty with the program is that it takes longer to complete the intake process than the one-day incarceration allowed by A.C.A. 5-4-320. Co-Chair recognized Dina Tyler, with the Arkansas Department of Correction, who provided the following information in response to questions from the members:

- The cost has not been computed because it is included in the everyday operation.
- One of the problems is that many participants have to be drug tested because they arrived at the department under the influence and they are not allowed to enter the institution.
- If the drug test is positive, the persons must be picked up by the probation officer and must be supervised by the department in the meantime. Also, many persons do not show up to take the tour. It is reported to the judge if the person does not complete the tour.

Senator Madison asked that staff make a note of these issues and determine whether or not the statute could be revised.

Co-Chair Maxwell recognized Representative Green who explained that he had been contacted by a constituent who was concerned about the health of her son who was incarcerated in the Department of Correction. He explained that he had contacted the Department of Correction regarding reports of an outbreak of scabies and expressed his concern for the constituent's son as well as concern for visitors who may be exposed to a contagious disease. He asked that Ms. Tyler check into this and address the situation and let him know the veracity of these reports.

Ms. Tyler responded that she did know a little about this particular case, but did not know the specifics of the case. Representative Green asked Ms. Tyler to check into reports that the constituent's son was sent out on a work detail while ill. Ms. Tyler agreed to check into this case.

Co-Chair Maxwell recognized Senator Whitaker who commented that she had also been contacted by the constituent regarding her son and she had received an immediate response from the department that they were addressing the situation.

Co-Chair Maxwell recognized Senator Faris who commented that he had also been contacted by the constituent. He feels that this was a sensitive situation and that the constituent will continue to contact legislators until the situation is resolved. He also asked that Ms. Tyler investigate the situation and attempt to resolve the issue. Ms. Tyler stated that she would find out what was going on.

Ms. Tyler responded to additional questions concerning the issues with the sentencing of persons to a one-day incarceration. Representative Tiffany Rogers asked that staff make a note of whether or not the judge could order that the probationers be transported to the department by the parole office. Co-Chair Maxwell recognized David Ferguson who stated that the statute requires the probationer to bear the cost of transportation and that may be another issue for consideration in revising the statute. Co-Chair Maxwell recognized Representative Hobbs who noted that transporting people to the department would be an additional cost to the county sheriff's offices and should be considered when revising the statute. There were no further questions regarding this matter.

New Business

Co-Chair Maxwell referred members to the notice of emergency action by the co-chairs of the Legislative Council to approve the transfer of \$8,000,000.00 to the Arkansas Department of Correction. Co-Chair Maxwell asked that Richard Weiss, Director of the Department of Finance and Administration, come forward to respond to questions.

Mr. Weiss explained that the Department of Finance and Administration had requested the transfer of a total of \$15 million dollars to address the needs of the Department of Correction for the remainder of the fiscal year. The first request for \$8 million was a request for emergency release (Exhibit J.1) because there were some needs pending that could no longer be delayed. The balance of the \$15 million is in the second request (Exhibit J.2), which is now before the Legislative Council for approval. Mr. Weiss explained the funds would be released on an as needed basis. There were no further questions regarding this matter.

Senator Malone moved that the Legislative Council approve the transfer of funds to the Department of Correction as presented in Exhibit J.2 and the motion was passed by voice vote.

Co-Chair Maxwell recognized Representative Lea who had requested at the previous meeting that the Legislative Council review monthly the progress of the implementation of the trauma

system. She has since spoken with Representative Reep and learned that the Public Health, Welfare and Labor Committee will be hearing progress reports on the trauma system. Representative Lea encouraged members to attend these meetings and hear the report.

Co-Chair Maxwell recognized Representative Tiffany Rogers who asked that Richard Weiss come forward to explain the adjustment to the official revenue forecast. Co-Chair Maxwell recognized Mr. Weiss and he explained that on May 4, 2010 the Governor revised the forecast and cut \$41 million from the flow for this year and this is the adjustment mentioned in the revenue report by Richard Wilson.

Report of the Executive Secretary

Co-Chair Maxwell recognized David Ferguson who reported that members had inquired about the federal health care reform legislation and a working group involving the legal, fiscal, and research divisions of the Bureau was formed to research the questions. The primary staff contact is Nell Smith. The members will be informed when information on the legislation is posted on the General Assembly web page.

Co-Chair Maxwell recognized Representative Lowery who informed members that the Revenue and Taxation Committee had heard an update from staff attorney Mary Cameron on the Streamlined Sales Tax and that staff could make this report available to everyone. Representative Lowery commented that this is an important issue and should continue to be monitored by this body.

Adjournment

There being no further business to come before the committee the meeting was adjourned at 10:00 a.m.

Respectfully submitted,

ATTEST:

Representative Allen Maxwell
Co-Chair, Senate

David Ferguson
Executive Secretary