

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, November 19, 2010

The Arkansas Legislative Council met at 9:00 a.m., Friday, November 19, 2010 in Committee Room A of the Big Mac Building, 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.

Minutes of the Last Meeting

Co-Chair Maxwell referred members to the minutes of the October 15, 2010 meeting of the Legislative Council and asked if there were any questions. There were no questions and the minutes were approved without objection.

Revenue Report

October 2010 Revenue Report

Co-Chair Maxwell recognized Richard Wilson, Assistant Director of the Bureau of Legislative Research, to present the monthly revenue report for October 2010. Mr. Wilson reported that the October 2010 revenue report reflects that after four months of this fiscal year, the gross collections are \$ 120.5 million greater than the same period last year for a growth rate of seven point two percent (7.2%). The report reflects that the adjusted net general revenue available for distribution this month increased by \$59 million dollars for a growth rate of four percent (4%).

The graph page indicates that revenue is \$28.8 million dollars ahead of the official forecast after four months. The official forecast was revised on November 10, 2010, but that did not affect the net and did not affect the statistics in the graph. The spreadsheet indicates that gross receipts grew at eight point one percent (8.1%) and the average income tax collections grew at eight point five percent (8.5%). There were no questions concerning the October 2010 revenue report.

Report of the Executive Subcommittee

Co-Chair Maxwell recognized Jill Thayer, Legal Counsel to the Director, to present the report of the Executive Subcommittee. Ms. Thayer reported that the Executive Subcommittee met on October 21, 2010 and discussed three items of business. The first item of discussion was the renovation of the public restroom area in the Big Mac Building. The second item of discussion was the room use policy for the legislative areas in the Big Mac Building that includes the lobby, the conference room behind the committee rooms, and both committee rooms. The third item was a presentation by Richard Wilson of a report entitled, "Review of Arkansas General Assembly Task Forces and Other Commissions." After discussion, the subcommittee asked staff

to prepare options for limiting task forces to be reviewed at the next Executive Subcommittee meeting. There were no questions regarding the report.

Representative Green moved that the Executive Subcommittee report be adopted and the motion passed by voice vote.

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Maxwell recognized Representative Mike Burris to present the report of the Administrative Rules and Regulations Subcommittee. Representative Burris reported that the subcommittee met on November 15, 2010 and referred members to the report in their packets that reflects the items reviewed and approved. Representative Burris asked that the chair recognize Representative Overbey.

Co-Chair Maxwell recognized Representative Overbey, who referred members to page three of the report and the item from the Arkansas Public Defenders Commission, which was a request to provide funding until the legislative session for payment of attorney fees for indigent clients that the court has ruled must be paid by the Public Defenders Commission. Representative Overbey stated he wanted to bring this to the attention of the members because it had generated a great amount of discussion in the subcommittee meeting, and he noted that more work would be needed in this area.

Representative Overbey moved the adoption of the report of the Administrative Rules and Regulations Subcommittee.

Co-Chair Maxwell recognized Senator Hendren who asked if voting for approval of the report would also approve the \$500,000.00 project to enable the Public Defenders Commission to pay the attorney fees for indigent clients. Co-Chair Maxwell asked that staff research the question for Senator Hendren.

Co-Chair Maxwell recognized Representative Burris. **Representative Burris stated that out of respect for Senator Hendren's concern, he moves that the report of the Administrative Rules and Regulations Subcommittee be adopted with the exception of the funding request from the Arkansas Public Defender Commission, which is the second item listed on page three of the report. The motion passed without objection.**

Co-Chair Maxwell informed the members that he was granting Representative Roebuck's request to consider Interim Resolution 2009-003 (Exhibit K.2) out of order and would allow her to present Interim Resolution 2009-003 following her presentation of the Higher Education Subcommittee Report (Exhibit F.5).

Higher Education Subcommittee

Co-Chair Maxwell recognized Representative Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the Higher Education Subcommittee met November 18, 2010 and heard presentations from Dr. Ed Franklin and Dr.

Glen Fenter regarding an exciting project concerning Mid South Community College and other entities in the Delta, as well as several data reports from Dr. Jim Purcell.

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

Interim Resolution 2009-003

Co-Chair Maxwell recognized Representative Roebuck to present Interim Resolution 2009-003 (Exhibit K.2). Representative Roebuck explained that the Subcommittee on Higher Education has always been a temporary subcommittee and not a standing subcommittee of the Legislative Council, but members have continued to be appointed for several years. Interim Resolution 2009-003, which is authored by both chairs of the Higher Education Subcommittee, requests that the Legislative Council adopt an amendment to the Legislative Council rules to designate the Subcommittee on Higher Education as a standing subcommittee of the Legislative Council.

Representative Roebuck moved that the Legislative Council adopt an amendment to the Legislative Council rules to designate the Higher Education Subcommittee as a standing subcommittee of the Legislative Council. The motion received a second from Senator Whitaker.

Co-Chair Maxwell informed members that motion would require a two-thirds affirmative vote of the House members and of the Senate members to pass. Therefore, the House and Senate members would vote separately and nonmembers and members-elect could not vote.

Co-Chair Maxwell asked the Senate members to say “aye” if they approved the motion. Co-Chair Maxwell did not hear sufficient ayes and asked that staff call the roll of the Senate members. The motion received nine ayes and one no vote and failed to pass by roll call vote.

Co-Chair Maxwell recognized Senator Teague for a motion. **Senator Teague moved that the vote by which the motion failed to pass be expunged and the motion passed by a voice vote.**

Co-Chair Maxwell recognized Representative Roebuck for a motion. **Representative Roebuck moved that the Legislative Council adopt an amendment to the Legislative Council rules to designate the Higher Education Subcommittee as a standing subcommittee of the Legislative Council. The motion received a second from Senator Whitaker. The motion passed by a separate voice vote of the Senate and House members of the Legislative Council.**

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 November 12, 2010 and reviewed all items on the agenda with exception of miscellaneous federal grant requests on page one of the report; one from the Department of Education (item B.2); and one from the Department of Finance & Administration (item B.3). Both items were held at the request of the subcommittee co-chair, Representative Dismang, who could not attend the meeting. There were no questions concerning this report.

Senator Bryles moved the adoption of the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. The motion received a second from Representative Sample and passed by voice vote.

Co-Chair Maxwell recognized Representative Roebuck who explained that her absence was due to her son being promoted by the Arkansas State Police and she was on her way to attend that ceremony. The members applauded.

Review Subcommittee

Co-Chair Maxwell recognized Senator Horn to present the Review Subcommittee report. Senator Horn reported that the Review Subcommittee met November 8, 2010 and reviewed all items on the agenda with the exception of the contract between the University of Arkansas at Fayetteville bookstore and Cranford Johnson Robinson Woods. This item is on hold from the October subcommittee meeting and would remain on hold until the December subcommittee meeting when the University would be in attendance to provide additional information.

Senator Horn reported that since the November 8, 2010 subcommittee meeting, a legislator has requested that an item be pulled from the subcommittee report, which is item one on page six of the report. There were no questions regarding this 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 Maxwell recognized Representative Wells to present the Uniform Personnel Classification and Compensation Plan Subcommittee report. Representative Wells reported that the subcommittee met on November 18, 2010 and heard several routine reports from the Department of Education, the Department of Higher Education, the Arkansas School for the Deaf, and the quarterly employment report for the fourth quarter of the 2010 fiscal year. The subcommittee also reviewed a request from the Department of Agriculture for a special entry rate for an exceptionally well-qualified applicant; four requests for pool positions from OPM from the Department of Correction, the Department of Human Services, and the Department of Arkansas Heritage; five requests for salary adjustments from the circuit courts; and one request from the Arkansas Science and Technology Authority for a miscellaneous federal grant position. There were no questions regarding this report.

Representative Wells moved the adoption of the report of the Uniform Personnel Classification and Compensation Plan Subcommittee and the motion passed by voice vote.

Reports of Interim and Special Committees

Community Services Oversight and Planning Council

Co-Chair Maxwell recognized Keith Gober, staff for the Community Services Oversight and Planning Council, to present the report. Mr. Gober reported that the Community Services Oversight and Planning Council met on September 30, 2010 and on October 21, 2010. The

Community Services Oversight and Planning Council heard reports from the community provider associations that are associated with the Council. The Council adopted and passed motions that request appropriation and general revenue funding as follows: for the community mental health centers approximately seven point seven million dollars (\$7.7 million) for each year of the biennium; for the Arkansas youth services provider associations approximately three million dollars (\$3 million) each year of the biennium; for Arkansas Areas on Aging approximately \$2.3 million for fiscal year 2012 and \$2.7 million for fiscal year 2013; and for developmental and disability service providers approximately \$10.6 million for fiscal year 2012 and \$16.2 million for fiscal year 2013. The overall general revenue request for next biennium totaled \$23.6 million for fiscal year 2012 and \$29.6 million for fiscal year 2013. This report was presented to the ALC-JBC Committee and was referred to the ALC-JBC Human Services Subcommittee for appropriate action. There were no questions regarding the report and the report was adopted without objection.

Arkansas Legislative Task Force on Water Quality

Co-Chair Maxwell recognized Representative Mike Burris to present the report of the Arkansas Legislative Task Force on Water Quality. Representative Burris reported he has worked on this subject area for six years and he feels that water quality is a very important issue and that Arkansas is blessed with an abundant natural resource that is not enjoyed by other states. He commented that he appreciated the efforts of the citizens from across the state who volunteered to work with the task force at their own expense.

The Task Force on Water Quality offers its recommendations as listed in the report in the members' packets. Representative Burris directed members' attention to the comprehensive Arkansas Water Plan that has not been updated since 1989 or 1991 and is in need of updating. Representative Burris also directed the members' attention to the recommendation to establish a permanent legislative level Arkansas Water Quality Board/Task Force that would regularly review and monitor water quality issues to ensure that the recommendations are implemented and will work. Representative Burris asked the report be adopted. There were no questions regarding the report and it was adopted without objection.

Review of Communications

Co-Chair Maxwell referred members to the communications in their packets and asked if there were any questions. There were no questions regarding the communications and all communications were filed without objection.

New Proposals and Resolutions

Co-Chair Maxwell referred members to Interim Study Proposal 2009-246, by Senator Altes, that proposes a study to clarify the power of regional solid waste management boards to change and collect fees for management of solid waste. Senator Altes was not in attendance to present Interim Study Proposal 2009-246 and there were no questions regarding the proposed study.

Interim Study Proposal 2009-246 was referred to the Senate Committee on Public Health, Welfare, and Labor without objection.

Response to question

Co-Chair Maxwell recognized Kim Arnall, Assistant Director for Fiscal Services, to respond to the question raised by Senator Hendren in regard to the adoption of the report from the Rules and Regulations Subcommittee.

Mr. Arnall explained that it is correct that the Arkansas Public Defenders Commission had requested in the commission's budget request for the next biennium an additional amount of \$500,000.00 in regard to the Arkansas Supreme Court ruling that the Arkansas Public Defender Commission is responsible for expenses in cases where the defendant is found to be indigent regardless of whether or not the defendant's attorney is retained or appointed. The executive recommendation that was adopted by the Legislative Council-Joint Budget Committee did include the additional \$500,000.00 for professional fees and services.

The Arkansas Public Defender Commission has submitted a rule in regard to special language in the commission's appropriation act this fiscal year that states that no funds appropriated herein shall be expended for fees where the defendant is represented by retained counsel who has not gone through the Public Defender Commission's attorney qualification and designation process as established by state law and the commission's regulations. However, the special language also states the Public Defender Commission may grant exceptions to the subsection. The commission has been before the Rules and Regulations Subcommittee to propose a rule to set out a procedure to follow when retained counsel requests funding from the commission and that is the rule in the report before the Legislative Council today. Mr. Arnall answered questions from the members on this information. Senator Hendren and Senator Whitaker asked to be notified of any consideration or votes on this rule.

Co-Chair Maxwell recognized Representative Mike Burris. **Representative Burris moved that the proposed rule by the Arkansas Public Defenders Commission be sent back to the Rules and Regulations Subcommittee for more review and that it not be approved at this time. The motion received a second from Representative Glover and was passed by voice vote.**

Adjournment

There being no further business to come before the committee, the meeting was adjourned at 9:45 a.m.

Respectfully submitted,

ATTEST:

Representative Allen Maxwell
Co-Chair, House

David Ferguson
Executive Secretary