

DRAFT MINUTES
Senate Committee on State Agencies and Governmental Affairs
House Committee on State Agencies and Governmental Affairs
Senate Committee on Transportation, Technology and Legislative Affairs
House Committee on Public Transportation
Meeting Jointly
Thursday, October 24, 2013, 10:00 a.m.
Room 171, State Capitol,
Little Rock, Arkansas

The Senate Committee on State Agencies and Governmental Affairs, House Committee on State Agencies and Governmental Affairs, Senate Committee on Transportation, Technology and Legislative Affairs and House Committee on Public Transportation met Thursday, October 24, 2013 at 10:00 a.m. in Room 171 at the State Capitol in Little Rock, Arkansas.

Committee members attending: Senators Eddie Joe Williams, Chair; Bill Sample, Chair; Jane English, Vice Chair; Linda Chesterfield, Jimmy Hickey, Bobby Pierce, Gary Stubblefield, and Larry Teague. Representatives Jonathan Barnett, Chair; Duncan Baird, Scott Baltz, Nate Bell, Jim Dotson, Dan Douglas, Fonda Hawthorne, Mary “Prissy” Hickerson, David Hillman, John Hutchison, Allen Kerr, David Kizzia, Joe Farrer, Jim Nickels, Betty Overbey, John Payton, Terry Rice, Fred Smith, and David Whitaker.

Other members attending: Senators Missy Irvin, Johnny Key and Uvalde Lindsey. Representatives Randy Alexander, Charlotte Vining-Douglas, Jeremy Gillam, Joe Jett, Mark D. McElroy, Homer Lenderman, Stephanie Malone, Sue Scott, Mary Lou Slinkard and Henry “Hank” Wilkins IV.

Senator Williams called the meeting to order. He expressed concerns about non-consensual towing laws in Arkansas and recognized Representative Barnett for comments. Representative Barnett explained the state’s non-consensual towing industry might benefit from more oversight.

In response to a question by Senator Williams, Senator Sample said he does not intend to address Interim Study Proposal (ISP) 2013-112 [EXHIBIT C1] today.

Major J.R. Hankins, Highway Patrol, Arkansas State Police (ASP), explained ASP uses a rotating list of qualified companies for non-consensual vehicle towing and storage needs; and does not contract with wrecker or salvage/storage companies. ASP requires companies applying for inclusion on the list to comply with pricing criteria and undergo inspections. Major Hankins noted, towing and storage prices vary, depending on the resources needed to complete each job. ASP does not receive towing or salvage invoices unless an individual subject to non-consent towing complains. If ASP determines a company is excessively charging customers, they report the incident to Arkansas Towing and Recovery Board. ASP does have authority to suspend companies that violate requirements from remaining on the rotation list.

Mr. Greg Downs, General Counsel, ASP, said ASP usually suspends at least one company from the rotation list every month. Suspensions are in place for specified times (usually 15 to 30 days) and upon expiration, the company automatically returns to the list.

Ms. Cynthia Lauen, Director, Arkansas Towing & Recovery Board (ATRB), said a primary responsibility of ATRB is investigating complaints about towing companies. When receiving a complaint, the Board asks the company to itemize and explain the questioned invoice. They use eleven criteria including area and nationwide towing rates, labor, equipment, cleanup, and logistics to determine if the company is excessively charging customers. ATRB has authority to enforce fines up to \$5,000 per

offense and/or suspend licenses and permits; but does not have authority to set pricing. As of today, ATRB is investigating 47 cases and has suspended one company since Ms. Lauen became Director.

The ATRB office is in Searcy and operates with five employees. Two of these positions are investigators; and the Board intends to hire another investigator very soon. Ms. Lauen explained, opinions vary, whether the office would serve Arkansas more efficiently in Little Rock. She noted current employees could not afford driving to work in Little Rock so the office would lose its entire staff if relocated. The ATRB has nine members; meets the third Tuesday every month at the Arkansas Attorney General's Office; and their operating budget is \$54,472. The Board charges \$100, plus \$48/truck for licensing new towing companies. In January, the charge per truck increases to \$72.

In response to a question by Senator Chesterfield, Ms. Lauen stated, special language during the 2011 Legislative Session eliminated ATRB's regulatory authority over salvage and used-car companies that tow vehicles in Arkansas. Senator Williams agreed to study who is the regulatory agency for those companies.

Chief A.J. Gary, Arkansas Association of Chiefs of Police, said many cities in Arkansas have effective contracts with towing and salvage companies. Senator Williams said defined rules are effective measures that reduce complaints; and he wants the legislature to seek guidance from cities with effective contracts for vehicle towing and storage.

Steve Rogers, Executive Director, Professional Towing and Recovery Association (PTRA), said PTRA is the trade association representing Arkansas's towing and recovery companies. He explained the Association does not condone excessive pricing, and works with ATRB to rectify inappropriate charging situations. Mr. Rogers explained towing companies do not initiate non-consent tows; they are providing services for cities, counties, and law-enforcement agencies. Extenuating circumstances usually require charges for non-consent jobs to be higher than standard. Mr. Rogers asked the committees to include him in further discussions and offered to assist them in addressing issues surrounding non-consent towing in Arkansas.

ISP 2013-163 by Senator Williams – To study issues and prepare recommendations concerning non-consent towing and the Arkansas Towing and Recovery Board. [EXHIBIT C1]

Senator Sample made a motion to adopt ISP 2013-163. Representative Hillman seconded the motion, and the motion carried.

With no further business, the committees adjourned at 11:23 a.m.