

MINUTES

SENATE & HOUSE INTERIM COMMITTEES
ON CITY, COUNTY, AND LOCAL AFFAIRS

June 12, 2019

The Senate and House Interim Committees on City, County, and Local Affairs met Wednesday, June 12, 2019 at 3:30 p.m. in the Fulton Room, Statehouse Convention Center, Little Rock, Arkansas during the 2019 Arkansas Municipal League's Summer Conference.

Committee members present: Senators Gary Stubblefield, Senate Chair and Keith Ingram. Representatives Lanny Fite, House Chair, Karilyn Brown, Carol Dalby, Jana Della Rosa, David Fielding, Spencer Hawks, Monte Hodges, Fredrick Love, Marcus Richmond, Johnny Rye, Matthew Shepherd, and Nelda Speaks.

Other members present: Representatives Stan Berry, Harlan Breaux, Cameron Cooper, Kenneth Ferguson, Vivian Flowers, Lane Jean, Jack Ladyman, Reginald Murdock, Keith Slape, Dan Sullivan, and Richard Womack.

Opening Comments by Committee Chairs

Senator Stubblefield welcomed legislators to the meeting and asked them to introduce themselves. He announced the retirement of Karen Holliday, Committee Legislative Analyst, and thanked her for her service. He introduced Barbara Brown, the new analyst for the City, County, and Local Affairs Committees.

Consideration of Motion to Approve the May 15, 2019 Meeting Minutes [Exhibit C]

A motion to approve the minutes of the May 15, 2019 committee meeting was made by Representative Monte Hodges and seconded by Representative Love. The motion carried.

Welcome Remarks – 2019 Arkansas Municipal League's Summer Conference

Senator Stubblefield recognized Mark Hayes, Executive Director, Arkansas Municipal League (ARML). Mr. Hayes welcomed the legislators to the conference and invited them to attend all of the events. He told the committee Kerrie Lauck, an attorney with the Bureau of Legislative Research, has joined the ARML legal team.

Update and Discussion of the Arkansas State Aid City Street Program, Plus Making Permanent the Half-Cent Sales Tax Currently Dedicated to Highway Bonds-Requiring Voter Approval in 2020

Senator Stubblefield recognized Steve Napper, Attorney for the State Aid City Street Program, Arkansas Municipal League. Mr. Napper said he joined the ARML in 2007 as a consultant. He helped draft legislation for the State Aid City Street Program. He described the development of the program:

- Legislation creating the program passed in 2011 but no funding was appropriated
- A ½ cent permanent sales tax on fuel was passed in 2012 funding the program
- Collection of the ½ cent tax resulted in \$18 million up to \$20 million annually
- The focus of the program is on small cities and towns who cannot afford to repair streets
- The committee consists of nine mayors who determine which projects will be funded

- From 2013 to the present 595 projects at a cost of \$137.2 million have been approved
- A total of 429 cities have been awarded funding for their projects, with 161 cities receiving funding for second projects
- In 2015 the program received a national award for community development
- 144 applications have been received for projects in 2020
- The program committee has capped overlay projects at a total of \$250,000
- Cities and towns with a population of 25,000 or less receive 100% funding
- Cities and towns with a population over 25,000 pay 10% of project costs

Mr. Napper said the program committee has allocated \$400,000 for design projects for when a city wants to create a new street, expand a street, or create new curbs, gutters and sidewalks. ArDOT designs and oversees design projects, hires a contractor, and pays the project costs.

Senator Stubblefield recognized Gill Rogers, Governmental Relations Officer, Arkansas Department of Transportation (ArDOT). Mr. Rogers said the department's involvement with the State Aid City Street Program includes:

- ARrDOT works with the ARML to publicize the program, ensuring cities and towns know how to apply and the type of projects available
- A State Aid Engineer with ArDOT oversees the projects, administers the funding, and has the responsibility of the project design
- In 2015, ArDOT received a national award from the American Association of State Highway and Transportation officials for the program in the category of Quality of Life

Mr. Rogers discussed the ½ cent sales tax initiative which will be voted on in the 2020 general election. He said the sales tax will take effect July 1, 2023 for fiscal year 2024 if the voters pass the amendment. The sales tax collection could provide \$205 million to ArDOT for road construction. Additional funding could increase funding from the current \$450 million to up to \$740 million. The Highway Commission has adopted a tentative spending plan in the event the sales tax passes in the upcoming election:

- The majority of the funding would continue the maintenance and preservation of the system
- Over a ten-year period, Interstate maintenance costs are estimated at \$1 billion
- Over a ten-year period, pavement preservation costs are estimated at \$3 billion
- Over a ten-year period, bridge replacement and preservation cost are estimated at \$1.1 billion
- A capital and congestion relief program cost estimate is \$1.8 billion
- Over a ten-year period, safety improvements costs estimates are \$0.5 billion

Mr. Rogers said the department will host public meetings and take comments over the next several months on the tentative plans and options. Mr. Rogers said a change by the Highway Commission is to focus on the existing system rather than new construction. He said 80% of funding will be dedicated to maintaining the existing state system, which will address many of the most damaged roads in the state.

Discussion of the Use of Digital Maps Versus Zip Codes for Sales Tax Collections, How to Correct the Incorrect Collection of Said Taxes in General

Senator Stubblefield recognized Shelby Johnson, State Geographic Information Officer, Arkansas Geographic Information Systems (GIS) Office. Mr. Johnson gave a PowerPoint presentation on sales tax jurisdiction assignments for cities, counties and the state:

- Two entities control the assignment of addresses; the addressing authority, and a city or county who assigns addresses needed for first responders
- The U.S. Postal Service assigns zip codes for the delivery of mail
- Addresses are fed into the GIS office by county 911 agencies or a city addressing authorities
- GIS receives the addresses and puts that into a database and maintains the postal codes and assigns a jurisdiction code for a municipality
- GIS builds their database on a statewide basis and on a quarterly basis
- GIS uses the jurisdictional boundary of a municipality to make the sales tax jurisdiction assignment
- GIS manages over a million and half records across the state

Legislators discussed the challenges the GIS Office faces when obtaining the data for new addressing. Mr. Johnson explained that high growth areas of the state present the greatest challenge. Their office receives up to 700 new zip codes on a monthly basis across the state.

Review of the Status of the Fair Market Sales Tax Law, In Particular the Collection of Revenue.
Discussion of Best Practices for Accurate Collection

Senator Stubblefield recognized Walter Anger, Commissioner of Revenue, Arkansas Department of Finance and Administration (DFA), and Paul Gehring, Assistant Commissioner of Revenue-Policy and Legal, Arkansas Department of Finance and Administration (DFA). Mr. Gehring described the legislative history and judicial developments regarding the collection of sales tax from businesses located outside of the state. He referenced the work performed by the Tax Reform and Relief Task Force which covered many aspects of sales and use taxes in the state. Beginning in the 1990s and 2000s more and more individuals were making purchases online from companies located outside of the state. Those companies did not have a physical presence in Arkansas. Legislation introduced in the 112th Congress was known as the Marketplace Fairness Act, which provides legislative authority to allow states to force out-of-state companies to collect state sales tax. Forty-four states cooperated in the formation of an agreement to provide tools to the states and businesses to comply with the collection of revenue. Arkansas became a member of the Streamline Sales and Use Tax Agreement (SSUTA) and began receiving those revenues in 2005. From 2005 through March, 2019, Arkansas has collected \$137 million in state and local sales taxes through its participation in SSUTA. Arkansas currently has 5,170 companies who do not have a physical presence in the state. DF&A adopted a simple registration system in August, 2018 for entities who do not have a physical presence. 1,753 companies registered voluntarily. DF&A has collected \$4.42 million from voluntary registrants and \$1.75 million in local sales taxes.

Mr. Gehring said Senate bill 576, which became Act 822 of 2019 encompassed many components that resulted from the work of the Tax Reform and Relief Task Force. One component addressed marketplace sellers. He said marketplace sellers do not sell products themselves, but provide a platform for other sellers to market their products. Act 822 will go into effect July 1, 2019. Mr. Gehring said thresholds under Act 822 are \$100,000 in sales or 200 transactions. The first round of tax collections will be during the month of July and reported in August. DF&A provided estimates for 2020 collections:

- An estimated gain of \$32.4 million in state sales tax revenue for fiscal year 2020
- An estimated gain in general revenue of \$21.8 million from the \$32.4 million revenue gain
- The DF&A economic analysis group attributes approximately 80% of the estimated gains to marketplace sellers
- An estimated gain of \$35.4 million in state sales tax revenue for fiscal year 2021
- An estimated gain in general revenue of \$20.4 million from the \$35.4 million revenue gain

- An estimated gain of \$11.8 million to city and county sales tax revenues from the \$35.4 million revenue gain

Legislators discussed the effectiveness of the SSUTA agreement and the process used by businesses outside the state. Mr. Gehring said the agreement makes it easier for the taxpaying public and all participating states to achieve the goal of unified laws and how purchased items are defined.

Senator Stubblefield spoke about damage to the levy systems in Arkansas both from recent flooding and from years without proper maintenance. He told committee members a group of legislators have been consulting together to address this issue. A meeting is scheduled for August 1, 2019 in Room A, Big MAC Building, State Capitol to discuss the problems. The following entities will be asked to participate:

- Arkansas Department of Emergency Management
- Arkansas National Guard
- Association of Arkansas Counties
- Arkansas Department of Transportation
- U.S. Army Corps of Engineers
- Arkansas Municipal League

Senator Stubblefield recognized Chris Villines, Executive Director, Association of Arkansas Counties (AAC). Mr. Villines invited the City, County, and Local Affairs Committee members to the AAC's 21st Annual Conference at the Hot Springs Convention Center on August 21, 2019. The agenda has not been finalized, but one issue will be the need for more funding to counties for state prison inmates being held in county jails. He said that based on Senator Stubblefield's announcement of the levy system hearing on August 1st, he believes that discussion will be continued at the conference meeting.

There being no further business, the meeting adjourned at 5:00 p.m.