

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

MEETING JOINTLY

WEDNESDAY, AUGUST 5, 2015

MINUTES

The Senate and House Interim Committees on City, County, and Local Affairs, met Wednesday, August 5, 2015 at the Holiday Inn & Convention Center, Springdale, Arkansas.

Committee members present were Senators Missy Irvin, Senate Chair, Scott Flippo, Greg Standridge, and Representatives Betty Overbey, House Chair, Scott Baltz, Mary Bentley, Charles Blake, Justin Boyd, Gary Deffenbaugh, Jana Della Rosa, Lance Eads, Justin Gonzales, and Timothy Lemons.

Other legislators present were Senators Cecile Bledsoe, Bart Hester, and Jon Woods, and Representatives Bob Ballinger, Nate Bell, Jim Dotson, Lanny Fite, David Hillman, Frederick Love, Robin Lundstrum, Ron McNair, and Micah Neal.

Call to Order

Senator Irvin called the meeting to order.

Welcome and Remarks by Committee Chairs

Senator Irvin welcomed legislators to the meeting and asked that they introduce themselves. Representative Overbey expressed her appreciation for the number of legislators in attendance.

Approval of Minutes – June 24 and 25, 2015 and July 15 and 16, 2015 [Exhibits C, C-1, C-2, C-3]

Minutes of the June 24 and 25, 2015, and July 15 and 16, 2015 committee meetings were approved by acclimation.

Welcome and Update on Projects and Activities of the Association of Arkansas Counties (AAC)

Senator Irvin recognized Chris Villines, Executive Director, Association of Arkansas Counties (AAC). Mr. Villines referenced the joint meeting of the City, County, and Local Affairs Committees and the Legislative Blue Ribbon Committee on Local 911 Systems scheduled for Thursday, August 6, 2015. He discussed the economic impact on counties caused by increased costs in funding 911 centers. Mr. Villines told legislators

that the AAC is working to find solutions to increase funds for 911 systems across the state. They hope to present their recommendations during the next legislative Session.

Update on the Unpaved Roads Program (Act 898 of 2015) [Exhibit E]

Senator Irvin recognized County Judge Brandon Ellison, Polk County. Judge Ellison said the Unpaved Roads Program will focus on reducing sedimentation in the state's water resources. The development of the program is important to county economies who rely on outdoor recreational tourism, and counties dependent on logging, cattle, and poultry farms. Judge Ellison told legislators that a group of private and public individuals and organizations formed the Unpaved Roads Working Group. The Group studied a program in Pennsylvania called the Dirt to Gravel Road Program, which has been successful in decreasing sedimentation in its water resources. Judge Ellison highlighted aspects of the Unpaved Roads Program:

- The Arkansas Department of Rural Services will administer the program as a public/private partnership that will focus on environmental hotspots that have direct connectivity to streams or waterways
- All public road managers are eligible to submit a grant application for their project
- Program funding is a 50/50 match between county government/state government, and public/private funding
- Program grant recipients will be required to obtain training for their county and/or city road crews in Best Management Practices geared towards environmentally sensitive roads
- Training will be available at a very low cost and will include county projects performed outside the Unpaved Road program

Judge Ellison said the final rules for the program are currently being drafted. Upon completion and approval of the rules, the grant application process will be opened.

Update on the Final Federal Rule Clarifying Protection Under the Federal Clean Water Act for Streams and Wetlands "Waters of the United States" (WOTUS) (40 CFR 230.3), plus Federal Legislation to Overturn the Rule (S. 1140), and the Multi-State Lawsuit Against the EPA and the U.S. Army Corps of Engineers [Exhibit F]

Senator Irvin recognized Scott Perkins, Legislative and Communications Director, AAC. Mr. Perkins gave a PowerPoint presentation and referenced a 2015 Policy Brief published by the National Association of Counties (NACO). NACO supports legislative efforts to stop and restart the "Waters of the U.S." rule-making process. Mr. Perkins said that the definition of Waters of the U.S. (WOTUS) was published in the Federal Register by the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers on June 29, 2015. New EPA rules will become effective August 28, 2015. The AAC believes the new rules will initiate costly litigation and increase costs for federal permits. He summarized the categories of waters under the new rules:

- A tributary is defined as natural waters, manmade waters, streams, canals, and ditches, which will be extremely hard for cities and towns to determine if their storm water and wastewater facilities will be under WOTUS jurisdiction

- Adjacent waters are not limited to traditional navigable interstate waters, territorial seas, or impoundments impacting cities and counties that own infrastructure near these waters
- All waters located within a 100 year flood plain may be considered jurisdictional
- All waters located within 4,000 feet of the high tide line, or ordinary high water mark may be considered jurisdictional

Mr. Perkins said the AAC believes the broad and unclear language of the new WOTUS rules will have a negative impact on the state. He highlighted Congressional action unfolding, which could restart the rule making process:

- U.S. House Resolution 1732 passed by the U.S. House on May 12, 2015
- U.S. Senate S-1140 passed by the U.S. Senate Committee on Environmental Public Works on June 10, 2015

Both Congressional actions could potentially cause the EPA to withdraw the final WOTUS rules and require federal agencies to restart the rule making process. U.S. Senate S-1140 is sponsored by Senator John Barrasso and co-sponsored by Senators John Boozman and Tom Cotton. S-1140 would include a set of principles that federal agencies will have to consider when rewriting the rules, including the types of waters that should be exempt.

Update on the Endangered Species Act – Critical Habitat Designations in Arkansas and Surrounding States by the U.S. Fish and Wildlife Services and Potential Lawsuits [Exhibit G]

Senator Irvin recognized Scott Perkins, Legislative and Communications Director, AAC who summarized plans the U.S. Fish and Wildlife Service (USFWS) intends to propose for critical habitat designation over the next ten years, which include:

- Designation of a total of 374 species proposed for critical habitat designation
- Arkansas has a total of 44 species proposed for critical habitat designation
- Arkansas has 37 aquatic species within the total number of species proposed

Mr. Perkins said that all of the 374 species proposed for critical habitat designation are located in the southeastern region which include Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, Tennessee, and Texas.

Mr. Perkins discussed a USFWS critical habitat designation that occurred in Arkansas in 2013. The geographic area proposed for that critical habitat designation would have encompassed 39% of the state. The AAC, along with a significant number of coalition members, including the Senate and House Committees on City, County, and Local Affairs were successful in persuading USFWS to reduce the designated geographical area to 27% in the USFWS' final ruling.

Mr. Perkins told legislators that the USFWS has not yet released its maps showing which areas of the state will be affected by the proposed critical habitat designations. Once maps are released, the AAC will notify the committees and begin its own research and prepare public comments to be submitted to the USFWS. Mr. Perkins asked the

committees to support the lobbying efforts by the AAC and NACO to reduce the economic impact critical habitat designations will have on Arkansas.

Brief Overview from the Local County Government Perspective of District Courts and Funding Sources. A more in-depth discussion on this topic will be held at a future meeting when the Committees study ISP 2015-006 by Senator Missy Irvin [Exhibit H]

Senator Irvin recognized County Judge Michael Lincoln, White County. Judge Lincoln told committee members that he served on the realignment committee for the consolidation of Arkansas's lower courts, which was required by Amendment 80 to the Arkansas constitution passed in November, 2000. He said the realignment working group had a painstaking task consolidating the lower courts into the District Court model. He recommended that the County Judges Association work with the AAC to develop measures to help sustain and fund the District Courts.

Senator Irvin recognized Mark Hayes, Director of Legal Services, Arkansas Municipal League. Mr. Hayes discussed changes to the state's court system which have occurred over the past 20 years. In 1995, legislation created a uniform court cost. Prior to this legislation, court costs were determined on a local level, with fees averaging between \$15.00 to \$20.00. Following passage of the 1995 legislation, the court fees increased to \$50.00. Mr. Hayes said that cities and counties were able to maintain self-sustaining courts for a number of years through the collection of traffic violation fines. Over time, the collection amounts have dwindled because courts are unable to collect fines. The creation of the District Courts with the passage of Amendment 80 means that the only operational funds paid into the court system by the state is for the salaries of the District judges. Cities and counties have become increasingly responsible for rising court costs.

Senator Irvin announced upcoming meetings of the Senate and House City, County, and Local Affairs Committees:

- Thursday, August 6, 2015 at 11:00 a.m. in Springdale Holiday Inn and Convention Center, a joint meeting with the Legislative Arkansas Blue Ribbon Committee on Local 911 Systems
- Wednesday, August 26, and Thursday, August 27, 2015 meetings at the Ozark Folk Center State Park in Mountain View, Arkansas.

There being no further business, the meeting adjourned at 5:30 p.m.