

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, February 21, 2020

The Arkansas Legislative Council met at 9:00 a.m., Friday, January 17, 2020, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Cecile Bledsoe called the meeting to order and recognized a quorum of members present. The members present are listed on the sign-in sheets.

Point of Personal Privilege

Co-Chair Jeff Wardlaw expressed his concerns with state agency officials placing items to be reviewed or approved on legislative committee/subcommittees agendas without providing sufficient details and information to members. He requested each state agency to provide sufficient data to members in advance or at the respective meeting(s) when placing their items on the agendas.

Minutes of the Previous Meeting

Co-Chair Bledsoe referred the members to the minutes of the last Legislative Council meeting on December 20, 2019 (Exhibit C) and asked if there were any questions. There were no questions.

Senator Terry Rice moved that the minutes of the December 20, 2019 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Report of the Executive Subcommittee

Co-Chair Bledsoe recognized Co-Chair Jeff Wardlaw to present the report of the Executive Subcommittee (Exhibit D). Co-Chair Wardlaw reported that the Executive Subcommittee met on January 16, 2020, to hear a proposal from Senator Jane English, regarding creation of an ALC subcommittee on data-sharing, which will complete the work of the recently expired Data-Sharing & Data-Driven Decision-Making Task Force. The Executive Subcommittee approved the proposal and recommends the creation of the proposed subcommittee.

Co-Chair Wardlaw made a motion to suspend the rules to adopt the creation of the subcommittee. The motion was seconded and passed by voice vote.

Co-Chair Wardlaw continued stating the Executive Subcommittee also heard the Arkansas Racing Commission's request for review and approval of six (6) emergency rules. The emergency rules were reviewed and approved, and the review and approval will be effective upon adjournment of the ALC meeting held on January 17, 2020. Co-Chair Wardlaw further stated that the subcommittee continued its discussion from the December 19, 2019 meeting for approval of the emergency rule for the Benton County Regional Solid Waste Management District regarding District Fees. The emergency rule was reviewed and approved, and the review and approval will be effective upon adjournment of the ALC meeting held on January 17, 2020. Lastly, Co-Chair

Wardlaw stated that Marty Garrity, Director, Bureau of Legislative Research, provided the director's report. This concluded the report of the Executive Subcommittee.

Co-Chair Bledsoe, recognized Representative Fredrick Love for questions. Representative Love requested an overview of the emergency rules that were presented from the Arkansas Racing Commission. Ms. Lacey Johnson and Director Marty Garrity presented Representative Love with that information.

Co-Chair Bledsoe recognized Representative Jim Wooten for a statement. Representative Wooten expressed his concerns with most state agencies relying on Bureau of Legislative Research staff to present information that the agency should be prepared to do for themselves. Representative Wooten further expressed that he, too, would like for staff of the agencies that place an item on an agenda to be in attendance at those meetings in order to answer questions.

Co-Chair Bledsoe recognized Representative Charlene Fite for questions. Representative C. Fite requested someone from Boston Mountain Regional Solid Waste Management District to come forward for explanation of how the emergency rule change would affect them. Co-Chair Bledsoe explained to Representative C. Fite, sticking to usual protocol, that type of request would have to be done at the meeting of the Executive Subcommittee, and that Senator Bob Ballinger would present a motion relative to her request.

Co-Chair Bledsoe recognized Senator Bob Ballinger for a motion.

Senator Bob Ballinger stated that pursuant to Arkansas Legislative Council (ALC) Rule 22(f)(3)(B), a majority of the members of ALC can ask the Executive Subcommittee to reconsider its decision on emergency rules, therefore, he made a motion to reconsider review and approval of the Benton County Regional Solid Waste Management District emergency rule regarding district fees in order to determine whether it is an emergency.

Before votes were taken, Senator Ballinger gave background information to the motion he made.

Co-Chair Bledsoe recognized Representative Jim Dotson, Representative Dan Douglas, Representative Charlene Fite, and Senator Hickey for questions or statements.

Senator Bob Ballinger restated his motion.

With a showing of three (3) hands from ALC members, a roll call by division was initiated beginning with the Arkansas Senate members and then the Arkansas House of Representatives members. After votes were tallied, the motion passed and the item was sent back to the Executive Subcommittee, where they were to meet on Friday, January 17, 2020 after ALC or on Monday, January 20, 2020.

Co-Chair Jeff Wardlaw moved that the remainder of the report of the Executive Subcommittee be adopted. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe stated that the Executive Subcommittee will meet on January 17, 2020, at 12:00 p.m., in Room B of the Big MAC Building.

Reports of the Standing Subcommittees

Administrative Rules Subcommittee

Co-Chair Bledsoe recognized Senator Lance Eads to present the report of the Administrative Rules Subcommittee (Exhibit E.1). Senator Eads reported that the Administrative Rules Subcommittee met on January 15, 2020, and reviewed and filed letters submitted by the Arkansas Department of Corrections, the Department of Human Services (DHS), the Oil and Gas Commission, and the Arkansas Plant Board, pursuant to Act 893 of 2019. All the rules were reviewed and approved. Senator Eads further reported that the subcommittee also heard agency updates on delinquent rule making under Act 517 of 2019. This concluded the report of the Administrative Rules Subcommittee, and there were no questions.

Senator Lance Eads moved that the report of the Administrative Rules Subcommittee be adopted. The motion was seconded and passed by voice vote.

Litigation Reports Oversight Subcommittee

Co-Chair Bledsoe recognized Senator Bob Ballinger to present the report of the Litigation Reports Oversight Subcommittee (Exhibit E.7). Senator Ballinger reported that the Litigation Reports Oversight Subcommittee met on January 16, 2020, and reviewed one settlement, Alicia Christopher v. Department of Human Service (DHS) and heard public testimony regarding 60CV-18-1027, Monk v. Rogers, et al. This concluded the report of the Litigation Reports Oversight Subcommittee, and there were no questions.

Senator Bob Ballinger moved that the report of the Litigation Reports Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Bledsoe recognized Representative DeAnn Vaught to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit E.8). Representative Vaught reported that the subcommittee met on January 14, 2020, and approved one item, an appropriation transfer request for the Arkansas Department of Health. Representative Vaught further reported the PEER Subcommittee held a request, from the Department of Human Services, Item B.1, for a reallocation of resources, and Item G.1, a report of carry forward of unobligated general revenue funds for senior citizens centers resulted in a request for more information. This concluded the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee.

Representative DeAnn Vaught moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted.

Co-Chair Bledsoe recognized Representative Fredrick Love for questions regarding the held items of the report. Co-Chair Bledsoe recognized Co-Chair Jeff Wardlaw to explain.

Co-Chair Bledsoe requested that agency staff from DHS come forward. Mr. Mark White, Chief of Staff and Chief Legislative and Intergovernmental Affairs Officer, DHS, and Mr. Jay Hill, Director of the Division of Aging, Adult, & Behavioral Health Services, DHS came forward to

respond to questions previously asked. Mr. White reported that in regard to Item B.1, an approval item for reallocation of resources, it was presented to request a transfer of \$3.5 million dollars in unfunded appropriations from the Division of Developmental Disability Services to the Division of Medical Services (DMS), to cover expenses related to nursing homes that DHS took over in the last year, due to additional costs that will exceed the current appropriation. Mr. White stated that funds are available in DMS to cover, but it's the appropriation that it lacks. After providing further information on additional appropriations, Mr. White paused for questions on Item B.1. With there being no questions, Mr. White continued to report on the next item, Item G.1. Mr. White stated that there was special language in one of the appropriation bills that directed DHS to gather up to \$500,000 of unallocated general revenue to be used for senior centers around the state and submit a report indicating when DHS had done so. Mr. White further stated that in response to the questions, regarding total funding provided for senior centers, statewide and including the \$500,000, DHS anticipates distributing \$29,536,380 to the Area Agency on Aging. Mr. White continued, stating the vast majority of the funds can be used in the senior centers, but will vary agency to agency, but the majority of the funding is nutrition funding, which can go towards the meals that are served in the senior centers.

Co-Chair Bledsoe saw no further questions on this report, and requested a substitute motion from the committee.

Co-Chair Wardlaw made a substitute motion to adopt the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee including Item B.1 and Item G.1 of the PEER report. The motion was seconded and passed by voice vote.

Review Subcommittee

Co-Chair Bledsoe recognized Representative Andy Davis to present the report of the Review Subcommittee (Exhibit E.10). Representative Davis reported that the Review Subcommittee met on January 14, 2019, and reviewed revised OSP Procurement rules, methods of finance, grants and service contracts. Two contracts were recommended for ratification: 1) Arkansas Department of Environmental Quality with Natural State Environmental, and 2) Department of Human Services (DHS) with BSA Select Optical. Representative Davis further reported that after the meeting, the Department of Commerce contacted staff to remove the UAMS contract (*page 6, Item #1 of the Review report*) and refer it back to Review Subcommittee. This concluded the report of the Review Subcommittee, and there were no questions.

Representative Andy Davis moved that the report of the Review Subcommittee, with the exception of the Department of Commerce contract that is to be referred back to the Review Subcommittee, be adopted. The motion was seconded and passed by voice vote.

Arkansas Health Insurance Marketplace Oversight Subcommittee

Co-Chair Bledsoe recognized Representative Deborah Ferguson to present the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee (Exhibit E.14). Representative D. Ferguson reported that the Arkansas Health Insurance Marketplace Oversight Subcommittee met on January 6, 2020, and met jointly with the House and Senate Public Health, Welfare, and Labor Committees to allow Insurance Commissioner Allen Kerr to present his report once, instead of reporting twice to the committees and the subcommittee. The Arkansas Health Insurance Marketplace Oversight Subcommittee heard testimony on the following:

- Insurance Commissioner Kerr noted that the Health Insurance Marketplace was transferred to the Arkansas Insurance Department on March 15, 2019, and as a result, the expenses of the Arkansas Health Insurance Marketplace (AHIM) dropped dramatically;
- The Commissioner noted that there are four (4) insurance companies offering twenty-eight (28) different plans which are either gold, silver, or bronze plans on the exchange. He also said that all of the plans are being offered statewide and the rates are uniform across the regions for all companies;
- The Commissioner further noted that the Federal Exchange User Fee has been reduced from 3% to 2.5% and the Arkansas Health Insurance Marketplace (AHIM) Exchange user fee of 1.25% has been eliminated beginning January 1, 2020. This has resulted in lower premium increases ranging from .51% to 2.89% for all policies being offered on the exchange. Enrollment in the exchange stands at 64,601 to begin Program Year 2020.

This concluded the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee, and there were no questions.

Representative Deborah Ferguson moved that the report of the Arkansas Health Insurance Marketplace Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Occupational Licensing Review Subcommittee

Co-Chair Bledsoe recognized Senator Missy Irvin to present the report of the Occupational Licensing Review Subcommittee (Exhibit E.15). Senator Irvin reported that the Occupational Licensing Review Subcommittee met on January 13, 2020, to receive reports on occupational authorizations from the Arkansas Motor Vehicle Commission and the Arkansas Professional Bail Bondsman Licensing Board. In addition, Senator Irvin further reported that the subcommittee discussed recommendations from the Arkansas State Board of Acupuncture and Related Techniques, the Arkansas Fire Protection Licensing Board, and the Arkansas Department of Health – Radiation Control Section. This concluded the report of the Occupational Licensing Review Subcommittee, and there were no questions.

Senator Missy Irvin moved that the report of the Occupational Licensing Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Review of Communications

Co-Chair Bledsoe referred members to the communications listed as Exhibit G.1 through Exhibit G.11 on the agenda, and noted that action by the Legislative Council is needed for the following item(s):

G.1) Arkansas Commission on Child Abuse, Rape, and Domestic Violence, Arkansas Infant and Child Death Review Panel, FY19 Annual Report on the Arkansas Infant and Child Death Review Program on deaths occurring during 2017, submitted pursuant to A.C.A. § 20-27-1707;

G.10a) Department of Transformation and Shared Services, Division of Building Authority, Request for the Legislative Council's review of the sale of property by the Arkansas State Police below the appraised price, submitted pursuant to A.C.A. § 22-6-601(h)(2).

Co-Chair Bledsoe recognized Senator Will Bond for questions on Item G.5(b) – Department of Corrections, Division of Community Corrections. Mr. Jerry Bradshaw, Director, Division of Community Corrections, came forward to respond to questions.

Senator Bond asked Mr. Bradshaw for updates on the hiring of probation officers and the current average caseload around the state. Mr. Bradshaw responded that thirty (30) positions for parole officers are currently vacant and that is somewhat typical, with a turnover rate at an average of 6%. Mr. Bradshaw further stated, the current caseload for probation and parole officers is ninety-two (92) offenders to one (1) officer and that number is down. Mr. Bradshaw added that the lowest he has seen the average in parole and probation position vacancies is around nineteen (19) positions.

Co-Chair Bledsoe recognized Senator Linda Chesterfield for questions on Item G.1.

Mr. Mark White, Chief of Staff and Chief Legislative and Intergovernmental Affairs Officer, DHS, Ms. Sherry Williamson, Child Abuse Project Coordinator, UAMS, and Ms. Dawn Porter, ICDRP Coordinator, Arkansas Children's Hospital, came forward to respond to questions.

After questions and discussion from Representative Deborah Ferguson, Representative Jim Wooten, Representative Mary Bentley, and Senator Joyce Elliott, Ms. Sherry Williamson stated she would provide to members, information regarding the required qualifications of the people who are being assigned and sent to local schools to talk with students about suicide prevention, awareness, and help lines.

Co-Chair Bledsoe recognized Senator Chesterfield for a motion.

Senator Linda Chesterfield made a motion to refer Item G.1 to the Senate Interim Committee on Children and Youth and the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe asked if there were any questions or discussion regarding Exhibit G.10(a). There were no questions.

Senator Terry Rice moved that the request from the Division of Building Authority for approval of the sale of property by the Arkansas State Police below the appraised price, submitted pursuant to A.C.A. §22-6-601(h)(2), be approved. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe asked if there were any questions or discussion regarding the other items listed under Communications. There were no other questions concerning the other communications listed on the agenda.

Interim Resolutions

Co-Chair Bledsoe recognized Senator Missy Irvin to present Interim Resolution 2019-004. Senator Irvin stated that she filed the resolution because it is important for the US Congress to do their work effectively and efficiently. She further stated, when that is done, it will allow members at a state level to do its work, because the country is suffering from the weeks of delay and the lack of focus on the issues that need to be addressed in order to help the citizens of our country and state.

After the presentation, Co-Chair Bledsoe recognized Representative Marcus Richmond who state he has a motion at the appropriate time.

Co-Chair Bledsoe then recognized Senator Chesterfield for questions. Senator Chesterfield expressed her concerns with the resolution.

Co-Chair Bledsoe recognized Representative Marcus Richmond for his motion.

Representative Richmond moved that Interim Resolution 2019-004, upon adoption by ALC be considered adopted with the inclusion of any names of the Arkansas House or Arkansas Senate members wishing to co-sponsor the interim resolution, as provided to BLR Director, Marty Garrity by the end of the meeting. The motion was seconded and passed with voice vote.

After further discussion from Representative Jim Wooten, Senator Missy Irvin, and Senator Alan Clark, Co-Chair Bledsoe recognized Senator Bart Hester for a motion.

Senator Bart Hester made a motion for immediate consideration. The motion was seconded and passed by voice vote.

Senator Terry Rice made a motion to adopt Interim Resolution 2019-004. The motion was seconded and passed by voice vote.

Co-Chair Bledsoe recognized Senator Bob Ballinger to address the “Business Carried Over” items on the agenda.

Senator Bob Ballinger moved to adopt the report of the Administrative Rules Subcommittee, from December 20, 2019, with regard to Professional Bail Bondsman Licensing Board Rule

and Regulation 2; in regard to Professional Bail Bondsman Licensing Board Rule and Regulation 1, it should not be renewed, effective 180 days from the date of January 17, 2019.

Co-Chair Bledsoe recognized Senator Joyce Elliott for questions. Senator Elliott requested a synopsis of the rules. Senator Bob Ballinger explained his reasons for holding those items.

The motion was seconded and passed by voice vote.

Co-Chair Bledsoe recognized Senator Bill Sample for a motion.

Senator Bill Sample moved that the Executive Subcommittee meet five (5) minutes upon adjournment of the Arkansas Legislative Council (ALC) meeting, rather than at noon, in Room B of the Big MAC Building. The motion was seconded and passed by voice vote.

Adjournment

At 10:29 a.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Senator Cecile Bledsoe
Co-Chair, Senate

Marty Garrity
Executive Secretary