

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, October 16, 2020

The Arkansas Legislative Council met at 9:00 a.m., Thursday, October 1, 2020, in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Jeff Wardlaw 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 Wardlaw recognized Representative Carlton Wing for a point of privilege. Representative Wing asked members to join him in wishing “Happy Birthday” to Representative Jon Eubanks.

Report of the Executive Subcommittee

Co-Chair Wardlaw recognized Co-Chair Cecile Bledsoe to present the report of the Executive Subcommittee (Exhibit E). Co-Chair Bledsoe reported that the Executive Subcommittee met at 8:30 a.m. on October 1, 2020. The subcommittee reconsidered the declaratory orders emergency rule from Arkansas Insurance Department. The emergency rule was reviewed and approved. This concluded the report of the Executive Subcommittee, there were no questions.

Co-Chair Bledsoe moved that the reports of the Executive Subcommittee be adopted. The motion was seconded and passed by voice vote.

New Business

Co-Chair Wardlaw recognized Dr. Charisse Childers, Director, Division of Workforce Service, Mr. Mike Preston, Secretary, Department of Commerce, via ZOOM, Mr. Brian Hicks, CFO, Division of Workforce Services, and Ms. Deevee Pearson, Deputy Director, Internal Operations, Division of Workforce Services to come forward for discussion.

Dr. Childers stated a proposal was submitted to the CARES Act Steering Committee for \$165,000,000 to go into the Unemployment Insurance Trust Fund and have a balance in that fund to allow the agency to keep its percentage at 2% instead of increasing to 3%. Initially the agency thought they would need only \$160,000,000, but after additional calculation, it was realized the agency would need \$165,000,000 instead. There was discussion in the committee on the request, as well as the timing of that request.

Dr. Childers continued, stating on June 8, 2020, DWS brought the information to the attention of Secretary Preston and the chairman of the CARES Act Steering Committee, Ms. Elizabeth Smith. There was discussion to talk about the amount of money that was needed at the time, which was \$350,000,000 based on the amount of funds that the agency had at that time. In April and May 2020 there was a record number of claims, which was detrimental to the fund. By June, it was realized that the balance was decreasing. On September 23, 2020, the request was sent to Secretary

Preston, but it was not within enough time to get the information placed on an agenda of the Steering Committee with ample time for public review, which resulted in a special meeting of the Steering Committee being called where the request for \$165,000,000 was made.

Dr. Childers further stated that the weeks ending April 6, 2019 through week ending March 28, there were initial claims for approximately \$128,000 for the entire year, with continued claims of almost \$600,000 for the entire year. Within the first 26 weeks of this year, DWS is at \$350,000 in initial claims, almost 3 times the amount as of last year, with \$2,185,000 continued claims, almost 4 times the amount since last year. The trust fund received \$362,000,000 in 2010 and forward in Title VII advances in order to pay unemployment insurance benefits, so money had to be borrowed from the federal government to pay out benefits.

Due to legislative updates and to the Arkansas taxable wage base, stabilization rates, paired with the severe increases to benefits due to COVID-19 employment layoffs, which creates unanticipated changes in the volume of claims, and the CARES Act legislation, giving states credit for waiting weeks and other provisions, and the continued reimbursable credit, it is difficult to predict the trust fund balance, except for looking at the balance, day to day. The trust fund balance, at the end of federal fiscal year 2020, Sept. 30, is \$674,158,309.

Co-Chair Wardlaw recognized Secretary Preston, who expressed his appreciation to the legislature and to Dr. Childers for the indulgence and the presentation. He reiterated the statements made by Dr. Childers.

After the presentation, Co-Chair Wardlaw asked Dr. Childers how many fraudulent claims have there been this year in Arkansas. Dr. Childers responded, stating she didn't have the exact number of regular unemployment insurance fraudulent claims with her but will provide that information; however for the Pandemic Unemployment Assistance, there are 52,371 under fraudulent review. Dr. Childers stated all states are experiencing fraud and they share data with the Unemployment Integrity Hub, a national organization that is assisting the agency in identifying fraud cases and rings.

Co-Chair Wardlaw recognized Ms. Pearson to provide additional information. Ms. Pearson stated that an entire fraud unit has been established and is being funded through federal grants that are available for that purpose. Additionally, the previous fraud rate was kept low in comparison to other states, because unlike many states, Arkansas would require new claimants to come into the office to show I.D. They could apply online but to complete the process, they would have to come in to show identification. But with the COVID-19, that has been difficult to do.

Co-Chair Wardlaw asked have any of the funds been received back, and have any actions been taken against the fraudulent claimants. Dr. Childers responded that the agency has not taken any action on these cases, because it is up to the authorities; however, the fraud cases are being reported to the authorities, including the FBI and state police.

Co-Chair Wardlaw recognized Senator Jim Hendren for questions. Senator Hendren expressed his frustration with the timing of the request, as well as comments previously made by Secretary Preston. He stated that the chairmen were put in an awful position by the agency - where they had to decide whether they would approve a \$165,000,000 appropriation request, or make taxes go up by 30%. The funds had to be in the account by a certain day to avoid the tax increase, leaving no time for legislators to convene.

Co-Chair Wardlaw recognized Secretary Preston to respond. Secretary Preston stated that the deadline date for the tax increase was presented at an earlier meeting in June 2020, and if the agency had requested the full amount needed at that time, the request would have been \$350,000,000.

Dr. Childers added, the date was discussed several times in meetings, reciting A.C.A§ 11-10-706 that was created by the current legislators. She expressed the information should have been made more clear and she takes responsibility for that. Dr. Childers stated she reported the information to Secretary Preston on a Wednesday which was not in enough time to get the request to the CARES Act Steering Committee and carry out its due diligence.

Co-Chair Wardlaw stated the agency could have requested an appropriation in excess of what was needed and spent up to a certain amount and returned any of the funds that were not used.

Co-Chair Wardlaw recognized Senator Trent Garner for questions. Senator Garner provided comments about a conversation that he had with Chairwoman Smith, that either led to the agency not knowing the agency would need the funds until the very last minute, or the agency intentionally waited until the deadline to make the request, thus putting legislators in a position to make a decision right away or not.

Co-Chair Wardlaw stepped away from the chair.

Co-Chair Bledsoe recognized Senator Keith Ingram for comments. He expressed how he thinks the state could be more flexible with the CARES Act money over the trust fund account that can only be used for a particular reason.

Co-Chair Bledsoe recognized Dr. Childers, who expressed her appreciation for the opportunity to come forth and receive the frustrations and concerns of the members, but further expressed, this mishap was not intentional.

Co-Chair Bledsoe recognized Representative Dan Sullivan for questions. Representative Sullivan started by informing members that there is a committee called the *Governors Dislocated Task Force Rapid Response Program*. He asked if DWS collects data on businesses that are closing. Dr. Childers responded that businesses report to DWS when they have a layoff or closure, it is relayed to the agency but is not public information. Representative Sullivan stated his biggest concern is with the talk of always rescuing businesses but nothing about how businesses can rescue themselves. Representative Sullivan asked Secretary Preston to consider adding a report on the state's economic position on the Governor's daily report to the public.

Co-Chair Wardlaw returned to the chair.

Co-Chair Wardlaw recognized Senator Jonathan Dismang for questions. Senator Dismang expressed his concerns with business closures and asked questions regarding the Rapid Response program.

Dr. Childers gave information on the Rapid Response program. She stated that once DWS receives a notice from an employer, the agency contacts the employer to see if they are interested

in assistance and mobile units are deployed out to those sites to assist displaced workers. The employer must have at least 50 employees to utilize this service.

Co-Chair Wardlaw recognized Representative Jim Dotson for questions. Representative Dotson expressed his concerns and frustration with the timing of the request. He asked will the state face an automatic 50% increase next year, September 30th, if the fund drops below \$750,000,000. Mr. Hicks responded there are several challenges when trying to project the fund amount.

Co-Chair Wardlaw recognized Senator Terry Rice, Senator Kim Hammer, Representative Fredrick Love, Senator Linda Chesterfield, Senator Missy Irvin, Senator Jason Rapert, and Representative Johnny Rye for questions or comments. Responding statements were made by Dr. Childers, Secretary Preston, and Mr. Hicks. Representative Sullivan requested a list of businesses that are closed or are closing. Dr. Childers responded that she would get that information to the membership.

Point of Personal Privilege

Co-Chair Wardlaw recognized Representative Carlton Wing for another point of privilege. Representative Wing asked members to join him in wishing “Happy Birthday” to Representative Tippi McCullough.

Adjournment

At 10:57 a.m., the meeting was adjourned as there was no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Jeff Wardlaw
Co-Chair, Representatives

Marty Garrity
Executive Secretary