

MEETING SUMMARY

JOINT MEETING
OF THE
HOUSE AND SENATE INTERIM COMMITTEES ON EDUCATION

Monday, April 23, 2018

1:30 P.M.

Room 151, State Capitol

Little Rock, Arkansas

Senator Jane English, the Chair of the Senate Interim Committee on Education, called the meeting to order at 1:30 p.m.

MEMBERS OF THE SENATE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE: Senator Jane English, Chair; Senator Joyce Elliott, Vice Chair; Senator Linda Chesterfield; Senator Alan Clark; Senator Jim Hendren; Senator Bart Hester; Senator Blake Johnson; and Senator Uvalde Lindsey.

MEMBERS OF THE HOUSE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE: Representative Bruce Cozart, Chair; Representative Charlotte V. Douglas, Vice Chair; Representative Sonia Eubanks Barker; Representative Rick Beck; Representative Frances Cavanaugh; Representative Gary Deffenbaugh; Representative Jon S. Eubanks; Representative Mickey Gates; Representative Grant Hodges; Representative Mark Lowery; Representative Mark D. McElroy; Representative George B. McGill; Representative Stephen Meeks; Representative Nelda Speaks; Representative DeAnn Vaught; and Representative John W. Walker.

OTHER MEMBERS OF THE GENERAL ASSEMBLY IN ATTENDANCE: Senator Eddie Cheatham; Senator Trent Garner; Senator Missy Irvin; Senator Bryan King; Representative Fred Allen; Representative Bruce Coleman; Representative Jim Dotson; Representative Kenneth B. Ferguson; Representative Vivian Flowers; Representative Jimmy Gazaway; Representative Michael John Gray; Representative Ken Henderson; Representative Steve Hollowell; Representative Fredrick J. Love; Representative Roger Lynch; Representative Reginald Murdock; Representative Clint Penzo; Representative Aaron Pilkington; Representative Mathew W. Pitsch; Representative Laurie Rushing; Representative Johnny Rye; Representative Matthew J. Shepherd; Representative Brandt Smith; Representative James Sorvillo; Representative Dwight Tosh; Representative Les Warren; and Representative Carlton Wing.

Minutes:

Without objection, the minutes of March 26, 2018, were approved as written.

Exhibit:

Exhibit C – 03/26/2018 Minutes

The Honorable Charlotte V. Douglas, State Representative, District 75, and Vice Chair of the House Interim Committee on Education, was recognized. Representative Douglas introduced students from the University of Arkansas – Fort Smith, who were visiting the Capitol with Dr. Dave Stevens, Dean of Students.

Review of the Impact of the Arkansas Supreme Court's Ruling in *The Board of Trustees of the University of Arkansas v. Matthew Andrews* on the Adequacy Process

Presenter:

Mr. Matthew Miller, Assistant Director for Legal Services, Bureau of Legislative Research, was recognized. Utilizing a PowerPoint presentation, Mr. Miller reviewed the *Andrews* decision on sovereign immunity to see to what extent it could be applied to the *Lake View* case and Adequacy. Mr. Miller said Article 5, § 20 of the

Arkansas Constitution provides that “the State of Arkansas shall never be made defendant in any of her courts.” He stated the intent of this language is to prevent some degree of litigation against the state; but, there has been some discussion on exactly what this means. In his review, Mr. Miller examined provisions of the Arkansas Constitution compared to constitutions of other states; the facts of the *Andrews* case; cases subsequent to *Andrews*; and takeaways from *Andrews*, including three things known for sure:

- 1) Arkansas Code § 11-4-218(e) is unconstitutional and an employee cannot bring an action against the State of Arkansas under the Arkansas Minimum Wage Act.
- 2) Arkansas Code §§ 21-1-601 et seq. is unconstitutional and an employee cannot bring an action against the State of Arkansas under the Arkansas Whistle-Blower Act.
- 3) Sovereign immunity is an affirmative defense and the state needs to plead it to ensure its applicability.

Mr. Miller said it is probably safe to assume that the holding applies to other legislative waivers of sovereign immunity. He said the question is what exactly those are. He said there is no closure on these issues, yet; but, shows where uncertainty is arising. Mr. Miller went on to discuss whether the decision is limited to monetary damages; the implications of *Andrews* on the *Lake View* decision; how *Andrews* will affect future cases like *Lake View*; and will *Andrews* prevent the state from being sued for making changes to the school funding formula. He concluded by saying the impact of the *Andrews* decision on future educational challenges is not yet clear.

Contributor to the Discussion:

Mr. Isaac Linam, Staff Attorney, Bureau of Legislative Research

Issues Included in the Discussion:

- impact on a citizen filing suit against the State of Arkansas on some of these matters in a federal court,
- impact on a lawsuit being filed against the State of Arkansas should a disagreement arise in the future on meeting the obligations of Adequacy,
- effect on making changes within the Matrix,
- the Supreme Court addressing the concept of continuing jurisdiction in the *Lake View* case,
- effect on legislative activities of the Committees pertinent to satisfying the requirements of *Lake View*,
- supremacy of a court case or a constitutional requirement, and
- duty of the legislative body to fulfill the requirement of providing an equitable education for all students in absence of *Lake View* decision.

PowerPoint Presentation:

The Impact of the Arkansas Supreme Court’s Ruling in Board of Trustees of the University of Arkansas v. Andrews on the Adequacy Process

Handout:

The Impact of the Arkansas Supreme Court’s Ruling in Board of Trustees of the University of Arkansas v. Andrews on the Adequacy Process

Initial Discussion of Interim Study Proposal (ISP) 2017-038 by Representative Sorvillo, TO REQUIRE CAMERAS IN CERTAIN CLASSROOMS UPON REQUEST

Presenter:

The Honorable Jim Sorvillo, State Representative, District 32, was recognized. Representative Sorvillo stated he filed ISP 2017-038 during the 2017 Legislative Session because he had been contacted by a constituent in his district concerning her non-verbal child being abused in a self-contained classroom. He said

the Bureau of Legislative Research (BLR) did research to find if any other state had passed legislation on this issue. He noted that in 2017 the Texas legislature unanimously passed SB1398, relating to the placement and use of video cameras in certain self-contained classrooms or other settings providing special education services. He commented that this provides assurance that the Arkansas legislation will meet requirements of the Family Educational Rights and Privacy Act (FERPA). At the suggestion of Representative Gazaway, Representative Sorvillo contacted Ms. Shrader and Mr. Harrington to share stories about their children with special needs whose abuse could have been prevented had cameras been placed in self-contained classrooms.

Contributors to the Discussion:

The Honorable Jimmy Gazaway, State Representative, District 57

Mr. William Harrington, Parent

Mr. Mark Hudson, Legislative Analyst, Bureau of Legislative Research

Ms. Heather Shrader, Parent, Advocate for Special Needs Children and Adults

Issues Included in the Discussion:

- practicability of implementation,
- ability for also recording audio,
- distinguishing the level of handicap status in the focus of the bill,
- putting cameras in all classrooms in order for all students to have equal protection,
- parental access to classrooms,
- cooperation of school districts,
- options available to mandating a state law requiring cameras in certain classrooms,
- whether appeals process for parents not wanting cameras in certain classrooms is included in bill,
- appeals process to the Arkansas Department of Education (ADE) is based on whether the decision of the school district was in violation of the statute,
- population becoming conditioned to be watched all the time,
- length of time to keep video footage, and
- disciplinary actions for von-verbal children.

Exhibits:

Exhibit F – ISP 2017-038

Exhibit F1 – ISP 2017-038 DRAFT

Discussion of the ACT Services in Arkansas

Presenters:

Mr. Jasen Jones, Regional Manager, ACT Workforce Initiatives, was recognized. Mr. Jones discussed the career-readiness side of ACT, and commented on Work Ready Communities (WRCs) and the National Career Readiness Certificate (NCRC). Utilizing a PowerPoint presentation, he discussed Workforce Barriers to Local Potential; The Workforce Ecosystem: A Better Approach; ACT WorkKeys; NCRC Helps Learners Become Earners; Building a Local Workforce Ecosystem; Improving Arkansas Economic Development Potential; Workforce Rankings NCRC and Participating Counties; Arkansas & Neighboring States; Arkansas Job Growth & Skills; Work Ready Communities Roadmap to Success; and Urging Arkansas Counties to Join Word Ready Communities.

Issues Included in the Discussion:

- getting past the expense of testing sites in rural Arkansas so students can get certified,
- differentiating between participating counties vs. certified counties,
- tools to attract industry to a participating county,
- creating job opportunities in areas where there are no jobs, and

- those having skillsets migrating to other areas.

Dr. Brad Patterson, Arkansas State Lead, ACT Client Relations, was recognized. Dr. Patterson continued the presentation by detailing the college side of ACT. He discussed the mission of ACT; the holistic model of education and work success: core academic skills, cross-cutting capabilities, behavioral skills, education & career navigation; the National Curriculum Survey; ACT College Readiness Benchmarks; ACT College and Career Readiness Standards; ACT Aspire College Readiness Indicators; and ACT Academy.

Issue Included in the Discussion:

- expense and other issues involved for a rural community to become a WRC.

PowerPoint Presentation:

ACT Growing Skills and Jobs in Arkansas

Handouts:

ACT Growing Skills and Jobs in Arkansas

ACT Keeping a Strong Economy Growing

Presentation Concerning Hunger in Schools

Presenter:

Ms. Ann Marie Coy, Student, Mount Saint Mary Academy, Little Rock, Arkansas, was recognized. Ms. Coy presented the Cafeteria Share Tables program, an opportunity to end food waste and provide hunger relief to those who are food insecure. She discussed the program's idea, putting it into action, ADE Guidance, and promoting and marketing the program.

Issues Included in the Discussion:

- ❖ percentage of food that has to be opened, and
- ❖ rules that would prevent the program.

The Honorable Charlotte V. Douglas, State Representative, District 75, stated that Ms. Coy had been named volunteer of the year at the Arkansas Food Bank.

Handout:

Cafeteria Share Tables

Next Scheduled Meeting:

Tuesday, April 24, 2018 at 9:00 a.m. in Room 171 of the State Capitol, Little Rock

Adjournment:

The meeting adjourned at 3:50 p.m.

Approved: 05/21/2018