

MINUTES  
LEGISLATIVE TASK FORCE ON SUSTAINABLE BUILDING DESIGN AND PRACTICES  
OF THE  
ARKANSAS GENERAL ASSEMBLY

Monday, June 11, 2012  
1:30 P.M.

Room 151, State Capitol  
Little Rock, Arkansas

The Legislative Task Force on Sustainable Building Design and Practices met at 1:30 P.M., Monday, June 11, 2012, in Room 151 of the State Capitol in Little Rock, Arkansas. The following members attended:

**Legislative Members:** Senator David Johnson, Co-Chairman; Senator Jake Files and Representative Greg Leding, Co-Chairman.

**Non-Legislative Members:** Chris Benson, John Coleman, Richard Davies, Charlie Foster, Mark Kenneday, Anne Laidlaw, Zack Mobley, Mark Robertson, and Kenneth Smith.

**Also Attending:** Senators Gilbert Baker, Linda Chesterfield, and Randy Laverty; Representatives John Burris, Billy Gaskill, Buddy Lovell, Mike Patterson, and Ann Clemmer.

Representative Leding called the meeting to order.

**CONSIDERATION TO APPROVE MAY 14, 2012, MINUTES [EXHIBIT C]**

**Without objection, the May 14, 2012, minutes were approved.**

**FISCAL IMPACT ON COMPRESSED NATURAL GAS [EXHIBIT D]**

**Mr. John Theis, Assistant Commissioner for Policy and Legal, Division of Revenue & Mr. Tom Atchley, Excise Tax Administrator, Arkansas Department of Finance and Administration (DFA)**

Mr. Theis said the Task Force (TF) asked DFA to study tax incentives for vehicles that use alternative fuels and property that delivers alternative fuels into vehicle tanks. Specifically:

- Converting standard-fuel vehicles to compressed natural gas (CNG), liquefied petroleum (LP) gas or hydrogen power
- Original purchase of CNG, LP, or electric power vehicle
- Installing commercial and home fueling stations
- Providing fueling to electric vehicles

The study looks at vehicles and property acquired in 2015 and after; and uses Oklahoma tax credits as examples. It shows the following impacts:

- \$54 - \$55 million with a 50% tax credit
- \$33 million with a 30% credit
- \$11 million with a 10% credit

Mr. Theis noted America is quickly switching to CNG and electric vehicles, so there is significant volatility with the study's results. In Arkansas, 100 cubic feet of CNG equals one gasoline gallon equivalent (GGE). In 2009 and 2010, Arkansas's CNG consumption totaled 25,000 – 27,000 GGE. In 2011, consumption doubled to 56,000 GGE; and projections indicate the rate will be 330,000 – 340,000 GGE at the end of FY 2012. Vehicle manufacturers intend to make more types of alternative-fueled vehicles. CNG in Damascus now costs \$1.36/GGE. Mr. Theis noted without parameters, tax credits might become unmanageable. He cited Arizona in 2000 with an alternative fuel tax credit projected to cost \$3-\$5 million, but it cost \$200 million, resulting in a quickly-called special session to repeal that credit.

Mr. Theis noted some tax credit risks:

- You do not know how large it's going to be, unless there are certain parameters on the tax credit

- Tax credits are only good for those entities with an income; a non-profit with a large fleet does not have income tax, so a credit incentive doesn't apply
- Many CNG vehicles are in cities' and counties' fleets and they have no tax liability.

He said by using grants, the state can decide how much it can afford to spend on this program; the General Assembly can appropriate that amount; and create a gatekeeper who takes the application for the grants (which can come from cities, counties, businesses, etc.).

He closed by saying if the tax credit incentive is pursued, he asked that some limitations/parameters be considered.

Arkansas has six CNG fueling stations now (three public, three private); and two are under construction. The revenue impact assumes three new stations, in no particular location, with property costs of \$500,000 each.

The fiscal impact includes partial and all-electric vehicles, but only the components of a partial-combustion engine associated with electric power qualify for the incentive. The Arkansas highway fuel tax on gasoline is 21.5¢; the CNG rate is 5¢. Law requires suppliers to meter the fuels and collect taxes separately.

Mr. Smith said the TF needs time to gather a consensus on this and suggested discussing it further at the August meeting. Representative Leding agreed and noted that there is no draft legislation for alternative-fuel tax credits at this time.

#### **RESIDENTIAL ENERGY CODE, ETC. DISCUSSION (EXHIBITS E.1 & E.2; HANDOUTS E.1 & E.2)**

**Mr. Ron Hughes, Coordinator, Sustainability and Energy Sector Programs, Pulaski Technical College**, presented a Powerpoint entitled, "Residential Energy Code Considerations" (ATTACHMENT 1). As states adopt the new codes there will be more high-performance houses including radiant barrier roof decking, innovative frame methods, attic spray foam, insulated rafters, energy-recovery ventilators, mechanical ventilation, and The Builders Insulation & Building Products System. Blower-door and duct-blower tests will be a standard. Mr. Hughes said buyers should get credit for purchasing more energy-efficient homes.

The Home Energy Rating System (HERS) is a 100-point scale that compares energy efficiency in houses. Mr. Hughes favors requiring an energy-rating system for code compliance so appraisers can document and include a home's energy-efficiency score in the appraisal. There are several barriers to building energy-efficient houses such as adequate building plans and poor common-trade practices. Realtors do not understand which energy-efficient improvements are valuable; appraisers need comparables to appraise a house; lenders do not have a place in the "loan-approval checklist" to include the energy-efficiency score; and existing codes do not encourage efficiency. There are two paths to comply with the 2009 IECC: prescriptive and performance. Performance allows trade-offs; prescriptive requires exact compliance with specifications.

Mr. Hughes said to think of the housing industry as a system. As cities adopt energy codes, there will be more jobs. Pulaski Technical College and Northwest Arkansas Community College train energy raters and conduct hands-on best-practice training throughout the state.

**Mr. Gary Isom, Executive Director, Arkansas Real Estate Commission (AREC)**, said the commission is considering ways for real estate licensees to disseminate energy-efficiency information. Arkansas has 9,000 active real estate licenses; 7,000 are members of the Arkansas Real Estate Association (AREA). AREC requires realtors to participate in continuing education, and can use these classes to distribute the information. Current law only allows the commission to require up to one hour of continuing education

per year and they cannot require a specific course. During the next legislative session, there will be legislation to give them more authority over real estate education.

Mr. Isom said real estate educators like to have courses developed for them, and the commission is very successful at assembling subject-matter experts; developing courses, outlines, and learning objectives; identifying training materials; and training new instructors. AREC publishes a quarterly newsletter, maintains an informational website, and writes articles for the Arkansas Realtors Association. Mr. Isom noted, The National Association of Realtors has a Green Building designation, and the AREC and AREA can work together to bring national-level topic-related course instructors to the state.

**Frank Manzer, Executive Director, Arkansas Appraiser's Board**, said he will respond to questions.

Mr. Hughes said the federally proposed Sensible Accounting for Valuing Energy (SAVE) Act requires lenders to consider energy savings as well as principal, interest, taxes, and insurance (PITI) when offering mortgages. This helps buyers qualify for more energy-efficient houses, and leaves more disposable income to pay the mortgage.

Mr. Coleman said "The Village at Hendrix" in Conway is a good example of builders getting value for energy-efficient features in new construction. Every house in the development has official documentation that includes a HERS rating. Establishing a dollar value on energy savings and correlating that with the energy rating gives appraisers a tool to include energy efficiency in the home's value. Homes in The Village appraise for around \$155/sq. ft. compared to \$120/sq. ft. in typical Conway subdivisions. Mr. Coleman said the federal Green Appraisal Form considers comparables and specifically notes the value of energy-efficient features in a home's appraisal. Even without comparables in the area, an appraiser can use the form to see the house's HERS rating, develop a standard calculation, and establish a number that rates the energy-efficiency value. Mr. Isom said using forecasted future energy-savings benefits to establish a net-present value is in use and approved. Mr. Hughes said the code provides for energy-rating documentation, which gives appraisers comparables. Mr. Foster said the rating system is a good idea because it provides consistency to the appraiser's job and removes the idea of interpretation.

Mr. Hughes recommends that Arkansas adopt the 2009 IECC and require an approved HERS Residential Energy Services Network rater to confirm the building complies with the code. Then, the rater provides the builder a verification document, which is required to obtain the certificate of occupancy. Arkansas has 24 to 36 energy raters at this time. Traditional rater training takes five to eight days; the online class lasts about one month. Mr. Manzer said the TF should support Mr. Hughes' information.

Mr. Smith asked Scott Hamilton, Director, Arkansas Energy Office (AEO), to summarize this information and share the AEO's recommendations at the August meeting. Mr. Hamilton said educated consumers drive these processes. The AEO will present recommendations and a summary. He cautioned against moving too quickly, because there are many topics to address, and everyone in the industry needs training and education at the same speed.

Mr. Mobley said the government should be careful about establishing mandates. The topics being discussed control architects' and clients' abilities to have the type of home they want. In his opinion, that is inappropriate control of private construction.

Representative Leding said the next meeting would be Monday, July 9, 2012.

With no further business, the meeting adjourned at 3:15 p.m.