

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, January 17, 2020

The Arkansas Legislative Council met at 9:00 a.m., Friday, December 20, 2019, 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.

Minutes of the Previous Meeting

Co-Chair Wardlaw referred the members to the minutes of the last Legislative Council meeting on November 15, 2019 (Exhibit C) and asked if there were any questions. There were no questions.

Senator Missy Irvin moved that the minutes of the November 15, 2019 meeting of the Legislative Council be adopted. The motion was seconded and passed by voice vote.

Report of the Executive Subcommittee

Co-Chair Wardlaw recognized Co-Chair Cecile Bledsoe to present the report of the Executive Subcommittee (Exhibit D). Co-Chair Bledsoe reported that the Executive Subcommittee met on December 19, 2019, to hear a request from the Benton County Regional Solid Waste Management District for review and approval of an emergency rule regarding District Fees. Co-Chair Bledsoe further reported that after testimony, questions, and debate from subcommittee members, a motion was passed to hold the consideration of the emergency rule for thirty (30) days, for placement on the January 2020 agenda of the ALC-Executive Subcommittee. This concluded the report of the Executive Subcommittee, and there were no questions.

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

Co-Chair Wardlaw recognized Representative Fredrick Love for an inquiry about revenue reports. Co-Chair Wardlaw then recognized Ms. Marty Garrity, Director, Bureau of Legislative Research, to respond. Ms. Garrity informed Representative Love that revenue reports can be found on the Bureau of Legislative Research (BLR) website. Ms. Garrity further stated that after the retirement of Mr. Richard Wilson, the BLR is in the process of securing a new economist to provide future revenue reports to the Arkansas Legislative Council (ALC).

Reports of the Standing Subcommittees

Administrative Rules Subcommittee

Co-Chair Wardlaw recognized Representative Dan Sullivan to present the report of the Administrative Rules Subcommittee (Exhibit E.1). Representative Sullivan reported that the

Administrative Rules Subcommittee met on December 3, 2019, and renewed the rules of the Group 1 agencies scheduled for consideration pursuant to Act 781 of 2017.

Representative Sullivan reported that the Administrative Rules Subcommittee also met on December 18, 2019, and reviewed and filed letters submitted by APERS and the State Bank Department pursuant to Act 893 of 2019. Representative Sullivan further reported the rules of the Arkansas State Police were reviewed pursuant to Act 820 of 2019. The subcommittee deferred the rule by the Office of State Procurement to the January 2020 meeting. All other rules were reviewed and approved. This concluded the report of the Administrative Rules Subcommittee, and there were no questions.

Representative Dan Sullivan moved that the report of the Administrative Rules Subcommittee be adopted.

Co-Chair Wardlaw recognized Senator Bob Ballinger for a substitute motion.

Senator Bob Ballinger made a substitute motion to adopt the report of the Administrative Rules Subcommittee with the exception of the Professional Bail Bondsman Licensing Board rule(s), which had been a part of the December 3, 2019 meeting. Those rules will be held for the January meeting of ALC. The motion was seconded and passed by voice vote.

Claims Review Subcommittee

Co-Chair Wardlaw recognized Senator Bart Hester to present the report of the Claims Review Subcommittee (Exhibit E.3). Senator Hester reported that the Claims Review Subcommittee met on December 19, 2019, and affirmed the rulings of the Arkansas Claims Commission as to two (2) awarded claims and twenty-one (21) denied and dismissed claims, appealed by the claimants. This concluded the report of the Claims Review Subcommittee, and there were no questions.

Senator Bart Hester moved that the report of the Claims Review Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Wardlaw recognized Senator Bruce Maloch to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee (Exhibit E.8). Senator Maloch stated that before he presented the report, he would like to remove Item B.2(a) – Rainy Day Fund Release Requests: Department of Education – Division of Career and Technical Education - \$2,500,000 to provide funding for Camp Couchdale, from the report. Senator Maloch reported that the subcommittee met on December 17, 2019, and approved six (6) items: three (3) requests to transfer funds from the rainy day fund (in which item B.2(a) is to be removed from the report); and three (3) appropriation fund transfer requests. This concluded the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee, and there were no questions.

Senator Bruce Maloch moved that the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee be adopted, with the exception of Item B.2(a) – Rainy Day Fund Release Requests: Department of Education – Division of Career and Technical Education - \$2,500,000 to provide funding for Camp Couchdale. The motion was seconded and passed by voice vote.

Co-Chair Wardlaw recognized Senator Maloch for comments and an additional motion.

Senator Maloch stated there was discussion with members to make certain the rainy day release for the Department of Education had competitive bidding, reporting, and oversight, in which all parties did agree. Senator Maloch further stated he visited with Mr. Jake Bleed, Department of Finance & Administration, and Mr. Greg Rogers, Arkansas Department of Education, asking if they placed requirements for bidding and reporting, if there would be an assurance that funds would not be released to Camp Couchdale until those requirements could be satisfied, in which Mr. Bleed and Mr. Rogers did agree.

Senator Bruce Maloch moved to approve the rainy day release of 2.5 million dollars to the Division of Career and Technical Education, to provide funding for FFA Camp Couchdale, subject to the Division of Career and Technical Education developing a grant application process that will include the requirement of at least three (3) competitive bids on the project and quarterly reporting of performance information to the PEER Subcommittee of Legislative Council, including expense and progress reports. He stated that it's the intent of this motion that transactions are transparent and readily identifiable to the public as it relates to the 2.5 million dollars disbursement. The motion was seconded and passed by voice vote.

Policy-Making Subcommittee

Co-Chair Wardlaw recognized Representative Ken Bragg to present the report of the Policy-Making Subcommittee (Exhibit E.9). Representative Bragg reported that the Policy-Making Subcommittee met on December 18, 2019, and heard from Representative Bruce Cozart and Senator Jane English, concerning a consultant services contract with APA Consulting for use by the House and Senate Education Committees, to provide education adequacy consulting services. Representative Jon Eubanks made a motion to approve the revised contract between BLR and APA Consulting, as recommended by the Education Committee on December 16, 2019. Following a roll call by division of chambers, the motion failed. This concluded the report of the Policy-Making Subcommittee.

Representative Ken Bragg moved to adopt the report of the Policy-Making Subcommittee.

Co-Chair Wardlaw recognized Representative Bruce Cozart for a substitute motion.

Representative Bruce Cozart moved to authorize the BLR to enter into negotiations with Schuls and Associates for a contract and service agreement incorporating the terms and conditions of RFP #BLR-190003 and Schuls and Associates proposal and response to the RFP with an ALC subcommittee having final approval of the contract. Representative Cozart further moved that the consultant services agreement with APA Consulting is contingent upon the approval of the House and Senate Education Committee for the use of both Schuls and Associates and APA Consulting to provide education adequacy consulting services to the committees under the RFP; the BLR shall not be authorized to enter into either of the consultant services contracts, unless approval of both contracts is agreed upon by the House and Senate Education Committee.

Co-Chair Wardlaw recognized Senator Ballinger for comments. Senator Ballinger provided clarification on the motion regarding whether the contract is considered a revised contract due to date changes; however, the contract is still the same otherwise.

Co-Chair Wardlaw recognized Senator Larry Teague for questions. Senator Teague asked how much additional money will be required if both contracts were used. Representative Cozart responded it would be an estimate of \$500,000 for one contract, \$700,000 for the other contract, or \$1.2 million for both contracts together.

Co-Chair Wardlaw recognized Senator Joyce Elliott for a substitute motion.

Senator Joyce Elliott made a substitute motion to approve the APA Consulting contract only.

Co-Chair Wardlaw recognized Senator Elliott to make a statement on the motion. Senator Elliott expressed she made the motion to accept the APA Consulting contract only because it was what the Education Committees recommended. Senator Elliott stated those committees had endured the long hours of study to reach that recommendation, and it should be supported.

Co-Chair Wardlaw recognized Senator Linda Chesterfield for a motion.

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

Upon a showing of five (5) hands, a roll call by division of chambers was initiated for Senator Elliott's substitute motion, beginning with the Senate. The Senate roll call passed. The House roll call passed. Co-Chair Wardlaw stated the substitute motion made by Senator Joyce Elliott to approve the APA Consulting contract only carried.

Review Subcommittee

Co-Chair Wardlaw exchanged roles with Co-Chair Bledsoe as chair of the meeting, after filing a letter to recuse himself from discussion and voting on the following item that appeared on the Review Subcommittee report – *Report Item D.4 #14: Department of Human Services, Non-Emergency Transportation Services contract with Area Agency on Aging of Southeast Arkansas.* Co-Chair Wardlaw is a board member for the Southeast Arkansas Area Agency on Aging. Senator Bruce Maloch also filed a letter to recuse himself from discussion and voting on item A.1 – *Farmers Bank & Trust – DHS DYS Lewisville Land Purchase \$105,000* on the Review Subcommittee report, due to his role as Vice-Chairman and General Counsel. Representative Lane Jean verbally recused himself from discussion and voting on item A.1 – *Farmers Bank & Trust – DHS DYS Lewisville Land Purchase \$105,000* on the Review Subcommittee report, due to his financial interest as a stockholder.

Co-Chair Bledsoe recognized Senator Scott Flippo to present the report of the Review Subcommittee (Exhibit E.10). Senator Flippo reported that the Review Subcommittee met on December 17, 2019, and reviewed methods of finance, grants, and service contracts. Senator Flippo further reported that there were two contracts for the Department of Corrections - Division of Community Corrections that were recommended for ratification. The subcommittee approved a land purchase agreement disclosure for the Department of Human Services (DHS) and held a total

of eight (8) DHS non-emergency transportation contracts. Senator Flippo stated that after an opportunity for explanation of the NET-like contracts by Mr. Mark White, Chief of Legislative and Intergovernmental Affairs, DHS, he would make a motion to adopt the report of the Review Subcommittee, including the contracts. This concluded the report of the Review Subcommittee.

Co-Chair Bledsoe recognized Mr. Mark White, Chief of Legislative and Intergovernmental Affairs, DHS, Ms. Janet Mann, Director, DHS-Division of Medicaid Service, and Ms. Melissa Stone, Director, DHS-Division of Developmental Disabilities Services, to come forward to respond to questions.

Co-Chair Bledsoe then recognized Senator Terry Rice for questions.

Senator Rice requested Ms. Kathy Schmidt, Sr. Legislative Analyst, Bureau of Legislative Research, to come forward to present a partial report for the members' information. Senator Rice continued by giving a brief follow-up. Senator Rice asked DHS for clarification regarding asking for a year's extension on the specific emergency, when it's only expected to take a few months to bid and receive formal contracts for the NET-like contracts.

Ms. Melissa Stone responded, stating, in accordance to the agreement made with the opposing party, DHS entered into a comprehensive rate study for transportation for clients that travel to and from developmental clinics every day. Ms. Stone further stated that DHS will meet with providers in January to go over proposed rates, through a formal procurement process, expected in 2020.

Senator Terry Rice moved to approve the NET-like contracts and further requested an additional six (6) months of monthly reports for follow-up, from the Department of Human Services, in regards to the NET-like contracts.

Co-Chair Bledsoe recognized Representative Fredrick Love for questions. Representative Love asked questions for clarification.

After questions, the motion made by Senator Terry Rice was seconded, and passed by voice vote.

Co-Chair Jeff Wardlaw resumed as Chair and recognized Senator Missy Irvin for questions of DHS.

After questions, Co-Chair Wardlaw recognized Representative Megan Godfrey for a substitute motion to the motion made by Senator Scott Flippo.

Representative Megan Godfrey moved to make a substitute motion to review the Review Subcommittee report without Intergovernmental Contract #1. The motion was seconded and passed by voice vote.

Co-Chair Wardlaw recognized Representative Jon Eubanks to make a substitute motion.

Representative Jon Eubanks moved to review the Intergovernmental Contract #1.

Co-Chair Wardlaw recognized Senator Will Bond, Representative Fredrick Love, Representative LeAnn Burch, Representative Dan Sullivan, Senator Jimmy Hickey, Representative Lane Jean,

and Senator Joyce Elliott to ask questions on the Intergovernmental Contract #1. Mr. Solomon Graves, Chief of Staff, Department of Correction, came forward to respond to those questions.

Co-Chair Wardlaw 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.

The motion made by Representative Jon Eubanks to review the Intergovernmental Contract #1 was seconded and passed by voice vote.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Wardlaw recognized Representative Jim Wooten to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee (Exhibit E.11). Representative Wooten reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on December 17, 2019, and reviewed reports and requests from several state agencies and institutions of higher education. This concluded the report of the Uniform Personnel Classification and Compensation Plan Subcommittee, and there were no questions.

Representative Jim Wooten moved that the report of the Uniform Personnel Classification and Compensation Plan Subcommittee be adopted. The motion was seconded and passed by voice vote.

Lottery Oversight Subcommittee

Co-Chair Wardlaw recognized Senator Joyce Elliott to present the report of the Lottery Oversight Subcommittee (Exhibit E.12). Senator Elliott reported that the Lottery Oversight Subcommittee met on December 16, 2019, and heard testimony on the activities and operations of the Office of the Arkansas Lottery and reviewed the following:

- Arkansas Department of Higher Education's Invoice to the Department of Finance and Administration, Office of the Arkansas Lottery, for reimbursable administrative direct costs associated with the scholarships awarded and funded with net proceeds of the Arkansas Scholarship Lottery;
- Department of Finance and Administration, Office of the Arkansas Lottery Reports, providing the total amount of FY2019 proceeds from the Lottery; the amount deposited into and disbursed from the Scholarship Shortfall Reserve Trust Account under § 23-115-802 in FY2019; and the Office's projection for net proceeds from the state lottery for the current fiscal year;
- Arkansas Department of Higher Education's recommendations for the Arkansas Academic Challenge Scholarship Program;
- First Amendment to the Department of Finance and Administration, Office of the Arkansas Lottery agreement with Cranford Johnson Robinson and Woods for contractual services for advertising, marketing, and public relations services;
- Lottery Oversight Subcommittee's Annual Report to the Arkansas Legislative Council.

This concluded the report of the Lottery Oversight Subcommittee, and there were no questions.

Senator Joyce Elliott moved that the report of the Lottery Oversight Subcommittee be adopted. The motion was seconded and passed by voice vote.

Occupational Licensing Review

Co-Chair Wardlaw 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 December 18, 2019, and heard testimony regarding the following items:

- Discussion of recommendations to be made regarding entities heard at the November 12, 2019, subcommittee meeting, with testimony from Mr. Matt Gilmore, Public Health Programs Policy Coordinator, Arkansas Department of Health;
- Arkansas Auctioneers Licensing Board, with testimony from Mr. Brad Wooley, Chairman, and Ms. Kristy Arnold, Secretary and Treasurer, Arkansas Auctioneers Licensing Board;
- Arkansas Department of Health, Radiation Control Section, with testimony from Ms. Connie Melton, Branch Chief, Health Systems Licensing/Certification Branch, and Mr. Chuck Thompson, Managing Attorney, Arkansas Department of Health.

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 Wardlaw referred members to the communications listed as Exhibit G.1 through Exhibit G.15 on the agenda, and noted that action by the Legislative Council is needed for the following item(s):

1. **Arkansas Economic Development Commission, Division of Rural Services**, Request for approval of funding for the Arkansas Game and Fish Wildlife Grants for Cycle I of Fiscal Year 2020, submitted pursuant to Section 41 of Act 876 of 2019 Regular Session.

Co-Chair Wardlaw asked if there were any questions or discussion regarding Exhibit G.1. There were no questions.

Senator Linda Chesterfield moved that the request for approval of funding for the Arkansas Game and Fish Wildlife Grants be approved. The motion was seconded and passed by voice vote.

2. Arkansas Teacher Retirement System:

- a. Request, submitted pursuant to A.C.A § 19-11-1303, for the Legislative Council's retrospective review of the partial equity ownership investments with Thoma Bravo Explore Fund, L.P.
- b. Request for the Legislative Council's review of investment summaries, submitted pursuant to A.C.A § 19-11-1302;
 - i. Franklin Park International Fund X, L.P;

- ii. Franklin Park Venture Capital Fund XIII, L.P.;
- iii. Long Wharf Real Estate Partners VI, L.P.

Co-Chair Wardlaw asked if there were any questions or discussion regarding Exhibit G.2(a) and G.2(b). There were no questions.

Co-Chair Wardlaw recognized Senator Linda Chesterfield for a batched motion.

Senator Chesterfield made a motion to batch the requests for review of investments from the Arkansas Teacher Retirement System, and file as reviewed. The motion was seconded and passed by voice vote.

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

Interim Resolutions

Co-Chair Wardlaw recognized Senator Gary Stubblefield to present Interim Resolution 2019-003. Senator Stubblefield was joined by Representative DeAnn Vaught and Representative Mary Bentley.

After the presentation, Co-Chair Wardlaw recognized Representative Mark Lowery for questions.

Representative Lowery asked Senator Stubblefield if he was willing to separate his resolution from the study, instead of combining them both into one Interim Resolution – initiating the study first.

Co-Chair Wardlaw recognized Ms. Marty Garrity, Director, Bureau of Legislative Research for explanation. Ms. Garrity stated that the Interim Resolution (IR) could be separated but the study to Joint Performance Review (JPR) would need to be filed as an Interim Study Proposal (ISP) and then referred to JPR; the ISP would then need to be presented to the Arkansas Legislative Council (ALC) at the next ALC meeting, scheduled for January 2020.

Co-Chair Wardlaw recognized Senator Jimmy Hickey for comments. Senator Hickey stated, if the Interim Resolution 2019-003 did pass, he would suggest it to be sent to the House and Senate Joint Committee on Revenue and Taxation Committee, instead of the Joint Performance Review Committee.

Senator Gary Stubblefield accepted the suggestion as a friendly amendment.

After further discussion, from Senator Bob Ballinger, Representative Mary Bentley, Senator Gary Stubblefield, Senator Missy Irvin, and Representative DeAnn Vaught, Co-Chair Wardlaw 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.

A motion was made to accept Interim Resolution 2019-003 with the amended changes. The motion was seconded and passed with voice vote.

Co-Chair Wardlaw recognized Senator Bob Ballinger to ask questions on the “Business Carried Over” items on the agenda.

Senator Ballinger had no further questions on the items, as they had already been answered.

Adjournment

At 10:47 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, Representative

Marty Garrity
Executive Secretary