

MINUTES OF THE MEETING
OF THE
ARKANSAS LEGISLATIVE COUNCIL

Friday, May 18, 2012

The Arkansas Legislative Council met at 9:00 a.m., Friday, May 18, 2012 in Committee Room A of the Big Mac Building, Little Rock, Arkansas. Co-Chair Tommy Lee Baker called the meeting to order and dispensed with the calling of the roll. The members who attended are listed on the sign-in sheets.

Minutes of the Last Meeting

Co-Chair Baker referred the members to the minutes of the April 20, 2012 meeting of the Legislative Council and asked if there were any questions. There were no questions.

Senator Cecile Bledsoe moved that the minutes of the April 20, 2012 meeting of the Legislative Council be approved. The motion received a second and the motion passed by voice vote.

April 2012 Revenue Report

Co-Chair Baker recognized Mary Carol Poole, with the Bureau of Legislative Research, to present the monthly revenue report for April 2012. Ms. Poole stated she was presenting the report this month as Richard Wilson was out of town attending his daughter's college graduation. Ms. Poole reported that the April 2012 revenue report reflects that gross collections increased by four point three percent (4.3%) and are \$ 201.1 million ahead of the same period last year. The adjusted net available for distribution increased by three point two percent (3.2%) and is \$ 122 million ahead of the same period of last year. Ms. Poole noted that the last sentence on the first paragraph on page 1 shows a monthly transfer of \$2.1 million to the Workforce 2000 Development Fund that brought the balance to \$21,293,727.10.

The graph page indicates that revenue collections are approximately \$93.587 million above the official revenue forecast before the official forecast was revised on May 9, 2012. Ms. Poole stated that revenue collections would have been \$54.187 million above the official forecast had the forecast been revised on or before April 30, 2012. Ms. Poole and Mr. Kim Arnall, Assistant Director for Fiscal Services, responded to questions.

Report of the Executive Subcommittee

Co-Chair Baker recognized Co-Chair Mary Anne Salmon to present the report of the Executive Subcommittee of the Legislative Council. Co-Chair Salmon reported that the Executive Subcommittee met on Thursday, May 17, 2012 and convened in executive session to discuss the salary recommendation for the new director of the Bureau of Legislative Research. Following

the executive session, the subcommittee passed a motion to recommend that the new director's annual salary remain at the current annual salary of \$148,106.00 and that in ninety (90) days the Executive Subcommittee would meet to review the director's performance and discuss whether to recommend a change in salary.

The subcommittee discussed the recent increase by the General Services Administration (GSA) in the mileage rate to \$0.555 per mile. Representative Webb made a motion to maintain the current mileage rate of \$0.51 per mile for payments to members of the General Assembly by the Bureau of Legislative Research. The motion was seconded by Representative Rice and passed by voice vote.

The subcommittee also discussed the Executive Branch request to block Bureau carryover funds during the 2012-2013 fiscal year. Members recalled that the previous discussion with the Executive Branch pertained only to a one-year block for the 2011-2012 fiscal year and did not include the 2012-2013 fiscal year. The subcommittee decided to table discussion of this issue until the next subcommittee meeting to give members time to consider the request.

The subcommittee discussed whether the Legislative Council Rules should be updated. It was noted that the differences between the rules of Legislative Council and the rules of the Joint Budget Committee are confusing and that the membership of Legislative Council subcommittees and Joint Budget Committee subcommittees often have no members in common.

The subcommittee instructed staff to provide the Executive Subcommittee with a copy of the rules and a comparison of the Legislative Council Rules and the Joint Budget Committee Rules for their consideration prior to the next Executive Subcommittee meeting. Senator Salmon answered questions concerning the discussion of the mileage recommendation and whether the changes to the Legislative Council Rules would be provided to the members prior to the vote. David Ferguson, Director of the Bureau of Legislative Research, was recognized and stated that the Legislative Council Rules cannot be changed without prior notice to the members of six days.

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

Reports of Standing Subcommittees

Administrative Rules and Regulations Subcommittee

Co-Chair Baker recognized Senator Percy Malone to present the report of the Administrative Rules and Regulations Subcommittee (Exhibit F.1). Senator Malone reported that the Administrative Rules and Regulations Subcommittee met on May 16, 2012 and referred members to the report in the packet and stated that there were no outstanding controversial issues during the meeting. Senator Malone and Matthew Miller, Administrative Rules Counsel with the Bureau of Legislative Research, responded to a question from Representative Kim Hammer concerning the regulation from the State Medical Board that would allow physicians to write prescriptions for sexual partners of patients with sexually transmitted diseases without a consultation with the partner.

Senator Malone moved that the report of the Administrative Rules and Regulations Subcommittee be adopted. The motion was seconded by Representative Word and passed by voice vote.

Higher Education Subcommittee

Co-Chair Baker recognized Representative Johnnie Roebuck to present the report of the Higher Education Subcommittee. Representative Roebuck reported that the subcommittee met on May 17, 2012 and heard five important reports from Shane Broadway, Interim Director of the Department of Higher Education. The subcommittee heard reports concerning the following: escalating loan default rates and student debt in Arkansas; the work the Arkansas Research Center and the Education to Employment Report; the findings on the Academic Challenge Scholarships and the statistics for every school district; an update on the implementation of Act 747 of 2011 that is the Roger Phillips transfer policy; and the out-of-state institutions operating in Arkansas and offering courses.

Representative Roebuck moved adoption of the report of the Higher Education Subcommittee. The motion was seconded.

Representative Roebuck responded to questions from Representative Hobbs concerning the implementation of Act 747 of 2011. Co-Chair Baker also recognized Shane Broadway, Interim Director of the Department of Higher Education, who responded that the institutions have until June 2014 to complete the process and nine institutions have completed the process as of this date. Mr. Broadway also stated that he would ask for a status report for the members. There were no further questions.

Co-Chair Baker called for a voice vote on the motion to adopt the report and the motion passed.

Hospital and Medicaid Study Subcommittee

Co-Chair Baker recognized Representative Greg Leding to present the report of the Hospital and Medicaid Study Subcommittee. Representative Leding reported that the Hospital and Medicaid Study Subcommittee met on April 30, 2012 and heard from John Selig, Director of the Department of Human Services (DHS) and Andy Allison, Director of the DHS Medical Services Division, regarding the financial condition of the Medicaid Program and the status of the Health Care Payment Improvement Initiative in Arkansas. Mr. Selig informed the subcommittee that the Medicaid Program would have a budget shortfall of \$250 million to \$400 million by fiscal year 2014 that begins July 1, 2013. Mr. Selig stated that state funding of the program has only increased by fifteen point three percent (15.3%) over the past five years and this may have contributed to the shortfall. There were no questions.

Representative Leding moved that the report of the Hospital and Medicaid Study Subcommittee be adopted. The motion was seconded and passed by voice vote.

Performance Evaluation and Expenditure Review (PEER) Subcommittee

Co-Chair Baker recognized Representative Terry Rice to present the report of the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Representative Rice reported that the Performance Evaluation and Expenditure Review (PEER) Subcommittee met on May 3, 2012 and approved three items: a GIF Set-Aside Release of over \$5.8 million for the Department of Correction Inmate Care and Custody Fund; an appropriation transfer of \$300,000 for the Department of Human Services Division of Youth Services; and the reallocation of resources request from the Department of Human Services that is attached to the report. The subcommittee also reviewed numerous pay plan requests from state agencies that are also attached to the report. The subcommittee reviewed five agency pay plan requests for which the appropriation was required to meet this week's payroll obligation and the appropriation was released by the Department of Finance and Administration to the agencies on an emergency basis. Representative Rice reported that all other items were reviewed and no item was held.

Representative Rice moved the adoption of the report by the Performance Evaluation and Expenditure Review (PEER) Subcommittee. The motion was seconded and passed by voice vote.

Policy-Making Subcommittee

Co-Chair Baker recognized Representative Kelley Linck to present the report of the Policy-Making Subcommittee. Representative Linck reported that the Policy-Making Subcommittee met on May 8, 2012 and considered a request by Representative Catlett, the author of Interim Study Proposal 2011-104, to move Interim Study Proposal 2011-104 from the House Committee on Public Health, Welfare and Labor to the Rural Fire Departments Study Committee.

The subcommittee passed a motion to move Interim Study Proposal 2011-104 from the House Committee on Public Health, Welfare and Labor to the Rural Fire Departments Study Committee. There was no other business for discussion by the subcommittee.

Representative Linck moved that the report of the Policy-Making Subcommittee be adopted. The motion received a second and was passed by a voice vote.

Review Subcommittee

Co-Chair Baker recognized Senator Randy Lavery to present the report of the Review Subcommittee. Senator Lavery reported that the Review Subcommittee met on May 3, 2012 and noted that the report in the packet indicated the meeting date as May 4, 2012 which is a typographical error and that the error was corrected in the report published on the General Assembly web page. Senator Lavery reported the subcommittee reviewed a grant that had been held from the April subcommittee meeting, as well as, various methods of finance, construction projects exceeding \$5 million dollars, discretionary grants, professional or consultant services contracts, a technical services contract, and a commodities contract. Senator Lavery stated the information on all of these items is in the report and that no items were held.

Senator Lavery moved that the report of the Review Subcommittee be adopted. The motion received a second and was passed by voice vote.

Co-Chair Baker recognized Representative Nate Bell who referred to the Department of Human Services contract with Quapaw House, Inc., which is listed as item 42 on page 18 of the report, and noted there are changes being made that directly affect his district. Representative Bell asked whether this item could be deferred and reviewed at the June meeting of the subcommittee. Senator Laverty responded that no motion to that effect was made during the subcommittee meeting and that he would entertain any questions about the contract. Senator Laverty stated that if Representative Bell would notify him in advance of the meeting, agency officials and interested parties would be invited to be available to respond to questions. Representative Bell stated he had been unable to attend the May 3 subcommittee meeting and would appreciate any consideration since this contract has a direct impact on Montgomery County. Senator Laverty stated that as a courtesy to Representative Bell, this contract would be recalled for consideration at the next subcommittee meeting.

Co-Chair Baker stated that the motion to adopt the report had already been passed and asked that Representative Bell contact Senator Laverty to discuss this contract.

Uniform Personnel Classification and Compensation Plan Subcommittee

Co-Chair Baker recognized Senator Mike Fletcher to present the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. Senator Fletcher reported that the Uniform Personnel Classification and Compensation Plan Subcommittee met on May 16, 2012 and reviewed the following reports: the quarterly employment report that compares the third quarter of fiscal year 2012 to the third quarter of fiscal year 2011; the monthly report pertaining to grid movements at multiple agencies based on approved salary administration grids; and the provisional position reports from the two and four year institutions showing new provisional positions and it was noted that the provisional positions are paid with "other monies" such as donations, grants, and other anticipated funds and that the positions will end when the funding runs out. The subcommittee also reviewed a report from the Department of Finance and Administration detailing exceptionally well-qualified candidates and labor market rates approved by the Chief Fiscal Officer, as well as requests for growth pool positions, a new title from the Public Service Commission, and some additional pool requests from the Waterways Commission. The subcommittee also heard a swap pool position request from the Arkansas State University at Jonesboro, which was held for further review. The subcommittee also approved a continuation of thirty-six positions from the Department of Higher Education Central Pool for institutions of higher education that had been approved by the subcommittee and the Legislative Council. These positions will continue through fiscal year 2013, but the institutions will need to request these positions as new positions and seek approval to add these to the fiscal year 2014 bills. The subcommittee also approved a title for Administrative Services Manager for the Arkansas Fair Housing Commission at grade C124.

Senator Fletcher moved the adoption of the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. The motion received a second.

Co-Chair Baker recognized Senator Joyce Elliott who commented she felt it would be appropriate for the report to reflect a request she made to the Office of Personnel Management (OPM) to provide members with a report on how and why non-classified employees at the institutions of higher education are excluded from merit bonuses because these employees are

not a part of the evaluation system. Senator Elliott stated she had several inquiries from non-classified employees who do not qualify for merit raises because they are not evaluated as other employees are.

Senator Elliott moved that the report be amended to note that a request was made to the Office of Personnel Management (OPM) to provide members with a report on the status of non-classified employees and how and why non-classified employees at the institutions of higher education are excluded from merit bonuses because these employees are not a part of the evaluation system. The motion was seconded and passed by voice vote.

Co-Chair Baker called for a voice vote on the main motion to adopt the report of the Uniform Personnel Classification and Compensation Plan Subcommittee. The motion was seconded and passed by voice vote.

Reports of Interim or Special Committees

Joint Advanced Communications and Information Technology Committee

Co-Chair Baker referred the members to the report of the Joint Advanced Communications and Information Technology Committee and recognized Representative Mike Patterson to present the report. Representative Patterson stated that when the Department of Information Systems proposes to make rate adjustments, the proposed adjustments must be approved by the Department of Finance and Administration, the Joint Advanced Communications and Information Technology Committee, and the Legislative Council. Representative Patterson reported that the Joint Advanced Communications and Information Technology Committee met on April 26, 2012 and reviewed the request from the Department of Information Systems to make rate adjustments for both fiscal year 2012 and fiscal year 2013. The department stated that the rate adjustments are estimated to result in a \$78,000.00 net decrease for customers in fiscal year 2012 and a \$1,280,000.00 net increase for fiscal year 2013. Representative Patterson reported that in accordance with Arkansas Code Annotate § 25-4-119, the Joint Advanced Communications and Information Technology Committee favorably reviewed the request from the Department of Information for the rate adjustments for fiscal year 2012 and fiscal year 2013.

Representative Patterson moved adoption of the report of the Advanced Communication and Information Technology Committee. The motion received a second.

Co-Chair Baker recognized Claire Bailey, who introduced herself as the Director of the Department of Information Systems and the Chief Information Officer for the State of Arkansas. Ms. Bailey stated that the Department of Information Systems provides a variety of services and that all state agencies, boards, and commissions are required by statute to use the state network. Ms. Bailey stated that these entities have an option of providing other services, such as programming, servers, and desktop support, in-house or from a private sector source. Ms. Bailey responded to questions from the members.

Co-Chair Baker called for a voice vote on the motion and second to adopt the report of the Joint Advanced Communications and Information Technology Committee and the motion passed by voice vote.

Review of Communications

Co-Chair Baker referred members to the communications listed as Exhibits H.1 through H.12 in the members packets and stated that only Exhibit H.10a required the action of the Legislative Council. There were no requests to review the other communications and these were filed without objection.

Department of Higher Education

Co-Chair Baker recognized Shane Broadway, Interim Director of the Department of Higher Education, to present the request from the Department of Higher Education for the Legislative Council's review of the distribution of \$1,000,000.00 from the Research Development Fund to the University of Arkansas at Fayetteville that was submitted pursuant to A.C.A. § 6-61-808. Mr. Broadway stated this request is made each year, and sometimes twice a year, for the distribution of \$1 million dollars from the mineral lease funds to the ARE-ON network that is for each higher education institution to be connected to the ARE-ON network. Mr. Broadway stated this has been the process and the procedure for the last several years and this will be one of the last transfers for a while because the fund balance will dip below \$1 million.

Co-Chair Salmon moved that the Legislative Council give favorable review to the distribution of \$1,000,000.00 from the Research Development Fund to the University of Arkansas at Fayetteville. The motion was seconded and passed voice vote.

Business Carried Over From Previous Meeting

Co-Chair Baker referred members to the information requested during the last meeting from the Arkansas Insurance Department (Exhibit I.1) and the Arkansas Public Service Commission (Exhibit I.2).

Arkansas Insurance Department

Co-Chair Baker recognized Senator Cecile Bledsoe who commented that when the information was requested from the Arkansas Insurance Department she understood it would include the date when a contract with a vendor was entered into and the date when the contract expired, but these dates were not included in this report.

Senator Bledsoe asked Commissioner Jay Bradford if the dates could be added to the information and provided to the Legislative Council members. Mr. Bradford agreed to add the information and provide it to the members. Mr. Bradford introduced Ms. Tangelia Marshall, with the Arkansas Health Insurance Benefits Exchange, and commented she was here today because Cynthia Crone was out of state at an official meeting. Ms. Marshall commented that the information could be provided.

Senator Bledsoe also asked that when an acronym is used in a report, that the meaning of the acronym be listed at least once in the report. Mr. Bradford responded that would be appropriate.

Co-Chair Salmon recognized Senator Linda Chesterfield. **Senator Linda Chesterfield moved that the report from the Insurance Department (Exhibit I.1) to accepted. The motion was seconded by Senator Burnett and the motion passed by voice vote.**

Arkansas Public Service Commission

Co-Chair Salmon referred members to the report from the Arkansas Public Service Commission (Exhibit I.2) and recognized John Bethel. Mr. Bethel introduced himself as John Bethel, the Executive Director of the Arkansas Public Service Commission, and stated that he was available to answer any questions regarding the report.

Co-Chair Salmon recognized Senator David Burnett who stated that he had requested this report because of his concern about the effects of net metering. Senator Burnett commented that the report was informative and he appreciates that, but would like an answer to when the Arkansas Public Service Commission might modify or change the rules on net metering, with particular emphasis on the requirement that a state agency, municipality, or governmental entity furnish an indemnity policy to the electrical providers.

Senator Burnett commented that seems to be a huge stumbling block in the way of those who are interested in providing alternative energy. Senator Burnett used as an example, the town of Burdette's windmill project of over \$ 1 million that would save the town approximately \$10,000.00 a year in utility costs, but the cost of the insurance policy to Entergy is \$8,000.00, which combined with other costs would have resulted in a net loss for using an alternative source of energy. Senator Burnett commented that the use of alternative energy should be encouraged and that he has worked on this project for over a year. Senator Burnett stated if he could be provided an answer to his question of what the Public Service Commission plans to do in this regard, it would affect his plans for introducing legislation in January.

Mr. Bethel responded that the Public Service Commission will issue in the next several weeks the order on the proposed modification of the rules. Mr. Bethel stated the primary issue before the commission on revising the rules is the indemnity policy provision that is included in the net metering agreement that all utilities offer as a part of satisfying the law's requirement to offer net metering. Mr. Bethel stated that the Public Service Commission staff, several state agencies, and the Attorney General's Office have all recommended that the indemnification provision be eliminated for all customers and that no insurance requirement be added. Most of the utility companies that participated in the proceeding recommended that, at least for state agencies, the indemnification provision be replaced with an insurance requirement. Mr. Bethel stated that the commission is aware of the effect of this on some of the net metering projects that are awaiting the decision. There were no further questions on this report.

New Proposals and Resolutions

Co-Chair Baker stated there were no requests to bring new business before the Legislative Council and referred the members to Interim Study Proposal 2011-203 (Exhibit K.1) by Representative Jane English, in their packets.

Co-Chair Baker recognized Representative English who commented that this interim study proposal is for a study by the House Committee on Aging, Children and Youth, Legislative and Military Affairs that would look at alternatives for veterans' homes in the State of Arkansas. Representative English commented that there have been a number of issues with the Little Rock veterans home and that it is obvious that this is no longer an acceptable alternative for many of the 260,000 veterans in the State of Arkansas. Representative English stated that presently there are less than 500 beds in nursing homes or domicile facilities and this study would look at what all other alternatives are available for future care for our veterans.

Co-Chair Salmon moved that Interim Study Proposal 2011-203 be referred to the House Committee on Aging, Children and Youth, Legislative and Military Affairs. The motion received a second and was passed by a voice vote.

Adjournment

The meeting adjourned at 10:15 p.m. as there were no further questions and no further business to come before the Legislative Council.

Respectfully submitted,

ATTEST:

Representative Tommy Lee Baker
Co-Chair, House

David Ferguson
Executive Secretary