

MINUTES**WATER PROVIDER LEGISLATIVE TASK FORCE****JULY 11, 2018**

The Water Provider Legislative Task Force met Wednesday, July 11, 2018 at 1:30 p.m. in Room 151, State Capitol Building, Little Rock, Arkansas.

Legislative Task Force members present: Senators Alan Clark, Co-Chair, Scott Flippo. Representatives Justin Boyd, and Fredrick Love.

Non-Legislative Task Force members present: Mark Bennett, Dr. Bob Blanz, Jack Critcher, Judge Rick Davis, Daniel Dawson, Jennifer Enos, Tom Fox, Barry Haas, and Jean Noble.

Other members present: Senator Linda Chesterfield. Representatives Fred Allen, Scott Baltz, Charles Blake, Trevor Drown, Kenneth Ferguson, Vivian Flowers, Jimmy Gazaway, Grant Hodges, Austin McCollum, Reginald Murdock, Johnny Rye, James Sorvillo

Call to Order

Senator Clark called the meeting to order.

Consideration of Motion for Approval of Minutes – May 23, 2018 [Exhibit C]

A motion to approve the minutes of the May 23, 2018 Task Force meeting was made by Representative Love. Mr. Dawson said he noticed an error in the minutes, which listed the Bella Vista Property Owners Association service area to be 47,000 square miles. He said it should read 47 square miles. Senator Clark said the minutes will be corrected. The motion to accept the minutes as corrected was seconded by Judge Davis. The motion carried.

Discussion of the U.S. Chamber of Commerce Report “Why Water Infrastructure Investments Would Make a Big Splash” – Investing in Water Infrastructure to Promote Economic Growth [Exhibit D]

Senator Clark referenced an article he read in a May, 2018 publication by the U.S. Chamber of Commerce, “Why Water Infrastructure Investments Would Make a Big Splash”, which parallels much of the same work the Task Force is doing. Mr. Kenny Hall, Executive Vice President, Arkansas State Chamber of Commerce, contacted the U.S. Chamber on behalf of the Task Force. He arranged for one of the co-authors of the article to give an overview by telephone to the members during the meeting. Ms. Colleen Newman, a colleague of Marybeth Leongini and co-author of the article, agreed to call in. Mr. Hall first provided details of Ms. Newman's extensive background in environmental energy policy issues before she then joined the National Association of Water Companies. Prior to Ms. Newman calling in, Mr. Hall described an April, 2018 meeting he participated in with senior staff from Senator John Boozman's office. During

that meeting, he learned of federal legislation being drafted to help meet water infrastructure needs, including federal loan programs for rural areas in the U.S. Senator Clark then recognized Ms. Newman and thanked her for calling in and taking time to address the Task Force. Ms. Newman told the Task Force the National Association of Water Companies (NAWC) represents independent companies in the regulated water industry throughout the U.S. She said the Association represents both large and small companies, serving a total of 73 million customers. Ms. Newman provided a national view of the current water industry, which she said is very fragmented and includes 50,000 community water systems. She then discussed a national needs survey for drinking water that was conducted by the U.S. Environmental Protection Agency (EPA). The survey findings gave estimates of drinking water needs for the next twenty years, which will reach \$472.6 billion in investment needs. When wastewater needs are added, the estimate is \$1 trillion with \$74 billion of the total amount needed for systems serving less than 3,300 customers. Ms. Newman then discussed an EPA loan program, the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). This program provides federal loans for drinking water and wastewater projects to eligible borrowers. Borrowers include government entities, partnerships, trusts, and state loan programs. Private utilities can apply but need participation by public sponsorship projects to qualify. These projects must meet a \$20 million threshold. The WIFIA program can fund up to 49% of a particular project. The loan program has processed its first round of approved projects with awards being made in April, 2018. The most recent project was approved for Omaha, Nebraska. A second round of loans will provide \$25 billion in credit assistance. The closing date to apply for a loan is July 31, 2018. Ms. Newman then discussed a partnership concept the NAWC is working on at the federal level to assist significantly non-compliant water systems that do not meet enforcement standards. Private and/or public partners could help the systems in a variety of ways. The partner could provide help with system-wide record keeping, assume overall operation of the system, or have a larger company acquire the system. The decision to enter into a partnership would be voluntary between local governments, with the water system itself deciding what type of partnership would work best. Ms. Newman said the NAWC has received support for their partnership concept from congressional members, including Senator Boozman, plus the Association of Regional Water Associations and the American Water Works Association.

Mr. Bennett asked Ms. Newman what position, if any, the NAWC has taken on the legislation proposed by Senator Boozman known as the SRF WIN Act. The legislation, if passed, will amend the WIFIA Act to allow the EPA to provide low-interest loans to state infrastructure financing authorities for drinking water state revolving funds, clean water SRFs, and to carry out certain water and wastewater infrastructure projects. She said that NAWC has not taken a formal position on the legislation, but the American Water Works Association worries that monies going back to the State Revolving Funds (SRF) infrastructure authorities would conflict with the purpose of the WIFIA Act to fund larger projects. Mr. Bennett described the legislation proposed by Senator Boozman and said it will authorize or allow SRF program funds to go directly to the federal treasury to obtain additional funding. The SRFs would be able to borrow money to make loans to entities at a rate equal to the federal borrowing rate. This would be a much easier way

to borrow money instead of going through the public markets. Mr. Bennett explained the process used by the WIFIA program. Basically, the federal government guarantees that loans are processed through the Federal Reserve fund, which uses a very small amount of federal monies and allows a large amount of money to be borrowed. A problem in Arkansas is the requirement by the EPA that a borrower must be a highly-rated utility and there are only six to eight in Arkansas with that rating.

Senator Clark called attention to a statement in the U.S. Chamber article that reads, "Every \$1.00 spent on improving the country's water infrastructure generates \$6.00 in returns". He then commented on another statement from the article that states "Research from PricewaterhouseCoopers (PWC) found that a few changes to federal law could have enormous positive impact. These changes would include encouraging regionalization in the water sector". Senator Clark asked Ms. Newman her opinion concerning regionalization. She referenced her earlier comments on the partnership concept NAWC is developing and the fact that water systems are currently so fragmented. She believes the water industry as a whole is in agreement that there should be some form of consolidation due to the large numbers of small systems who lack sufficient funds and expertise. Plus, political influence by elected officials refusing to raise rates have made them stagnant for twenty years or longer. Many of these same systems have failed to provide necessary maintenance and repairs.

Request for a Comprehensive Water System Study to be Performed by the Arkansas Natural Resources Commission (ANRC) to Assess Current Water Systems and Necessary Improvements Needed To Have At Hand a Current Cost Assessment when Federal Dollars Become Available [Exhibit E]

Senator Clark recognized Representative Love. Representative Love discussed the need for a comprehensive assessment of all water systems in Arkansas to determine what are the actual community needs. Task Force members discussed details of current water system infrastructure needs:

- Current data from the EPA reports \$7 billion is needed to maintain water infrastructures in the U.S.
- Current infrastructure funding is reported to be 4% of the \$7 billion needed
- The gap between available funding and funding needed has doubled over the last twenty years

A question was discussed as to whether legislation should require water systems rates to match their costs:

- A suggestion was made to require water systems to perform a periodic rate study
- It was proposed that legislation be drafted to require water systems to perform a needs analysis and it be reported to the Legislative Audit Committee

Task Force members then held an in-depth discussion on regionalizing water systems and how it would work.

Starting Questions for Drafting Final Recommendations of the Water Provider Legislative Task Force

Senator Clark reviewed a list of questions and discussion topics for Task Force members to consider for final recommendations, including should a water provider be forced to provide water in an area that they choose not to serve? Committee members then discussed the following issues:

- There may be areas that are cost-prohibitive for a water provider to serve
- In areas designated by the Arkansas Natural Resources Commission (ANRC), should a water provider who chooses not to provide service be required to relinquish the area to a willing provider
- When providing water service in an area, should a water provider be able to pick and choose who to serve

Task Force members discussed the following issues: cost of service, political control, feasibility, water shortage, rate differential, and economic viability. The question of creating boards and/or water commissions to include individuals throughout each county was also discussed. Mr. Bennett said there is a state statute that may prohibit individuals from serving on a board or commission if they do not live in a designated service area. He suggests a request be made to the Attorney General's office for an opinion on this statute. Another issue discussed was the concept of requiring an automatic annual rate increase to cover infrastructure and maintenance costs. A suggestion was again made to consider requiring a rate analysis every three years and it to be submitted to the Joint Legislative Audit Committee.

Task Force members discussed whether or not a customer or potential customer in a water provider's service area be denied water based on a political standing such as whether it is residential or a type of commercial property, or another type of commercial, such as retail and if the property is in or outside of a city or zone. A statement was made that commercial customers tend to use more water than residential customers, but when no capacity issues exist and commercial customers are limited or denied, the reason might be political. Task Force members agreed that customers outside of a water provider's designated service area should bear the cost of service and should not be denied service.

Senator Clark announced that the Task Force will meet at 10:00 a.m. at the Beaver Water District in Lowell, Arkansas on Wednesday, August 8, 2018. Task Force members are invited to participate in a tour of the facility beginning at 10:15 a.m. The Task Force meeting will be held from 12:00 noon to 2:00 p.m. Following the Task Force meeting, legislative members of the Senate and House Interim Committees on City, County, and Local Affairs will meet at 3:30 p.m. at the Embassy Suites Hotel in Rogers, Arkansas.

There being no further business, the meeting adjourned at 3:30 p.m.