

MINUTES

JOINT PERFORMANCE REVIEW COMMITTEE

SEPTEMBER 29, 2017

The Joint Performance Review Committee met Friday, September 29, 2017 at 10:00 a.m. in Room 171, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Missy Irvin, Senate Chair, John Cooper, Jonathan Dismang, Jane English, Jim Hendren, and Jimmy Hickey, Jr.. Representatives Mark Lowery, House Chair, Scott Baltz, LeAnne Burch, Carol Dalby, Trevor Drown, Kenneth Ferguson, Mickey Gates, John Maddox, Brandt Smith, Nelda Speaks, and Dan Sullivan.

Other members present: Senators Alan Clark, Bryan King, and Larry Teague. Representatives Fred Allen, Charles Blake, David Branscum, Ken Henderson, Stephen Meeks, Clarke Tucker, Laurie Rushing, Johnny Rye, and James Sorvillo.

**Call to Order**

Representative Lowery called the meeting to order.

**Comments by Committee Co-Chairs**

Representative Lowery advised that witnesses appearing before the JPR Committee will be sworn in only during committee meetings when discussing investigative or controversial agenda items.

Senator Irvin told committee members she attended a very informative job summit sponsored by the National Conference of State Legislatures (NCSL). She then highlighted issues the Committee will focus on for upcoming meetings:

- Work being performed by the Office of Transformation regarding efficiencies in state government
- JPR will meet in October and will include a presentation by Mr. Dan Greenberg, Advanced Arkansas Institute. Mr. Greenburg will present information from reports of legislative changes affecting government agency efficiencies, as well as programs occurring in other states, Tennessee and Colorado in particular
- Utilize the expertise of the National Conference of State Legislatures (NCSL) and the American Legislative Exchange Council (ALEC) as resources pertaining to efficiency in state governments

**Consideration for Approval of Minutes for July 10 and July 11, 2017 [Exhibit C, C-1]**

A motion to adopt the minutes of the July 10, 2017 committee meeting was made by Representative Dalby and seconded by Representative Baltz. The motion carried.

A motion to adopt the minutes of the July 11, 2017 meeting was made by Representative Ferguson and seconded by Representative Baltz. The motion carried.

**Discussion of Policies and Procedures for Managing and Auditing Real Estate Brokers, Realtor Training Schools and Courses, and Property Managers [Exhibit D, D-1]**

Representative Lowery read a statement regarding legal limitations on specific questions and discussions regarding grievance or complaint hearings pending at the Arkansas Real Estate

Commission. The statement read in part, *Committee members are cautioned that only general terms and policies will be allowed for questions and discussion to provide proper due process to parties in pending and future administrative hearings involving the Arkansas Real Estate Commission.*

Representative Lowery advised that Cory Cox, Legislative Director, Office of the Arkansas Attorney General, may caution Mr. Gary Isom, Executive Director, Arkansas Real Estate Commission, as to when he is limited in his responses to questions.

Mr. Isom gave an overview of the Arkansas Real Estate Commission, its responsibilities and the processes it uses when office visits and reviews are conducted:

- Reviews are performed on a reactionary basis when a complaint is received or a problem reported
- A Commission investigator conducts an onsite visit
- The process used by the investigator, including a review of three closed transaction files chosen by the real estate broker
  - Closed transaction files that typically include listings and sales contracts
  - Information involving the collection of monies, earnest money, non-refundable monies that revert back to a seller, and documentation of monies placed into a trust account or when an escrow agent is under review
  - Pending transactions that include money being reviewed to determine if any monies are being held with an escrow agent or are being held in trust
  - Monies being held in trust when an investigator performs a reconciliation
  - Monies being held when a reconciliation is performed by an investigator to ensure that the monies are retained in a trust account

Mr. Isom gave highlights of the Commissions' oversight of property management. The Commission has created additional regulations, designed a three-hour workshop, and has conducted thirty workshops. He then discussed the role of the Commission regarding real estate education:

- In 2014, the Commission assumed responsibility for real estate education previously provided by the State Board of Private Career Education (SBPCE)
- In 2015, the Commission worked to develop forms, procedures, processes, and policies for real estate education
- The Commission offers licensed and approved courses that provide skills needed for real estate licensees to meet their annual requirements
- Two or three day training programs and a retreat are provided on an annual basis
- Instructor development workshops are conducted by trainers selected from top nationwide educators
- Programs are provided at no cost to attendees

Mr. Isom told legislators that development of a program to monitor real estate schools and instructors was initiated in 2017, and is currently in the pilot stage. The Commission has performed six site visits on a trial basis, working with real estate educators. He introduced Andrea Alford, Deputy Director, who gave an overview of the Commission's plans for implementation and goals of the monitoring program:

- A scoring Rubric to evaluate criteria was developed as a tool to help the Commission monitor and gauge courses and instructors in classrooms
- During 2017, the Commission has currently conducted five real estate training school site visits, evaluating a total of eight classes

- The Commission is in the process of planning the implementation of the 2018 program
- The Commission will meet during the first week of October 2017 to address the following:
  - Complete evaluation results from this year's instructor and course evaluations
  - Identify critical areas of shortages where continuing education content topics are not offered and need to be added
  - Identify geographical areas in the state that lack access to continuing education courses
  - Schedule monthly program meeting dates for 2018 to identify schools to be evaluated
  - Utilize an on-line tool, Random Picker, to select the schools to be evaluated
  - Evaluation results will be presented to each school within two weeks following the on-site visit
  - Quarterly reports will be provided to the Real Estate Board's Commissioners
  - In November 2018, an annual review will be performed to determine the overall effectiveness of the monitoring program

Representative Lowery recognized Mr. Maurice Taylor, President of the Arkansas Realtors Association, who attended today's meeting. Mr. Taylor told legislators that members of the Association and the staff at the Association work directly with the Real Estate Commission regarding its education programs and development of regulations. The Association provides feedback on all the processes regarding impacts to the real estate industry. Mr. Taylor was asked if safety technique classes are provided. He responded saying that in 2017 a one-hour safety segment is now required for all licensees.

**Review of the Implementation and Funding of New Voting Equipment and the Contract Process Used by the Secretary of State's Office [Exhibit E]**

Kelly Boyd, Chief Deputy Secretary of State, Arkansas Secretary of State's Office, was sworn in under oath by Representative Lowery at Mr. Boyd's request. Mr. Boyd reminded legislators the filing date for individuals who plan to run for election ends tomorrow, September 30, 2017. Mr. Boyd gave a PowerPoint presentation, Exhibit E, beginning with a timeline on the purchase of new voting machines:

- January 2015 – the Secretary of State's Office (SOS) selected the U.S. Election Assistance Commission (EAC) as the outside entity to certify election equipment to be purchased
- January 2015 – the SOS developed a Request for Proposal (RFP) to purchase election equipment
- April 2015 – the SOS issued an RFP to prospective vendors
- May 2015 – the Election Commission reviewed the RFP submissions and scored vendor responses, which were then submitted to Secretary of State Mark Martin for a final decision on the choice of a vendor
- June 2015 – Secretary of State Martin selected Election Systems & Services (ESS) to provide new equipment to four pilot counties: Boone, Sebastian, Columbia, and Garland
- 2016 – the SOS fully funded Arkansas, Chicot, Cleveland, Jackson, Randolph, Washington, and Yell counties to purchase the new equipment
- May through August 2017 – the SOS provided funding on a 50/50 basis to Carroll, Cross, Faulkner, Miller, Pike, Polk, and Sevier counties
- Pending – six additional counties are seeking to purchase the new equipment under a 50/50 agreement with the SOS office. The addition of the six counties will total 855,386 (49.71%) of registered voters in Arkansas capable of voting on the new equipment
- To date, the SOS has spent a total of \$9,739,658 million and counties have spent \$2,803,173 million on the new equipment

Legislators discussed the details of the SOS contract with ESS:

- The exempt status of the SOS from the state's normal procurement process
- Performance guarantees and equipment maintenance contained in the ESS contract
- Obtaining information from the National Council of State Legislatures (NCSL) on procurement procedures used in other states

Mr. Boyd was asked to provide a breakdown of the budget of the SOS office related to the ESS contract, the cost to purchase the new equipment, and the cost to the counties who participate in the 50/50 purchase agreement. He was also asked to provide the specific dimensions and weight of the equipment and a comparison to the existing equipment.

#### **Update on ALC Review Subcommittee Procurement Study [Exhibit F]**

Representative Lowery recognized Jill Thayer, Legal Counsel to the Director, Bureau of Legislative Research (BLR). Ms. Thayer gave an update on the procurement study being conducted by the Review Subcommittee of Legislative Council:

- May 2017 – the Executive Subcommittee of Legislative Council referred a change in rules to the Legislative Council authorizing a study of all of the state's procurement laws, regulations, and processes to be conducted by the ALC Review Subcommittee
- June 2017 – the ALC Review Subcommittee made the determination to hire a consultant to assist with the study
- July 2017 – The Bureau of Legislative Research (BLR) created and posted an RFP to be used to hire a consultant
- September 6, 2017 – eight proposals were received and reviewed by the ALC Review Subcommittee with three consultants chosen to give oral presentations
- September 13, 2017 the ALC Review Subcommittee selected Ikaso Consulting, LLC to perform the study
- September 21, 2017 – the Policy-Making Subcommittee of the Legislative Council approved a contract between BLR and Ikaso to perform the procurement study
- November 2017 – an initial report is expected to be presented to the ALC Review Subcommittee
- December 2018 – completion of the study and a report is to be provided to the Legislative Council

Legislators discussed details of the contract between BLR and Ikaso Consulting and the statutes governing exemptions from current state procurement procedures. Representative Lowery told legislators that notification of future ALC Review Subcommittee meetings will be provided to members of the JPR Committee to participate when reports are presented by Ikaso Consulting.

Senator Irvin announced that a Fall Food and Crafts Fair hosted by the Arkansas Department of Human Services is being held today and encouraged members to attend.

Representative Lowery announced that the JPR Committee is scheduled to meet Monday, October 16, 2017 at 10:00 a.m. in Room A, MAC. The Office of Transformation will give a presentation.

There being no further business, the meeting adjourned at 12 noon.