

**SENATE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS
HOUSE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS**

MEETING JOINTLY

**NOVEMBER 20, 2014
MINUTES**

Senate and House Interim Committees on City, County, and Local Affairs met Thursday, November 20, 2014 at 1:30 p.m. in Room B, MAC Building, Little Rock, Arkansas.

Committee members present were Senator Missy Irvin, Senate Chair, and Representatives David Fielding, House Chair, Scott Baltz, Ken Bragg, Bruce Cozart, Kim Hammer, David Hillman, Douglas House, Mark Lowery, Mark McElroy, George McGill, Micah Neal, David Whitaker, and Richard Womack.

Other legislators attending were Representatives Charles Armstrong, Ann Clemmer, John Baine, Greg Leding, Homer Lenderman, and David Meeks.

Members-elect attending were Representative-elect Mary Bentley, Charles Blake, Karilyn Brown, Donnie Copeland, Jana Della Rosa, Les Eaves, Kenneth Ferguson, Scott Flippo, Michael Gray, Kenneth Henderson, Timothy Lemons, Milton Nicks, Jr., Nelda Speaks, and James Sturch.

Call to Order

Representative Fielding called the meeting to order.

Approval of Minutes – October 16, 2014 [Exhibit B]

A motion to approve the minutes of the October 16, 2014 meeting was made by Representative McGill and seconded by Representative McElroy. The motion carried.

Opening Remarks – Senator Irvin and Representative Fielding

Representative Fielding welcomed legislators and acknowledged the county tax collectors who were attending the meeting. Senator Irvin asked the members-elect to introduce themselves.

Continued Discussion of ISP 2013-201 by Representative Hammer “REQUESTING THAT THE HOUSE COMMITTEE ON CITY, COUNTY, AND LOCAL AFFAIRS CONDUCT A STUDY OF THE BEST PRACTICES OF FIRE DEPARTMENTS IN THE STATE AND IN THE NATION THAT MAY BE IMPLEMENTED IN A LOCAL COMMUNITY TO IMPROVE EFFICIENCY” and including proposed draft legislation [Exhibit D, D-1, Handout, D-2]

Representative Hammer was recognized for an overview of ISP 2013-201. He discussed the positive economic impact on fire departments who have been successful in lowering their ISO class ratings. The lowered ratings provide significant decreases in

property insurance premiums for residents in those fire districts. Representative Hammer said the total economic impact to Arkansas, if all fire departments were rated below a class nine, would mean in annual savings of up to \$188 million.

Representative Fielding recognized Steve Clarke, Assistant Vice President; Ken Hill, Regional Director, Government Relations; and Phillip Bradley, Manager, Community Hazard Mitigation; ISO, Inc. Mr. Clarke told legislators that ISO supports the review and the recommended methods that will improve firefighting capabilities and lower ISO class ratings, which will benefit the public and lower insurance rates. He said that the ISO program began with the consolidation of numerous regional and local rating bureaus. In the 1950s, a municipal grading system for fire departments was introduced. The class rating schedule was revised to its present form in 1980.

Phillip Bradley gave a Power Point presentation outlining the ISO fire suppression rating schedule. The major components of the grading schedule are:

- the communications infrastructure
- the 911 systems
- emergency dispatchers
- the fire departments
- the water supply

ISO recently updated its grading schedule. The new schedule was implemented in July 2013. The updated schedule focuses on technological advances and recognition of improved fire prevention activities in communities. Mr. Bradley said that ISO has transitioned to more of a performance-based grading schedule. New items in the schedule are community solutions, which include credit for fire prevention code adoption, public fire safety education programs, and community activities.

Representative Fielding recognized Charles Gangluff, Fire Program Manager, Arkansas Resource Conservation Development; Kendall Snyder, Fire/EMD/CC Coordinator, Arkansas Department of Emergency Management; Dewayne Franklin and David Steele, Fire Supply and Consulting, Inc.

Dewayne Franklin said that he and Mr. Steele have been successful in assisting five rural volunteer fire departments in lowering their ISO class ratings from a class nine to a class three. Their biggest problem is it is a very time-consuming process. David Steele said the fire departments in Saline County lacked fire hydrants, which led to the implementation of a water shuttle using a fleet of tanker trucks. By utilizing the tanker trucks, the district's fire departments were able to reduce their ISO ratings in September 2013, from a class nine down to a class four.

Kendall Snyder discussed county fire coordinators. He said that every county has a fire coordinator with the majority of the positions as volunteers. A number of emergency response managers act as the county fire coordinator. He believes the position can be improved. Current legislation states that the fire coordinator position exist, but has

no clear guidelines. It does not address funding, training, or the coordinator's responsibilities.

Joey Weaver, Assistant Fire Chief, Choctaw Volunteer Fire Department, was recognized. He discussed work the Choctaw Volunteer Fire Department did to achieve a lower ISO rating. The fire department worked with their Quorum Court to allow an election to be held in their district to include their fire department dues on the property tax statements. The measure was approved by the voters. Following the passage of the measure, collection of fire department dues increased to 90%. The department used the new funding to make several improvements. Following the improvements, the fire department then applied for a review of its rating by the ISO. Following the ISO review, the department rating decreased from a class nine to a class five

Representative Fielding recognized Charles Gangluff, Program Manager, Rural Fire Protection Program, who discussed ISO training classes his program provides to local fire departments. RCD began a program in 1996 with funding from the legislature for the purpose of helping fire departments lower their ISO class ratings. Eight-hour classes are held across the state on Saturdays to allow as many fire departments as possible to attend. Records from 2003 to present indicate that 305 fire departments have been successful in lowering their ISO ratings.

Dan Honey, Arkansas Insurance Department and Mark Whitmore, ACC, were present but did not make any comments.

Representative Fielding reminded members about the upcoming committee meeting scheduled for December 18, 2014 at 10:00 a.m. in Room B, MAC Building.

There being no further business, the meeting adjourned at 3:00 p.m.

SENATE INTERIM COMMITTEE ON CITY, COUNTY, & LOCAL AFFAIRS

DECEMBER 10, 2014
MINUTES

Senate Interim Committee on City, County, and Local Affairs met Tuesday, December 10, 2014 at 10:30 a.m. in Room B, MAC Building, Little Rock, Arkansas.

Committee members present were Senators Missy Irvin, Senate Chair, and Senator Stephanie Flowers.

Other legislators present were Senators Alan Clark and Larry Teague.

Call to Order

Senator Irvin called the meeting to order.

Opening Remarks by Senator Missy Irvin, Senate Chair

Senator Irvin discussed her intent to coordinate the Senate City, County, and Local Affairs Committee to partner with city and county officials, agencies, and organizations who work on both state and federal issues affecting Arkansans. She believes that legislators can better serve Arkansans by being proactively engaged on the federal level monitoring federal legislation, rules and regulations that can affect Arkansas residents at the local level.

Discussion of the Proposed Federal Rule to Clarify Protection Under the Federal Clean Water Act for Streams and Wetlands. The Proposed Rule is Titled "Waters of the United States (WOTUS)" (40 CFR 230.3)

Zac Bradley, Director of Public Policy, National Affairs, Arkansas Farm Bureau, was recognized. Mr. Bradley discussed action taken by the Environmental Protection Agency (EPA) in March 2014 on a proposed rule known as "Waters of the United States" (WOTUS). The EPA's proposed rule is an attempt to clarify the Clean Water Act provisions that protect streams and wetlands. Mr. Bradley said the opinion of the Arkansas Farm Bureau is that the proposed rule complicates the EPA's water jurisdiction and falls short of providing clarity on the impact to farmers and ranchers. It could lead to adding prohibitions on landowners by narrowing what they may or may not do on their private property. Arkansas Farm Bureau believes this expansion of federal agency jurisdiction could be disastrous for Arkansas's agricultural industry. At issue is expansion of the scope of authority the federal government has over small, intermittent, and ephemeral streams that lack an obvious nexus to a regulated waterway, especially waterways that occur seasonally or temporarily after a heavy rain. Mr. Bradley said the EPA has offered verbal assurances, saying that concerns by the agricultural industry are an overreaction and not justified. Mr. Bradley said the agricultural industry concerns are completely valid based on federal action taken against a Tennessee row crop

operation in the spring of 2014. He referenced a photograph showing a temporary ditch in the Tennessee field operation that was declared a Water of the U.S. by the Corps of Engineers. [Handout] Rather than relying on verbal assurances, the Arkansas Farm Bureau is seeking the withdrawal of the proposed EPA and requesting written statements clearly defining the difference between a regulated and an unregulated waterway. Farmers, land developers, and stakeholders have voiced concerns about this most recent announced rule, calling it a regulatory overreach. Mr. Bradley discussed additional opposition to the proposed rule. The proposed expansion of jurisdiction by the EPA has been met with criticism and skepticism by Arkansas's agricultural producers. The public comment period on the proposed rule closed on November 14, 2014. County Farm Bureau organizations have since collected over 2,000 comment cards calling on the EPA to withdraw this rule. The U.S. House of Representatives, with the support of Arkansas's congressional delegation, passed HR 5078, the WOTUS Regulatory Overreach Protection Act, which is a measure designed to block the implementation of this rule. The Senate declined to act on the bill and it is unlikely that it will be considered before the end of this Congressional Session. Mr. Bradley said that leaders of the incoming Senate majority have vowed that blocking the proposed rule is a top priority and subsequent legislative action is expected.

Scott Perkins, Communications Director, Association of Arkansas Counties (AAC), was recognized. Mr. Perkins discussed the position of the National Association of Counties (NACO) regarding the proposed EPA rule. One of NACO's concerns is that the stakeholders were not at the drawing board when the proposed rule was being drafted. The Association of Arkansas Counties (AAC) resources focus on local issues. The AAC relies on NACO to advocate, educate, and lobby on behalf of counties at the federal level. Mr. Perkins reviewed talking points provided by Deborah Cox, Legislative Director, NACO. NACO released an official position on November 14, 2014 after submitting official comments urging federal agencies to withdraw or better clarify the proposed rule. The NACO strategy is an effort to keep communications open with EPA's administration and other agencies involved. Mr. Perkins discussed the already extensive responsibilities of local and county governments maintaining thousands of miles of ditches. The proposed rule could potentially significantly expand the number of waterways that would come under federal jurisdiction. Changes in the definition of Waters of the U.S. will not only negatively impact county operations, but considerably increase costs. Mr. Perkins explained the proposed definition will apply to all Clean Water Act programs and impact nine different regulatory programs, which includes Section 404 and 402, the nation's storm water management program and water quality certification.

Ryan Benefield, Interim Director, Arkansas Department of Environmental Quality (ADEQ)

Mr. Benefield was recognized. He told legislators that ADEQ agrees with the testimony given by the Arkansas Farm Bureau and the AAC. The proposed rule by the EPA will have a limited impact on ADEQ's regulations under the Clean Water Act. He discussed two major portions of the proposed rule, the permitting program and the water discharge program, which locally will be largely unaffected by this rule. ADEQ operates under the Arkansas's Waters of the State definition, not the Waters of the U.S. However,

the proposed rule will have a significant impact on the Corps of Engineers' portion of the Clean Water Act. Mr. Benefield said that ADEQ does have concerns about the overall proposed rule. One area affecting ADEQ regulations is the additional oversight by the EPA and areas not currently under the control of the EPA regarding Waters of the State under the existing definition.

Mark Hayes, Director of Legal Services, Arkansas Municipal League (AML), was recognized. Mr. Hayes said the perspective of the AML on the proposed rule is that there is a lack of a clear understanding of local governments responsibilities, because federal regulations are often complicated and difficult to implement.

Senator Irwin asked each presenter to submit comments and suggestions in writing that she will include in letters to the states' congressional delegation, and mayors and county judges, outlining the concerns and impact of the proposed rule.

Senator Irwin recognized Mark Whitmore, Chief Legal Counsel, AAC. Mr. Whitmore discussed the "Unpaved Roads Program" developed by county judges during the past three years. He explained that the program is a proactive joint program with partners that include the Arkansas Farm Bureau, the Arkansas Forestry Association, the Arkansas Game and Fish Commission, and other organizations. The program created a public/private partnership, combining private money with county money, making it economically feasible for counties to work on low-volume, unpaved roads that are used mainly for hunting, fishing, tourism, and other recreational activities. The program creates a process that leverages federal, private, and county monies using seed money from the state. The program will teach county employees to use Best Practice Management procedures to maintain dirt or gravel roads. This will help reduce sedimentation by creating environmentally sound bridges and crossings over streams and rivers, and providing bank stabilization. The program will be presented to Planning and Development Districts to encourage applying for General Improvement money to receive grant funding.

Senator Irwin announced the upcoming committee meeting scheduled for December 18, 2014 at 10:00 a.m. in Room B, MAC Building.

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