

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 4th Meeting of the 2021 Interim

September 24, 2021

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Friday, September 24, 2021, at 12:00 PM, in Room 149 of the Capitol Annex. Senator Christian McDaniel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Jason Petrie, Co-Chair; Senators Danny Carroll, Morgan McGarvey, Stephen Meredith, Michael J. Nemes, and Robin L. Webb; Representatives Lynn Bechler, Danny Bentley, Randy Bridges, Joseph M. Fischer, Ken Fleming, Kelly Flood, Al Gentry, David Hale, Angie Hatton, Jason Nemes, Ruth Ann Palumbo, Melinda Gibbons Prunty, Josie Raymond, Brandon Reed, Steve Riley, James Tipton, and Lisa Willner.

Guests: Tom Crawford, Executive Director, Office of Property Valuation, Department of Revenue; Greg Harkenrider, Deputy Executive Director, Governor's Office for Economic Analysis, Office of the State Budget Director; Shane Schuler, General Manager, Finishing Operations, Unity Aluminum; Nate Haney, Senior Vice President, Global Affairs & Commercial Operations, Unity Aluminum; Gregg Whigham, General Manager, Unity Aluminum; Bernardo Bulnes, Raw Materials Manager, Unity Aluminum; Greg Rush, Vice President for Finance and Administration, Kentucky State University; and Dr. Aaron Thompson, President, Council on Postsecondary Education.

LRC Staff: Jennifer Hays, Cynthia Brown, Katy Jenkins, Kevin Branscum, Sarah Watts, and Chase O'Dell

Discussion of the State Property Tax Rate

Tom Crawford, Executive Director, Office of Property Valuation, Department of Revenue, discussed the state property tax rate.

Mr. Crawford testified that KRS 132.020 subsection 1(a) establishes the state ad valorem tax rate at 31.5 cents per \$100 of valuation. Subsection two of the same statute provides for the state tax rate on real property to be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent. The assessment of new property,

the assessment from property which is subject to tax increment financing, and the assessment from property which is owned and financed by a government agency which is subject to industrial revenue bond financing are all assessments excluded from subsection two. Unmined coal assessments are not included in the state tax rate calculation.

In 1978, the state real property tax rate was set at 31.5 cents per \$100 of assessed valuation. There has been a steady decrease of the state rate since then, due to the increase of the aggregate assessed value of real property in Kentucky. In 2021, the state rate was set at 11.9 cents per \$100 of assessed valuation.

By far, the assessment work done by property valuation administrators (PVAs) is the most important factor on the state real property tax rate calculation. PVA property assessments account for 97.5 percent of the total real property assessment.

In 2021, residential, farm, and commercial real property assessments totaled \$297.5 billion. Oil and gas property and public service company real estate assessments totaled \$6.8 billion. The total estimate of real property assessments in Kentucky in 2021 totaled \$305 billion.

In response to a question from Representative Tipton, Mr. Crawford stated that the \$192 billion in residential real property assessments for 2021 accounts for the removal of property with homestead exemptions. In response to another question, Mr. Crawford said that the farm property assessment total reflects the agricultural assessment, not the fair market assessment. In response to a final question, Mr. Crawford stated that sheriffs collect 97.5 to 98 percent of property taxes in Kentucky.

In response to a question from Senator Carroll, Mr. Crawford testified that new revenues coming from new property eventually get onto the tax roll, but that it sometimes occurs a year or two later than it should have due to staff shortages in PVA offices.

In response to a question from Representative Bridges, Mr. Crawford stated that ‘dark store theory’ is the theory that big box retailers are petitioning property assessors to value their property as if it is vacant. These retailers have had success with this argument in other states, where it has caused a tremendous loss in the property tax base in those areas. Some states are now enacting laws to prohibit that type of valuation from being considered. In response to another question from Representative Bridges, Mr. Crawford testified that next year, the executive branch would like to get funding for statewide aerial photography flyovers that would meet the standards for all PVAs in Kentucky.

Recap of the August Consensus Forecasting Group Meeting

Greg Harkenrider, Deputy Executive Director, Governor’s Office for Economic Analysis, Office of the State Budget Director, provided a recap of the August Consensus Forecasting Group (CFG) meeting.

Mr. Harkenrider testified that the CFG estimated that total general fund revenues will grow 0.9 percent in fiscal year 2022, 2.3 percent in fiscal year 2023, 3.9 percent in 2024, 2.7 percent in fiscal year 2025, and 2.8 percent in fiscal year 2026.

Individual income revenues are expected to only grow 0.9 percent in fiscal year 2022, despite 5.9 percent growth in withholding receipts. Sales and use tax receipts are expected to grow 4.8 percent in the same year. The combined business taxes are expected to decline 14.9 percent, which is mostly a result of 2021 Regular Session House Bill 278. The revenues from business taxes will see little growth in the short-run, but will grow again in fiscal years 2024, 2025, and 2026.

CFG's August planning estimate projects actual general fund revenues totaling \$12.9 billion, which would imply revenues in excess of budgeted totaling \$1.09 billion.

Road fund revenues grew 10.1 percent in fiscal year 2021. CFG expects road fund revenues to grow 3.9 percent in fiscal year 2022. In fiscal year 2023, revenues are expected to grow 1.7 percent. In fiscal year 2024, revenues are expected to decline 0.5 percent. Fiscal years 2025 and 2026 are expected to see growth of 1.4 percent in road fund revenues. Motor fuels tax revenues are expected to grow 5.7 percent in fiscal year 2022. Motor vehicle usage receipts are expected to grow 4.2 percent to \$647.2 million.

CFG estimates that tobacco Master Settlement Agreement receipts will total \$109.8 million in fiscal year 2022, down from 126.3 million in actual receipts from fiscal year 2021.

Braidy Industries and Successors

Shane Schuler, General Manager, Finishing Operations, Unity Aluminum; Nate Haney, Senior Vice President, Global Affairs & Commercial Operations, Unity Aluminum; Gregg Whigham, General Manager, Unity Aluminum; Kristin Derscha, Quality Manager, Unity Aluminum; and Bernardo Bulnes, Raw Materials Manager, Unity Aluminum, discussed Braidy Industries and its successors.

Mr. Haney testified that things look much better for Unity Aluminum than they did when the company last appeared before the legislature. Unity Aluminum played a video for the committee and then submitted to questions.

In response to a question from Representative Flood, Mr. Haney stated that Unity Aluminum could not get into specific details regarding funding from Rusal due to a confidentiality agreement. However, Mr. Haney confirmed Rusal's public statement that Rusal would not be financing Unity moving forward. There will be no further Russian ownership of Unity Aluminum. Ms. Derscha testified that for the design of its mill, Unity is focusing on the desires of its customers.

In response to a question from Senator McDaniel, Mr. Haney stated that Unity Aluminum has roughly 20 employees in Kentucky. In response to further questioning, Mr. Haney testified that permanent project financing has not been completed. The company has shifted away from the incremental financing done previously. Unity does not anticipate needing to ask for another extension on financing in March of 2022.

The acting CEO of Unity Aluminum is Terry Gill. Mr. Haney was unsure of how much Mr. Gill is paid. In response to further questioning from Senator McDaniel, Mr. Haney stated that Mr. Gill was the Secretary of the Cabinet for Economic Development within the administration of Governor Matt Bevin. The incentives given to Braidy Industries by the Commonwealth were approved during this time. Mr. Haney continued to say that the question of Unity Aluminum repaying the \$15 million provided by the Commonwealth would be a question for the board of directors. In response to more questions, Mr. Haney testified that Unity Aluminum does not own a golf course. The only property owned by the company is the 240-plus acres for the aluminum rolling facility.

In response to a question from Representative Nemes, Mr. Haney testified that he and Mr. Gill are the only Unity employees who were officials within the administration of Governor Bevin. He continued to say that he was unsure if there were investors in the company who were involved with the Governor Bevin administration.

In response to a question from Senator Carroll, Mr. Haney testified that Unity is currently in a leased building. The company owns land at East Park Industrial Center. That land is roughly 240 acres and contains three buildings purchased by Unity Aluminum. Some ground work has been completed.

In response to Representative Tipton, Mr. Haney stated that assuming full financing is reached, Unity Aluminum is targeting customer quantity trial coils to be shipped in the second half of 2025. There will be a 30 to 36 month total construction period where 1,200 to 1,500 full-time construction workers will construct the facility. In response to another question, Mr. Haney stated that Unity has a great partnership with Ashland Community College.

In response to a question from Senator McDaniel, Mr. Haney testified that Unity's goal is that by March 31, 2022, Unity Aluminum will have one billion dollars for construction and equipping of its aluminum mill, and that construction or site development will have commenced. In response to another question, Mr. Haney stated that Unity Aluminum will have a supply agreement with Rusal, but that there will be no other collaboration with the Russian government or citizens of Russia. Mr. Bulnes testified that the only obligation will be for Rusal to supply 60,000 metric tons of rolling slab per year starting the first year of production. He continued to say that these are common commercial

terms which have been signed between Unity Aluminum and Rusal America. There is no other obligation between Unity and any Russian organization.

In response to a question from Senator Carroll, Mr. Haney testified that the team at Unity is focused on receiving financing. Mr. Haney pledged to rebuild trust with the legislature.

Kentucky State University Leadership Transition Update

Greg Rush, Vice President for Finance and Administration, Kentucky State University, presented an update on leadership transition at Kentucky State University.

Mr. Rush testified that in July, 2021, Kentucky State University (KSU) staff alerted the board of regents regarding financial concerns at the university and a \$15 million shortfall. The board informed the Council on Postsecondary Education and the Governor's Office. The board's review of the issues led to a leadership transition on July 20, 2021.

KSU is focused on getting students back on campus and rebuilding trust and transparency. The university is working through culture concerns. Employee separations have resulted in \$700,000 in payroll deduction. The university has also implemented a suspension of purchasing, hiring freeze, and restricted travel. The university has moved to address staff shortages in housing and security.

University leadership began a review of the overall financial situation of the university on July 20, 2021. At this time, the university had \$2.8 million of cash and accessible state appropriation left. Approximately \$2.3 million of payroll expenses were due the next week. Another four million dollars was owed to vendors, approximately \$1.7 million of that amount was over 4 months old. The university worked with CPE and the State Budget Office to advance its fourth quarter budget allotment, totaling \$5.4 million, so that the university could make payroll and begin paying its vendors.

KSU faces a budget shortfall in 2022 due to prior year issues. The university holds a \$5.2 million deficit in construction accounts with the state. Additionally, \$4.3 million in prior year invoices will be paid in fiscal year 2022. The university also had to repay a prior year revenue anticipation note totaling five million dollars. Thus far, Mr. Rush has found no evidence of money being used for non-university purposes.

The KSU board of regents regularly receives new reports on cash position, aging schedule of payables, current accounts receivable, personnel actions, and additional reports recommended by CPE.

Executive Order requiring CPE to review Kentucky State University

Dr. Aaron Thompson, President, Council on Postsecondary Education, discussed the executive order requiring the Council on Postsecondary Education (CPE) to review Kentucky State University.

Dr. Thompson testified that the executive order does not supersede the board of regents, rather it grants CPE equal powers to look at the finances, structure, and culture of KSU. CPE is taking the lead at finding a new president for KSU. CPE is working to ensure that KSU is organizationally stable and its finances are accurately reported. CPE will also be hiring consultants to assist building academic structures for a 21st century historically black college and university (HBCU).

In response to a question from Senator Thomas, Mr. Rush testified that KSU will not have enough money to operate past April 2022, without assistance from the legislature. He continued to say that KSU has begun to work on ensuring that all students on campus have a financial path to paying their balances.

In response to another question from Senator Thomas, Dr. Thompson stated that under the executive order, CPE must submit a management improvement plan to the Governor and the legislature before asking for additional funds. CPE is in the process of selecting a search firm and creating a search committee for the selection of a new president. Dr. Thompson expressed his desire for CPE to present a list of final candidates for president to the board of regents by April 2022. He continued to stress the importance of building a pipeline for students from Kentucky schools to attend KSU.

In response to a question from Senator McDaniel, Mr. Rush stated that KSU will come to the general assembly for supplementary finance requests in the next legislative session. Senator McDaniel stated that he also wanted an operational request from the university and that students of the university are not being served properly.

In response to a question from Representative Tipton, Mr. Rush testified that the fiscal year 2021 audit has not yet begun. The university's goal is to begin the audit by December 2021, with the goal of finishing the audit in March 2022. In response to another question from Representative Tipton, Mr. Rush testified that 180 students live in hotels as a result of inadequate residence hall space. This costs the university approximately \$600,000 to \$800,000 a year. The new residence hall is desperately needed.

In response to a question from Representative Bechler, Mr. Rush testified that budget information presented to the board of regents in recent years was not reflective of the actual financial position of the university. The partnership with CPE is the first step in ensuring that this does not happen again. CPE now has access to all financial records and information for KSU.

With no further business before the committee, the meeting was adjourned at 2:11 p.m.