INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 4th Meeting of the 2018 Interim

October 24, 2018

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Local Government was held on Wednesday, October 24, 2018, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Rob Rothenburger, Co-Chair; Senators Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Albert Robinson, Dan "Malano" Seum, and Damon Thayer; Representatives Danny Bentley, George Brown Jr, Ken Fleming, Kelly Flood, DJ Johnson, Kim King, Adam Koenig, Stan Lee, Michael Meredith, Jerry T. Miller, Phil Moffett, Steve Riggs, Arnold Simpson, and John Sims Jr.

Guests: J.D. Chaney and Bryanna Carroll, Kentucky League of Cities; Mayor Teresa Rochetti-Cantrell, City of Mayfield; Mayor Bill Dieruf, City of Jeffersonville; Shellie Hampton, Kentucky Association of Counties; Tony Wilder, Kentucky Council of Area Development Districts; Judy Piazza, Finance Cabinet; and Gay Dwyer, Kentucky Retail Federation.

LRC Staff: Mark Mitchell, John Ryan, Joe Pinczewski-Lee, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Simpson, seconded by Representative Johnson, the minutes of the September 26, 2018 meeting were approved.

Kentucky League of Cities (KLC) Legislative Platform for the Upcoming 2019 Session of the General Assembly

Mr. J.D. Chaney, Deputy Executive Director of KLC, said that KLC’s Board of Directors set the legislative agenda. KLC’s Board has 60 members that represent all areas of the state.

Mayor Teresa Rochetti-Cantrell, City of Mayfield and KLC President, said that there is a need for local control and that KLC’s dedication to home rule has not waivered since KLC was formed in 1927.

It is important that cities are given the tools and increased flexibility needed to encourage economic development and tourism. Kentucky's city population is booming—13,000 people were added in the last year alone. While unincorporated areas in the state saw a population increase of less than one percent from 2010 to 2017, the population in cities grew by nearly four percent. Cities will need the legislature's help to ensure the needs of their expanding populations are met.

KLC's legislative agenda takes the state's population shift into account. It starts with the need to separate the pension system for local employees from the state's troubled system. The County Employees Retirement System (CERS) is there for the city workers. It is the largest system in the Kentucky Retirement Systems (KRS) with 236,000 members. They have 75 percent of the assets at KRS—almost $9 billion—but only have 35 percent representation on the KRS Board of Trustees. CERS pays 63 percent of the administrative expenses at the KRS—roughly $20 million this past fiscal year. KLC believes an independent CERS board would be more prudent with the local tax dollars that go into CERS. KLC strongly believes separating CERS is the best path forward.

KLC's second priority is road funding modernization. KLC proposes that the legislature modernize the road funding formula to ensure city governments receive a fairer proportion of new state gas tax revenues for construction and maintenance of city streets. Cities maintain more than 10,000 miles of public roads, with state and federal road funds covering only about one-third of the costs. It has been nearly 70 years since Kentucky put a formula in place to divide gas tax revenues among cities and counties. It is heavily slanted towards rural areas and has not changed, despite the continual shift in population. KLC has reached an agreement with the Kentucky Association of Counties (KACo) on a new funding formula. It would only be applied to revenue above $825 million—the amount seen in Fiscal Year 2014 when the road fund had record receipts. Money above that 2014 level would be split equally between cities and counties, each receiving 13 percent.

KLC's third priority focuses on revenue flexibility and protection. Cash-strapped cities are restricted on how they can generate revenue to provide quality of life services for their growing populations. Modernization is the key, which includes expanding the option of generating consumer-based restaurant revenue to all cities. Currently only former fourth and fifth class cities can collect the funds, and the earnings are allocated to the local tourism commission for marketing purposes. Giving all cities equal treatment and dedicating 75 percent of the revenue to cities for community development would boost tourism and improve neighborhoods.

KLC is advocating for protection of a tax credit that the legislature already provides in areas where the city and county have a population of 30,000 or more. If both levy an occupational license tax, the amount paid to the city can be credited towards the amount owed to the county. People who conduct business in a city's limits count on city services. Removing the credit would stack taxes and ultimately result in higher taxes for people who work and operate businesses in communities where the city accounts for a majority of the employment population. KLC will oppose any effort to remove this tax credit.

KLC supports an amendment to the Kentucky Constitution to permit a city to impose a local sales tax, and KLC opposes any effort to centralize tax collection.

KLC is committed to legislation that helps battle one of the worst problems to ever hit cities—the drug epidemic. It has taken a toll on families and communities. KLC is ready to work with the legislature on efforts to combat the criminal aspects of drug trafficking and abuse, as well as on ways to take a more proactive stance on treatment, rehabilitation, training, and workforce reentry.

Cities across Kentucky continue to see inequities between local governments depending on population or prior classification. That is why classification reform is one of KLC's top agenda items. In 2015, the state changed is former arbitrary classification system, creating two city classes—first class and home rule cities. While the classification system is designed to allow cities certain rights and responsibilities, several state laws are still applied based on city population or previous classification. Cities are seeking statutory changes to eliminate the inequities that exist among city governments based on population or that were grandfathered during previous classification reform.

Mayor Bill Dieruf, City of Jeffersontown and KLC's First Vice-President, said that economic development remains a top priority. Incentives need to be considered for both existing businesses and prospective businesses.

Cities need new tools to deal with enforcement and rehabilitation of dangerous, blighted and abandoned properties.

Another priority of KLC is modernization of newspaper publication requirements. Temporary legislation included in the revenue bill allows county governments with a population of more than 90,000 and the cities within those counties to post ordinances, audits and bid solicitations online with an advertisement in the local newspaper indicating where to find the web-based material. It is only permitted for two years and only impacts 135 Kentucky cities. KLC wants this to be available to all cities. Publishing Jeffersontown's budget in the newspaper costs $10,000-15,000. It would be better to post a notification in the newspaper and put the budget on the internet where it can be accessed at-will.

KLC will look to the legislature to again pass legislation that allows additional investment options for city governments that are safe but that allow for greater returns to the public.

KLC supports the elimination of the peace officer powers of constables unless the constables are certified by the Kentucky Law Enforcement Council and approved by the county fiscal court.

KLC supports changing the way the Kentucky Board of Emergency Medical Services certifies paramedics and EMTs to improve the hiring of qualified candidates.

Additional priorities include: advocating for changes to how the Division of Water certifies plant and field operators; protections for cities dealing with monetary legal judgments; seeking to permit an elected official participating in the CERS who has a full-time job with an employer participating in the KRS to retire from that career without having to also resign from his or her elected office; seeking the same option private employers have to prohibit an employee from carrying weapons during his or her official duties; allowing cities that have adopted the Model Procurement Codes be able to dispose of surplus property in the same manner as other cities; having the ability to develop a joint municipal electric agency for the sale of wholesale power among its members; and exploring ways to reduce incidences of contractors failing to obtain an encroachment permit from the state when doing work along city streets.

Senator Bowen commented that he agreed that the 2015 reclassification bill could have been more comprehensive and the grandfathering of cities should have been addressed.

Senator Bowen urged KLC not to sacrifice their other priorities at the expense of their number one priority of separating CERS from the KRS.

In response to a question from Representative Miller, Mr. Chaney said that it would be difficult to have two governing boards using one administrative structure if CERS were separated from KRS and both had board representation. Being able to manage the administration and the governance would allow the focus to be tailored to the particular system, given that CERS and KERS have different fiscal health profiles.

Representative Simpson commented that he is in favor of separating CERS from KRS but is concerned about the cost as stated in the last Public Pension Oversight Board meeting. In response to a question from Representative Simpson, Mr. Chaney said he hoped to have their response regarding how much it would cost to separate the two systems presented at a future Public Pension Oversight Board meeting.

Regarding the drug epidemic, Representative Brown commented that cities are not dealing as best as possible with workforce reentry.

Mayor Dieruf said that while the workforce reentry issue is very important, policies allowing persons to receive and complete treatment need to be addressed as well.

Mr. Chaney noted efforts toward “ban the box” in job applications where individuals are asked whether or not they have a criminal record.

Representative Brown commented that economic development is also a key issue. The legislature needs to work with cities on how to address economic development on the state level.

Mayor Dieruf noted Jeffersontown’s efforts regarding innovative zoning classifications designed to create areas attractive to millennials. In addition, changes to the city’s comprehensive plan focus on affordable and conveniently located housing. Being able to make efficient changes to zoning and related regulations helps secure businesses interested in locating in Kentucky cities.

In regard to economic development and “ban the box,” Representative Riggs commented that he has encountered people being hired and then being disqualified because they committed a misdemeanor in their past.

In response to a question from Representative Johnson, Mr. Chaney said the CERS separation transition process would possibly occur over a four-year period to accommodate investment issues, include two executive directors during the transition period, and allow for second-party arbitrators or mediators when conflicts arose.

In response to a question from Representative Fleming, Mr. Chaney stated that the road fund formula was based on a politically-negotiated split of county and city road aid. Representative Fleming stated that data should be one of the considerations when deriving the road fund formula and encouraged KLC to provide that information.

Representative Meredith commented that cities need to put a new focus on blighted and abandoned properties and that smaller cities may not have the resources to deal with these properties. The state might be able to provide some ideas to assist these smaller communities.

In response to a question from Senator Seum, Mr. Chaney said the road fund formula also applies to consolidated local governments and urban-county governments.

In response to a question from Representative Rothenburger, Mayor Rossetti-Cantrell said that existing statutory inequalities remaining after the city reclassification reform bill can be seen in the inability of Mayfield, a city of the former third class, not being able to levy a restaurant tax because that tax was limited to former cities of the fourth and fifth classes.

In response to another question from Representative Rothenburger, Mayor Dieruf said that cities should look at the state for manufacturing as an economic development tool. Cities should also look toward the service industry, such as information technology, and look at the businesses they already have within their cities, and give incentives for those businesses to grow.

Representative Rothenburger commented that cities should not succeed at the expense of counties, counties should not succeed at the cities' expense, and cities and counties should not succeed at the expense of state government.

Senator Bowen commented that the takeaway from the day's discussion is that home rule does not have a simple definition.

There being no further business, the meeting was adjourned at 11:20 a.m.