INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 1st Meeting
of the 2019 Interim

June 6, 2019

Call to Order and Roll Call

The first meeting of the Interim Joint Committee on Local Government was held on Thursday, June 6, 2019, at 8:00 AM, in Room 149 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Wil Schroder, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Robby Mills, Albert Robinson, Dan "Malano" Seum, Damon Thayer, and Johnny Ray Turner; Representatives Danny Bentley, George Brown Jr, Jeffery Donohue, Larry Elkins, Deanna Frazier, Joe Graviss, Cluster Howard, Regina Huff, Kim King, Stan Lee, Russ A. Meyer, Brandon Reed, Rob Rothenburger, and John Sims Jr.

Guests: Elbert Bennett, Caldwell County Magistrate; Sean Curry, Green County Property Valuation Administrator; Mack Bushart, Property Valuation Administrator's Association; Tommy Turner, LaRue County Judge/Executive; Don Blevins, Fayette County Clerk; Gabrielle Summe, Kenton County Clerk; Colonel Pat Morgan and Jerry Wagoner, Kentucky Sheriffs' Association; Bert May, Kentucky League of Cities; Eric Kennedy, Kentucky School Boards Association; Melissa Klink, Department of Revenue; Gregg Ladd, Department for Local Government; Shellie Hampton, Kentucky Association of Counties; Bill May, Kentucky County Clerks' Association; Vince Lang, Kentucky County Judge/Executive Association; Tony Wilder, Kentucky Council of Area Development Districts; Judy Taylor, Lexington-Fayette Urban-County Government; Ron Wolf, Associated General Contractors of Kentucky, and Pam Thomas, Mountain Association for Community Economic Development.

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

Kentucky Property Tax Calendar

Mr. Elbert Bennett, Caldwell County Magistrate and President of the Kentucky Association of Counties (KACo) explained that 2019 HB 49, in its original form, would have mandated some statewide changes to the property tax calendar. Among the bill's provisions, the time allowed to gather signatures for a tax recall petition would have been increased from the current 45 days to 75 days. The final version cut the original extension from 75 days to 50 days, and applied it to two Fayette and Jefferson counties.

The property tax calendar falls on the shoulders of many entities whose duties overlap. Each step in the calendar is dependent upon the action before it. This keeps the process moving forward but in an already compressed timeline.

Mr. Mack Bushart, Executive Director of the Property Valuation Administrator's Association, provided a pre-Kentucky Education Reform Act (KERA) and a post-KERA history of the tax calendar timeline and explained the PVA's duties as it relates to the tax calendar.

Mr. Sean Curry, Green County Property Valuation Administrator (PVA) and legislative vice president of the Kentucky PVA Association, discussed his local office's valuation processes, timelines, and challenges. The office assesses property as of January 1 when field work is begun. For the 2019 tax year, he was responsible for assessing about 2,500 properties. The Green County PVA office is staffed by two full time employees and one part time employee. The PVA conducts the field work alone. Weather has a significant impact on fieldwork as it can cause delays. By the first Monday in April, the offices sends its recapitulation to the Revenue Cabinet which the cabinet will approve or require the PVA to reassess the properties. When a property is reassessed, the property owners must be notified and an opportunity to discuss the reassessment must be provided to the property owner. If property owners still do not agree with the assessment, they can file an appeal. The property tax calendar is tight and confusing, but it works well in Green County.

Judge Tommy Turner, LaRue County Judge/Executive and Legislative Committee Chairman of the Kentucky County Judge/Executive Association, explained the Fiscal Court's duties as it relates to the tax calendar. The county judge/executive receives a copy of the recapitulation from the PVA on the first Monday in April. The Department for Local Government plans to have its compensating and four percent rates calculated by June 30th. The Department of Revenue sends out its certification to counties July 8th through July 31st. Within 45 days of receiving certification, the fiscal court sets the tax rate. The 45 days can be tight depending upon the timing of the receipt of the certification and when the local newspapers set their deadlines and run their legal ads which are required in the rate setting process. The sheriff of LaRue County must have the rates from the fiscal court by October 10 to begin his process. Regarding HB 44 actions, if the fiscal court takes the compensating rate, no additional action is needed. If the fiscal court takes between compensating rate and four percent increase, it must be advertised and discussed in a public hearing. If the fiscal court takes more than the four percent increase, it must be advertised and discussed in a public hearing, and then it is subject to recall adding even more pressures to the calendar timeline.

Mr. Don Blevins, Fayette County Clerk, explained the clerks' duties as relating to the tax calendar. The key dates are July 8th through July 31st when the Department of Revenue issues the certification which begins the 45 day period which Judge Turner discussed earlier. Following that, October 1st is a key date to get the tax bills out so that the public has the full 30 days in which to get the discount for early payment of taxes.

In July, the Department of Revenue's certification is issued, and PVAs need to address any changes that have occurred after May when they submitted their valuation to Revenue. At this time the fiscal courts are setting their rates. The clerks are waiting to get the rates set and to print the tax bills. The pinch point is around September 15th, that day being the day the clerk has to hand the tax bills to the sheriff for delivery. However, the fiscal courts are not finishing their work until around August 31st leaving the clerks about two weeks to finish their work. Any potential recall cannot start until the fiscal court sets its rates—around September 1st. Then potential petitioners have 45 days, or more, in light of 2019 HB 49, to collect signatures putting the time then into mid-October, after the tax bills have been sent out by the sheriff and creating administrative issues for the charging and collecting of the tax. This year on September 16, the clerks also need to have the ballots ready for the general election. Recalls become problematic.

Intricate timing of the normal tax calendar and any change, no matter how minor, would delay the final delivery of the tax bills and potentially create cash flow issues for the taxing entities.

Colonel Pat Morgan, Chief Deputy with the Kenton County Sheriff's Office and representing the Kentucky Sheriffs' Association, explained the sheriffs' duties as it relates to the tax calendar.

The Kenton County Sheriff's office begins its collections October 1st. Some counties begin in November, some in October. The sheriff's office also does testing to ensure the accuracy of the bills. Any delays can affect the sheriffs, especially because sheriffs are on the calendar year instead of a fiscal year. Delaying collections into the next calendar year because of changes in the tax calendar or because of recall elections can affect the sheriff's budget and accounting.

Representative Meredith stated that it seemed to him that the PVA's biggest pinch point would be at the start of the year, that the advertising requirements would be the biggest pinch for the county judges, that printing and delivering the tax bills to the sheriff and election recall would be the biggest pinch points for the clerks, and the discount period and mailing of the tax bills would be the biggest pinch for the sheriffs. All officials agreed.

In response to a question from Representative Meredith, Mr. Blevins said if the tax bills are sent out with a rate that exceeds four percent, and there is a successful recall election, the overage would be refunded. A good solution would be to detach the recall process from the regular tax calendar. Clerks and sheriffs are on a different fiscal year than the other offices, and that sheriffs can be affected most by delayed taxes since they rely on those tax fees to fund their offices.

In response to a question from Representative Rothenburger, Mr. Curry replied that every county assesses its properties for quadrennial review using different methods so it is hard to say what the PVA overall assessment across the Commonwealth would be. In general, PVAs are in their first year of their quadrennial review this year.

In response to another question from Representative Rothenburger, Mr. Curry said that every PVA must meet the required assessment measurement standards in order to have figures certified each year by the Department of Revenue.

In response to another question from Representative Rothenburger, Judge Turner stated that notices may be mailed to each taxpayer, but publication in the local newspapers is the only sure way to get notification out. Contemporary methods of communication are worth exploring.

In response to question from Representative Graviss, Mr. Blevins said that the groups do not have a simple solution to ease the tax calendar timeline especially in consideration with recall issues. There needs to be a task force made up of the interested parties to come up with a solution that includes provisions for a recall.

In response to question from Representative Meredith, Mr. Bushart stated that some counties can begin assessments prior to January 1, but there is a shortage of people and time. He suggested electronic submission straight to the Department of Revenue for tangible property might expedite the process, since tangible property is self-reported. Mr. Curry noted that changes in property, such as additions, done after January 1 might not be picked up for another four years if the assessments are done prior to January.

In response to a question from Senator Seum, Judge Turner replied that cities and special districts have the ability to raise property taxes in addition to the fiscal court and school boards.

Mr. Bert May with Dinsmore and Shohl, representing the Kentucky League of Cities, told the committee that he did not have anything add to what representatives of the county offices testified in regards to the tax collection process used by cities. The League looks forward to being a part of the solution.

In response to a question from Representative Meredith, Mr. May said cities follow the tax calendar timelines regarding tax collection.

Mr. Eric Kennedy, Director of Governmental Relations with the Kentucky School Boards Association (KSBA), mentioned that the property tax is the oldest tax in Kentucky. It has been imposed since Kentucky became a state, and therefore it is the only tax mentioned in the state constitution. As a result, the constitutional provisions tie the state's hands as to what can or cannot be changed about this tax and how it is imposed.

When a recall petition occurs and there is an election, the school board and other local taxing jurisdictions may go ahead and issue bills with the higher amount, the amount that is subject to the pending recall, and the taxing jurisdictions can hold those revenues in escrow and issue refunds, if necessary, when the tax is recalled.

As others have already stated, the overall process and calendar is complex, and there will be a ripple effect if any change is made to any point of that process. It is certainly a relay race among the various officers involved. The current process works well, and probably as well as it possibly can considering the number of different offices involved.

The calendar itself, which is the topic today, is the same for school districts as it is for other jurisdictions. The PVA assessment is used for all county districts and most independent or city districts, and similarly the sheriff is the tax collector for all county school districts and most independent districts. Independent districts may elect to use their own assessment and may elect to collect their own property taxes, however most do not.

Looking purely at the aspects that are unique for schools, is the overlay and interaction of property tax assessment and the SEEK funding formula, through which the state allocates state funding to districts. The valuation of property in each local school district by the PVA generally is the entire basis of the SEEK calculation, therefore it is a major state budget concern for the General Assembly and the general fund. Local property taxes are not only a major source of revenue locally, directly to the local school board levying the tax, but as the basis for the SEEK formula, the state will provide more or less state funding to each district depending on the valuation of its property.

Also, another key difference in the overall calendar for schools is the level of oversight of the state on district budgets. In conjunction with this tax calendar, school boards must submit three different budget documents at key points in each fiscal year. At each point, more information is becoming available to the district as a result of the work done by the PVA, the state department of revenue, the sheriffs, and other officials involved in the process, and the district budget becomes more refined as these are submitted to the state for review and oversight.

KSBA will be eager to participate in any discussions, either as a formal task force or informally.

Ms. Melissa Klink, Assistant Director of the Division of Local Support with the Department of Revenue, told the committee that she did not have anything to add to what the other speakers discussed.

In response to a question from Senator Seum, Ms. Klink said that the requirement of 100 percent valuation is ensured through ratio studies conducted by the cabinet on the assessments presented to them by the PVAs.

In response to a question from Representative Meredith, Ms. Klink said it would be difficult to move the certification of assessments and rates on the calendar.

Mr. Gregg Ladd, General Counsel for the Department for Local Government (DLG), stated that it only takes DLG one day to calculate the compensating and four percent tax rates upon receiving the assessment from the Department of Revenue. DLG had no substantial issues as it relates to the property tax calendar.

Representative Graviss stated that it was his understanding each tax was a line item on the tax bill.

Representative Meredith noted that all taxing districts are subject to the four percent revenue increase.

Mr. Kennedy said that it is possible that each taxing entity that is represented on the tax bill could enact a four percent increase and then each entity's tax bill would increase with that amount being reflected on the total at the bottom of the total tax bill.

Mr. Bushart drew a distinction between the value of the property which is subject to the tax on the tax bill and the rate applied to the assessed value. The rate on each component of the tax bill is gauged toward the four percent calculation.

Mr. Kennedy noted that the rate applied to taxpayers on the governmental scale can affect property owners' payments on the individual scale because of their property's assessed value.

Judge Turner noted that the amount of taxes paid by an individual is dependent upon the assessed value of that person's property which can fluctuate. Events such as a fire, the damages of which have been noted in the assessed value of a property, could result in a lower tax bill for that period. Conversely, a property that was renovated and received a higher assessed value could result in a larger tax bill, even though the government's property rates stayed the same. The terms "compensating tax rate" and "four percent" rate are calculated on the entire scale of the collective property values within that local government's jurisdiction. Rates and revenue are not the same thing.

Representative Graviss suggested that there might be some opportunity to get an early start in the preparation for the assessment process prior to January 1 while adhering to the constitutional requirements relating to property valuation.

Mr. Bushart noted that regarding the valuation process, there is an emphasis to prepare valuations in the spring, but that the assessment process occurs throughout other parts of the year.

Mr. Curry suggested that a formal requirement that could increase the tax calendar process beyond a 12 month cycle may be confusing.

In response to a question from Senator Robinson, Mr. Bushart said in relation to the 100 percent value requirement, the compensating tax rate is calculated to account for the change in property value from the previous year to the property value in this year to bring in the same amount of revenue.

There being no further business, the meeting was adjourned at 9:35 a.m.