

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 1st Meeting of the 2021 Interim

June 15, 2021

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Local Government was held on Tuesday, June 15, 2021, at 10:00 AM, in Room 154 of the Capitol Annex. Representative Michael Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Ralph Alvarado, Denise Harper Angel, Christian McDaniel, Morgan McGarvey, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jonathan Dixon, Jeffery Donohue, Ken Fleming, Deanna Frazier, Regina Huff, Mary Beth Imes, DJ Johnson, Adam Koenig, Matt Lockett, Brandon Reed, Rachel Roberts, and Walker Thomas.

Guests: Rick Rand, Max Fuller, and David Moore, Department of Housing, Buildings, and Construction; Adam Jones, Buechel Fire Protection District; J.D. Chaney, Kentucky League of Cities; Jim Henderson, Jennifer Burnett, and Shellie Hampton, Kentucky Association of Counties; Jim Gray and Kenny Bishop, Transportation Cabinet; Sandy Williams, Kentucky Infrastructure Authority; Ray Perry, Public Protection Cabinet; John Hicks, Office of State Budget Director; and Billie Johnson and Matt Stephens, Department for Local Government.

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

Consideration of Administrative Regulation

The committee considered referred Administrative Regulation 815 KAR 020:150, promulgated by the Department of Housing, Buildings, and Construction, which related to the Division of Plumbing's inspections and tests. Commissioner Rick Rand, Deputy Commissioner Max Fuller, and David Moore, Director of the Division of Plumbing, represented the Department and discussed the proposed changes.

Local Administration of the American Rescue Plan Act (ARPA) of 2021

Chief Adam Jones, Buechel Fire Protection District and Jefferson County Fire Chiefs Association, told the committee that Chapter 75 Fire Protection Districts have taken financial hits on many fronts over the past 16 months related to the pandemic. Coronavirus

funding programs in the past did not provide specific eligibility for Chapter 75 Fire Protection Districts throughout the Commonwealth. Most Chapter 75 fire districts in Kentucky did not receive CARES money or other funds due to the lack of defined eligibility. Fire districts and ambulance districts faced increase personal protection equipment costs and delayed property reassessments from the PVA provided no additional tax revenue.

Fire Protection Districts appear to be specifically eligible for all of the ARPA, but need the legislature to enact it. Chapter 75 districts continued to operate in the communities throughout the pandemic without delay, and ask for the legislature's help to recover some of the loss that was incurred to help communities throughout the state.

It is unclear how Chapter 75 Fire Protection Districts and employees would be able to access any funds from the ARPA without lawmakers defining it. Also, the Premium Pay for Eligible Employees is only for employees designated by the Governor as those needed to maintain continuity of operations of essential critical infrastructure. The first responders were as essential as anyone during the past year, as the work never stopped or was delayed when called upon.

Chapter 75 Fire Protection Districts across the state are asking the legislature to help them recover some of their losses with funding from the ARPA.

J.D. Chaney, Executive Director/CEO of the Kentucky League of Cities (KLC), told the committee that cities were very grateful for the ARPA funding. ARPA funds will not be recurring, and cities will not be in a rush to expend the ARPA funds.

The entitlement communities of Ashland, Bowling Green, Covington, Elizabethtown, Henderson, Hopkinsville, Lexington, Louisville, and Owensboro will collectively receive a total of over \$607 million. Funding will be based on the community development block grant formula nationally, and received from and reported to the U.S. Department of the Treasury. All other cities will collectively receive \$324 million. Funding will be based solely on population within the state, received from the Kentucky Department for Local Government, and reported to the U.S. Department of the Treasury.

The eligible uses for ARPA funds include: supporting the public health response; addressing the negative economic impacts of the public health emergency; targeting low-income communities; performing government services based on lost public sector revenue; providing premium pay for essential workers; and investing in water, sewer, and broadband infrastructure.

Funds cannot be used to shore up unfunded liabilities in pension plans, pay off outstanding debt that existed prior to the pandemic, settle lawsuits or judgments, finance expenses for the incurrence of new debt, replenish rainy day funds, or match any nonfederal

match requirements. There are additional restrictions in the expenditure of funds that the League is communicating to the U.S. Treasury that it would like eased.

Jim Henderson, Executive Director of the Kentucky Association of Counties (KACo), reiterated Mr. Chaney's remarks. Cities and counties are basically the same in regard to ARPA funding, except for the allocations. In contrast to the CARES Act, where Kentucky local governments were fortunate to have had allocations allotted from the executive branch, where many other states did not make such allocations, the ARPA funding was allocated directly to counties and cities in part due to the efforts of the National Association of Counties and the National League of Cities. All 3,069 counties nationally are getting a direct allocation from the U.S. Treasury from a total allotment of \$65 billion. Kentucky's counties get \$868 million of this amount.

KACo is encouraging counties to expend their resources on water, sewer, and broadband projects, as the present U.S. Treasury guidance for these expenditures is clear.

In response to a question from Representative Meredith, Mr. Henderson replied that he would provide the county allocations to committee members.

In response to another question from Representative Meredith, Mr. Henderson said it was not clear yet if the county can give funds to the water and sewer districts. Mr. Chaney added that counties have the general authority to transfer the funds, but there needs to be guidance from the U.S. Department of Treasury.

In response to a question from Representative Johnson, Mr. Chaney stated that if an entity had a planned tourism project expansion that was stopped or delayed due to COVID-19, it likely will be able to use the funds to continue that project, but the guidance is still being clarified.

In response to a question from Representative Fleming, Mr. Chaney replied that cities have had an on-going process of cutting expenses. When the pandemic started, there was an intense budget examination. Most cities expected a 20 to 30 percent reduction in revenues. Mr. Henderson added that local government officials need to be trusted to make good decisions.

Senator Mills commended KLC's and KACo's education of local officials regarding the handling of the ARPA funds. He stated that it is important that the funds are not squandered. In response to a question from Senator Mills, Mr. Henderson said that until there is guidance from Treasury, local governments are very cautious as far as how the funds are used regarding the recruitment of medical professionals, as well as any expenditure that is not clearly outlined by the U.S. Treasury. ARPA funds can be used to pay for audits of the funds themselves.

In response to a question from Representative Bray, Mr. Henderson replied that theoretically, counties would likely qualify for help from certain jail revenue decreases, and that lost revenue could be recovered. Some jails who house prisoners with other counties could have experienced less budget expenditures due to the pandemic because they were not sending as many prisoners to other counties and incurring those expenses.

In response to a question from Representative Meredith, Billie Johnson, Director of Federal Grants with the Department for Local Government, stated that 370 out of 405 cities have submitted budget certification applications. DLG will not decline additional cities' applications if they are still trickling in after the deadline.

Transportation Cabinet Secretary Jim Gray told the committee that the Drinking Water and Wastewater Grant Program was the funding source for planning, design, and construction costs for water or sewer related projects that have a social, economic, or environmental impact. The program was funded by the ARPA, and \$250 million was appropriated in the 2021 Session of the General Assembly to be administered by the Kentucky Infrastructure Authority. A pool of \$150 million was allocated by county population; \$50 million for unserved drinking water customers in rural areas and in federal consent decree areas of Lexington, Louisville, Northern Kentucky Sanitation District No. 1, and Winchester; and \$49.9 million to supplement a project grant where the cost is greater than the county's allocation—designated for cost escalations and changed conditions.

There were over 350 potential projects: one in each county; 269 of unserved drinking water projects; and four federal consent decree utilities. There were 713 utilities which include public drinking water utilities and public wastewater utilities.

Utilities apply by using the Water Resource Information System (WRIS) Project Profile information as the application and coordinating with the Water Management Council at the Area Development District. The water service coordinator will help the utility complete the project profile, and the water service coordinator will select the Cleaner Water Program Grant Program as the funding source under the budget tab. Utilities could apply on June 1st.

The grant funding will be available after federal program guidelines is finalized, federal funding is received, administrative regulations are executed, and county allocation amounts are released. Coordination with Area Developments Districts and elected officials, review of final federal guidance, finalization of grant commitment letters and grant assistance agreements, and commencement and completion of the projects remain yet to be done.

In response to a question from Representative Meredith, John Hicks, State Budget Director, replied \$2.2 billion was appropriated to the state from ARPA, and so far the state has appropriated around \$1.2 billion.

In response to another question from Representative Meredith, Mr. Hicks said any governmental unit can apply for state allotments.

Mr. Hicks stated that \$300 million was appropriated in the 2021 Session of the General Assembly for the Broadband Deployment Fund with \$250 million designated for unserved/underserved broadband areas. The awards are limited to \$50 million before April 1, 2022. The first \$50 million will be targeted to unserved areas. \$50 million will be used for securing economic development opportunities for commercial and industrial customers.

The Broadband Deployment Fund was designed to construct broadband infrastructure to serve underserved and unserved areas and to provide broadband services to residential and commercial customers.

Local governments can use federal moneys toward a 50 percent match for broadband deployment projects.

Federal guidance on broadband projects was issued May 10, 2021, which sets a minimum download and upload speed requirement of 100 megabits per second (Mbps).

The application process for the grant program is being developed because this is a new program that has never been done before. Service maps are also being developed and refined to determine the geographic location of eligible projects.

In response to a question from Senator Mills, Mr. Hicks stated that local entities receiving a portion of the rural digital opportunity fund (RDOF) will most likely not be eligible for the ARPA grant funds, but that it is not completely out of the question if the RDOF funds are not adequate, and thereby meet the guidelines for the ARPA grants.

In response to a question from Representative Bray, Mr. Hicks said that the first \$50 million targeted to unserved areas is for construction of broadband infrastructure.

In response to a question from Representative Roberts, Mr. Hicks stated that there will be a surge of project applications, but everyone involved will make sure that the Kentucky Infrastructure Authority will have help.

In response to a question from Representative Johnson, Mr. Hicks said that the first map will portray unserved areas and that they hope to have the initial map soon.

Representative Meredith asked that the map be provided to the committee upon its completion.

In response to a question from Representative Fleming, Mr. Hicks replied that there is no other information that defines underserved other than 3 Mbps upload and 25 Mbps download speeds.

In response to another question from Representative Fleming, Mr. Hicks confirmed that no grant moneys would be transferred to the Kentucky Communications Network Authority.

Representative Meredith announced that the next meeting of the committee would be July 20 at 10:00 a.m.

There being no further business, the meeting was adjourned at 11:50 a.m.