INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 5th Meeting
of the 2022 Interim

October 25, 2022

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Local Government was held on Tuesday, October 25, 2022, at 10:00 AM, in Room 171 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, Christian McDaniel, Morgan McGarvey, Michael J. Nemes, Adrienne Southworth, Brandon J. Storm, Damon Thayer, and Phillip Wheeler; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jeffery Donohue, Ken Fleming, Deanna Frazier Gordon, Keturah Herron, DJ Johnson, Adam Koenig, Matt Lockett, Jerry T. Miller, Brandon Reed, Rachel Roberts, and Walker Thomas.

Guests: Mayor Jim Hamberg, City of Southgate; Mayor Michael Hughes, City of Auburn; J.D. Chaney, Bryanna Carroll, and Michele Hill, Kentucky League of Cities; Tammy Vernon and David Gibson, Department for Local Government; Bruce Roberts and Chuck Bonta, Kentucky Fire Commission; and Tony Wilder, Kentucky Council of Area Development Districts.

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

Approval of Minutes

Upon the motion of Senator Mills, seconded by Senator Storm, the minutes from the September 27, 2022, meeting were approved.

Special Purpose Governmental Entity (SPGE) Reports

Mr. Bruce Roberts, Deputy Executive Director, and Mr. Chuck Bonta, Training Records and Compliance Specialist, Kentucky Fire Commission, discussed fire department compliance reporting. At the time of the submitted report on October 21, 2022, 33 of 36 fire departments were compliant equating to 92 percent of the total. There should be 100 percent compliance shortly.

The average revenues based on year-end actuals from the 2022 form was $83,988. The average revenues based on current year estimates from the 2022 form was $61,534.

There are 29 Chapter 75 fire departments that report to the Fire Commission. There are seven fire tax districts that are pass-through and contract for firefighting services. There are 440 Chapter 273 fire departments reporting to the Fire Commission that are reviewed annually under KRS 95A.055. There are 771 total fire departments in the state, which include: 20 Chapter 67 that are county fire departments; 111 Chapter 75 fire taxing districts; 196 Chapter 95 city fire departments; 440 Chapter 273 non-profit fire departments; and four others, such as those based at airports or military installations.

There have been 345 compliance reviews completed. Sixteen fire commission investigations required a follow up. One in Johnson County was turned over to the county attorney and Kentucky State Police. One in Ballard County was turned over to the sheriff's department, with one person arrested. In Hart County, one was turned over to the Attorney General's Office, and in Harlan County one was turned over to the Attorney General's Office.

In response to a question from Representative Bentley, Mr. Roberts stated that DuPont is an industrial fire department. Industrial fire departments do not report to the Fire Commission. The Fire Commission only tracks their training.

In response to a question from Representative Bray, Mr. Bonta said fire departments are reported to law enforcement, if the Commission detects suspicious financial activity.

In response to a question from Representative Meredith, Mr. Bonta replied that if the Fire Commission initiates the investigation, they will refer suspicious activities to the Attorney General or the State Auditor.

Ms. Tammy Vernon, Cities and Special Districts Branch Manager with the Department for Local Department (DLG), said that SPGEs are independent political subdivisions of the state, which are government entities, that exercise less than statewide jurisdiction and are organized for the purpose of performing specific services within limited boundaries.

DLG' s statutory responsibility is to create and maintain an online central registry, reporting and public access portals, and to monitor compliance by tracking status changes when notified, prepare statutorily required reports, and activate noncompliance procedures.

Ms. Vernon explained that the new SPGE automated system project start date was January 1, 2021, with the estimated project end date of December 31, 2024. The project is on schedule. There are six phases: Phase I is the SPGE reporting portal, which was the foundation for Phases III, IV, and VI; Phase II includes the public portal beginning the second quarter of 2023, which will encompass the public interface for searching, reporting, downloading, and comparing; Phase III includes the DLG dashboard and is used internally to process status changes, record administration, and communications; Phase IV encompasses compliance which includes statute-driven deadlines and reporting; Phase V consists of reporting and includes bringing on-demand report making; and Phase VI is the training portal which will include group training, webinars, interactive training, and classroom signups. Ms. Vernon detailed DLG's progress and timetables in completing the various projects included in the phases.

Ms. Vernon said that in regard to the LRC Compliance Report, data is updated as of October 21, 2022. Compliance is based on all active SPGEs. The audits feature is currently being tested by the cities and special districts branch. The branch is also performing a data integrity audit. In the case of budgets submitted with no data, tasks are being reopened for the SPGE to remedy. Regarding municipal utilities, each federal and public form needs to be reviewed to determine the audit requirements and load the new system. Fire district management regarding reporting to the Fire Commission or DLG and status is currently under development.

Overall SPGE compliance with KRS Chapter 65A DLG reporting is at 82 percent. There are 1,177 SPGEs that are active and compliant. There are 256 SPGEs that are active yet noncompliant. SPGEs still have time to respond before the statutory response timeframe ends for this year's cycle. The compliance numbers are expected to change as a result.

Ms. Vernon detailed a compliance report based on SPGE type, which is a new feature of the system and can be used to target SPGEs for additional training conducted by DLG.

In response to a question from Representative Miller, Ms. Vernon stated that the Commonwealth Office of Technology (COT) designs DLG's programs.

In response to a question from Representative Johnson, Ms. Vernon said DLG's report has a county based listing of SPGEs.

In response to a question from Senator Mills, Ms. Vernon stated that COT's billing statements are based on hourly fees.

Kentucky League of Cities' Legislative Platform for the Upcoming 2023 Session of the General Assembly.

Mr. J.D. Chaney, Executive Director and CEO of the Kentucky League of Cities (KLC), stated that KLC consists of a 65 member board that represents every size of city and version of government. Some of KLC's issues are continued from last year. He then introduced City of Southgate Mayor Jim Hamberg, KLC President, and City of Auburn

Mayor Michael Hughes, KLC First Vice President, to discuss the League's priorities for 2023.

Mayor Hamberg stated that more than half of Kentucky's population lives within a city. About 75 percent of all economic activity in the Commonwealth occurs in cities. Four out of five jobs in Kentucky are in cities, and about 40 percent of Kentucky cities operate a public drinking water utility, 45 percent operate a municipal sewer system, and dozens operate either an electrical or natural gas system.

The League's top priority for 2023, is to equalize and modernize city revenue options. Cities are revenue limited and must have the ability to generate the funds required to pay for the services its residents expect. House Bill 8, from the 2022 Session, began the process with a focus on state taxes. Section 181 of the constitution limits cities to raising necessary revenue primarily through a few options: property taxes, occupational taxes, and some franchise fees and user fees. Productivity taxes constitute a large part of city revenue. Passing a constitutional amendment would not in and of itself give cities any new taxing authority—that would be up to the General Assembly. Nothing would be automatic, and local governments would not be able to implement any new taxes on their own. In addition, cities that do not at present have the ability to impose a restaurant tax want to be able to have this important revenue option.

Prioritizing transportation and modernizing Kentucky's funding mechanisms for local streets and bridges is another KLC priority. Cities spend more than $340 million a year to build and maintain streets. Cities maintain more than 10,000 miles of streets within the Commonwealth. Currently, motor fuel taxes are the only portion of the Road Fund shared with local governments, with 48.2 percent going to city, sate, and rural roads. Most of that is divided through the formula of fifths established in 1948. The calculation heavily favors rural areas. The formula does not account for the higher cost of building and maintaining city streets, as well as increasing city populations. While the state will charge electric vehicle owners additional fees to ensure they pay their fair share for the maintenance of roads, none of that money will go into the Municipal Road Aid Program. An agreement reached between cities and counties would update the state's road funding mechanism and acknowledge the growth in cities. Funds over the 2014 high mark of $825 million would be evenly split between the municipal and county road aid programs at 13 percent each.

Economic development remains a top priority for cities because most businesses are located within incorporated cities. KLC is asking the legislature to address protecting tax increment financing (TIF) agreements that use state income tax revenues for development. House Bill 8 established a series of incremental tax cuts to the personal income tax rate if Kentucky hits specific benchmarks. The first cut takes effect in January—reducing the rate to 4.5 percent. KLC supported this transition to make Kentucky and communities more competitive, with the caveat that the General Assembly would address the adverse impact on already negotiated and approved TIF agreements with state participation. As the individual income tax declines, it will leave several cities without the state revenue that was anticipated when the agreements were entered and leave those cities without a way to pay for the debt or satisfy other obligations that were contemplated as part of those contracts.

Modernization of publication requirements is an issue of concern. The state's antiquated publication requirement costs city taxpayers around $1.4 million a year. Publicly owned city websites are available to anyone, without the need to buy a newspaper, and it allows documents to be available for a much longer period of time. 2020 House Bill 195 allows local governments in counties that have a population of 80,000 or more to publish documents on their website. It covers 145 cities in nine counties, but smaller communities, which often deal with the most limited budgets, must continue to redirect tax dollars to local newspapers. The rest of Kentucky cities are seeking equality so they can use alternative options to keep their citizens informed.

Mayor Hughes told the committee that substance abuse is an issue of concern for KLC. Treatment, rehabilitation, training, and workforce reentry needs to be prioritized, while addressing the criminal aspects of drug trafficking.

Regarding property tax notifications and rate settings, ownership information from PVAs need to be updated, as well as streamlining the process for cities proposing property tax changes.

Pension issues remain to be a priority for the League. In regard to the County Employees Retirement System (CERS), KLC seeks to have the Kentucky Public Pensions Authority (KPPA) auditor placed under the auspices of the KPPA board of trustees instead of the executive director. It would improve reporting and monitoring. A deferred retirement option plan (DROP) should be pursued for CERS to help with recruitment and retention.

KLC would like to see legislation to permit city governments to include unpaid code enforcement liens on property tax bills, as well as amend the mass foreclosure statutes to include code liens.

Regarding alcohol licensure, only cities with a population of less than 20,000 impose a regulatory license fee to help offset additional policing and regulatory expense. KLC wants the authority expanded to all cities to ensure taxpayers do not incur an unfunded burden.

The Kentucky Board of Emergency Medical Services (KBEMS) moved paramedic training into more of an academic setting instead of a vocational one. The League would like KBEMS to change how it certifies paramedics and emergency medical technicians to make it easier to find qualified candidates.

Cities need help to address when homeowners' associations go defunct or planned-unit developments do not adequately cover the maintenance of common areas.

KLC would like cities to be removed from the residential bidder preference requirement and to exempt contracts with community-based, charitable organizations from the bidding requirements in the Local Model Procurement Code.

Municipal utilities should be allowed to escrow, rather than lose, the proposed rate increase during an appeal to the Public Service Commission for a new wholesale water rate between municipal and regulated utilities.

KLC would like safeguards created for local governments when utilities violate franchise agreements. In addition, KRS 96.010 needs to be amended to reduce the current 18-month notification period for the sale of a new franchise to six months or less.

A city representative should be included in the Kentucky Education and Workforce Collaborative. Cities are vital to implementing effective workforce development programs.

Regarding city elections, the League would like to clarify that county clerks are not required to post the party affiliation of nonpartisan candidates. It would also seek to eliminate the requirement for city candidates without a primary to file primary finance reports. Lastly, it would seek to clarify when a city may enact an ordinance that modifies the number of council members, how a city official may resign through e-mail, and when a city may enact an ordinance impacting a nonpartisan primary election.

KLC would like for master commissioners to file a deed after a commissioner's sale to address city-held liens.

KRS 67.790 should be amended to allow the sharing of tax-related information among governments for auditing purposes. Counties are presently prohibited from sharing tax information with cities.

Cities should be allowed to apply occupational license taxes to historical horse racing (HHR) facilities located at a racetrack, like HHR facilities not at a track.

Regarding Entertainment Destination Centers (EDC), patrons should be allowed to carry alcoholic beverages into retail shops, if authorized by a city and approved by a business. Further, the League would seek to allow licensed mobile unit caterers and brewers to be able to operate within the EDC.

Lastly, KLC would like to see a reorganization of the State Fire Marshal's Office.

Mayor Hughes invited the committee to City Night, scheduled for Wednesday, February 22, 2023, at 4:30 p.m. at the Kentucky History Center.

In response to a question from Representative Lockett, Mr. Chaney replied that of around 407 cities in Kentucky, only six conduct partisan elections. The League would like to clarify that if a city does not have a primary election, it does not have to file a candidate report dealing with the primary election. About half of all cities in Kentucky have eliminated the primary election.

In response to a question from Senator Alvarado, Mayor Hamberg stated that private common area maintenance defaults to cities when homeowner associations cease functioning. It impacts city financial resources.

In response to another question from Senator Alvarado, Mr. Chaney said KLC is not advocating to get rid of the compensating rate factor in setting property taxes. By the time recapitulations are finished, the property valuation administrator's work is complete, and taxpayers receive their bills, there is not enough time to get the petition, when required, to the county clerk and conduct the election for the excess rate within specified timelines, if the tax rate is set at a level to produce revenues in excess of four percent. It is a matter of timeline scheduling.

Representative Donohue commented that he agreed that all city election races should be nonpartisan. It is about helping people and electing the most qualified candidates.

In response to a question from Senator Southworth, Mr. Chaney stated that the road fund reformulation proposal is not a money grab for cities. It is a city, state, and county issue where all are in agreement for the formula to be more balanced.

Senator Southworth commented that she would like to see a long-term road funding policy solution.

Representative Fleming commented that the Emergency Medical Services Task Force is addressing the paramedic and EMT training issue, and the Kentucky education and workforce collaborative issue is being discussed.

In response to a question from Representative Roberts, Mr. Chaney said KLC is interested in ensuring that substance abuse facilities located in cities have to meet credentialing criteria set by the Recovery Ready Board.

Senator McDaniel commented that inflation is the leading issue at present, and the legislature is sensitive to that issue in relation to tax policy.

Senator Thayer commented that all city election races should be partisan. He noted that any future pension change proposals need to be fully vetted by the Public Pension Oversight Board. Senator Thayer pointed out historical horse racing did not bring in $6.8 billion. That amount was what was wagered. Ninety two percent of wagers is returned to the wagerers. He urged KLC not to pursue applying occupational licenses taxes to horse racing, as race tracks are taxed enough. He lastly urged discretion in bill traffic during the short session cycle.

Representative Meredith announced that the last meeting of the interim would be November 15, 2022.

There being no further business, the meeting was adjourned at 11:25 a.m.