INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting
of the 2023 Interim

July 24, 2023

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Local Government was held on Monday, July 24, 2023, at 9:00 AM, in Room 154 of the Capitol Annex. Representative Randy Bridges, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Randy Bridges, Co-Chair; Senators Karen Berg, Greg Elkins, Denise Harper Angel, Amanda Mays Bledsoe, Christian McDaniel, Michael J. Nemes, Brandon J. Storm, Damon Thayer, and Gex Williams; Representatives Danny Bentley, Josh Bray, George Brown Jr., Beverly Chester-Burton, Steven Doan, Deanna Frazier Gordon, Mary Beth Imes, Matt Lockett, Michael Meredith, Marianne Proctor, Rebecca Raymer, Brandon Reed, Sarah Stalker, and Walker Thomas.

Guests: Representative John Hodgson, 36th House District; Melissa Klink, Department of Revenue; John Hord, Department of Insurance; Larry Klein and Scott Hall, Kentucky Occupational License Association; J. D. Chaney and Michele Hill, Kentucky League of Cities; Jim Henderson, Kentucky Association of Counties; Todd Ruckel and Matt Wireman, Kentucky County Judge/Executives Association; and J.C. Young, Kentucky Magistrates and Commissioners Association.

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

Approval of Minutes

Upon the motion of Representative Lockett, seconded by Representative Thomas, the minutes from the June 20, 2023, meeting were approved.

Chairman Bridges recognized Joe Pinczewski-Lee, LRC Staff, on his pending retirement.

Discussion of Local Government Revenue Sources and Budgeting Processes

Ms. Melissa Klink, Director of the Division of Local Support, Department of Revenue, gave an overview of property tax collection. The property tax calendar is set by statute, and involves the duties of three officers: property valuation administrators (PVAs), sheriffs, and county clerks. PVAs assess the property and submit tax bills to the sheriff. The sheriff collects the taxes and transfers delinquent tax bills to the county clerk. The county clerk advertises delinquent tax bills, registers third party purchasers, and conducts tax bill sale.

Regarding recapitulation of the real property tax roll, the PVA compiles a summary of real property tax roll changes, which includes a record of homestead exemptions, deferred assessments, and additions and deletions. All counties, school districts, and local governments receive a certification of equalized assessment. Once certifications are received, tax rates can be set. The grand total collected by local officials for 2021 was $3,247,380,839.

In response to a question from Senator Harper Angel, Ms. Klink stated that the real estate backlogs are settled at the county court of appeals and are handled quickly. Some of the bigger businesses' issues can take longer.

In response to a question from Senator McDaniel, Ms. Klink said the PVA is allowed to utilize the aerial technology available to assist in making assessments.

Mr. John Hord, Insurance Program Manager with the Department of Insurance (DOI), discussed Local Government Premium Taxes (LGPT). The total LGPT reported for all jurisdictions for 2022 was $413,412,943.15. A local government may impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance. The insurance company may "passthrough" the tax to the policy holder.

Taxes are enacted through local ordinance. Local jurisdictions set the tax percentage rate and a minimum rate may be imposed. Taxes are based on fiscal year, and new or amended rates go into effect July 1. Local governments must notify DOI at least 100 days prior to July 1st (March 23) of the enactment of an ordinance or any change in an existing ordinance. DOI notifies insurers 85 days prior to July 1st of any changes. Taxes are imposed on risks located within the local government's corporate limits. A physical address must be used to determine the location of the risk. Zip codes and post office boxes may not be used to determine tax liability. An insurance company/surplus lines broker shall use a Verified Risk Location vendor or program during the calendar year if more than 2,000 total policies are issued and renewed by the insurance company/surplus lines broker in Kentucky in the preceding calendar year.

Quarterly payment of tax is due 30 days after the end of the calendar quarter. Payment is remitted separately to each local government by an insurer or surplus lines broker. Payments are submitted on quarterly reporting forms. These forms accompany the payment. An annual reconciliation must be filed with the local government and DOI by

March 31 of each year. Forms must be submitted electronically to DOI and mailed to the local jurisdiction.

An offset applies within 9 counties where both the city and the county charge an LGPT. The city tax is credited to the county tax. Three counties and four cities that levied the LGPT prior to 1990 are grandfathered and the offset does not apply. Both receive the full amount of their LGPT.

In response to a question from Representative Bridges, Mr. Hord replied that tax collection is based on actual premiums collected in the calendar quarter.

Mr. Larry Klein, Tax Compliance Officer with the City of Crestview Hills, and a past president of the Kentucky Occupational License Association (KOLA), and Mr. Scott Hall, Revenue Director of the Georgetown-Scott County Revenue Commission (GSCRC), and a past president of KOLA, discussed occupational license taxes. Mr. Klein told the committee that according to the Kentucky League of Cities (KLC) and the Kentucky Association of Counties (KACo), the occupational license tax is the number one revenue source for cities and counties. Business tax assessed on activity within the Commonwealth is from gross receipts, net profit tax, and annual flat fees. Payroll withholding tax on wages earned in the Commonwealth is always assessed on gross wages of employee. Cities, counties, and school boards determine which tax type and tax rates are best for their communities. Some dual/multi tax jurisdictions exist and have a centralized collection point from which the taxes are then distributed to the appropriate jurisdiction.

Mr. Klein proceeded to detail the City of Crestview Hills's occupational tax collections. Crestview Hills is one of 15 cities in the Kenton County Multi-Tax Jurisdiction system, which was formed by a mutual agreement. The system has worked well for its 25 years of existence.

Mr. Hall told the committee that the GSCRC collected occupational license taxes on the reported net profits of businesses with business activity in Scott County and the gross wages of employees working in Scott County. Payroll taxes are collected via employers or their payroll providers who withhold the tax from their employees' gross wages and remit that tax revenue to GSCRC. Net profit and payroll taxes are collected for three different taxing jurisdictions—The City of Georgetown, the Scott County Fiscal Court, and the Scott County Board of Education.

An independent external audit is conducted every year for the GSCRC. The GSCRC has a high rate of return on its services.

Mr. Hall proceeded to detail the occupational license taxes collected in Scott County.

Senator Thayer noted that the Georgetown Scott County Revenue Commission was created by a bill that he sponsored in 2004.

Senator Thayer commented that he was concerned about the huge increase in property assessments by the PVA in consideration of the money brought in by the occupational license tax, in that the county may end up collecting considerably more money than it needs.

In response to a question from Senator Williams, Mr. Hall said there are clear jurisdictional lines on who collects taxes from people working remotely from home. Existing legislation allows jurisdictions to share collection information with each other to ensure proper jurisdictional collections.

In response to a question from Senator McDaniel, Mr. Hall stated that rather than switching to a centralized state level collection model, keeping collections at the local level will allow for collaboration with the businesses and allow for the most control at the local level. Mr. Klein added that businesses would prefer to deal with local persons they know and who know them when issues arise rather than persons with which they have no relationship.

In response to a question from Senator Bledsoe, Mr. Hall stated that KOLA and the jurisdictions it represents do not follow national policy regarding remote working; they adhere to state law. Senator Bledsoe noted that other states are following national policy regarding remote working. Other states' policies can have impacts on local taxing jurisdictions' incomes. Kentucky should be aware of these effects when setting policy.

Mr. Jim Henderson, Executive Director of KACo discussed county revenue sources. The total county revenue in FY 2022, excluding Jefferson and Fayette Counties, was $2.2 billion. FY 2022 was somewhat skewed by ARPA funds, with almost $320 million received in the second round. Nearly $1 billion in revenue was from either state or federal sources. Forty four percent of all revenue received by counties in FY 2022 came from a state or federal allocation making counties reliant on those revenue sources.

Eighty-eight percent of all county tax revenues came from three revenue sources--property, occupational license, and insurance premium taxes. But there are several counties that do not have all three or even two of the three, so for several counties, the three major taxes account for different percentages of the county income. For example, 84 counties have an occupational license tax, and 47 counties have levied insurance premium taxes. In counties over 30,000, there are different rules with caps on the occupational tax. In several counties, there is a revenue loss when annexation occurs. In almost all 47 counties that levy insurance premium taxes, the county loses all revenue in the city when annexation occurs.

The breakdown of county tax revenue is as follows: payroll tax—44 percent at $373 million; property tax—34 percent at $290 million; insurance premium tax—9.4 percent at nearly $80 million; and other sources—12 percent at $100 million. County differences can affect which taxes are relied upon and which are not. Examples of other sources are 911surcharge fees at $22.5 million; real estate transfer tax at $20.8 million; bank franchise tax at $17.6 million; and transient room tax at $9 million which is for tourism only. Most revenue from other taxes has a restricted use.

Mr. J.D. Chaney, Executive Director/CEO of KLC, discussed city revenue sources and the city budgetary process. Kentucky cities collect revenue through the implementation of taxes and fees: property taxes equal 25 percent of total city revenue, occupational/business taxes—59 percent, insurance premiums—14 percent, and tourism—2 percent. Kentucky cities are limited in their ability to collect revenues. Total tax revenue and other revenues collected in FY 2021 was $2,043,182,893. Kentucky cities also collect bank deposit franchise fees, alcoholic beverage licenses and regulatory fees, hotel transient room taxes, restaurant taxes, franchise fees, and user fees. Total taxes and other revenues collected for FY 2021 was $152,895, 832. These taxes and fees bring in relatively little revenue compared to the other three sources.

Senator Nemes commented that city home rule should be called "home rule with oversight." Mr. Chaney said that was a fair point.

Mr. Chaney provided a description of how cities budget and expend moneys. Each city must adopt an annual budget by ordinance. City budgets must appropriate for a single fiscal year that runs from July 1 to June 30. City budgets must balance. Expenditures cannot exceed revenues for the fiscal year. Cities that fail to adopt a budget by July 1, continue to operate under the previous fiscal year budget as if it has been readopted. The executive authority of the city must prepare and propose the budget to the city legislative body at least 30 days prior to July 1. The budget message must include a description of the governmental goals fixed by the budget proposal and an explanation of important features of the activities anticipated in the proposed budget. The final form and detail of the budget ordinance is completely within the discretion of the legislative body. Budget ordinances must have two readings and must be published to become effective. Budget ordinances can be amended at any time by ordinance. Once adopted, administration of the budget is the responsibility of the executive authority of the city or the city manager in cities that operate under the city manager form of government. Operating statements containing budgetary comparisons for each governmental fund must be submitted to the legislative body at least quarterly. The accounting system utilized, must conform to state law and Governmental Accounting Standards Board standards. City funds can only be spent in accordance with the adopted budget ordinance. Any contracts that exceed the budget appropriations are void.

Mr. Todd Ruckel, Executive Director of the Kentucky County Judge/Executives Association (KCJEA), and Magoffin County Judge/Executive Matt Wireman, presented a county budget overview. Mr. Ruckel cited FY 22 county budget amounts: 52 counties have less than $10 million in budgets; 7 counties have budgets of $10 million to $19.99 million; the budget in 21 counties is $20 million to $39.99 million; and 10 counties have budgets of more than $40 million.

The timeline for county budget preparation provides that by January 15, the fee office budgets should be approved. By April 1, the proposed jail budget should be submitted to fiscal court. The entire county budget should be submitted to fiscal court by May 1. The first reading of proposed budget should be made, and a public hearing for proposed use of County Road Aid and Local Government Economic Assistance funds should be held by June 1. And by July 1, the second reading of proposed budget should occur, and the budget ordinance should be published for the new fiscal year.

Judge Wireman discussed Magoffin County's budget for Fiscal Year 24. The total budget is $7,624,014.53. Funds within the budget include: general, road, jail, LGEA, economic development project, forestry, solid waste/recycling, and 911, among others.

Mr. Chaney reported municipal expenditures, which are primarily in three functions: salaries and wages, general operations, and capital outlays which comprise equipment and construction. Statewide, salaries and wages, not including fringe benefits, accounted for $1.3 billion in Fiscal Year 21. On average, it, plus benefits, equates to 75 percent of a city's budget. Total municipal expenditures for FY 21 from salaries and wages, general operations, and capital outlay were $4,529,119,759. Total pension/benefit expenditures for FY 21 were $635,893,717.

Mr. Chaney detailed some of these expenditure categories among five cities: Henderson, Paducah, Brownsville, Lexington, Coal Run Village, and Berea.

Mr. Henderson discussed county expenditures. The two largest expenditures in the average county budget are jails and roads. Total jail fund expenditures for FY 22 were $322 million, with about $125 million being supplemented by the county's general fund. Total road fund expenditures were $355.7 million, with counties supplementing their road funds from the general fund with $93 million. Mr. Henderson noted additional county expenditures.

Representative Bridges encouraged members to reach out to the organizations that presented information if they have any questions. He then announced that the next meeting of the committee would be August 24 at the State Fair.

There being no further business, the meeting was adjourned at 10:50 a.m.