

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 5th Meeting of the 2023 Interim

October 19, 2023

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Natural Resources and Energy was held on October 19, 2023, at 1:00 PM in Room 154 of the Capitol Annex. Representative Jim Gooch Jr., Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jim Gooch Jr. Co-Chair; Senator Brandon Smith Co-Chair; Senators Cassie Chambers Armstrong, Robby Mills, Adrienne Southworth, Johnnie Turner, Robin L. Webb, Phillip Wheeler, and Gex Williams; Representatives Jared Bauman, John Blanton, Adam Bowling, Randy Bridges, Lindsey Burke, Myron Dossett, Patrick Flannery, Chris Fugate, Al Gentry, Daniel Grossberg, DJ Johnson, Bobby McCool, Tom Smith, Bill Wesley, Richard White, and Wade Williams.

Guests: Dennis Hatfield, Director, Division of Oil and Gas, Energy and Environment Cabinet; Representative Richard Heath, District 2; and Rebecca Hartsough, Senior Policy Advisor, Babbage Cofounder.

LRC Staff: Stefan Kasacavage, Kayla Carroway, Tanya Monsanto, Rachel Hartley, and Emily Wiley.

Approval of minutes for the meeting of September 21, 2023

A motion to approve the minutes was made by Senator Smith and seconded by Representative Fugate. The minutes were approved by voice vote.

Update from the Energy and Environment Cabinet on the Orphan Oil and Gas Well Plugging Program

Dennis Hatfield stated that Congress passed the Bipartisan Infrastructure Law (BIL) in November 2021, which provided grant opportunities to plug orphan oil and gas wells. Kentucky applied in May 2022, and was awarded an initial grant amount of \$25 million beginning on October 1, 2022. Kentucky obligated 100 percent of the grant on September 25, 2023. Forty-three separate plugging packages were assembled for requests for proposal (RFP) solicitation through the Finance and Administration Cabinet to plug 635 orphan wells. The average cost to plug a well through the BIL Plugging Program has been about \$33,000. The BIL grant also required that states determine the amount of escaped methane emissions from orphan wells prevented by the plugging process. The Division of Oil and Gas (DOG) has partnered with the Kentucky Geological Survey to measure emissions from 100 sites and will utilize the data to provide statistical models.

Mr. Hatfield stated that there was concern about which contractors would receive the orphan well plugging projects. He indicated there are a total of 17 contractors, including many from Kentucky, who were able to participate in the program. Twenty-seven counties received well plugging project approval.

Kentucky's BIL Formula Plugging Grant eligibility is \$78.98 million. Formula Grant applications must be submitted in annual phases limited to \$25 million per year and will have numerous additional requirements beyond the initial grant. DOG is actively working on its application for Phase One of the Formula Grant in the amount of \$25 million to plug more orphan wells.

In response to Chair Gooch, Mr. Hatfield stated there are about 15,000 orphan wells in Kentucky.

In response to Representative Bauman, Mr. Hatfield stated that DOG submits their solicitations to the Finance and Administration Cabinet who then determines who receives a contract.

Senator Smith and Senator Mills commended DOG for the number of Kentucky-based contractors involved in the Plugging Program.

In response to Chair Gooch, Mr. Hatfield stated that 2022 Regular Session Senate Bill 315 required eligible well plugging projects be in separate contracts. This allowed for different size contractors to perform according to their scope of work, which resulted in the large number of Kentucky-based contractors within the Plugging Program.

In response to Senator Chambers Armstrong, Mr. Hatfield stated that there are 16 inspectors across Kentucky who are charged with inspecting active wells and identifying orphan wells. Many newly identified orphan wells are found by citizen reports. Orphan wells will continue to be found on oil and gas basins.

In response to Representative White, Mr. Hatfield stated that orphan wells are abandoned or no longer used for the purpose for which they were drilled.

The Kentucky GRANT Program Established by 2023 House Bill 9

Representative Heath stated that the Kentucky GRANT (Government Resources Accelerating Needed Transformation) Program's main goal is to leverage Kentucky tax dollars towards significant public projects that will revitalize communities. Kentucky is one of the top states affected by the economic downturn in the coal industry. The federal government has authorized funds to be used for programs aimed at economic and workforce development, infrastructure, substance use disorder programs, site cleanups, science, technology, engineering, and mathematics (STEM) education, and housing. Challenges remain for local communities who want to capture this funding, including having to provide local matching and application complications. The GRANT Program addresses these problems by providing required matches for federal funding while tasking Area Development Districts (ADDs) and universities with providing technical assistance for applicants.

Since the 2023 Regular Session, Representative Heath has been working with Representative Petrie along with the Department of Local Government (DLG), ADDs, non-profits, and other stakeholders to share information about the opportunities that the GRANT Program can provide. Representatives Heath and Petrie have been meeting monthly with stakeholders to discuss state and federal updates and to promote further collaboration.

2023 Regular Session House Bill 9 was passed with a \$2 million appropriation. These funds were intended to provide the amount necessary for the DLG to establish the program. The DLG recently released the state match application in late August and has since received over 35

applications for matches to federal grants totaling \$25 million in projects.

Rebecca Hartsough stated that the federal government initially identified 25 regions of the United States, which are the hardest impacted by the downturns in the fossil fuel and coal industries. All counties in the 25 regions are designated as energy communities. Within that list, 21 Eastern Kentucky counties were listed with the second highest national priority, and 20 Western Kentucky counties received a sixth priority rating. Since the passage of 23 RS HB 9, those priority areas have been expanded due to the negative economic impact of breaks in the supply chain.

The initial \$38 billion in federal funding for energy communities has now risen to more than \$600 billion. The goals of these funds are to upgrade infrastructure, clean up environmental damage, promote entrepreneurship, and support workforce development. Ms. Hartsough stated that large sources of this funding pool come from the BIL and the Inflation Reduction Act (IRA). As of June, \$4.1 billion in BIL funding has been announced for Kentucky to fund 202 specific projects. The website to access the clearinghouse for federal funding that is available for energy communities is, <https://energycommunities.gov/funding/>.

In response to Representative Flannery, Ms. Hartsough stated that Indiana, Ohio, West Virginia, Colorado, New Mexico, and Minnesota have developed matching grant programs like the GRANT Program. 23 RS HB 9 was developed to be as expansive as possible to allow for the broadest availability of state matches of federal project grants. Ms. Hartsough believes that there is still opportunity for large, transformational projects, despite the expansion of eligible energy communities in Kentucky.

In response to Senator Wheeler, Ms. Hartsough stated that despite the expansion of the energy communities map in Kentucky, the statistics that are specific to local communities are still relevant regarding prioritization scoring for state matches.

In response to Representative Flannery, Ms. Hartsough stated that the expansion of the energy communities map primarily comes from counties' functions in logistical supply chains.

Senator Smith expressed his concerns regarding the expansion of the energy communities map.

Senator Webb expressed her concerns about the state match criteria and stated that scoring should be weighted on the impact of the decline of coal production in the community.

In response to Representative Smith, Ms. Hartsough confirmed that \$4.1 billion has been obligated for Kentucky. Representative Smith apologized to his constituents for supporting 23 RS HB 9, as his constituent counties were not listed as part of the initial 41 Kentucky counties identified as energy communities. Representative Heath stated that the 41 counties that were originally designated as energy communities were named by the federal government.

Ms. Hartsough stated that GRANT Program scoring criteria is open for discussion and the energy communities map will be revisited in May 2024.

In response to Representative White, Ms. Hartsough stated that the energy communities map was designated with priority ratings out of 25 geographical areas, which considered a multitude of factors. Counties that will be impacted more heavily than others will more than likely receive a

higher priority regarding grant funding.

Senator Southworth stated that the General Assembly has the authority to set criteria for where state match funding is designated.

Ms. Hartsough stated that it is important for counties to be aware that they have been designated as energy communities and they are free to pursue active federal grants if the local match can be met.

Senator Webb stated that there may be a statutory conflict that could limit the ability of energy communities that were not previously identified as priority communities to gain access to state matching funds.

Reports Received - No Action Required

Chair Gooch acknowledged the receipt of Kentucky Department of Fish and Wildlife Resources' No Net Loss of Hunting Land Report, Report of the Audit of the Kentucky Heritage Land Conservation Fund Nature License Plate Fund, and Kentucky Wetland and Stream Fees-In-Lieu-Of Mitigation Program Annual Report. No action was required.

Referred Administrative Regulations - No Action Required

Chair Gooch provided a brief overview of the administrative regulations on the agenda.

301 KAR 001:410 *Proposed* - Taking of fish by nontraditional fishing methods.

301 KAR 001:201 *Proposed* - Taking of fish by traditional fishing methods.

Adjournment

There being no further business, the meeting was adjourned.