AREA DEVELOPMENT DISTRICT WORKING GROUP

Minutes of the 1st Meeting of the 2019 Interim

June 18, 2019

Call to Order and Roll Call

The 1st meeting of the Area Development District Working Group was held on Tuesday, June 18, 2019, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Suzanne Miles, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Christian McDaniel, Co-Chair; Representative Suzanne Miles, Co-Chair; Senators Dennis Parrett and Brandon Smith; and Representative Jim DuPlessis.

Guests:

LRC Staff: Jennifer Hays, Mark Mitchell, Cynthia Brown, and Chase O'Dell.

Representative Miles stated that the Area Development District (ADD) Working Group was the result of multiple pieces of legislation. She continued to say that the working group was going to evaluate the purpose of ADDs. Senator McDaniel said that ADDs play a critical role in many operations as it relates to the management of state government at the local level.

Overview of Area Development Districts

Jennifer Hays, Committee Staff Administrator, LRC Appropriations and Revenue Committee, presented an overview of Area Development Districts.

Ms. Hays testified that a memo from the President of the Senate and Speaker of the House created the Area Development District Working Group to review the operations and funding of ADDs. According to the memo, the review should be conducted based on an analysis of data to be collected from the ADDs and the Department of Local Government (DLG), to be analyzed by Legislative Research Commission (LRC) non-partisan staff, and the working group members.

Ms. Hays stated that information is to be analyzed by work group members and non-partisan staff. The memo states that the issues or records to be analyzed shall include, but are not limited to:

- "State statutes and administrative [regulations] as well as and federal regulations outlining or setting forth the relational roles that exist between the Department for Local Government, in their role as the cognizant state agency for Area Development Districts, and the Districts themselves;

- The amount of funds transferred or granted to each Area Development District on an annual and historical basis for a period of five (5) years, and the processes by which those funds are expended or transferred to units of local government and the measurable benefits or deliverables for said funds;
- The state or federal funds held in reserve by each area development district as well as statutory or regulatory processes by which those funds can be expended;
- Level of long-term debt incurred by each Area Development District;
- Historic spending trends of funds granted through the Joint Funding plan;
- Growth/reductions in staffing patterns in the execution of the planning functions versus the direct service provider roles as managed by the Area Development Districts."

The working group's findings must be presented to LRC by November 29, 2019.

Ms. Hays testified that there are 15 ADDs, and the statutes which authorize the ADDs are contained in KRS Chapter 147A. The ADD boundaries are statutorily created along county lines. Changes to the boundaries, the number of districts, or the names of the districts, must be accomplished through an act of the General Assembly.

Each ADD is governed by a board of directors. Membership of each board includes the county judge/executive of each county within the district, the respective mayors of each 1^{st}, 2^{nd}, and 3^{rd} class city within the district, the mayors of any incorporated city below the 3^{rd} class, and citizen members. Each board is required to annually select a chairman, vice chairman, secretary, treasurer, or any other officers deemed necessary for operations. Each board has the power to appoint an executive director and deputy executive director.

Ms. Hays stated that each board of directors can sue and be sued, enter into agreements, expend funds, and more. ADDs are deemed public agencies. The board is required to develop plans and establish advisory committees related to those plans. The statute specifically cites the development of goals and objectives for the ADD, plans for water and sewer, and plans for land use, including open space and recreational areas.

In response to a question from Senator Parrett, Ms. Hays stated that judge/executives and mayors, who are statutorily members on the board of directors, can select citizen members to be designees or actual members on the board of directors.

Ms. Hays testified that the allocation of funding for ADDs is accomplished by the Finance and Administration Cabinet. ADDs are tax-exempt entities and are required to submit a detailed report related to state and federal funds received during any year.

In response to a question from Representative Miles, Ms. Hays stated that there is nothing in the statute that directs LRC to act on the annual reports received from each ADD.

Each ADD is required to establish a regional planning council for the purpose of advising the board of directors on planning matters throughout the district. A regional planning council is not required if 50 percent or more of the population of the local jurisdictions are participating in some other form of regional planning.

The Department for Local Government (DLG) is created in the same KRS chapter as ADDs. DLG is required to administer the distribution of funds to ADDs and is authorized to promulgate administrative regulations. The department is charged with the responsibility of ensuring that compliance reports are submitted. The department is the coordinator of the planning, funding, and operations all performed by the ADDs.

DLG is responsible for the Joint Funding Administration (JFA). The JFA encompasses three primary grants: the Economic Development Administration, the Community Development Block Grant, and the Appalachian Regional Commission Grant. Ms. Hays testified that through administrative regulation, each board of directors is required to prioritize capital projects for the allocation of funds. She stated that each board is also encouraged to propose joint capital projects where two or more ADDs can work together on a project.

In response to a question from Representative DuPlessis, Ms. Hays stated that in the past, in front of the Appropriations and Revenue Committee, Commissioner Dunahoo had stated that there was no statutory formula for JFA funding. Ms. Hays said that there was a funding formula in the 2018 executive branch budget bill for the two-year budget period.

By statutory definition, ADDs are special purpose governmental entities (SPGE). As such, ADDs are required to file financial disclosure reports. Ms. Hays said that the financial disclosure reports are more like cash flow statements rather than balance sheets.

Ms. Hays discussed the average percentages of the various revenues and appropriations for each ADD for the years 2015 to 2018.

A chart in the presentation compared and contrasted the four-year averages among the ADDs.

In response to a question from Senator McDaniel, Ms. Hays stated that there is no detail within the financial disclosure reports that either confirmed or denied whether the Buffalo Trace ADD has a reserve fund that is allowed to operate year-to-year. Senator McDaniel expressed his desire for the working group to look at why Buffalo Trace had carryover revenues and why the Bluegrass ADD took a ‘hit’ in revenues and appropriations in 2017.

Representative DuPlessis stated that the working group needed to look at why the personnel costs for the Big Sandy ADD were almost 50 percent of total expenditures, whereas personnel costs only amounted to 27 percent of total expenditures for the Barren River ADD.

In response to a question from Representative Miles, Ms. Hays stated that she did not find any instructions or handbooks on how the financial disclosure reports were prepared. She continued to say that there was no description of the report or classification of the different categories on the report on the public version of the DLG website.

Ms. Hays testified that all-but-three ADDs earned interest from 2015 to 2018. She continued to say that three ADDs reported a carryover revenue from a prior fiscal year during that time period. Eight ADDs paid some amount of debt service.

In response to a question from Representative Miles, Ms. Hays stated that appropriations could be classified differently between the ADDs.

Twelve ADDs reported earning interest from 2015 to 2018. Only two of those 12 ADDs earned more than $100,000 in interest during that time. Ms. Hays testified that three ADDs utilized some form of a carryover from a prior fiscal year. Ms. Hays stated that eight ADDs reported some amount of debt service during the time period.

Representative DuPlessis noted that one ADD had both a high amount of carryover funds and a high amount of interest earned. He stated that the working group may want to look at whether or not the ADD is earning its interest through carryovers year-to-year.

Ms. Hays testified that the JFA program is responsible for receiving federal funds, matching state funds or other funds, combining the funds together, and then distributing the total funds to ADDs. She continued to say that there are three major grant programs within the JFA program. The first grant program is the Economic Development Administration (EDA), which is an agency within the U.S. Department of Commerce that provides grants and technical assistance to economically distressed communities in order to generate new employment, help retain existing jobs, and help stimulate industrial and commercial growth through a variety of investment programs. The next grant program, the Community Development Block Grant (CDBG) program, is one of the longest running programs of the Department of Housing and Urban Development (HUD). The goals of the program include providing affordable housing, anti-poverty programs, and infrastructure development. Federal CDBG funds are matched with state funds on a dollar-for-dollar basis. The third program is the Appalachian Regional Commission (ARC). Ms. Hays testified that nine ADDs have agreements ongoing directly with ARC for funding.

Senator McDaniel asked that in a future meeting Ms. Hays present to the working group how JFA funds had traditionally been distributed, and what changed in the formula. He continued to say that the underlying argument that had been made stated that failure to make a change in the funding formula had prevented full utilization of federal dollars.

Ms. Hays testified that from 2013 to 2016, each ADD from year-to-year received approximately the same amount of money through the JFA formula. From 2017 to 2018, each ADD experienced changes in the amount of money received through the JFA formula.

The Barren River ADD received more funding in 2017 and even more in 2018. The Big Sandy ADD received approximately $50,000 more in JFA funds in 2017 and 2018. The Bluegrass ADD received more funds in 2017, but received the same amount in 2018 as it had from 2013 to 2016. The Buffalo Trace ADD received a little more funding in 2017, and even more funding in 2018. The Cumberland Valley ADD received substantially larger funds in 2017 and 2018. The FIVCO ADD received more funds in both 2017 and 2018. The Gateway ADD also received more funds in both years. The Green River ADD received less funds in 2017, but received the same amount in 2018 as it had from 2013 to 2016. The Kentucky River ADD received more funds in 2017 and even more in 2018. KIPDA received less money in 2017 and 2018, receiving almost $150,000 less in 2017 than it did in 2015. The Lake Cumberland ADD received significantly more funds in 2017 and 2018. The Lincoln Trail ADD received less funds in 2017 and 2018. The Northern Kentucky ADD received less funding during the same time period. The Pennyrile ADD received a little less funding during the two years. The Purchase ADD received less funding in 2017 and 2018.

Representative DuPlessis stated that JFA funding is not allocated or appropriated. He continued to say that the working group needs to understand where JFA funding is going and how it is being used by ADDs.

Ms. Hays testified that in 2018 House Bill 200, which was the executive branch budget bill, there was approximately $2 million provided in the DLG budget to support ADDs. A formula was also provided for funding. The funding formula states that 70 percent of funds will be equally distributed among all ADDs, with 20 percent of funds distributed based on a population factor, and 10 percent of funds distributed based on incorporated cities and counties within the districts. The bill also states that the funding formula can be changed upon the unanimous written direction from all ADDs in order to maximize federal awards.

Representative Miles stated that she was curious to know if the ADDs were based on population, continuing to say that she was curious to know how the ADDs were established. Representative Miles also pondered whether or not the ADDs should be tied to the census if they are based upon population.

Representative DuPlessis echoed Representative Miles' question of how there came to be 15 ADDs. He stated that the Bluegrass ADD has a population of 800,000 people, while the Gateway, Buffalo Trace, and FIVCO ADDs combined only have a population of 260,000 people. He went on to emphasize the importance of the efficiency of ADDs.

Representative Miles stated that smaller counties within ADDs are often more dependent on the ADDs than the bigger counties are, in-part because bigger counties have the staff available to apply for grants and funding that the smaller counties do not have access to.

Senator McDaniel requested that, for the next meeting of the working group, each ADD inform the group of the programs it administers and the cost of administering each program.

With no further business before the working group, the meeting was adjourned at 11:34 a.m.