

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 3rd Meeting of the 2018 Interim

September 26, 2018

Call to Order and Roll Call

The third meeting of the Interim Joint Committee on State Government was held on Wednesday, September 26, 2018, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representatives Jerry T. Miller, Co-Chair, and Kenny Imes, Co-Chair; Senators Ralph Alvarado, Christian McDaniel, Morgan McGarvey, Albert Robinson, and Damon Thayer; Representatives Lynn Bechler, Kevin D. Bratcher, Tom Burch, McKenzie Cantrell, John Carney, Derrick Graham, Mark Hart, Richard Heath, Dennis Horlander, DJ Johnson, Mary Lou Marzian, Reginald Meeks, Phil Moffett, Tim Moore, C. Wesley Morgan, Sannie Overly, Jason Petrie, Rick Rand, Jody Richards, Attica Scott, Tommy Turner, Ken Upchurch, and Jim Wayne.

Guests: Jenny Goins, Lesley Bilby, and Mary Elizabeth Bailey - Personnel Cabinet; Don Parkinson, Donnie Holland, Jean Bird, and Ron Vanover - Tourism, Arts and Heritage Cabinet; and Lindsay Thurston, Office of the Secretary of State; and Jennifer Scutchfield, State Board of Elections.

LRC Staff: Alisha Miller, Michael Callan, Daniel Carter, Kevin Devlin, Roberta Kiser, Karen Powell, and Peggy Sciantarelli.

Approval of Minutes

A motion to approve the minutes of the August 22 meeting was seconded and passed without objection. (This occurred later in the meeting.)

2019 Kentucky Employees' Health Plan

Jenny Goins, Commissioner, Department of Employee Insurance, Personnel Cabinet, discussed the Kentucky Employees' Health Plan (KEHP) and highlights for the 2019 plan year, in conjunction with a PowerPoint presentation. Four plans are being offered: LivingWell CDHP (consumer driven health plan), LivingWell PPO, LivingWell Basic CDHP, and LivingWell Limited High Deductible Plan. Open enrollment will be October 8 to October 26, and enrollment for the 2019 plan year is mandatory for all members.

KEHP is the largest self-insured plan in the state and covers six percent of the entire state population. School boards comprise 52 percent of the membership, early retirees 24 percent, state agencies 19 percent, and quasi groups five percent. In 2019, there will be no premium increases for most members. There will be a small increase for approximately 17,000 members; couple and family coverage levels in the LivingWell CDHP plan will have per-month increases of \$8 and \$10, respectively, in order to align the claims cost of those plans.

COPD (chronic obstructive pulmonary disease) and asthma are being added to the value benefit program in 2019. Approximately 20,000 plan members utilize COPD and asthma medications. It will cost about \$792,000 to implement the benefit. Although pharmacy costs are expected to increase initially, KEHP believes it is the right thing to do for its members. KEHP is breaking even on costs for the diabetes value benefit that was introduced in 2016.

In 2019, all planholders must fulfill the LivingWell Promise by completing either the Go365 Health Assessment or a biometric screening. They must fulfill the Promise by July 1, 2019, in order to receive a \$40 monthly premium discount in 2020. In 2018, 93 percent of planholders complied.

In 2019, KEHP will offer “Rethink,” a new free benefit to support those who care for children with learning or behavioral challenges. It will include 24/7 phone or video chat with a behavior expert and will be available for all developmental disabilities, including autism. The benefit applies to all employee dependents, regardless of age and/or medical plan eligibility. Members must provide a 4-digit code when calling or going online; the code is “KEHP.”

In 2019, there will be no changes to deductibles, co-insurance, or co-payments. The LivingWell CDHP and LivingWell PPO plans will not change; 86 percent of members are in those two plans. The LivingWell Basic CDHP is the same as the 2018 Standard CDHP; the name was changed to reflect the LivingWell Promise requirement. The new default plan, LivingWell Limited High Deductible, is a “catastrophic” plan that has the lowest premium but higher deductibles and out-of-pocket maximums. It replaces the 2018 Standard PPO, which has about 15,000 members. When those members migrate to the LivingWell CDHP, LivingWell PPO and LivingWell Basic CDHP plans, KEHP expects to save from \$9-13 million.

About 85 percent of plan participants use generic drugs. The value formulary of the LivingWell Basic CDHP and the LivingWell Limited High Deductible plans will focus more on generics and less on brand-named drugs and should save KEHP about \$597,000. Many companies are beginning to implement value formularies. The more popular LivingWell CDHP and LivingWell PPO plans will have the advanced control formulary in 2019, which is the same as the 2018 formulary.

In 2019, employer-sponsored optional dental and vision coverage will be available to active public employees at no cost to the employer. Premiums will be payroll-deducted. Through the state's RFP process Anthem was selected as the carrier for those benefits.

Ms. Goins said that KEHP always considers cost and claims data before changing the health plan. Premiums for 2019 will not increase because the budget for 2019 and 2020 allowed rollover of surplus funds from prior years. Based on the current outlook, it is expected that premiums will not increase in 2020.

The requirement for all planholders to complete the LivingWell promise in 2019 has the goal of getting people "kick started" on their wellness. Data indicates that when people become more engaged with their health and the Go365 initiative, health risk scores go down, which saves the plan money.

State wellness director Twany Beckham is working on changing the culture. He has grown the statewide wellness coalition by 49 percent; the coalition is composed of people in local agencies who help spread the word about wellness. More than 16,000 people have participated in two step challenges. A KEHP video about breast cancer survivors will be relaunched in February during breast cancer awareness month. There is also a video about the Champions Step Challenge Winners on the LivingWell website. KEHP LivingWell initiatives have increased face-to-face interactions and promoted activity through social media channels.

The number of medical visits via the LiveHealth Online free benefit is growing and has brought KEHP \$3.9 million in cost-of-care savings. Each visit costs the plan only \$49, substantially less than for an emergency room visit. Behavioral health visits to a psychologist or therapist were added to this free benefit in 2017. In 2019, visits to a psychiatrist will be included.

The Vitals SmartShopper benefit began in 2013. Kentucky's plan is serving as a role model for other states. As of June 2018, this benefit has paid \$1,919,460 in incentives to planholders. After payment of the incentives, KEHP saved \$13,228,176.

In the diabetes prevention program, KEHP is meeting goals set by the Centers for Disease Control and Prevention. Since implementation of the diabetes value benefit, a greater number of members with diabetes are taking their medications regularly. Members participating in the program reduced their average starting A1C from 6.05 to 5.63. There were 1,865 newly adherent diabetic members in 2016, the program's first year, and an additional 1,719 newly adherent members in 2017. In the program's first year, prescription costs increased 13.9 percent, but medical costs decreased seven percent. KEHP broke even on the program; based on that success, the COPD/asthma benefit has been added for 2019.

Ms. Goins discussed the dependent eligibility verification audit. When the audit ended, KEHP was forced to terminate 9,483 unverified dependents at the end of July 2017. However, approved appeals have added 4,281 back to the plan with no break in coverage; 1,679 appeals are pending and expected to be approved. Alight Dependent Verification Services (formerly Aon Hewitt) is the vendor who performed the eligibility audit. From a fiscal responsibility perspective and to ensure that the right people are covered, KEHP will begin an ongoing audit process, starting December 1.

Senator Alvarado expressed interest in the opportunity, transparency, and cost savings offered by the Vitals SmartShopper program. He asked about its implementation and the name of the organization's contact person. Ms. Goins said that Vitals SmartShopper handles much of the necessary research and contacts providers to determine the contracted rates for medical procedures that they have negotiated with Anthem, KEHP's third-party administrator. The negotiated rates are then listed on the Vitals SmartShopper website. The program was not difficult to implement. The challenge has been to encourage engagement by planholders, and KEHP has focused on getting the information out. Ms. Goins said that Rob Graybill was the vendor's initial contact person but that she would e-mail contact information to Senator Alvarado.

Responding to questions from Representative Bratcher, Ms. Goins said that when early retirees transition from KEHP to Medicare coverage, they join a Medicare supplement plan offered by the retirement systems. Quasi-governmental agencies are local city and county government organizations who are allowed to join KEHP if they are participating in Kentucky Retirement Systems.

Responding to questions from Representative Miller, Ms. Goins said that the Vitals SmartShopper service is used only for medical or surgical procedures. Completion of the LivingWell Promise applies to planholders but not their spouses, but KEHP has had internal discussions about possibly including spouses. Representative Miller said that would be a great next step.

Representative Meeks asked about security and confidentiality of plan members' information. Ms. Goins said that KEHP pays close attention to confidentiality of information and has not had a major breach. KEHP and its vendors sign business associate agreements, and everyone involved in the health plan abides by Health Insurance Portability and Accountability Act rules (HIPAA). As an example, KEHP receives only aggregate data from biometric screenings but not the results for individual members. Those screening results go straight from the provider to Go365. They are then forwarded to Anthem, so that the nurses in the disease management program can reach out and offer assistance to members. Representative Meeks asked whether KEHP makes an effort to advise members that their data is secure. Ms. Goins said she believes KEHP legal documents include that information but that she would double check.

Answering questions from Representative Graham, Ms. Goins said the new COPD/asthma value benefit and the Rethink telehealth behavioral health benefits are available to members at no additional cost. The 4,795 dependents who were removed from the plan in 2018 may file a Level 2 appeal, but the appeal window ends on October 8, the beginning of open enrollment. The \$10/month premium increase for family coverage in the LivingWell CDHP plan will apply to about 10,878 members; the \$8/month increase for couple coverage will apply to 6,340 members. Representative Graham expressed appreciation to Ms. Goins for the help her office provides.

There were no additional questions, and Senator Bowen thanked Ms. Goins for her attendance and presentation. He encouraged the committee to reach out to Ms. Goins and her staff whenever they have questions about the health insurance plan.

Kentucky State Parks Update

Guest speakers from the Tourism, Arts, and Heritage Cabinet were Don Parkinson, Secretary, Jean Bird, Deputy General Counsel, John Cox, Communications Director, Donnie Holland, Commissioner, Department of Parks, and Ron Vanover, Director, Recreational Parks and Historical Sites. The testimony included a PowerPoint presentation.

Secretary Parkinson said that funds which the legislature allocated for the state parks system (\$18 million and \$20 million over the last two bienniums) have been beneficial. Sales have increased over the last 2½ years. The parks system is improving, but there is not enough money to take care of the \$240 million in deferred maintenance. The cabinet cannot “do it all” and has been working with communities to address problems. He stressed the importance of keeping the parks open and maintaining historical sites.

The parks drive tourism, support job creation, strengthen economic impact, and preserve history. The continuing strategy for the parks system is to partner with local governments; protect resources; require parks operations to continue; develop innovative ownership, management, and operational tools; and ensure that natural and historical resources are preserved and enhanced for generations to come.

Commissioner Holland expressed appreciation for the monies that were allocated to help stem the tide of deferred maintenance issues and to begin the process of turning the parks around. He said that in many cases local governments are best suited to address deferred maintenance needs and to support recreational programming and events at the parks. Local citizens should have input in the operation of their parks. Kentucky has 49 parks—more than the average in other states. The parks have 1,500 employees during the summer and approximately 800 full-time employees in the winter months. The parks appreciate help from their partners in local communities. Those partnerships are conditioned on continuity of the parks; otherwise, control would revert to the state. It is not a new approach. There were similar agreements in prior administrations: Constitution Square State Historic Site partnership with the city of Danville in 2012 and a partnership

with the city of Owensboro for the golf course at Ben Hawes State Park in 2010. Four state park golf courses were closed in prior years: Rough River Dam (2013), Kenlake (2013), Jenny Wiley (2012), and Lake Cumberland (2006). Others have been closed during the current administration because of low utilization.

Commissioner Holland recounted success stories in working with local communities. The Calvert City airport, which is located at Kentucky Dam Village State Resort Park, had been downgraded to “airstrip” status and needed extensive repairs. The city is building hangars to accommodate 10-plus private aircraft and is adding aviation fuel service. The improvements are designed to support economic development in western Kentucky and to reestablish the airstrip as an FAA-approved airport. My Old Kentucky Home State Park amphitheater in Bardstown had a history of structural and electrical issues and was closed for safety reasons. The Stephen Foster Story production continued this summer after an agreement was reached between the state and the Nelson County fiscal court. Local leaders made the needed repairs for a fraction of what it would have cost the state. The amphitheater at Jenny Wiley State Resort Park was closed due to electrical and structural issues. The state leased the theater to the city, which made the necessary repairs, and the show continued there this summer. The swimming pool at Jenny Wiley had been idle and was leased to the city of Prestonsburg. The city is working to make repairs and plans to reopen the pool in the spring of 2019. A local charitable foundation paid to demolish the dilapidated boat dock at Lake Malone State Park marina and replaced it with a new one. The dock was condemned in December 2015 but is now back in business, creating significant savings for the local management. At Kincaid Lake State Park the state leased the park’s 9-hole golf course to Pendleton County, after meeting with Representative Hart and local officials. The county made improvements, kept the course open, and created significant savings for the local management. Representative Hart expressed thanks for the partnership at Kincaid Lake State Park. He said it has been more successful than anticipated. The manager of the golf course had a goal to break even at the end of 2018 but was able to reach that goal at the end of July. The golf course is back up to par and is an enhancement not only for the state park but also the local community. Senator Bowen thanked Representative Hart for that information and stated that public-private partnerships (P3s) by state and local governments are critical to meeting the needs of the Commonwealth.

Commissioner Holland said the cabinet is in the process of working on other projects with local communities. Local officials want to operate and manage Levi Jackson State Park in London. After being contacted by Mayor Troy Rudder, the state is working on an agreement to transfer the park to the city. In Lincoln County, if management of the William Whitley House State Historic Site can be transferred to the Lincoln County Historical Society, public access to the Whitley House will increase, and additional funding will be available for its continued preservation. Boone Station (not to be confused with Fort Boonesborough) comprises 47 acres in southeastern Fayette County that Robert Strader deeded to the Department of Parks in 1992 in his will. The will states that if the

Department of Parks does not develop the property as a “historic state park” within 15 years, ownership of Boone Station would be deeded to David’s Fork Baptist Church in Lexington. In 2004, the Department of Parks requested \$400,000 to develop the park, but the request was not approved and the development did not occur. The property includes two old, dilapidated barns that have no historical significance and pose a safety concern. There are three picnic tables and a single porta-toilet. The Department of Parks and the Kentucky Historical Society placed a few signs and interpretive panels. A marker lists Daniel Boone’s relatives, but there is little evidence that they are buried at the site.

Senator Bowen thanked the speakers for their presentation and for addressing concerns that had been voiced previously by some committee members. He said he recently visited Breaks Interstate Park. He asked about the partnership between Kentucky and Virginia for administration of the park. Commissioner Holland said the lodge is in Virginia. The partnership does relatively well and comes close to breaking even. He believes Kentucky provides a little less than 50 percent of the funding. There had been concern about safety because rangers stationed in Virginia were not authorized to enter the Kentucky section in order to exercise police powers. With Justice Cabinet Secretary John Tilley’s support, the rangers now have authority to police on both sides of the border. Mr. Vanover said that Breaks Interstate Park is run by a commission, with four members from Kentucky and four from Virginia. Two-thirds of the park is in Virginia and one-third is in Kentucky. When the park was created jointly by the two states in 1954, law enforcement officers in Virginia had no control within the 1,700 acres in Kentucky. The states have worked on that issue for the last four or five years and were able to obtain the needed law enforcement authority.

Senator Bowen asked whether the Kentucky State Parks Foundation is still active. Secretary Parkinson said it is and is still headed by Molly Caldwell. The foundation recently conducted t-shirt and poster fundraisers and will host a fundraiser at Keeneland within a few weeks. The foundation members also host park visits and exhibits for children. Senator Bowen explained that the foundation was created after the parks system received a bequest of several hundred thousand dollars from a Kentucky citizen.

Senator Robinson said he endorses London local government’s involvement in Levi Jackson State Park but has concern whether there are guidelines and restrictions to protect the natural resources on the property. The park contains some of the best forests in that area of the state. Ms. Bird said the state intends to preserve the land as it now exists. There are historical preservation and conservation easements for the property, and if it were to cease being used as a park it would automatically revert to the Commonwealth.

Representative Wayne thanked Secretary Parkinson and Commissioner Holland for their service to the parks. He said it appears that the parks may be in a state of crisis, considering the maintenance needs of \$240 million. He questioned whether there is a long-term strategy for the parks. He suggested looking at the state of Minnesota, which gathered

a coalition of rural and urban citizens to organize a system to continuously fund its state parks. He believes the parks present great opportunity for Kentucky but that more needs to be done to restore and perhaps expand the parks system. Secretary Parkinson said there is a strategic plan. The cabinet is working on updating it and will be able to share it with the committee. Two-thirds of the U.S. population can drive to Kentucky within one day. Customers of the parks seem to like what is being done, and the hope is to make the parks system bigger and better. He visited Pine Mountain State Resort Park recently and thinks it looks better now than when it opened in 1924. There are many good things about the parks system, but more can be done.

Representative Meeks said he hopes that the strategic plan will incorporate the former Cherokee State Park, a blacks-only state park located in western Kentucky. The park opened in 1951 and was closed in the 1960s. It is now part of Kenlake State Resort Park. Secretary Parkinson said that African American history is an important support for tourism and is a priority for the cabinet. Representative Meeks asked about legislation that Congress is considering to designate Camp Nelson as a national monument. Secretary Parkinson said Camp Nelson is not part of the Kentucky parks system but that he would get an update about that.

Representative Miller said he served as state parks commissioner for a brief period in 2006 and 2007. The needs were massive then and continue to be. He believes a root cause was that more than 20 years ago the focus was on building and growing, without sufficient money for maintenance. The parks had strayed from their mission of being the nation's finest. He is glad to see movement in that direction, and he would like to hear more at a future meeting about P3s for the parks. He commended Mr. Vanover for his faithful service as a parks employee.

Senator Bowen thanked the speakers for their testimony and for their efforts in the parks system. He invited them to return to a future meeting.

Administrative Regulation Review

31 KAR 3:010 Current address of Kentucky registered voters and distribution of voter registration lists – This regulation was reviewed and amended by the Administrative Regulation Review Subcommittee on August 14, 2018, and was assigned on September 5 to the Interim Joint Committee on State Government for secondary review. Lindsay Thurston, Executive Advisor, Office of the Secretary of State, and Jennifer Scutchfield, Assistant Director, State Board of Elections, testified.

Ms. Thurston answered questions from Senator Thayer regarding the fee increases proposed in the amended regulation. She said the increases were recommended by the executive director and the assistant director of the State Board of Elections and then approved by the board in April 2018. Requests for the statewide voter list will increase from \$450 to \$2,000. The fee for an alphabetical paper list or a street order paper list will

increase from \$4 to \$10. The fee for mailing labels will increase from \$10 to \$30 per 1,000 labels. The Commonwealth of Kentucky has one of the lowest fee structures for its voter registration data. Indiana charges \$5,000 for a statewide voter list, and Alabama charges \$36,000. After research, the board adopted the fee increases to bring them more in line with fees in other states. Answering further questions from Senator Thayer, Ms. Thurston said there was no disagreement about the recommended fee increases. The amended regulation is designated as emergency because elections are a critical infrastructure, and the increase in revenue will support established security efforts.

Senator Thayer asked about the status of the federal consent decree that directed Kentucky to clean its voter rolls. Ms. Thurston said that the State Board of Elections has submitted a comprehensive plan to the Department of Justice in a timely manner. The plan is currently receiving review and is under consideration for improvement. The final plan is due by the middle or end of October, and staff is in constant communication with the Department of Justice.

Senator Thayer suggested an oral amendment, or deferring the regulation for a month, in order to correct the misspelling of “credit” on page 11. Some members of the committee pointed out that an amendment would not be necessary in order to correct a typographical error. Ms. Thurston said she would be happy to accommodate the wishes of the committee.

Senator Bowen said that the committee would not be able to take any official action due to lack of a quorum. Pursuant to KRS Chapter 13A, the committee has only 30 days from the date of assignment to review a regulation, so the period for review will have elapsed before the committee meets in October.

Representative Petrie asked whether there was a cost analysis relating to the fee increases, in addition to the comparison with other states’ fee structures. Ms. Scutchfield said the fees had not been changed in decades and that the increases were needed. She said she did not find a written analysis.

The meeting agenda included the following regulations from the Personnel Cabinet: 101 KAR 2:020, 101 KAR 2:034, 101 KAR 2:076, 101 KAR 2:095, 101 KAR 3:045, and 101 KAR 3:050. Guest speakers from the cabinet were Lesley Bilby, Deputy Secretary, and Mary Elizabeth Bailey, Commissioner, Department of Human Resources Administration. Senator Bowen said that because the committee cannot take action due to lack of a quorum, he would entertain a motion to adjourn if that would be acceptable to the guest speakers. They indicated they would defer to the chair.

A motion to adjourn passed without objection. Business concluded, and the meeting was adjourned at 2:58 p.m.