

# **INTERIM JOINT COMMITTEE ON STATE GOVERNMENT**

## **Minutes of the 3rd Meeting of the 2023 Interim**

**August 24, 2023**

### **Call to Order and Roll Call**

The third meeting of the Interim Joint Committee on State Government was held on Thursday, August 24, 2023, at 1:00 PM, at the Kentucky State Fair in South Wing C of the Kentucky Exposition Center. Representative Kevin D. Bratcher, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representatives David Hale, Co-Chair, and Kevin D. Bratcher, Co-Chair; Senators Greg Elkins, Michael J. Nemes, Damon Thayer, Phillip Wheeler, and Gex Williams; Representatives Adam Bowling, Josh Calloway, Jennifer Decker, Robert Duvall, Jim Gooch Jr., Derrick Graham, Richard Heath, Samara Heavrin, Keturah Herron, John Hodgson, Thomas Huff, Mary Beth Imes, DJ Johnson, Matthew Koch, Scott Lewis, Josie Raymond, James Tipton, Wade Williams, and Susan Witten.

Guests: Bobbie Holsclaw and Frank Friday, Jefferson County Clerk's office; Tabatha Clemons, Grant County Clerk's Office; Jason Denny, Anderson County Clerk's Office; Lena Muldoon, "You Decide, Kentucky!"; Jack Whitfield, Hopkins County government; Candance Brake, Greater Owensboro Chamber of Commerce; and Suzie Razmus, city of Corbin, Kentucky. At Representative Bratcher's request, the guest speakers testified under oath.

LRC Staff: Shannon Tubbs, Daniel Carter, Jennifer Hans, and Peggy Sciantarelli.

### **Audience Recognition**

Representative Bratcher recognized his personal guest, a student of Marian C. Moore Middle School in Louisville.

### **Welcome from Greater Louisville Inc.**

Shelby Somervell, Vice President of Government Affairs & Communications, Greater Louisville, Inc., welcomed the committee to the Kentucky State Fair.

### **Approval of Minutes and Agenda Change**

The minutes of the July 24 meeting were approved without objection by voice vote, upon motion by Senator Mills and second by Representative Johnson. Representative

Bratcher announced that today's planned testimony by staff of the State Board of Elections is postponed to a future meeting.

### **Update from Local Revenue Modernization Coalition**

The guest speakers were Lena Muldoon, Executive Director, "You Decide, Kentucky!"; Jack Whitfield, Jr., Hopkins County Judge-Executive; Candance Brake, President & Chief Executive Officer, Greater Owensboro Chamber of Commerce; and Suzie Razmus, Mayor, city of Corbin. Their testimony included a slide presentation.

Ms. Muldoon gave an update on the coalition's grassroots initiative to support local revenue reform in Kentucky. "You Decide, Kentucky!" is a 501(c)3 organization established in 2020. It is an initiative focused on engaging, educating, and galvanizing people and organizations statewide, with the goal to empower citizens and local governments to decide which revenue streams will improve quality of life in their communities. The coalition is rooted in the belief that giving Kentuckians the freedom and tools to create new local opportunities for investment leads to more competitive communities, economic innovation, and a better quality of life.

Ms. Muldoon stated that because the state constitution specifically outlines the types of taxes that cities and counties are able to levy, local governments have very few tools to produce revenue for basic services, additional investments, and innovation. To change this will require a constitutional amendment which, if approved by Kentucky voters, would allow the General Assembly to reenact a new structure for local tax policy that is statutorily, rather than constitutionally based. The inability of local communities to be self-sufficient inherently burdens state government, residents, and businesses in Kentucky.

"You Decide Kentucky!" wants a constitutional amendment ballot initiative to happen when it is most likely to be successful. The team, led by Mayor Razmus of Corbin and Carter Hendricks of Hopkinsville, is represented by a 28-member board of directors, with two elected officials from northern Kentucky to be added in September. The coalition will continue to focus on expansion in order to include all areas of the state.

Mr. Whitfield spoke of the importance of getting a constitutional amendment on the ballot, because cities and counties are very limited in how they can produce revenue. Giving local governments the freedom and ability to do things differently can help spread the tax burden and ease tensions between cities and counties. Members of the coalition would like an opportunity to meet with legislators and help craft the legislation.

Ms. Brake stated that Owensboro's Chamber of Commerce has about 1,000 members and has been advocating for local options for nearly two decades. Without more options to raise revenue, the tax burden is being placed squarely on the backs of businesses and wage earners. The coalition would like to see a level playing field where local

governments have more options and the flexibility to create more commercial and business growth in communities.

Ms. Razmus spoke of the importance of tourism and the revenue it generates in the Corbin community. The Corbin community has to continue relying on occupational tax dollars for revenue and is unable to capitalize on tourist visits in a way that is impactful. There are potholes in the roads used by tourists, and sidewalks need to be redone. There are also serious workforce issues in the area. When asked by Representative Bratcher, Ms. Razmus acknowledged that Corbin does have tourism taxes, but they can only be used for tourism services.

Representative Raymond stated that she is unsure whether to support the effort for a constitutional amendment. She needs to know whether it would create new revenue in her area, Louisville, and she would want assurance that it would not just “shift the burden.” Ms. Muldoon responded that if the voters approved a constitutional amendment, the General Assembly would not have to act immediately. No city or county would be able to make changes without enabling legislation.

In response to Representative Graham, Ms. Muldoon stated that both the Kentucky League of Cities and the Kentucky Association of Counties support the efforts of “You Decide, Kentucky!”, and the coalition has pledged to work with those organizations. Kentucky is one of 12 states that have undertaken this initiative.

Representative Herron expressed concern for the poor and elderly who might be impacted by a possible future additional sales tax.

Senator Thayer applauded the formation of the coalition but stated that he does not think the public has a firm understanding of how a constitutional amendment would work. Taxes are a difficult issue for voters. It is necessary to educate the people, because it is not only local governments that would be affected. Ms. Razmus confirmed that “You Decide Kentucky!” is committed to fulfilling the education component of the initiative.

### **County Clerk Modernization and Technology**

Guest speakers from the Jefferson County Clerk’s Office were Bobbie Holsclaw, Jefferson County Clerk; Frank Friday, Director of Government and Community Affairs; and David Summerfield, Information Technology Director. Ms. Holsclaw stated that the clerk’s office has been able to combine many new services to customers, while keeping its operating budget in the black. Her testimony was summarized in a slide presentation.

Jefferson County has vote centers for both early absentee in-person voting and election day voting, which became a reality in 2020. Vote centers require fewer election workers, and the modern print system, coupled with e-poll books, allows a much quicker turn-around.

Due to passage of 2022 RS HB 618, sponsored by Representative Bratcher, clerks are now able to deploy more advanced e-poll books that can automatically call up and print the voter's ballot, which makes the process quicker and more accurate. Finding voting locations is still a problem in some counties. Smaller counties may not have enough facilities that will permit voting or that provide adequate parking. Clerks are working to improve the situation.

Ms. Holsclaw suggested that the legislature may want to consider clarifying KRS 117.065, relating to early voting sites, due to schools not closing and government buildings not being receptive for early voting. The Help America Vote Act of 2001 included provisions to make polling places accessible and applied the Americans with Disabilities Act (ADA) standards to polling places. Many locations cannot be adjusted to accommodate the required standards, and fewer private buildings, such as churches, union halls, and community centers, are willing to host elections. A special federal Department of Justice Office for Election Compliance has insisted on tougher implementation of standards at Kentucky polling sites. Thus far, settlement agreements have been reached to expand the level of ADA compliance in Jefferson and Kenton Counties.

Ms. Holsclaw discussed 2022 RS SB 135, which established deadlines for county clerks to maintain portals for the electronic filing and searching of recorded instruments. She stated that portals have been available in Jefferson County since 2020, and they have been well received across the state. Land records are expected to be online by 2026. During the next regular session, county clerks may seek clarification of statutes relating to the vendor contract process.

The AVIS technology system for processing motor vehicle records is no longer reliable. To replace it, the new KAVIS system will come online in January. There have been no increases in motor vehicle fees since 2006. To keep up with inflation, clerks will be proposing fee increases during the 2024 regular session.

Ms. Holsclaw spoke about the advantages offered by the new modern 24-hour self-service kiosk machines for conducting motor vehicle transactions.

Representative Bowling inquired about Jefferson County's progress in modernizing records in county clerk offices. Mr. Summerfield stated that their office has a portal to allow citizens to access records free of charge and participates in programs that allow customers to file documents electronically. They have not yet created the 60-year database for records that are displayed online but expect to have that in place by the specified deadline.

Senator Williams, who co-chairs the legislature's new Investments in Information Technology Improvement & Modernization Projects Oversight Board, commended the

new technology offered by the kiosk machines. He said he looks forward to discussing its possible implementation with Ms. Holsclaw and her staff and other county clerks.

### **Discussion on Elections**

Tabatha Clemons, Grant County Clerk, and First Vice-President of the Kentucky County Clerk's Association (KCCA), addressed the committee. In reference to previous testimony regarding SB 135, she stated that, as of a few months ago, approximately 10 counties did not yet have a portal but plan to have it implemented by the specified deadline.

Ms. Clemons stated that voters are appreciative of the advancements that county clerks have made in the realm of elections. Many members of the State Government Committee are part of the collaborative effort, and conversations are continuing. Security is ensured by mandating paper ballots for every voter and provision of surveillance footage in election facilities. She spoke about the difficulty of finding voting locations, especially in view of the Department of Justice's standards for ADA compliance. She also expressed appreciation to Representative Hodgson for his engagement with county clerks regarding his legislative proposals.

Ms. Clemons stated that during the 2024 Regular Session clerks would like to see precinct funding changed from a \$255 per precinct basis to a "per-voter" basis. In addition, counties need additional reoccurring funds to pay for the added expense of elections. Current reimbursement rates have not been increased in the last 20 years. Counties are funding over 91 percent of all election costs, according to surveys by the State Board of Elections. The average cost per precinct for the 2022 general election was \$2,985.77 per precinct, and the cost for the 2023 primary was \$2,954.59 per precinct, with the state's reimbursement rate for counties only being \$255 per precinct. These costs only reflect the direct cost for conducting elections and do not include the required ongoing daily election administration overseen by clerks' offices. Clerks appreciate the funding secured by the legislature in the last budget cycle for election equipment. While the \$25 million investment did not pay for all of counties' election equipment, it did cover most of the cost for the investment in electronic poll books. In conclusion, Ms. Clemons stated that county clerks appreciate their strong working relationship with the legislature; working together they have modernized Kentucky elections and made them more secure.

When asked by Representative Bratcher, Ms. Clemons stated that most counties are involved with KCCA and that all 120 county clerks have been billed as dues-paying members.

Senator Thayer stated that Ms. Clemons is doing a great job and that he is pleased she has a governing position with KCCA. He went on to say that having three days of early voting has been good but that he would not be in favor of increasing the number of days. He is not a fan of voting centers. Although they work well in Grant County, in some areas they do not.

### **Discussion of 2024 RS BR 24 and BR 25 (Elections)**

Representative Hodgson explained the provisions of his legislation proposed for the 2024 Regular Session—BR 24, relating to voter registration; and BR 25, relating to elections. Ms. Clemons and Jason Denny, Anderson County Clerk, participated in the discussion.

Representative Hodgson stated that, over the last 8-9 months, he has discussed the bills extensively with the Secretary of State, the State Board of Elections, and the Attorney General. Kentucky has more people on the voter rolls than should legally be allowed to vote. The Board of Elections and the Secretary of State have worked to clean up the voter rolls in recent years with some success, but the public is generally not aware of those cleanup efforts.

BR 24 would require the Secretary of State and the State Board of Elections, on or before July 1 of each year, to issue a comprehensive activity report to the Legislative Research Commission regarding voter registration records cleanup activity—and to make the report available to the public. It would also require the Board of Elections to create a data-based report, on or before February 1 of each year, containing every address in each county that lists a registered voter and the number of active and inactive voters registered at that address.

BR 25 would create a simple post-election audit that would, in order to ensure neutrality, involve the Attorney General. To validate the accuracy and fidelity of the vote tabulation and fulfill the requirement for a risk-limiting audit, the Attorney General or his designee would be required to select in every county at least one ballot scanner, and one race tabulated on that scanner, for a hand-to-eye recount to be performed by the county clerks in each county.

When Representative Tipton asked how the audit would compare to a risk-limiting audit, Representative Hodgson said it is simpler, easier to understand, and more conclusive. The clerks he has worked with on the legislation prefer it over the current risk-limiting audit protocol. It is hoped that a pilot audit will be performed this fall and that a process will be in place in all counties by November 2024.

When Representative Graham asked whether KCCA is supportive of BR 25, Ms. Clemons said that the full board has not yet taken a position but will be supportive. She cannot speak on behalf of the whole association, but there have been continuous conversations regarding funding and what BR 25 would expect of clerks. She stated that the BR 25 audit process is probably a more preferred, straightforward approach, versus a risk-limiting audit.

In response to questions from Senator Mills, Representative Johnson, and Representative Bowling, Mr. Denny and Representative Hodgson explained details of the audit process described in BR 25. Mr. Denny stated his opinion that it might replace the risk-limiting audits. It would be easier to explain to the public and would be less cumbersome to counties.

### **Adjournment**

Representative Bratcher thanked the speakers and announced that the committee's next meeting will be Tuesday, September 26. There was no further business, and the meeting was adjourned at 2:19 p.m.