

INTERIM JOINT COMMITTEE ON TRANSPORTATION
Minutes of the Fourth Meeting of the 2023 Interim
September 18, 2023

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Transportation was held on September 18, 2023, at 2:00 PM in Room 149 of the Capitol Annex. Representative John Blanton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon Co-Chair; Representative John Blanton Co-Chair; Senators Karen Berg, Robby Mills, Brandon J. Storm, Phillip Wheeler, Gex Williams, Mike Wilson, and David Yates; Representatives Josh Branscum, Randy Bridges, Ken Fleming, David Hale, Keturah Herron, Thomas Huff, Mary Beth Imes, Bobby McCool, Amy Neighbors, Ruth Ann Palumbo, Tom Smith, Ashley Tackett Laferty, Walker Thomas, Ken Upchurch, and Bill Wesley.

Guests: Mike Hancock, Deputy Secretary, Kentucky Transportation Cabinet (KYTC); Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC; John Moore, Assistant State Highway Engineer, KYTC; Jason Siwula, Assistant State Highway Engineer, KYTC; David Roy, Vice President, Gas Operations, Columbia Gas; Phil Tolliver, Manager, Distribution Systems, Kentucky Power; Representative Walker Thomas, State Representative, District 8; Jerry Gilliam, Christian County Judge Executive; and Alana Baker Dunn, Trigg County Magistrate.

LRC Staff: John Snyder, Dana Fugazzi, Ashley Nash, and Christina Williams.

Approval of August 1, 2023 Minutes

The minutes from the committee's August 1, 2023, meeting were approved.

Special Recognition

John Snyder, Committee Staff Administrator, Transportation Committee, Legislative Research Commission, was recognized for being chosen as the Staff Vice-Chair of the National Conference of State Legislators (NCSL). In 2024, when the NCSL Summit will be held in Louisville, Mr. Snyder will become the Staff Chair.

Road Fund Report

Mike Hancock, Deputy Secretary, KYTC, and Robin Brewer, Executive Director, Office of Budget and Fiscal Management, KYTC, gave the Fiscal Year (FY) 2023 report for the Road Fund. Total actual Road Fund revenues for FY 2023 were \$1,753.3 million, \$32.3 million over the estimate. Motor Fuels Tax collected in FY 2023 was \$798.3 million, \$35.5 million lower than estimated. Motor Vehicle Usage Tax collected in FY 2023 was \$660.3 million, \$56.6 million over the initial estimate of \$603.7 million. Other Road Fund revenues exceeded the estimate by \$11 million, totaling \$294.6 million. The first quarter of FY 2023 showed a decline in Road Fund revenue of -0.3 percent over FY 2022, however, the second, third, and fourth quarters showed growth over FY 2022 of 7.3 percent, 5.7 percent, and 6.1 percent, respectively.

The comparison between actual revenues collected in FY 2023 to FY 2022 showed increases of \$23.6 million, or 3 percent, in Motor Fuels Tax collected; \$31.3 million, or 5 percent in Motor Vehicle Usage Tax, and \$23.1 million, or 7.8 percent in other revenues. Overall, FY 2023 showed an increase in revenue collections of \$78.0 million, or 4.7 percent.

The total Road Fund revenue estimate for FY 2024 is \$1,679.2 million. Estimates by category for FY 2024 include Motor Fuels Tax collection of \$817.2 million, Motor Vehicle Usage Tax of \$569.1 million, Motor Vehicle License Fees of \$121.7 million, Weight Distance Tax of \$96.6 million, Motor Vehicle Operator revenue of \$28.3 million, investment revenue of \$2.1 million, and other revenue estimates of \$44.3 million.

In response to a question asked by Chairman Blanton, Ms. Brewer stated the Motor Vehicle License portion of Road Fund revenue collected does not include state and local property taxes, only the registration fees.

In response to a question asked by Representative Smith, Deputy Secretary Hancock stated KYTC is researching how to collect Road Fund revenue from the usage of electric vehicles (EVs), however, there is not yet a plan in place to tackle the issue. In a follow-up statement, Representative Smith requested a proposal from KYTC to address the matter. Chairman Blanton reminded members legislation was recently passed that will require EV owners to pay an additional \$120 when they register an EV, and a \$60 charge is incurred if the person registers a hybrid vehicle. This legislation is set to take effect in January 2024, and the additional funding will help offset some of the cost of road usage by these types of vehicles.

Co-Chair Higdon reminded the committee that there is a three cent per kilowatt hour tax collected at charging stations throughout the state to collect revenue from people traveling through Kentucky.

In response to a question asked by Co-Chair Higdon, Ms. Brewer confirmed that the increase in the Motor Fuels Tax is the first increase that has occurred since 2014.

Co-Chair Higdon requested the SHIFT scores, which are the KYTC's priority ranking of projects, to be included in the KYTC's budget request.

In response to a question asked by Co-Chair Higdon, Ms. Brewer stated the surplus funds are placed into the state construction fund at the end of the year. In response to a follow-up question asked by Co-Chair Higdon, Ms. Brewer stated the way the budget works with the highway plan is that the legislature appropriates a certain amount of money for the state construction program. Then, the cabinet utilizes that amount to attempt to complete as many projects as possible that are in the actual plan itself. The plan has estimates of how much projects will cost, but the appropriation from the budget bill itself is not directly tied to a specific project in the highway plan.

In response to a question asked by Representative Hale, Ms. Brewer stated a two-cent increase in the Motor Fuels Tax would equate to approximately \$60 million in revenue.

Contracting Review for FY 2023 / Forecast for FY 2024

John Moore, Assistant State Highway Engineer, KYTC, and Jason Siwula, Assistant State Highway Engineer, KYTC, gave a review of contracting projects for FY 2023 and FY 2024. Mr. Siwula stated the last couple of years have been robust for highway improvements. In addition to numerous needs which have been addressed through staff conducted maintenance, operations, and contracts via on call services, KYTC has awarded 1,171 projects totaling \$1.98 billion. For each project receiving bids, KYTC produces an independent construction cost estimate during advertisement, which is called the engineer's estimate. For the projects awarded during this timeframe the corresponding engineer's estimate totals \$2.02 billion. Included in this total are 695 asphalt projects awarded for \$403 million with a corresponding engineer's estimate of \$420 million.

Mr. Siwula highlighted several projects that will be let to construction through the balance of this calendar year. In September there will be lettings in Laurel County on US-25, in Henry County on I-71, and in Kenton County on I-275. In October, there will be lettings in Pike County on US-460/KY-80 from KY-195 to Dunleary Hollow, in Bullitt County on the I-65/KY-480 interchange, and two lettings for Fayette County, one on Ky-4, and the other on KY -922 from KY-4 to I-75. November's letting schedule shows a letting in Union County on KY-56 from KY-109 to West of KY-360, and in Grayson County on KY-3155 from the Southern Intersection at KY-259 Westerly to KY-54, and a letting in Kenton County on KY-536 from KY-1303 to Williamswood Road/Calvary Drive. Lastly in December, there is an expected letting in Oldham County on I-71. Beyond this calendar year, KYTC anticipates a similar number of projects (approximately 600 projects per year) and a similar total as in recent years (approximately \$1 billion).

In response to a question asked by Co-Chair Higdon, Mr. Siwula stated Kentucky and Ohio were the recipient of over \$1.6 billion in federal grants for the Brent Spence Bridge Corridor companion bridge project. The cabinet is working through procurement and early contracting on the project as the year continues. Mr. Siwula added KYTC is seeking additional federal discretionary grants of \$632 million for the I-69 river crossing and that application was made recently in conjunction with Indiana. Federal grants are also being sought for the completion of the Mountain Parkway. Mr. Siwula stated updates will be provided as the United States Department of Transportation (USDOT) makes their decisions on those projects. Mr. Siwula stated he would provide the figures on what the proposed federal match is on the I-69 crossing and the Mountain Parkway projects.

In response to a question asked by Chairman Blanton, Mr. Moore stated there is a decline in the number of resurfacing projects due to rising costs. Chairman Blanton requested information on what would be required to allow more resurfacing projects to be completed. Mr. Moore mentioned the recently updated Asset Management Plan that is available on KYTC's website. The plan provides updates on KYTC's outlook and what the needs are.

Utility Work Zone Safety

David Roy, Vice President, Gas Operations, Columbia Gas; and Phil Tolliver, Manager, Distribution Systems, Kentucky Power, briefed the committee on utility work zone safety and

their respective companies. Mr. Roy stated Columbia Gas of Kentucky, which is a Nisource company, serves approximately 135,000 customers in 30 counties across Kentucky. Columbia Gas of Kentucky employs approximately 260 employees and 310 contracted employees, and was voted one of 2023's Best Places to Work in Kentucky.

Mr. Roy stated work zone risks consistently represent one of the most significant hazards employees and contractors face each day and Columbia Gas is always seeking to reduce risks in work zones and to keep everyone safe. He stated some of the most common causes of work zone intrusions involve impatient and disgruntled drivers, distracted drivers, driver intoxication, medical events, and confused motorists. The reason behind focusing on mitigating vehicle intrusions is to prevent injuries, prevent vehicular crashes, ensure public safety, and to minimize risk of escalated natural gas incidents. There has been a 260 percent increase in work zone intrusions over the past five years on Columbia Gas projects. Mr. Roy stated work zone risk mitigation options include the usage of cones and signage, lane/road closures, flaggers, portable speed bumps/rumble strips, law enforcement (off duty officers), concrete or water-filled traffic control barriers, a crash truck with attenuator, automated flagger assist devices, work zone intrusion alarm systems, and radar speed indicators. Mr. Roy stated utility workers seek harsher penalties to incent drivers not to disregard work zone safety setups and a way for work zone violators to be penalized, if they can be identified, even if an officer did not witness the event.

Mr. Tolliver stated Kentucky Power, headquartered in Ashland, provides services to approximately 163,000 customers in all or part of 20 eastern Kentucky counties. Kentucky Power's distribution operations work from service centers in Ashland, Hazard, and Pikeville and from area offices in Paintsville and Whitesburg. Kentucky Power has 10,108 miles of distribution lines and 1,263 miles of transmission lines.

Kentucky Power has experienced near misses in traffic control zones. Because they cannot control the actions of drivers, they cannot fully eliminate the risk to utility workers in work zones. Risks include distracted driving, speeding, and fatigued and impaired drivers. Kentucky Power employees complete annual flagging certification through the University of Kentucky, Basic Work Zone and Flagger Train-the-Trainer program. Safety observations are conducted by Kentucky Power Safety and Health and Management to verify proper work zone set up.

Mr. Tolliver stated every work zone is different and several items must be considered in determining traffic control. Workers should always consider the safety of motorists, pedestrians, and workers moving through their zone, traffic controls should keep vehicles moving safely and quickly, motorists and pedestrians should be warned, informed, and guided in a clear and positive manner while they approach and travel through the work zone, workers should periodically assess the effectiveness of the traffic control, workers should plan for the possibility of errant vehicles leaving the roadway and affecting the work zone, and lastly, references to the Utility Work Zone Traffic Control Field Manual (MUTCD) should be made.

Chairman Blanton stated work zone safety is a very concerning issue that employees are dealing with daily, and it is his goal to provide a safe working environment for the employees. He added that an officer in Kentucky is correct if they did not witness an incident, then they

cannot issue a citation. However, employees can contact the county attorney with evidence and obtain a summons for an individual as witnesses themselves, and law enforcement will serve that summons. The witness may not be able to prove speeding, but they may be able to prove reckless driving if they have the license plate number and their testimony. Each individual county attorney has discretion if they will or will not follow through with the request.

In response to a question asked by Chairman Blanton, Mr. Roy and Mr. Tolliver agreed that there are a few tools that can be utilized to help alleviate motorists adhering to work zone safety guidelines, although some of them are challenging to execute. Portable speed bumps, cameras, and an increase in penalties are tools that can be used to help issues within work zones. Additionally, heightening awareness for the public, such as the implementation of an information campaign can involve interstates and also secondary roads. Both gentlemen praised local law enforcement for the help provided, but they understand police forces are busy as well.

In response to a question asked by Chairman Blanton, Mr. Roy stated he has investigated how other states address infractions within work zones across different jurisdictions, and it seems there has not been one solid solution. He added several states are investigating hands-free legislation which limits distracted driving. Different states are also investigating and employing higher fee structures and higher penalties, aligning penalties similar to DUIs in some locations with respect to repeat offenders. Mr. Roy concluded that all states are struggling with trying to find the right solution mix that suits its citizens and Kentucky is no different. He added that any incremental action would be a step in the right direction. Mr. Tolliver added most states follow the MUTCD as the standard and if it is deployed and used properly, it is a good system for temporary traffic control.

In response to a question asked by Co-Chair Higdon, Mr. Tolliver reiterated the liability issue with the usage of portable speed bumps. He also stated they are made of a heavy, durable rubber and weigh approximately 60 to 90 pounds. They can either be staked to the pavement or laid across the needed area. There are varying opinions on the municipal, county, and state level on the deployment of portable speed bumps. Mr. Tolliver stated they have utilized them, sometimes successfully, other times, unsuccessfully, but portable speed bumps are a tool that can be used, preferably on a lower speed roadway, not a highway.

Senator Wheeler praised the use of law enforcement at each end of work zones to help reduce speed. He also voiced his issues with the use of cameras within work zones.

In response to a question asked by Senator Wheeler, Mr. Tolliver stated that to his knowledge in the past year, Kentucky Power has not had any injuries related to work zones. Mr. Roy stated Columbia Gas had a flagger that had their foot rolled over this past construction season. Employees of both companies are trained to be very aware because they know how prevalent this issue is.

In response to a question asked by Senator Storm concerning work zone safety plans being peer-reviewed by KYTC or the local municipality prior to beginning any work, Mr. Roy stated it depends on the jurisdiction. Mr. Roy stated when state roads are involved, especially road lane closures or shifting of traffic patterns, those plans are reviewed at least with respect to

what will be done with traffic, however details on barricade types and other things are not usually discussed. Mr. Tolliver stated there are two different types of work zones, short-term and long-term duration. If a long-term project is planned, a traffic control plan must be filed and approved with the highway department. Short-term duration when companies anticipate being there an hour or two, and that falls under temporary traffic control. Mr. Tolliver stated the shorter duration plans are not submitted for peer or law enforcement review to his knowledge.

In response to a question asked Representative Smith, Mr. Roy stated he would not say that Columbia Gas fully endorses the use of cameras. Columbia Gas has evaluated the use of live, as well as non-functioning cameras, which seem to act as a deterrent as well without videotaping.

Chairman Blanton clarified the difference in utility work zones and road construction work zones. Utility work zones tend to be short-term, whereas road construction work zones are usually more long-term. He also reiterated that without being respectful of the signage and speed limits set forth in work zones, drivers also become a danger to not only the workers, but other motorists as well. He stated a solution must be found to change the mindset and behavior.

Proposed Legislation Regarding Wheels on Non-motorized Vehicles

Representative Walker Thomas, District 8; Jerry Gilliam, Christian County Judge Executive; and Alana Baker Dunn, Trigg County Magistrate discussed the effects steel wheels on non-motorized vehicles have on roads, particularly rutting of the roads, which causes dangerous driving conditions and reduces the useful life of asphalt. Representative Thomas welcomed the committee's input on how to address the issue.

Ms. Dunn stated the usage of steel wheels on roadways is a statewide issue that needs to be addressed. A slideshow of picture and video examples of steel wheel damage was shown. She welcomed any suggestions to combat the issue as it grows and becomes more of a problem.

Ms. Dunn stated according to a two-phase study conducted by the Ohio Department of Transportation (ODOT), routes with rubber wheeled traffic have up to 10 years' service life. Routes with heavy steel wheel usage only have an average of two years' service life. The ODOT research also showed that partial depth repairs performed on routes with heavy steel wheel traffic are four times more expensive. The main distress that causes damage, is rutting in the surface layers caused by high stress intensity from the steel wheels.

Mr. Gilliam reiterated the use of the steel wheels do not just affect county roads, but they affect state roads as well. Even on newly resurfaced roads, damage is quickly visible. He stated wagons that have these types of wheels are loaded down with commodities are a real concern due to the amount of weight being transported on those steel wheels. Mr. Gilliam stated the Amish community in his area of Christian County presents them a payment of approximately \$10,000 as an acknowledgement of the issues caused by using steel wheels, however, they spend approximately \$1.5 million a year in resurfacing. He added the rutting of the roads causes hydroplaning and safety issues with water pooling.

Ms. Dunn stated the legislation that was put forth in the 2023 Regular Session of the General Assembly was vague, therefore they wanted to come before the committee to gain insight and for the committee to converse on actions needed to solve the issue. She added possible solutions of a buggy tax, or even the decision to outlaw steel wheels as options.

Representative Thomas stated as of 2022, three states with large Amish populations, Pennsylvania, Ohio, and Indiana, have been trying to pass legislation to address the issue as well. Pennsylvania has not been able to pass legislation, and Ohio has passed a buggy tax and registry.

In response to a question asked by Chairman Blanton, Representative Thomas stated the reason the people of Amish faith in particular use steel wheels instead of rubber wheels is to reduce comfort and thus the temptation to use farm equipment. It was clarified that it is the air inside the rubber wheels that the Amish are opposed to using as it provides more comfort. Senator Yates suggested looking into the use of wheel coverings that are not inflated as a potential alternative.

Ms. Dunn stated the study the Ohio Department of Transportation conducted has two phases. The first phase was to study the impact that steel wheels have on roads, and the second phase was to study different road mixes that could be used. She added they even looked at alternative horseshoes for horses and the impact that would have on the animal. Representative Thomas stated after the study, Ohio passed legislation requiring the registration of buggies with 60 percent of the funding going to the county, 30 percent to the township, and 10 percent was allocated to the state. Representative Thomas stated that he understands two-wheel passenger buggies with little weight are causing some damage, but the real concern lies with buggies that are hauling a significant amount of weight, therefore causing the most damage. Because of this, placing a weight limit on the usage of steel wheels could be a solution.

In response to a question asked by Senator Wheeler, Representative Thomas stated Ohio had an Amish Steering Committee in 2003 to establish the fee of \$50 per buggy and open cart annually and this fee is distributed by ODOT. Representative Thomas stated a resolution should involve the roads not being damaged as much, as well as sufficient funding available to repair the damage that is caused.

Chairman Blanton stated the discussion is about steel wheels and the damage they cause to Kentucky's roadways, regardless of the person's faith that is operating the non-motorized vehicle with the steel wheels.

Representative McCool urged the committee to consider the safety of the horses when considering road material solutions as the horseshoes may not be able to gain as much traction on certain roadway materials. Representative Thomas stated at this time, he would like to address the steel wheel issue.

Adjournment

With no further business to come before the committee, Chairman Blanton adjourned the meeting at 3:35 P.M.