

# CAPITAL PLANNING ADVISORY BOARD

## Minutes

May 17, 2023

### Call to Order and Roll Call

The first meeting of the Capital Planning Advisory Board was held on May 17, 2023, at 1:00 PM in Room 169 of the Capitol Annex. Representative Nancy Tate, Chair, called the meeting to order, and the secretary called the roll.

### Present were:

Members: Representative Nancy Tate, Co-Chair; Senator Phillip Wheeler, Co-Chair; Senator Adrienne Southworth, Representative William Lawrence, Charles Byers, Carole Henderson, John Hicks, Bryan Hix, Patsy Jackson, and Holly Johnson.

Guests: Astrud Masterson, Executive Director, Office of Administrative Services; Eric Lowery, Executive Director, Office of Finance and Budget; Dr. Stephen Stack, Commissioner, Department of Public Health; Cabinet for Health and Family Services; Karen Wirth, Division Director, Division of Budget and Financial Management; Kentucky Department of Education; Vicki Wise, Deputy Secretary; Jacob Fouts, Assistant Director, Division of Fiscal Management; Shelby Lewis, Executive Director, Office of Legislative Services; Julie Schmidt, Senior Director of External Affairs, Kentucky Educational Television; Education and Labor Cabinet; John Lyons, Deputy Secretary; Cori Troutman, Director, Division of Financial Management; Energy and Environment Cabinet; Holly Johnson, Secretary; Tina Howard, Executive Director, Office of Budget and Fiscal Management; Anna Haydon, Executive Director, Office of Statewide Accounting Services, Office of the Controller; John Ard, Executive Director, Office of Fleet Management; Finance and Administration Cabinet; Keith Jackson, Secretary; Rebecca Norton, Finance Director; Roberta McCann, Staff Assistant; Randy White, Deputy Commissioner, Department of Corrections; Kevin Rader, Assistant Director, Department of Criminal Justice Training; and Colonel Phillip Burnett, Jr., Commissioner, Kentucky State Police; Justice and Public Safety Cabinet.

LRC Staff: Liz Columbia, and Jennifer Luttrell.

### Approval of Minutes (October 11, 2022)

A motion to approve the minutes of the October 11, 2022, meeting was made by Senator Wheeler, seconded by Representative Lawrence, and approved by voice vote.

### Welcome New Members

In January 2023, the Senate President appointed Senator Phillip Wheeler to replace Senator Adrienne Southworth as Co-Chair. The House Speaker appointed Representative Nancy Tate to replace Representative Bobby McCool as Co-Chair. In October 2022, the Chief Justice appointed Danny Rhoades to replace Katie Shepherd and Bryan Hix, citizen member, to replace Mark Overstreet.

### Information Items

Ms. Columbia discussed two information items, including a document outlining the board's tentative meeting schedule for the remainder of the year and a document identifying state

agencies not scheduled to testify at capital planning meetings this year. Most agencies not scheduled to testify are boards and commissions that do not have capital projects in their agency plans or do not utilize state general funds.

### **Review of Executive Branch Agency Plans**

The Capital Planning Advisory Board received testimony regarding five state agency capital plans: Cabinet for Health and Family Services, Kentucky Department of Education, Education and Labor Cabinet, Energy and Environment Cabinet, Finance and Administration Cabinet, and the Justice and Public Safety Cabinet. The testimony included discussing capital construction, information technology, and equipment needs for 2024-2030.

#### **Cabinet for Health and Family Services (CHFS)**

Ms. Masterson gave a brief overview of the CHFS capital plan.

In response to questions from Representative Tate, Senator Wheeler, and Mr. Hicks concerning the necessity of the Central Lab Expansion project, Dr. Stack and Ms. Masterson reported that the laboratory built in the early 90s has an HVAC system not designed to handle the heat and humidity emitted from the equipment so the department has added stainless steel pipes which exit through the roof to ventilate heat from the building, fans, and dehumidifiers to be able to ensure that there is no service disruption, loss of essential services not otherwise available within the state, loss of mandatory laboratory accreditation, and employee workplace injury, which the laboratory is at near-term risk for. The approximate 47 safety showers do not have drains, violating the state code for discharging toxic waste into the general sewer system. Rust comes out of the eyewash units when used to flush contaminates from employees' eyes. The rabies laboratory is required to have negative pressure. All air must go out through a vent to not expose anyone. The location of the air vents is unknown because there's no clear flow map, and it's not clear if it is a negative pressure room. This laboratory performs newborn screening for all annual Kentucky births, provides the state's only select agent testing facility for bioterrorism weapons, and provides specialized and otherwise unavailable services required by state and federal statutes and regulations to ensure the health and safety of Kentuckians. The old building will be renovated to be usable for the needs of tenants.

Regarding the Kentucky Correctional Psychiatric Center project, Ms. Masterson responded to Chair Tate that there would be 85 new prison beds at the Luther Lockett Corrections Facility upon project completion. Mr. Lowery added that the center has been out of compliance for over a decade. There's always the concern that the federal government could reduce our existing federal funds for the programs but that no financial consequence or inability to provide services has occurred.

#### **Kentucky Department of Education (KDE)**

Ms. Wirth gave a brief overview of the department's capital plan.

In response to a question from Senator Southworth regarding the allocation of funds from the Miscellaneous Maintenance Pool - KDE, Ms. Wirth stated that \$3.1 million would be divided between the Kentucky School for the Blind and the Kentucky School for the Deaf evenly—the Future Farmers of America Camp which also brings in tuition in the summer receives any funds remaining. The money is used to replace roofs, HVAC systems, and other needs to keep the

building safe for the children. Finance and Administration Cabinet assigns someone from the Office of the State Budget Director to prioritize the projects as needed. In emergencies, funds shift toward the emergency or priority at the time.

#### Education and Labor Cabinet (ELC)

Ms. Wise briefly overviewed the cabinet's capital plan.

In response to questions from Chair Tate and Mr. Hicks regarding the KET Rural Service Access and Reception project, Ms. Schmitt and Mr. Fouts said the project is required because satellite companies only carry one KET channel. The desire is to get legislative coverage for all four KET stations that carry Kentucky Centric programs to serve all Kentuckians best.

Ms. Schmitt said she would provide members with a map of the rural areas affected in response to Dr. Jackson's request.

In response to questions from Chair Tate regarding the Case Management System for Vocational Rehab project's business requirements, Mr. Fouts said the current system is an antiquated system that handles all the case management for the Office of Vocational Rehabilitation (OVR) blind cases. The \$4.6 million reauthorization project requires additional federal funding from the Rehabilitation Services Administration (RSA). This content management system will help handle all the requirements of the RSA of OVR in all casework and provide services. The cabinet has prior approval and is asking for the authority to proceed. This \$3.1 million also applies to all Carl D. Perkins projects on the list. There is no request for KET at this time.

#### Energy and Environment Cabinet (EEC)

Mr. Lyons and Ms. Troutman briefly overviewed the cabinet's capital plan.

In response to questions from Mr. Hicks regarding the State-Owned Dam Repair project, Mr. Lyons said this project addresses structural issues identified in the annual inspections, and usually, the emergency spillways are what is failing.

Regarding questions about the Wiley Property Site project from Chair Tate, Mr. Lyons and Ms. Troutman stated that the main issue is soil contamination, which can pollute nearby streams and drainages that people can access on public property. Measures must be taken on private property if the landowner does not cooperate. Usually, the landowners let EEC clean any contamination due to affordability. Mr. Lyons said he would provide any steps taken to prevent exposure to Kentuckians and the water supply to the board. The cabinet can only monitor until funding to address the situation is provided.

Ms. Troutman replied that she would provide members with the lease time and cost of the portable refrigerated trailers used to increase the seedling storage capacity at the John P. Rhody Nursery Chilled Production Area per Chair Tate's request.

#### Finance and Administration Cabinet (FAC)

Secretary Johnson and Ms. Howard gave a brief overview of the cabinet's capital plan.

Secretary Johnson, Mr. Ard, Ms. Haydon, and Mr. Ruth replied to Senators Southworth and Wheeler's questions regarding the eMARS Upgrade and Systems Enhancements project. The additional \$3.5 million was for the development and implementation of a statewide Travel and Expense Management module providing additional functionality not included in the original scope of the capital project.

In response to questions from Senator Southworth, Dr. Jackson, and Senator Wheeler concerning the electrical grid capacity and cost comparison for maintenance on types of vehicles for the Electric Vehicle Charging Stations project, Mr. Ard confirmed that Senate Bill 281 applies to alternative fuels and relies on a USC code and another Kentucky code for the definitions of alternative fuels, including hybrid or other electric vehicles. The amendment limits the reliance on ethanol and shifts the reliance toward other alternative fuels, including fuel cell vehicles, biodiesel, and others that fall under the definitions of alternative fuels. Unfortunately, the infrastructure available in Kentucky eliminates most fuels and leaves ethanol, which Kentucky has traditionally relied on to stay compliant with the law. The industry is shifting toward all varieties of electric, plug-in, hybrid, or fully electric vehicles. He agreed with Senator Southworth that the original bill would've been more flexible. Kentucky's electric vehicle charging stations are widespread, so the agencies' drivers put gasoline in those vehicles. If the number of E85 vehicles increases, the law will not be complied with to provide a commensurate increase in ethanol use. If the amendment were repealed, it would remove the need for this capital expenditure. But the industry and the federal government are pushing for adding electric vehicles. The industry believes that maintenance on fully electric vehicles, including hybrid versions, will be less than on petroleum-based vehicles because there are fewer moving parts and less friction and heat. The administration is halfway to replacing half of the fleet with alternative fuels. Secretary Johnson stated this is the administration's decision to replace the current fleet of combustion vehicles with electric vehicles to comply with Senate Bill 281. Mr. Ard said the core law off of 625 and Senate Bill 281 combined to steer the fleet toward electric vehicles. The federal government has incentivized compliance by executive orders that require manufacturers to shift towards manufacturing more electric vehicles, so the marketplace is moving toward this. Senate Bill 281 has two primary requirements, a certain date in the original bill and a different date in the amended bill, and to replace half of the fleet with alternative fuel vehicles with a broad definition that includes biodiesel, hydrogen fuel cell, and varieties of electric vehicles possible in Kentucky. The only two viable electronic fuel options are natural gas. Both bills require a decrease in reliance on petroleum or an increase in reliance on alternative fuels. The net outcome is the same in the amended statute by Senate Bill 281 passed this year. A commensurate increase in the alternative fuel vehicles purchased has to be shown, which is problematic because the fleet vehicles have to be able to use gasoline because there's not enough infrastructure to support electric vehicles in Kentucky. He stated he is happy to proceed as the legislature and the executive branch direct in terms of laws, but he is trying to comply with the laws in place.

In response to questions from Senator Southworth about the Guaranteed Energy Savings Performance Contracts (ESPCs) project, Mr. Ruth stated that the energy savings performance contracts are a guarantee from a third party that studies a building and provides ways to save energy and that the state has been doing this for 20 years. The savings difference is used to repay the loan for those energy measures guaranteeing no additional utility cost. Mr. Hicks

added that the \$50 million is an authorization and is not from state funds. It is added to the capital projects budget and authorized by the General Assembly, but it is expended by the energy savings company guaranteeing the savings. Hence, it's not a general fund or bond fund expense. It is an approval because the law requires that whoever spends the money, any capital improvement must be a capital line-item project. A value must be associated with each approval. If those projects meet the guarantee test, the General Assembly permits it. The General Assembly is not appropriating state funds in this instance. Still, it is a capital project, as in an appropriations bill, there's no dollar appropriation; it is an open-ended authorization. He suggested a number not be added to ESPCs in the future due to confusion.

Mr. Ard replied to Dr. Jackson that the state is not actively looking for land to purchase on the Acquire Land/Demolish Structures-Statewide project, it is a fund used only as needed.

#### Justice and Public Safety Cabinet

Mr. Jackson and Mr. White briefly overviewed the cabinet's capital plan.

In response to a question from Senator Southworth regarding the Little Sandy project, Mr. White replied that the intent of the study for a new prison is that the prisons are over 40 years old. Several are approaching 100 years, and one is about 130 years old. Staffing those prisons has become an issue, so it may be more economical to displace those vacancies to a more conducive region. The cabinet would be receptive to the General Assembly looking at population forecasts.

In response to Senator Wheeler's questions and comments concerning the Eastern Kentucky Correctional Complex (EKCC)-Façade and Structural Repairs/Replacement project, Mr. White said the facility, built 30 years ago, was constructed of powder-coated steel in accordance with building codes established at that time. These materials have deteriorated, so this project and all new construction in the future will require stainless steel or, at least, an aluminum-type of building material to be built into the bidding process so it will not have to be replaced within the serviceable lifetime of the prison. Commissioner Ruth had said any litigation would be beyond the statute of limitations. Any upgrades are a significant challenge for operations because the moving of inmates has to be considered.

#### School Facilities Construction Commission

Ms. Couch provided the board members with a written overview of the agency's plan. There were no questions.

#### **Adjournment**

There being no further business, the meeting adjourned at 2:52 p.m.