

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

January 21, 2020

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, January 21, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Rick Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Rick Girdler, Co-Chair; Representative Walker Thomas, Co-Chair; Senators Julian M. Carroll, Christian McDaniel, and Robby Mills; Representatives Phillip Pratt, Steven Rudy, and Maria Sorolis.

Guests: J. Michael Brown, Secretary of the Governor's Executive Cabinet; Holly M. Johnson, Secretary, Finance and Administration Cabinet; Mary C. Noble, Secretary, Justice and Public Safety Cabinet; Janice Tomes, Deputy State Budget Director, Office of State Budget Director; Wendell Followell, Vice President of Administrative Services, Kentucky Community and Technical College System; Scott Aubrey, Director, Division of Real Properties, Department for Facilities and Support Services; Linda Bridwell, Deputy Executive Director, Kentucky Infrastructure Authority; and Ryan Barrow, Executive Director, Office of Financial Management.

LRC Staff: Katherine Halloran, Committee Staff Administrator; Julia Wang, Legislative Analyst; and Jenny Wells Lathrem, Committee Assistant.

Approval of Minutes

Senator Carroll moved to approve the December 17, 2019 meeting minutes. Representative Thomas seconded the motion, and the committee approved the minutes by voice vote.

New Committee Member

Senator Girdler welcomed Representative Pratt to the committee.

Emergency Lease

Secretary Brown reported an emergency lease, for which no committee action was required, with CoreCivic for the Southeast Correctional Complex in Wheelwright, Floyd County. Officials of the prior administration entered into the lease agreement on December 9, one day prior to the new administration taking office, after the former Justice and Public Safety Cabinet Secretary sent a letter to both the former Governor and the former Finance

and Administration Cabinet Secretary requesting the emergency lease authorization to alleviate severe overcrowding in county jails and accommodate placement of controlled intake inmates. Secretary Brown was familiar with those issues having served as Justice and Public Safety Cabinet Secretary from 2008 through 2015.

Secretary Brown said that upon review with Secretary Noble and the Department of Corrections (DOC) Commissioner, desperate would not be an overstatement in describing the inmate situation. Over the last several years, state prisons have lost around twelve hundred beds, equivalent to around two correctional facilities [state correctional facilities operational capacities range from about three hundred to one thousand nine hundred and fifty inmates], with the state correctional population rising to around twenty four thousand. State inmates, excluding those convicted of most Class D and certain Class C felonies that will serve sentences in county jails with reimbursement by the state on a per diem basis, must be transferred from county jails to state facilities within ninety days of final sentencing. There are over two thousand state inmates awaiting transfer. The shortage of state prison beds delays the transfer which results in county jail overcrowding, as county jails accommodate those with either felony or misdemeanor charges awaiting trial and those with misdemeanor convictions.

The Kentucky State Reformatory (KSR), one of four prisons often referenced as LaGrange, in Oldham County lost around nine hundred beds. Addressing the deteriorating eighty year old facility's, constructed with asbestos, lead, and other obsolete materials, infrastructure would involve remediation versus repair. KSR is located along the I-71 corridor, which has low unemployment with jobs offering wages often above those paid to correctional personnel; therefore, it is difficult to maintain staff.

To address prison population and staffing issues, the commonwealth entered into the emergency lease for an existing, albeit closed for some time, correctional facility that will be operated by DOC rather than the owners and populated by state prisoners. In an extreme sense, this lease arrangement is similar to other real property lease agreements, primarily for office space, in Frankfort and other localities. Few, if any, other existing facilities are equipped to house medium, the designated custody level for most state prison inmates, and close custody level inmates. Secretary Brown said that additional facilities are necessary to sustain the current prison population and constructing a new facility rather than leasing the Southeast Correctional Complex would involve additional time. The administration will review the costs of buying the Southeast Correctional Complex as well as constructing additional facilities, which would involve significant capital expenditures, against prison population projections and the physical condition of current facilities.

In response to Senator McDaniel, Secretary Noble said that she agreed in principle with the former Justice and Public Safety Cabinet Secretary's letter requesting the emergency lease authorization as well as with the specifics including the referenced overcrowding in county jails, and associated health concerns, and delays in state prisons

accepting controlled intake inmates; both of which impede programming to prepare state inmates to reenter society. Secretary Noble stated that the controlled intake issue was critical. The over two thousand state inmates awaiting transfer from county prisons are those with Class A and Class B felony convictions as well as those with certain, primarily with sentences greater than five years, Class C felony convictions. The executive branch appropriations bill notwithstanding KRS 532.100(7) to increase the transfer deadline from forty-five to ninety days of final sentencing, as long as the jailer does not object. However, ninety days is not enough time to arrange placement in state institutions due to the state prison bed unavailability. Therefore, Secretary Noble supports renting the Southeast Correctional Complex and operating it as a DOC facility.

Secretary Noble said that there are over nine hundred applicants for positions in the Wheelwright facility and that DOC could move prisoners into the facility by early May, depending upon the amount of time it takes to hire and train employees and for CoreCivic to make improvements to the facility. She said that the state would be responsible for paving.

Secretary Noble stated that the controlled intake population had to be addressed, because controlled intake inmates are statutorily required to be in a state prison facility although programming, including substance abuse treatment referenced by Senator McDaniel, is also important. Programming for inmates to earn custody credit towards early release will not rapidly open state prison beds as prison inmates, particularly those with Class A and Class B felony convictions, typically have lengthy sentences.

In response to Senator McDaniel, Secretary Brown said that the medium and above custody level prison population has remained nearly stagnant with no new correctional facility construction for years. The state inmate population housed in county jails has increased. If the around nine hundred remaining inmates at KSR and the controlled intake population can be placed, then the option of closing KSR and selling the underlying asset for land value would merit strong attention. KSR needs extensive, possibly inordinately expensive, remediation and staffing will remain difficult due to the surrounding counties' economy.

In response to Senator McDaniel, Secretary Johnson said that she would verify that the commonwealth did not enter into a lease for a substance abuse treatment facility in central Kentucky.

Secretary Noble concurred with Senator McDaniel's comment that expanding programming to all county jails should be explored.

In response to Senator Carroll, Secretary Brown said that there are several KSR dormitory areas in disrepair. When Secretary Brown was Justice and Public Safety Cabinet Secretary, the stone and/or concrete had deteriorated to the extent that inmates could dig

from underneath the bars with spoons. A bond funded capital project [Demolish and Repair Tower Kentucky State Reformatory] was authorized to demolish the majority of the tower due to structural integrity concerns, and those funds could be used to demolish or renovate other KSR areas, possibly partial demolition of a dormitory.

In response to Senator Carroll, Secretary Noble said that DOC has to bring in personnel, including prison guards, from other areas to staff KSR, resulting in travel and further additional expenses.

In response to Senator Carroll, Secretary Brown said that DOC housed volunteers from other facilities in KSR's tower until the tower became unsafe and that DOC is instituting a locality pay premium to reduce overtime expenses associated with high vacancy rates. For the current fiscal year, prison expenditures are anticipated to be about \$20 million over the budgeted amount. The Southeast Correctional Complex lease agreement gives the state the option to purchase the facility at any time during the lease term. Secretary Brown stated that he would provide committee testimony when invited.

In response to Representative Sorolis, Secretary Brown said that there were several Western Kentucky facilities: Kentucky State Penitentiary (Eddyville), DOC's only maximum security facility, and the Green River and Western Kentucky Correctional Complexes. All state prison inmates are assessed in LaGrange and placement is dependent upon available beds, custody level, length of sentence, and programming versus the geographic area of conviction. There is no guarantee that prisoners will be placed close to their prior residence although some will be transferred while in custody. One state facility houses the majority of female prisoners.

Information Items

Ms. Halloran reported five information items. Pursuant to KRS 26A.168(1), KRS 45.793, and KRS 45.818, the Administrative Office of the Courts; the Finance and Administration Cabinet with the Commonwealth Office of Technology reporting independently; and postsecondary institutions managing their own capital construction under KRS 164A.580 transmitted quarterly capital projects reports.

Pursuant to KRS 43.050(2)(e) and the Auditor of Public Accounts' (APA) Model Audit Program Checklist for Postsecondary Institutions Lease Law Compliance; the APA, which examines the Finance and Administration Cabinet, and Council on Postsecondary Education (CPE), transmitted lease law compliance reports. The APA and the postsecondary institutions' auditors did not report any findings with respect to compliance with "Kentucky's Lease Law".

Pursuant to KRS 45.760(5), University of Kentucky (UK) Healthcare reported two medical equipment purchases for UK Chandler Hospital with \$603,000 in restricted funds.

Pursuant to KRS 45.812(1), the Kentucky Interlocal School Transportation Association reported plans for its annual Equipment Lease Certificates of Participation issuance, \$16.97 million on behalf of 49 school districts to finance 154 school buses. The Floyd County, Frankfort Independent, and Wayne County school districts reported respective anticipated \$2.175 million; \$730,000; and \$8.5 million debt issues for which tax increases were not necessary.

Pursuant to KRS 45A.180(2), UK reported its intent to use the construction management-at-risk project delivery method for the Expand Student Center (Dining) capital project.

Project Report from the Finance and Administration Cabinet

Senator Carroll moved to roll the two new projects into one roll call vote, seconded by Representative Sorolis, and approved by voice vote.

Ms. Tomes submitted two new Department of Military Affairs (DMA) projects and a Kentucky Community and Technical College System (KCTCS) project appropriation increase. The first DMA project, funded with \$17,406,100 federal funds and \$217,300 agency restricted funds, was the \$17,623,400 Construct Joint Force Headquarters, a 63,726 square foot energy efficient facility, at the Boone National Guard Center in Frankfort. The facility will support staff section functionalities.

The second DMA project, funded with \$943,900 federal funds and \$348,600 state investment income funds, was the \$1,292,500 Lexington National Guard Armory Interior Upgrade. The project includes upgrades of windows, to current anti-terrorism force protection standards, as well as the latrines and showers and creation of a lactation room.

Senator Carroll moved to approve the new projects, seconded by Representative Thomas, and approved by unanimous roll call vote.

Ms. Tomes next submitted a \$1 million appropriation increase for the KCTCS Fire Commission's State Fire Rescue Training's National Responder Preparedness Center Parking Lot (Driving Course), funded from the Kentucky Firefighters Foundation Program Fund. \$2 million was originally authorized in the executive branch appropriations bill. Significant problems with soil bearing will require extensive site remediation prior to construction. Senator McDaniel commented on the projected soil stabilization remediation costs in relation to the original appropriation amount.

In response to Senator McDaniel, Mr. Followell confirmed that the construction contract has not been awarded and that the Kentucky Firefighters Foundation Program and the Kentucky Law Enforcement Foundation Program Funds were both financed with the property and casualty insurance premium surcharge tax.

Senator Carroll moved to approve the appropriation increase, contingent upon CPE approval, seconded by Representative Sorolis, and approved by unanimous roll call vote.

Lastly, Ms. Tomes reported a \$1.95 million pool allocation from the Department of Parks 2018-2020 Maintenance and the Lodge Replacement and Repairs Pools for the Barren River Lodge Exterior Repairs and Reroof, which includes the reroof; replacement of the exterior siding, front canopy, and limited windows; and repainting.

Lease Report from the Finance and Administration Cabinet

Senator McDaniel moved to roll the lease renewals into one roll call vote, seconded by Senator Carroll, and approved by voice vote.

Mr. Aubrey submitted two lease renewals through June 30, 2021 under the same terms and conditions. The first was for the Unified Prosecutorial System in Jefferson County, 24,233 square feet at \$16.55 per square foot, and the second was for the Cabinet for Health and Family Services in Clark County, 10,946 square feet of space at \$10 per square foot.

Representative Rudy moved to approve the lease renewals, seconded by Senator McDaniel, and approved by unanimous roll call vote.

Mr. Aubrey next submitted a new lease for the Kentucky Transportation Cabinet (KYTC) in Fayette County, for Real ID drivers' license office space; 7,048 square feet at \$16.40 per square foot including water and sewer costing \$115,587 annually, through June 30, 2027.

In response to Representative Rudy, staff verified that KYTC would make lease payments from the road fund.

In response to Senator McDaniel, Mr. Aubrey confirmed that the judicial branch makes payments for circuit clerks', which issue standard drivers' licenses, office space. Senator McDaniel noted that the costs associated with REAL ID drivers' license issuance, overseen by KYTC, would represent executive branch expenditures.

In response to Representative Rudy, Mr. Aubrey said that KYTC's first group of REAL ID drivers' license office space requests included twelve counties. The Franklin County REAL ID drivers' license office, located in the KYTC building, is in operation. This lease in Fayette County is the first above \$100,000, the threshold for submittal for committee approval. Most of the other REAL ID drivers' license office leases, likely for only 3,000 to 4,000 square feet, will not require committee submittal.

Senator McDaniel moved to approve the new lease, seconded by Representative Thomas, and approved by unanimous roll call vote.

**Report from the Office of Financial Management
Kentucky Infrastructure Authority**

Representative Thomas moved to roll the Clean Water State Revolving Fund (Fund A) Program loans and the Drinking Water State Revolving Fund (Fund F) Program loans into one roll call vote, seconded by Representative Sorolis, and approved by voice vote.

Ms. Bridwell submitted three Fund A and two Fund F KIA loan requests. The Lincoln County Sanitation District requested a \$3,018,100 Fund A loan for the \$4.9 million US 127 Corridor Sanitary Sewer Phase 2 project. The Phase 2 planning and design loan will be rolled into this construction loan for a \$3,406,500 total loan amount, of which KIA will apply \$1 million in principal forgiveness. The Fund A loan will finance 69 percent of the project, with the rest of the funding from a Community Development Block Grant (CDBG), an Appalachian Regional Commission (ARC) grant, and local funds. The District's initiative of providing sewer service to unserved areas along the US 127 corridor received a federal EPA Performance and Innovation in the SRF Creating Environmental Success (PISCES) Honorable Mention last year and Phase 2 will extend sewer service to 363 additional customers. For 4,000 gallons, effective since September 2019, the monthly sewer rate is \$54.12. The term is 30 years at a 0.50 percent interest rate. Senator Girdler noted the project was in his district.

The City of Sebree, Webster County, requested a \$910,828 Fund A loan for the \$1,821,655 Sebree Sanitary Sewer Replacement project, the replacement of almost 9,000 linear feet of 8-inch clay with polyvinyl chloride pipe and extension of pipe to provide service to five unserved customers. A CDBG grant will finance the other half of the project. For 4,000 gallons, effective May 2020, the inside and outside city monthly sewer rates are \$43.58 and \$45.92. Outside the city; water customers, as well as customers using city sewer but not city water, pay a \$20 surcharge. The term is 30 years at a 0.50 percent interest rate.

The Northern Madison County Sanitation District requested a \$730,000 Fund A loan for the \$938,000 Boone Village Wastewater Collection System project, the installation of over 12,400 linear feet of sewer and two submersible pump stations that will extend sewer service to 71 new customers in the Boone Village area. Local funds will finance the remaining 22 percent of the project. For 4,000 gallons, effective since January 2019, the monthly sewer rate is \$61.03. The term is 20 years at a 2.5 percent interest rate.

The Estill County Water District requested a \$2,399,450 Fund F loan, of which KIA will apply \$1 million in principal forgiveness, for the \$2,899,450 System Improvement and Meter Replacement project. An ARC grant will finance the remaining 17 percent of the project, which will reduce unaccounted-for water through system modeling, meter replacements, and pipe at around five creek crossings. The district is one of eleven under a PSC order, Case No. 2019-0041, relating to excessive water loss. For 4,000 gallons,

effective since August 2019, the monthly water rate is \$46.18 [includes the \$3.54 monthly water loss program surcharge]. The term is 30 years at a 0.50 percent interest rate.

The City of Somerset, Pulaski County, requested a \$7,027,878 Fund F loan for the Storage Tank, Booster Stations, and Water Main Extension project, two projects rolled together which include the Oak Hill Storage Tank replacement, two new booster pump stations, and a water line extension to balance pressure. For 4,000 gallons, effective since July 2017, the inside and outside city monthly water rates are \$17.16 and \$29.97. The term is 30 years at a 0.50 percent interest rate. Senator Girdler noted that the project was in his hometown.

Representative Thomas moved to approve the KIA loans, seconded by Senator Mills, and approved by unanimous roll call vote.

School District Debt Issues with School Facilities Construction Commission Debt Service Participation

Mr. Barrow submitted three school district debt issues, for which tax increases will not be necessary, with School Facilities Construction Commission (SFCC) debt service participation for new projects in the Russellville Independent (Logan County), Union County, and Webster County school districts. SFCC participation is just above \$2.9 million, under 35 percent, and two transactions represent the about 65 percent local participation for a total anticipated \$8.3 million debt issuance.

Representative Thomas moved to approve the three school district debt issues, seconded by Senator Mills, and approved by unanimous roll call vote.

Senator Girdler said that the next meeting will be Tuesday, February 18, 2020, 8:00 a.m., Annex Room 169.

With there being no further business the meeting adjourned at 2:06 p.m.