INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 4th Meeting of the 2019 Interim

September 12, 2019

Call to Order and Roll Call

The 4th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, September 12, 2019, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Russell Webber, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Russell Webber, Co-Chair; Senators Perry B. Clark, Ernie Harris, Reginald Thomas, and Max Wise; Representatives Lynn Bechler, John Blanton, Adam Bowling, R. Travis Brenda, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Jason Petrie, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Representative Jason Nemes; Representative McKenzie Cantrell; Josh Sweeny, Representative of Communications Workers of America; Jason Devaldivielso, Representative of Communications Workers of America; Adam Watson, Government Affairs Chair, Kentucky Guild of Brewers; Kate Russell, Owner, Hopkinsville Brewing Company; Kate Shanks, Vice President of Policy Development, Kentucky Chamber of Commerce; Paige Mankovich, Chief of Staff, Aetna Better Health of Kentucky; and Jennifer Hancock, President and CEO, Volunteers of America Mid-States.

LRC Staff: Andrew Manno, Chip Smith, Candice Messer, and Sasche Allen.

Approval of Minutes

A motion to approve the minutes of the August 22, 2019 meeting was made by Representative John Blanton, seconded by Representative Chris Freeland, and approved by voice vote.

Call Center Relocations

The primary sponsor of legislation prefiled for the 2020 Regular Session, Representative Jason Nemes, along with Representative McKenzie Cantrell, Josh Sweeny, and Jason DeValdivielso, spoke about why the legislation will help to protect state taxpayers and jobs. The bill would create a new section of KRS Chapter 337 to require an employer that intends to relocate a Kentucky call center or some of its units in certain situations from Kentucky to a foreign country to notify the Secretary of the Labor Cabinet at least 120 days prior to such relocation. It would also require the Labor Cabinet Secretary to compile a list of employers that have relocated a call center to a foreign country in six months after the enactment of the bill and every six months following. KRS 337.990 would be amended to create a civil penalty of not more than $1,000 for each violation. Only those call centers with more than 50 full time employees would be required to comply

Responding to a question from Co-Chair Danny Carroll, Representative Jason Nemes said if a call center has over 50 employees and takes over 30 percent of the company's positions to a foreign country, then the call center would lose future economic incentives but not existing benefits. He further explained that if a call center company has multiple locations, then all locations would be used to calculate the total number of employees.

Answering a question from Representative Buddy Wheatley, Representative McKenzie Cantrell reiterated that a call center would only lose future economic incentives and not current benefits it may be receiving.

Replying to Senator Ernie Harris, Representative McKenzie Cantrell stated that there has been a similar bill filed in Congress that would bar the company from doing work with the federal government but that stipulation is not included in the proposed legislation. Representative Jason Nemes referred Senator Harris to Section 4(a) of the bill that says a company "shall not be eligible for any direct or indirect state grants, state-guaranteed loans, or state tax benefit for five (5) years after the date the list is published."

Addressing Representative R. Travis Brenda, Representative McKenzie Cantrell restated that similar bills have been filed in other states and that Kentucky, much like surrounding states, needs to hold companies accountable when it comes to incentive funds.

Responding to Representative John Blanton, Representative Jason Nemes said that no existing benefits that were approved before being placed on the Secretary of the Labor Cabinet's list would be effected. The five years of ineligibility would start after the company is placed on the list.

Answering Co-Chair Danny Carroll, Jason Devaldivielso said there is trend of call center jobs and companies moving to a foreign country. One of the main reasons is to be able to pay lower wages. Representative McKenzie Cantrell explained that this bill is a good business model to follow in general across the state and could be applied across other industries, but call centers were addressed first because companies moving overseas is the most prevalent in that industry.

Replying to a question from Representative Bechler, Representative McKenzie Cantrell said that whether a company could be defined as a call center would depend on the company's corporate structure.

Addressing a question from Representative Chris Freeland, Representative Jason Nemes said the legislation would not apply to a company that was downsizing unless it had more than 50 full time employees and was moving more than 30 percent of its total number of employees to a foreign country.

Responding to Representative Adam Bowling, Representative Jason Nemes referred to Section 5 of the bill that states "The head of each state agency shall ensure that all state-business-related call center and customer service work is performed by state contractors or other agents or subcontractors entirely within Kentucky. State contractors who perform such work outside Kentucky shall have two (2) years following the effective date of this Act to comply with this subsection".

Answering a question from Senator Reginald Thomas, Representative Jason Nemes explained the difference between Sections 4 and 5 of the bill. Section 4 refers to private sector employers that would be ineligible for five years if the company's name was put on the Secretary's list. Section 5 refers to state agencies being required to use state contractors or other subcontractors within Kentucky and having a two year grace period to comply.

Replying to a follow up question from Representative Lynn Bechler, Representative Jason Nemes confirmed that if a large company with 10,000 employees had a call center with 50 employees which then moved that call center overseas, then the company would be ineligible for state incentives for five years.

Addressing Representative Jason Petrie, Representative McKenzie Cantrell said that statistics are being gathered regarding call center jobs and Representative Jason Nemes stated be was unaware of this type of legislation being applied to any other industries. Representative McKenzie Cantrell mentioned legislation that has been filed during previous sessions that addressed accountability and transparency of economic incentive programs. Representative Petrie suggested that certain stipulations may be needed to be incorporated in contracts before changes such as these reach legislative action. Replying to an additional question, Representative Nemes said it would be possible for a company to decrease its number of employees below 50 prior to a relocation and still be eligible for benefits. Answering another question, Representative Nemes said the fine would be $1,000 per day for up to 120 days, and Representative Petrie said he was unsure if that amount was appropriate.

Responding to Representative Daniel Elliott, Representative Jason Nemes said that when the bill went into effect, state contracted companies that may have call centers out of state would have two years from that date to move those jobs into Kentucky.

Answering a question from Representative Nima Kulkarni, Representative McKenzie Cantrell said although it is not specifically stated, she would think the first initially notification would be in written form, but hopefully there would eventually be a face to face meeting for the Labor Cabinet to discuss why the company would want to remove jobs from the state.

Craft Beer Industry Update

Independent craft brewers contributed over $76.2 billion to the U.S. economy in 2018 and currently support more than 500,000 jobs. Craft beer sales account for 24 percent of the nation's $114.2 billion beer market, and the U.S. Department of Labor ranks the craft beer industry's wages among the highest of the 350 industries surveyed. Although, Kentucky craft breweries led the nation in 2018 for growth, the state still ranks forty-first in number of breweries. The Commonwealth has 69 active licensed craft breweries, 11 known new brewery locations currently in the planning stages, and 30 existing breweries with confirmed expansion activity. Kate Russell, the owner of Hopkinsville Brewing Company which opened in 2016, spoke about her experience as a brewer. She said that her goal is for her brewery to be a downtown anchor to attract people to the area and hopes to increase sales and hire more employees with a recent purchase of a neighboring property with plans to expand. In 2018, state craft beer had a $657 million economic impact, and there has been an economic impact of $765 million thus far in 2019. Craft beer from the Commonwealth's breweries is now being sold to more than 45 states and over 25 countries. The industry has created 133 new jobs in the state in 2019 and currently employs over 1,000 people. Microbreweries have increased their workforce in 2019 of more than 15 percent and are offering tourism amenities such as tap rooms, food, and roof top experiences.

Tax data shows that Kentucky is the sixth most highly taxed in the nation in terms of beer. In-state microbreweries are required to pay federal, state, and local taxes, as well as excise, wholesale, and sales taxes on all products. After upfront investments for facility and brewing equipment, taxes are a significant portion of the ongoing operating expenses. Microbreweries are concerned with several key issues both nationally and statewide, including transparency; brewery and producer direct to consumer sales; franchise reform; excise tax and tax reform; tariffs and trade; responsible consumption; preservation of existing privileges; independent distribution systems; access to materials; water quality; and the modernization of the state's alcohol laws. Legislation that would address the needs of the craft beer industry would include fixes to statutory inequities; process simplification; barrier reduction; promotion of healthy competition; alignment with modern processes and tax policies; and codification of direct to consumer e-commerce. Mr. Watson highlighted an issue that brewers have been facing with the Department of Revenue regarding sales and use tax on manufacturing equipment.

Replying to Senator Reginald Thomas, Mr. Watson said that ecommerce is a growing priority for the craft beer industry. The Kentucky Guild of Brewers is a part of a work group that includes the beer, wine, and spirits industries and produces, distributors, retailers, and third party transporters. The ecommerce market is growing across the U.S. and other states have capitalized on direct to consumer sales. Ms. Russell said that her smaller brewery does not face as many issues with ecommerce sales but understands the great opportunity it could crate for larger breweries.

Answering a question from Senator Max Wise, Mr. Watson said that the ecommerce legislation would have to address shipping to and from the Commonwealth. Other states are finding ways to work together and form reciprocal agreements.

Responding to Co-Chair Danny Carroll, Mr. Watson explained the state is long way from becoming saturated with breweries and there is room for opportunities and growth within the industry. Answering another question, Mr. Watson said that sales with his brewery, Against the Grain, have to happen through the distributor, but there are also in-house sales staff that facilitate and promote the brand.

The Opioid Response Program for Business

The opioid epidemic has a major impact on the business community and mainly through workforce participation. The commonwealth ranks forty-seventh in the nation in workforce participation. The Chamber has put together a response program to become a resource to business to deal with the issues and facilitate a link between employers and employees who are recovering from drug addiction that are reentering the workforce. The Opioid Response Program includes public and private partners. Chamber members have also formed the Opioid Task Force.

Jennifer Hancock, the President and CEO of Volunteers of America Mid-States, gave her perspective and discussed some opioid related statistics. There were 1,565 deaths in the Commonwealth in 2017 due to drug overdose compared to 782 deaths related to traffic accidents and 263 murders. Kentucky has the fourth highest rate of overdoses in the nation. Workers' compensation programs account for 18 percent of opioid prescriptions and 68 percent of injured workers' receive opioids. Workers who abuse opioids miss an estimated 29 days of work per year which contributes to the decline in workforce participation rates. People who abuse pain medication have the lowest workforce participation rate compared to people who misuse other types of drugs, and half of all men age 24 to 54 who are not in the labor force take medication on a daily basis. Opioid prescriptions could account for approximately 20 percent of the decline in the male workforce participation, compared to 25 percent of females. An important statistic for employers to note is that 75 percent of adults ages 18 to 64 with substance use disorders are active in the workforce.

Volunteers of America provides care and support for those working to overcome substance use disorder. Its programs are tailored for individuals who are pregnant and parenting, veterans, men exiting the criminal justice system, and for populations who have been out of the workforce due to addiction. Volunteers of America provides treatment for substance abuse as well as assisting with living arrangements and employment opportunities. The organization works with employers that are willing to work with individuals who have previously had substance abuse issue. Ms. Hancock highlighted one program called Freedom House that is a two generation solution that treats both mothers and babies.

Paige Mankovich, the Chief of Staff of Aetna Better Health of Kentucky, spoke briefly about what the Chambers' partners are trying to do to play a role in finding solutions to the opioid epidemic. The Opioid Task Force has been analyzing the state's workforce participation rate and working with employers that want to become second chance employers for those who are recovering from opioid addiction. The Opioid Response Program recently hired two employment specialists, one Human Resource Specialist and another individual who is in recovery. Additionally, the Program has aligned with the Talent Pipeline Management Network and hosting employer technical assistance clinics across the state. Ultimately the Opioid Response Program is to meet with employers to assess their needs and connect them with treatment providers in an effort to help those who are recovery reenter the workforce.

Replying to a question from Senator Reginald Thomas, Ms. Shanks agreed that education investment will aid in improving workforce participation rates and noted the Chambers' Business Education Round Table Report that brought together those from the education and business community. Answering another question, the Chamber is not opposed to raising wages in the Commonwealth, but there are issues that may arise with mandated increases above the federal minimum wage.

Answering a question from Representative Chris Freeland, Ms. Shanks said she is not aware of any tax incentives offered to employers that may be second chance employers or employers that participate in programs like the Opioid Response Program. The incentive to participate should be a willingness to help with the opioid epidemic and to increase workforce participation. There may be some policy implications that may have to be considered in the future.

Responding to Representative Nima Kulkarni, Ms. Hancock said that the increase in opioid related deaths can be correlated with the availability of prescription medications. She has observed that individuals who are addicted to other drugs and receive natural consequences can more easily stop the drug use versus an opioid addict because opioids are so physically addictive.

After Representative Lynn Bechler questioned some of the statistical information regarding the types of drugs that are causing the increase in drug overdoses, Ms. Hancock explained that in a lot of cases prescription drug use leads to illicit drug use and the context in which the statistics were being discussed was mainly focused on the workforce and those individuals available to work.

Addressing a question from Representative Jason Petrie pertaining to the Chambers' Opioid in Kentucky Abuse Report, Ms. Shanks stated that the main focus when reclassifying drug possession as a misdemeanor is to emphasize resources being prioritized towards treatment.

Representative Ashley Tackett Laferty spoke about the opioid epidemic in her district and recently speaking at a function that addressed opioid abuse and how employers can bring people back to the workforce. Ms. Shanks said she would connect Representative Tackett Laferty with the Chambers' employment specialists to help link employers with individuals trying to reenter the workforce in her district.

Representative John Blanton made comments concerning individuals who accept plea deals for drug possession when the original charge was drug trafficking which may create some misleading statistics. He also cautioned about reclassifying drug possession as a misdemeanor.

Co-Chair Russell Webber announced that the next meeting of the Interim Joint Committee on Economic Development and Workforce Investment would be October 3, 2019 at 1:00 p.m. in the Capitol Annex.

There being no further business, the meeting adjourned at 2:46 p.m.