

INTERIM JOINT COMMITTEE ON ECONOMIC DEVELOPMENT AND WORKFORCE INVESTMENT

Minutes of the 6th Meeting of the 2020 Interim

October 29, 2020

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Economic Development and Workforce Investment was held on Thursday, October 29, 2020, at 8:30 AM, in Room 171 of the Capitol Annex. Senator Danny Carroll, 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 Karen Berg, Rick Girdler, Denise Harper Angel, Jimmy Higdon, Wil Schroder, Reginald Thomas, Mike Wilson, and Max Wise; Representatives Kim Banta, Lynn Bechler, John Blanton, Adam Bowling, Kevin D. Bratcher, R. Travis Brenda, McKenzie Cantrell, Daniel Elliott, Chris Freeland, Al Gentry, Kathy Hinkle, Thomas Huff, Nima Kulkarni, Savannah Maddox, Jason Petrie, Bart Rowland, Ashley Tackett Laferty, and Buddy Wheatley.

Guests: Sarah Butler, Director, Incentive Assistance Division, Cabinet for Economic Development; Kylee Palmer, Program Manager, Incentive Assistance Division, Cabinet for Economic Development; Doug Gorman, Chairman, Warren County Downtown Economic Development Authority; Cora McNabb, Executive Director, Office of Vocational Rehabilitation; Mary Pat Regan, Deputy Secretary, Education and Workforce Development Cabinet; Larry Roberts, Secretary, Labor Cabinet; Buddy Hoskinson, Interim Executive Director, Office of Unemployment Insurance, Labor Cabinet; and Amy Cabbage, General Counsel, Office of the Governor.

LRC Staff: Andrew Manno, Audrey Ernstberger, Drew Baldwin, and Sasche Allen.

Approval of Minutes

A motion to approve the minutes of the September 24, 2020 meeting was made by Co-Chair Russell Webber, seconded by Representative Chris Freeland, and approved by voice vote.

Update on Tax Increment Funding

Tax Increment Financing (TIF) is an economic development tool to use future gains in taxes to finance the current public infrastructure improvements for development that will

create those gains. When a public infrastructure project such as a road, sewer, or utility occurs, there is an increase in the property tax, as well as a potential increase in sales and withholding tax for that area, resulting in a potential increase in tax revenue. That tax revenue is known as the tax increment and can be used to assist in financing the cost of public infrastructure projects. Development areas must be either local only development areas or blighted urban redevelopment areas. Blighted urban redevelopment area projects may be eligible for state participation in funding. The TIF program was designed to assist with these areas that would otherwise have no development if not for public infrastructure improvement and creates funding for public projects that may be otherwise unaffordable to certain areas.

The process of creating a TIF includes establishing a local TIF, engaging the Cabinet for Economic Development to discuss a potential state TIF prior to submitting the application, negotiations of incentives, receiving final approval from the Kentucky Economic Development Finance Authority (KEDFA), and lastly activation of the project and eligibility for increments. There are other steps that do not apply to real property ad valorem tax revenue TIF projects such as receiving preliminary approval from KEDFA, having an independent consultant determine if the project will have a net positive impact on the state, and presenting KEDFA with the consultant's report. Projects fall into one of three categories which include real property ad valorem tax revenues, signature projects, and mixed use redevelopment in blighted urban areas. Real property ad valorem tax revenue programs have a minimum capital investment of \$10 million and a maximum term of 20 years with up to 100 percent of state real property incremental tax revenues. The project must represent new economic activity in the Commonwealth and not more than 20 percent of the capital investment or finished square footage can be devoted to retail. Signature projects have a minimum capital investment of \$200 million and a maximum term of 30 years with up to 80 percent of incremental state tax revenues. Types of state taxes that may be pledged include real property ad valorem, individual income taxes, corporate income tax, limited liability entity tax, and sales tax. The project must represent new economic activity in the Commonwealth and not more than 20 percent of the capital investment or finished square footage can be devoted to retail. The mixed use redevelopment in blighted urban areas programs have a minimum capital investment of \$20 million, but cannot exceed \$200 million, and a maximum term of 20 years with up to 80 percent of incremental state tax revenues. Types of state taxes that may be pledged include real property ad valorem, individual income taxes, corporate income tax, limited liability entity tax, and sales tax. The project space must include at least two of the following uses: retail, residential, office, restaurant, or hospitality.

Although Covid-19 has had many effects on the Commonwealth's economy, it is difficult for the Cabinet to determine what the long term effects will be on the TIF program due to the pandemic. The TIF program allows for projects to begin generating taxes in the formative years. Many existing state TIF's that are claiming increment are for the years of 2017 to 2019. Some TIF programs may not see any effects until 2023 when tax increments

for 2020 and 2021 are dispersed. TIF districts will be retooling the way business is done to prepare for a future increment that will more than likely be less due to the pandemic. The market feasibility and economic fiscal impact of the TIF components could be materially changed by the long term effects, and each project continues to be evaluated on a case by case basis. Despite uncertainty, there is still a strong interest in creating future TIF projects across the state.

In response to a question from Representative Buddy Wheatley, Kylee Palmer explained that the independent consultants used to determine the economic impact of TIF projects are selected through a request for proposal process, and the state currently has three consultants contracted. Answering a follow up question, Ms. Palmer said there is not a state requirement for a TIF project to go through a request for proposal process on the local level.

Addressing Co-Chair Danny Carroll, Ms. Palmer stated that new tax revenues are used for TIF projects which is why the independent consultant's economic analysis projections are so vital. The tax increment amount relies on projections and the development of the TIF area.

Replying to Senator Karen Berg, Ms. Palmer reiterated that real property ad valorem tax revenue programs use property taxes, and signature projects and mixed use redevelopment in blighted urban areas projects may use property, withholding, and sales taxes.

Answering another question from Co-Chair Danny Carroll, Ms. Palmer said local government entities are given the opportunity to give opinions on local TIF programs.

Doug Gorman, Chairman of the Warren County Downtown Economic Development Authority, gave an update on the TIF district in his area, the WKU Gateway to Downtown Bowling Green. The WKU Gateway to Downtown Tax Increment Financing District was formed in October 2007 with a project agreement extended between the Warren County Economic Development Authority and KEDFA. The project was initially approved for 106 acres in downtown Bowling Green, but an expansion to 383 acres and encompassing 52 city blocks was approved in 2008 making it one of the largest TIF districts in the state. The signature project TIF required a \$150 million investment by December 31, 2014 but that goal was reached in January 2013. Once the capital investment was reached, then the project could begin accumulating its tax increment. The initial private and public funding included \$7 million bonds sold to local banks, a \$25 million general obligation bond issued by the city of Bowling Green for the construction of BG Ballpark, new market tax credits, and a partnership with the WKU Foundation. TIF incentives have gone towards adding an alumni center and student housing at WKU, the Southern Kentucky Performing Arts Center, and several privately developed hotels, apartments, and restaurants. For 2019 the total TIF payment was \$3.8 million compared to \$2.1 in 2014

with a large portion being made up of withholding and sales tax. The WKU Gateway to Downtown TIF District from its creation through 2019 had an increase in wages of \$79,601,000 with an estimated 1917 jobs. It is estimated that withholding and sales tax will be reduced for 2020. Withholding tax for 2020 is estimated to be \$2.7 million, and sales tax revenue for 2020 is estimated to be \$292,253.

Responding to Senator Mike Wilson, Mr. Gordman stated Commonwealth Economics is used to meet the independent consultant requirement for the WKU Gateway to Downtown TIF District. The company does a physical walk through of the TIF each year and helps to identify new businesses and opportunities for the future.

Update from Office of Vocational Rehabilitation

The philosophy of the Office of Vocational Rehabilitation (OVR) is to recognize and respect the contribution of all individuals as a necessary and vital part of a productive society while assisting Kentuckians with disabilities to achieve suitable employment and independence. The total percentage of individuals with disabilities across the state is 17.4 percent, and the employment rate for individuals with disabilities is 29.4 percent compared to the 75.7 percent employment rate of individuals without disabilities. The OVR almost equally serves males and females. Its consumer demographics include 88 percent White, 10 percent Black, and 2 percent other. There are a wide range of disability types that the individuals have been diagnosed with that the OVR assists with obtaining employment which include psychological and mental disabilities; cognitive disabilities; sensory disabilities; and physical disabilities. About 21.3 percent of funding for the OVR comes from the state while about 78.7 percent comes from federal funding. For every 22 cents funded by the Commonwealth, 78 cents in federal funds are received.

The OVR has all priority categories of service open and has suspended all cost sharing for individuals due to increases in financing and staff resources. Categories of service are broken into four different groups which include most significant disability with limitations in three or more functional capacities, most significant disability with limitations in two functional capacities, significant disability with limitation in one functional capacity, or non-significant disability. In 2019 only two categories of service were open. From January 1, 2020 to October 1, 2020, the OVR served 36,781 individuals with 17,421 students receiving pre-employment transition services, 4,468 individuals participating in training programs, 2,217 individuals ready for employment, and 2,052 employment outcomes. The average hourly wage for these individuals was \$15.45 with an average of 33 hours per week worked.

Effects of Covid-19 began to be seen by the OVR in March 2020 and numbers for referrals, potentially eligible individuals, applications, accepted individuals, individualized plans for employment, and positive employment outcomes drastically plummeted in April 2020. Those numbers have increased as of September 2020, but the OVR still has measures in place that have changed the logistics of their services. Staff are telecommuting and

utilizing various platforms for remote service delivery. The OVR is working with other state agencies and workforce partners to assure essential service delivery and allowing exceptions in some service delivery. There has been additional staff training in suicide prevention and remote service delivery and development of online service curriculums. Providers of the OVR have experienced a reduction in referrals, decrease in revenue, staff turnover, and difficulty shifting from in-person services to remote service delivery. Providers have also struggled with personal protective equipment, technology, program viability, and the health and safety of staff and the individuals served. The OVR has developed a service fee memorandum process to better support providers. In addition, Covid-19 has also had an impact on individuals with disabilities that the OVR serves. The lack of technology hinders learning and accessing services remotely. Some are at a high risk of contracting the virus due to health conditions and social distancing can create isolation and loneliness. There have also been an interruptions in public transportation which can create hardships, and there are additional challenges with equitable healthcare.

Responding to Co-Chair Danny Carroll, Ms. McNabb stated the OVR did not receive any funds from the CARES Act. The OVR has received guidance from the Rehabilitation Services Administration about community rehab providers. One thing that can be done to offset costs for providers is to increase rates which is why the OVR is exploring options for higher rates for remote services. The OVR cannot use its own funding to help pay for the operation of community rehabilitation providers.

Answering a question from Co-Chair Russell Webber, Ms. McNabb explained that mental and psychological disabilities would include substance abuse, depression anxiety, obsessive compulsive disorder, schizophrenia, and behavioral disorders. Cognitive disabilities would include those caused by some type of brain injury or any disability that would affect cognitive processing.

Unemployment Insurance Update

Between December 8, 2019 and March 7, 2020, there were 44,841 new unemployment insurance claims filed and about 77 percent of eligible claims paid. From March 8, 2020 to September 30, 2020, there were approximately 1,126,000 new claims filed and over \$5 billion of UI funds distributed. There were 167,420 initial claims filed in March and about 3,195 claims are still in progress that need additional actions taken by the claimants or have an ongoing adjudication. The Office of Unemployment Insurance (OUI) has approximately 58 employees assigned to the Benefits Branch which includes 15 UI employees, 15 Adecco employees, and 28 employees have been detailed from the OUI's Career Development Office. Approximately 40 employees are assigned to the Adjudication Branch which includes 23 UI employees and 17 employees detailed from the Career Development Office. There are also about 50 contracted employees handling calls from claimants.

A request for proposal for technology upgrades was published in January 2020 with projected costs for the project estimated at \$60 million. Governor Beshear appropriated \$4.5 million of CARES Act funding for four projects that were included in the original proposal. The RFP was amended in September 2020 to reflect changes and vendors responses are due at the beginning of November 2020. The upgrades will be to the KEWES Siebel and Oracle systems and will include upgrades of operating systems and platforms; increased security; increased ability to scale based on volume of claims; and enabled access to documents via mobile devices. Web upgrades will also be performed to the Slalom and Salesforce systems which will make it easier to use interface to file, update, and manage citizen UI claims; help reduce errors and duplicated claim; and improve self-service with automated assistance from Chatbot. Other upgrades will address the OUI phone system and FileNet to OnBase upgrades.

Labor Cabinet leadership also spoke about the Ernst and Young contract which will extend through the end of 2020. The \$4.9 million contract that was paid with federal funding and was approved in the Government Contract Review Committee on October 13, 2020. Ernst and Young will provide the workforce needed to address the 70,000 claim that are awaiting, or in the process of, adjudication. These claims require determination letters telling claimants whether their claim is approved or denied. Determination letters were previously required to be written by state employees. The U.S. Department of Labor waived this requirement, allowing Ernst and Young employees to draft the letters and making Kentucky only the second state with this waiver. For the first four weeks on the new contract, 100 Ernst and Young employees will focus on performing adjudicator functions, along with assisting OUI in reviewing claims and writing determination letters. For the remainder of the contract, 25 Ernst and Young employees will work on claims each week.

An update on the Lost Wages Assistance (LWA) was also provided. On August 8, 2020, the Presidential Memorandum for Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 was approved. This program, administered through the Federal Emergency Management Agency (FEMA), has a 75 percent federal cost share and 25 percent match from the state. Kentucky is one of only three states to provide the extra \$100 which increases additional UI payments to \$400. Benefits of this program are available August 1, 2020 to December 27, 2020, but the LWA may terminate earlier if FEMA expends the \$44 billion from the Disaster Relief Fund designated for LWA by the President, if the Disaster Relief Fund reaches \$25 billion, or if Congress enacts legislation to provide additional UI resources. A claimant is eligible for LWA benefits if their wage base is above \$100, their unemployment is specifically Covid-19 related. The total FEMA dollars to date were \$216,101,700, and the Labor Cabinet has submitted an application to FEMA in order to obtain grant funds to pay claimants who were found eligible upon “forced” self-certification and upon appeal.

The Unemployment Insurance Trust Fund has a deficit of \$460,207,409, and it is estimated by the end of 2020 the amount will be approximately \$600,000,000. Governor Beshear has committed to allocating CARES Act funds to the deficit. Interest on the loan taken out with federal government will begin accruing on January 1, 2021, but the U.S. Treasury will not take action to collect until January 1, 2023. The Federal Employment Tax Act (FUTA) set a rate of 6 percent and Kentucky contributing employers receive a credit of 5.4 percent when they file Form 940. When a state has an outstanding loan balance on January 1 for two consecutive years and does not repay the full amount of its loan by November 10 of the second year, then the FUTA credit rate will be reduced each year until the loan is repaid. The OUI shall not allocate charges to employers' reserve account for individuals who are paid for reasons related to Covid-19 based on the Administrative Order issued by Lt. Governor Coleman on March 25, 2020. Schedule E will be the applicable schedule effective January 1, 2021, and a majority of employers will experience a modest increase in their respective tax rate in 2021 and 2022. The current average UI tax rate is 1.76 percent, the projected average for 2021 is 2.52 percent, and the projected average for 2022 is 3.23 percent. Approximately 23,000 employers will not incur a percentage increase in 2021 as they have not been in business for over a year. Pursuant to KRS 341.614, there shall be a surcharge upon all subject contributing employers for any year there are insufficient funds in the Unemployment Compensation Administration Fund for the payment of interest on advances to the UI Trust Fund. The formula contained in the statute will be calculated at .19 percent of the first \$11,000 in wages paid to each worker by a subject contributing employer. This surcharge will increase the cost for contributing employers by \$21.09 and it will generate approximately \$38 million to \$40 million each year.

The Secretary briefly covered information regarding Pandemic Unemployment Assistance (PUA). In response to the effects of Covid-19, on March 27, 2020, Congress passed legislation which created PUA. Guidance at the time allowed for citizens to draw benefits on the basis of fear of exposure to Covid-19. On April 27, 2020, the U.S. Department of Labor changed PUA eligibility for individuals not to qualify on this basis alone. This created overpayments for those who were previously eligible, but Kentucky is currently not pursuing collection of these overpayments. On October 23, 2020, the Labor Cabinet submitted a request to the U.S. Department of Labor asking for a waiver of collection for those overpayments.

Answering a question from Representative John Blanton, Secretary Larry Roberts reiterated that individuals are no longer eligible for PUA payments solely based on fear of the Covid-19 virus as of April 27, 2020. Executive Director Buddy Hoskins added that the information regarding this change is published on the Labor Cabinet's website.

Replying to Co-Chair Russell Webber, Secretary Roberts said there is a backlog of about 80,000 UI claims from April 2020 to September 2020. Answering a follow up question, Amy Cabbage, General Counsel for the Governor's Office, stated that Ernst and

Young employees processed about 141,000 claims during phase one of its contract and 19,417 claim thus far during phase two. During phase one of the contract, Ernst and Young employees reached out to claimants for additional information and contacted employers for information to determine if claims were payable or not.

Addressing a question from Representative R. Travis Brenda, Executive Director Hoskinson explained that as increasing numbers of workforce participation rates are reported, then unemployment rates should decrease. There may be a lapse in the time that the statistics are reported to the respective agencies which may cause what seems to be conflicting figures. Secretary Roberts added that according to the Bureau of Labor Statistics, as of September 2020 Kentucky's unemployment rate was 5.6 percent.

Responding to Senator Mike Wilson, Secretary Roberts stated a request for a total waiver for overpayment of PUA payments had been submitted to the U.S. Department of Labor.

Answering questions from Senator Jimmy Higdon, Secretary Roberts said that the federal government would hold the state liable for overpayments of PUA if the U.S. Department of Labor does not approve the requested waiver. The state would collect those funds and repay to the federal government. Responding to a follow up question, Secretary Roberts explained that although fraud has not been a major problem in Kentucky, he would provide at a later date any statistics relating to fraud. Executive Director Hoskinson also stated that Kentucky received \$1.75 million from the federal government to combat fraud. Ms. Cabbage inserted that due to enhanced verification processes that were implemented in 2019, UI identity fraud has been minimal.

Replying to Senator Reginald Thomas, Executive Director Hoskinson further detailed the LWA that is being administered by FEMA. The funding for the program was on a first come first serve basis and it was determined that the funding would last about six weeks. The short amount of time may have been in the hopes that Congress would put into place additional assistance.

Representative Lynn Bechler expressed the need for constituents to speak to a person at the OUI rather than an automated recording.

Addressing questions from Co-Chair Danny Carroll, Secretary Roberts explained that although the Cabinet is aware of the need for constituents to speak with a person, there is simply not enough staff to fully meet that need at this time. He is hopeful for additional funding to hire more staff, and the Cabinet continues to evaluate OUI needs. Answering a follow up, the Secretary said that March claims are being handled as quickly as the staff he has can process them. The oldest claims need to be processed first.

Representative John Blanton requested that the dollar amount for overpayment of PUA funds be submitted to the committee.

Responding to Co-Chair Danny Carroll, Secretary Roberts stated he did not recall setting an exact date for the backlog of claims to be processed. Ernest and Young employees assisted existing employees with claims during phase one of its contract, but overall staff have still been overwhelmed with the 1,126,000 new claims filed from March 2020 to September 2020. It was never assumed that the contract with Ernst and Young would completely solve the backlog issue.

Answering a question from Senator Karen Berg, Secretary Roberts said there is no way to do a comparison to other states as it pertains to UI. Kentucky had 12 staff members who could adjudicate claims at the start of the pandemic. In order to compare to other states, staffing would have to be examined. Executive Director Hoskinson added that there is overview information given to the OUI by its national organization.

Co-Chair Danny Carroll restated that the oldest claims should be prioritized and processed first. Secretary Roberts said that he has met with the chiefs of staff of the majority and minority caucuses to discuss UI needs and concerns.

There being no further business, the meeting adjourned at 11:01 a.m.