INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 2nd Meeting
of the 2022 Interim

July 19, 2022

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Local Government was held on Tuesday, July 19, 2022, at 10:00 AM, in Room 171 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Michael Meredith, Co-Chair; Senators Michael J. Nemes, Wil Schroder, Adrienne Southworth, and Damon Thayer; Representatives Danny Bentley, Josh Bray, George Brown Jr., Jonathan Dixon, Jeffery Donohue, Ken Fleming, Deanna Frazier Gordon, Mary Beth Imes, DJ Johnson, Adam Koenig, Matt Lockett, Mary Lou Marzian, Jerry T. Miller, Brandon Reed, and Walker Thomas.

Guests: J.D. Chaney, Brianna Carroll, and Michele Hill, Kentucky League of Cities; Jim Henderson and Shellie Hampton, Kentucky Association of Counties; Sandy Williams, Kentucky Infrastructure Authority; Tony Wilder, Kentucky Council of Area Development Districts; Judy Taylor, Lexington-Fayette Urban-County Government; and James Higdon, MML&K Government Solutions.

LRC Staff: Mark Mitchell, Joe Pinczewski-Lee, Christopher Jacovitch, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Lockett, seconded by Senator Schroder, the minutes from the June 21, 2022, meeting were approved.

Local Administration and Update of the American Rescue Plan Act (ARPA)

Mr. J.D. Chaney, Executive Director/CEO of the Kentucky League of Cities (KLC), told the committee that the ARPA funds are still not a panacea--the funds are temporary. The process to expend the funds has been made easier than it was a year ago. For most local governments, now, the first $10 million of what they receive is assumed to be attributable to a revenue loss and can be spent on any forward-facing governmental service. With the exception of a few cities, most cities in Kentucky received less than $10 million.

From ARPA funds, $931 million was distributed to 376 Kentucky cities. Nine entitlement cities—Ashland, Bowling Green, Covington, Elizabethtown, Henderson, Hopkinsville, Lexington, Louisville, and Owensboro—received $607 million directly from the U.S. Department of the Treasury. The other non-entitlement cities split $324 million according to population with payments being disbursed from the Department for Local Government. Many cities delayed allocating the funds because of ever-evolving guidance. Cities have until December 31, 2024, to obligate their ARPA funds for projects that must conclude by December 31, 2025.

Most cities have not reported yet how they have used or plan to use the money because of the delayed final rule from Treasury. Of the entitlement cities, four listed some usage in their January 2022 report (Ashland, Covington, Lexington, and Louisville), the four highest budgeted expenditure categories were: public health, premium pay, response to negative economic impacts, and services to disproportionately impacted communities. The most common projects funded by ARPA in those four cities included COVID-19 response and vaccinations, premium pay for essential workers, housing assistance, parks and recreation improvements, drinking water investments, and provision of government services.

Louisville budgeted $20 million, Lexington $13 million, and Covington $2.5 million for premium pay. Bowling Green will use $16.5 million to establish a fiber optic cable system to homes and businesses. Lexington has budgeted $10 million for affordable housing programs. Louisville has budgeted $10 million for court eviction diversion to assist with low income housing. Covington budgeted $3 million for affordable housing purposes. Owensboro budgeted $5 million for storm water drainage systems, $2.5 million to replace a water tower, and $750,000 for public pool upgrades in a low income area.

For most of the smaller cities, the most common engagement with KLC is premium pay expenditures. Other common expenditures appear to be police and fire equipment and vehicles, radios, parks and recreation improvements, water and sewer projects, assistance for non-profits that the governments have partnerships with to provide various government services, and broadband.

Cyber security is a major issue for cities. Cities are vulnerable to cyber-attacks and will be upgrading their systems.

In response to a question from Representative Meredith, Mr. Chaney stated that entitlement cities, in regards to the ARPA monetary distributions, is a designation that uses factors similar to Community Development Block Grant standards and thus are the larger cities that have more low to moderate income persons.

In response to a question from Senator Mills, Mr. Chaney said the ARPA money is temporary, and the fear is that some legislative bodies may make decisions in consideration of the uses of that money, that would result in structurally imbalanced budgets in the future. Many cities are investing this money in one-time expenditures, such as infrastructure, that will lessen this possibility.

In response to another question from Senator Mills, Mr. Chaney answered that it is getting more difficult to find people to work in lower paid positions, such as public works.

In response to a question from Senator Thayer, Mr. Chaney stated that cities cite wage rates as the main reason for not being able to fill positions. This especially affects smaller cities that have smaller tax bases.

In response to another question from Senator Thayer, Mr. Chaney said the bulk of city employees are back and not working remotely—substantial sectors of public employers are not able to work remotely. Remote working when employees live outside of the district wherein their employer is located can have an impact on occupational taxes, as they are collected where the work is performed. Employees are eligible for refunds under certain circumstances, but KLC has not yet observed a deluge of such requests.

Senator Thayer commented that people need to get back to work.

Ms. Sandy Williams, Executive Director of the Kentucky Infrastructure Authority, told the committee that $250 million was allocated for the first round of the ARPA funds from Kentucky's 2021 SB 36, of which $150 million was allocated by county population and based on local consensus, and which has all been approved, $50 million was allocated for consent decree purposes and the provision of drinking water in unserved areas, which has all been committed, and $49.9 million was allocated to supplement project grants where the project cost was greater than the county's allocation, which will be used to supplement projects as bids come in. This will supplement project costs in amounts up to ten percent over the original cost allocation.

There was $250 million allocated for the second round by Kentucky's 2022 HB 1. Using a similar process as the first round, there were no breakouts in uses for this allocation. All $250 million was based on county population with a consensus requested on the use from local water and sewer providers in the county. KIA suggests that the money from the second round be used to make up any funding gaps from first round projects not fully funded. The same application process will be used, using the project profile in the water resource information system. The application button is live, but the formal call for projects will occur later in July.

In response to a question from Senator Mills, Ms. Williams stated that all projects are required to be bid pursuant to the procurement requirements of KRS Chapter 45A.

Mr. Jim Henderson, Executive Director of the Kentucky Association of Counties, told the committee that counties were treated a little bit differently from cities. Every county received a direct allocation. The total county allocation for Kentucky was $867.8 million out of $65.1 billion that was distributed to 3,069 counties in the country. The National Association of Counties (NACo) lobbied for direct allocations. The distribution of funds is made directly to counties from the U.S. Treasury. KACo provided guidance in the application process. Counties were able to request the first half of their allocation last May and are eligible to receive the second half one year after the first. Some counties are already receiving the second half. Counties have the same presumption as cities for expending awards of less than $10 million. The treasury allows this money to be spent on lost revenues. Only 18 counties received more than $10 million. Counties have until December 31, 2024, to obligate funds, and all funds must be expended, and all work must be performed and completed by December 31, 2026. Counties are required to provide reports to the U.S. Treasury quarterly or annually depending on their allocation. Most Kentucky counties are required to report annually. There are no state-level reporting requirements.

Counties are still deciding what to do with the money. ARPA funded county projects include internet broadband (wherein Warren County committed $10 million, Christian County committed $13 million, Daviess County committed $10 million, Oldham County committed around $8.5 million), parks and recreation (wherein Webster County has committed funds to a county park), EMS, water (wherein Barren County worked with the City of Glasgow to invest $1 million), tourism, and public safety (wherein Simpson County and the City of Franklin committed $2 million total to upgrade their emergency communications systems, and Hancock County is likewise investing in their communications). County officials have also discussed using the funds for premium pay. KACo has cautioned counties about creating an expectation for sustained wages after using the money for that purpose.

Given that this is an election year, some county officials expecting significant changes in their governments are holding off on committing the money during their term in favor of their successors making those decisions.

In response to a question from Senator Southworth, Mr. Henderson stated that counties likely could use ARPA fund for roads, but most counties are not expending funds for that purpose.

Senator Mills announced that the next meeting of the Committee would be held on August 25th at the State Fair.

There being no further business, the meeting was adjourned at 11:05 a.m.