

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the 6th Meeting of the 2022 Interim

November 15, 2022

Call to Order and Roll Call

The 6th meeting of the Interim Joint Committee on Local Government was held on Tuesday, November 15, 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 Ralph Alvarado, Christian McDaniel, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives Josh Bray, George Brown Jr., Jeffery Donohue, Ken Fleming, Deanna Frazier Gordon, Mary Beth Imes, Adam Koenig, Matt Lockett, Jerry T. Miller, Brandon Reed, Rachel Roberts, and Walker Thomas.

Guests: David Livingston, Jim Henderson, Shellie Hampton, Gracie Lagadinos, and Kayla Carter, Kentucky Association of Counties; Bruce Roberts and Jeremy Rodgers, Kentucky Fire Commission; Rick Rand, Department of Housing, Buildings, and Construction; Mike Haney, State Fire Marshal's Office; Molly Cassady, Public Protection Cabinet; Sara Beth Gregory, Auditor of Public Accounts Office; and J.C. Young, Kentucky Magistrates and Commissioners Association.

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

Approval of Minutes

Upon the motion of Representative Lockett, seconded by Senator Alvarado, the minutes from the October 25, 2022, meeting were approved.

Consideration of Administrative Regulations

The committee considered the following referred Administrative Regulations: 739 KAR 2:070, relating to the volunteer fire department loan fund, promulgated by the Kentucky Fire Commission; 815 KAR 010:060, relating to Kentucky standards of safety, and 815 KAR 7:120, relating to the Kentucky Building Code, promulgated by the Department of Housing, Buildings, and Construction.

Kentucky Association of Counties' Legislative Platform for the Upcoming 2023 Session of the General Assembly

Mr. Jim Henderson, Executive Director/CEO of the Kentucky Association of Counties (KACo), told the committee that KACo's focus today would be primarily educational and informative. On behalf of counties, he thanked the legislature for being engaged and generous.

Mr. David Livingston, Scott County Magistrate and KACo President-Elect, told the Committee that KACo recognizes that short legislative sessions were designed for limited, targeted work. Counties are focused on the long game, continuing to "tell the county story."

Mr. Livingston discussed KACo's organizational structure and how it arrives at its policy recommendations. He also discussed the role of counties and their officials in terms of their relationship with the General Assembly, state, and citizenry of the Commonwealth, to include the many services that counties provide to the citizens and the state.

Ms. Shellie Hampton, Director of Government Affairs, stated one of the most important partnerships counties share with the state is transportation safety. The network of roads in Kentucky is a web of federal, state, and county/municipality maintained roads. Out of the 80,000 miles of roads in Kentucky, counties are responsible for the maintenance of 40,000 miles. Counties maintain a third of all bridges in the state. The only major state road fund revenue stream that counties receive is from the motor fuels tax. That tax is split between the state (51.8 percent), counties (18.3 percent), and cities (7.7 percent). While counties are responsible for half the road miles, they only receive a little over 18 percent of this funding for county roads.

In 2022, HB 8 set the wheels in motion to capture electric vehicle (EV) fees to help pay for the upkeep of the Kentucky roads they use, like those who have always paid their share at the pump. The electric and hybrid vehicle fees beginning in January of 2024 will be deposited 50/50 into the state road fund and state general fund. The charging station tax of three cents per kilowatt hour has been assigned 100 percent to the state road fund.

Nothing in HB 8 allows for revenue sharing of the EV fee. These vehicles are expected to be a significant part of the driving future and to displace gasoline as the fuel. It was shared recently that Americans bought 67 percent more electric cars in the third quarter of 2022 than in the same period in 2021, according to the third-quarter Electrified Light Vehicle Sales Report. In light of these facts, counties respectfully request legislation that will specify that revenues generated by electric vehicle fees, including those at charging stations, will be shared with counties in the same manner as the motor fuels tax is presently.

County budgets have experienced increased costs, and all facets of road maintenance have increased. The cost of operating a motor vehicle alone has gone up over 40 percent in the last year, and federal funding received through the CARES Act and ARPA is largely restricted. ARPA funds will sunset in 2026, and after that, counties will again only have three revenue options: property tax, insurance premium tax, and occupational tax. The legislature's ability to improve local taxing options to include more competitive choices should change with the times.

Mr. Henderson told the Committee that counties desire to have a sales tax option. Thirty-eight other states allow for local sales tax option, and Kentucky should be number 39. KACo wants to engage in "leveling the playing field." The current inequity among counties is the result of old laws, some more than 40-50 years old, that were passed during a different time, when a handful of counties were considered large counties, some of which are now on the other end of the growth spectrum. A piecemeal approach over a few decades has resulted in many discrepancies among counties. Arbitrary population thresholds of 30,000 which at one time was set at 50,000, limits counties' abilities to collect taxes within the entire county. In these counties, tax burdens continue to be shifted to those in the unincorporated areas, disproportionately taxing the rural areas to pay for the mandated services that benefit everyone in the county.

Mr. Henderson noted the changing demographic of counties in light of historic taxing authority.

Mr. Henderson concluded by discussing the 2022 county election results in terms of county officials. The landscape of elected county officials has changed significantly in the past two decades. There was another big turnover in elected officials.

In response to a question from Representative Meredith, Mr. Henderson stated that he could not identify which counties were grandfathered in terms of occupational license taxes, but would get that information to the Committee.

In response to a question from Senator Thayer, Mr. Henderson discussed the total victories of each political party in several offices in the most recent local elections and indicated that more data could be obtained by contacting KACo staff.

In response to a question from Senator Wheeler, Mr. Henderson replied that as cities annex developing territories, that are subject to occupational license taxes, the annexations have created tension and loss of revenues as the revenue from the occupational license taxes then goes to the cities rather than the counties.

In response to another question from Senator Wheeler, Mr. Henderson noted that the jail per deim increase the General Assembly allowed has helped counties fiscally.

Counties are still interested in having a per deim paid for counties housing state prisoners prior to adjudication as well.

In response to two questions from Senator Southworth, Mr. Henderson stated that the sheriffs asked for statewide jurisdiction during a declared emergency because the last two disasters in Kentucky brought to light the necessity of having full powers outside of their original jurisdiction. Regarding online legal notice publication, Mr. Henderson said that county leaders would rather all counties be able to publish online, but the over 80,000 population threshold was a compromise in the existing legislation.

Senator Nemes commented that sheriffs already may assist another county, but at present the process is cumbersome. The request from KACo would clarify for it to be done easier and quicker.

In response to a question from Representative Thomas, Ms. Hampton stated that the occupational tax is holding steady as a revenue source for counties.

Senator Mills requested that KACo submit a one-page document to the Committee that includes KRS cites for revenue sources regarding KACo's initiative regarding leveling the playing field.

Senator Mills and Representative Meredith presented citations to the Senate and House members who were not returning in 2023.

There being no further business, the meeting was adjourned at 11:00 a.m.