

INTERIM JOINT COMMITTEE ON LOCAL GOVERNMENT

Minutes of the Fourth Meeting of the 2023 Interim

September 26, 2023

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Local Government was held on September 26, 2023, at 9:00 AM in Room 154 of the Capitol Annex. Representative Randy Bridges, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Randy Bridges Co-Chair; Senators Greg Elkins, Denise Harper Angel, Amanda Mays Bledsoe, Christian McDaniel, Michael J. Nemes, Damon Thayer, Phillip Wheeler, and Gex Williams; Representatives Adam Bowling, Josh Bray, George Brown Jr., Beverly Chester-Burton, Steven Doan, Deanna Frazier Gordon, Chris Freeland, Mary Beth Imes, Jacob Justice, Matt Lockett, Michael Meredith, Marianne Proctor, Brandon Reed, Sarah Stalker, Pamela Stevenson, and Walker Thomas.

Guests: Stephanie Schumacher and Tabatha Clemons, Kentucky County Clerks Association; Denise Lyons, Department for Libraries and Archives; Jessica Williamson and Jordan Jones, Education and Labor Cabinet; David O'Neill and Andrew Powell, Property Valuation Administrator Association; Tom Crawford, Department of Revenue; Jaarad Taylor, Department for Local Government; Warren County Sheriff, Brett Hightower; Kenton County Deputy Sheriff, Pat Morgan; Mike Jansen and Jerry Wagner, Kentucky Sheriff's Association; Kenneth Imes, Calloway County Judge/Executive; Jim Henderson and Shellie Hampton, Kentucky Association of Counties; and J.C. Young, Kentucky Magistrates and Commissioners Association.

LRC Staff: Mark Mitchell, Christopher Jacovitch, and Cheryl Walters.

Approval of Minutes

Upon the motion of Representative Lockett, seconded by Representative Bowling, the minutes from the August 24, 2023, meeting were approved.

Discussion of Local Electronic Records Portals

Tabatha Clemons, Grant County Clerk, discussed the modernization efforts occurring in the county clerks' offices. A survey conducted by the Kentucky County Clerks Association revealed that of 101 responding clerks, 68 percent have one to two full time recording deputies who were involved in modernization work. Of the responding clerks, 98 were also compliant with the January 2024 statutory deadline for an online search portal.

Ms. Clemons provided some background regarding the 2021 County Clerk Modernization Task Force and outlined required electronically searchable records waypoints for January 1, 2024, June 30, 2024, and June 30, 2026.

Certain liens and other documents filed on or after June 30, 1994, are required to be electronically searchable by June 30, 2024. Of the clerks that responded to the survey, 65 clerks have already met that requirement. Six clerks are not on track to meet the deadline, which appears to be a funding issue, and 16 are working toward that deadline.

Specified documents filed with the clerk's office on or after June 30, 1966, but before June 30, 1994, must be available for electronic searching prior to June 30, 2026. Six counties have already met that deadline and 37 counties are working toward the deadline. Twenty-seven counties are not on track to meet the deadline—again likely a funding issue.

Stephanie Schumacher, Mason County Clerk, discussed clerk funding sources for the project. The clerks receive a \$10 storage fee for recording certain documents, access to \$25 million available via Finance Cabinet that were allocated from the last biennium, general fees from the clerk's office itself, and available grants from the Kentucky Department for Libraries and Archives (KDLA). Clerks wholly fund this grant pool. Ninety percent of the grant funds are now to be allocated toward this project.

Ms. Clemons noted information in the presentation relating to historical funding to clerks by KDLA relative to the grant program.

Discussion of Local Records Grants

Ms. Schumacher discussed the KDLA Local Record Grant program from the clerks' perspective. Regional administrators from KDLA provided valuable guidance regarding local records retention with frequent visits to clerks' offices. Clerks would like to see regional administrators visit more frequently to assist in prioritizing projects and to assist with grant writing. This lack of assistance could be a contributing factor of why fewer clerks are applying for KDLA grants. Grant writing takes much work. Technical errors in the application process that disqualify applicants are frustrating.

The Local Records Grant Review Committee is comprised of clerks. They review applications. There is also an administrative review by KDLA. The review committee scores grant applications. At the same time the administrative review is occurring and has determined what was appropriate to be awarded and what did not meet the standard. It appears that by the time the committee meets, the grants have already been decided.

In addition, the grant application review cycle for the committee conflicts with clerk workloads, such as the election cycle.

Clerks serving on the committee are not able to apply for grants. Consideration should be given to allowing clerks who are serving to abstain from the scoring and discussion of their own applications, but allow them to apply.

Ms. Clemons noted that several clerks were turned down for grants because they were not meeting preservation requirements in their grant applications and that the clerks' applications were more for modernization purposes. It is hard to discern the difference between the two purposes.

Denise Lyons, Commissioner and State Librarian, Department of Libraries and Archives, discussed the department's implementation of the Local Records Grant program. Local government offices seeking to improve the management and preservation of its public records may apply. Ninety percent of the program funds are to be made available to county clerks. Eligible projects include, but are not limited to microfilming, and rerecording of records and damaged records.

Ms. Lyons outlined the application process and the awards process. Among the processes for application are an advertising for bids and the choosing of the lowest bid vendor for the application. The department will award moneys, to the extent available, to applicants who meet the necessary requirements. The review and recommendation process consists of an application completeness and compliance review by the local records branch manager, application scoring by the Local Records Grant Review Committee, review and approval of projects that meet the requirements by the State Libraries, Archives, and Records Commission, and notification of approval to applicants by the commissioner. In the FY 2022 to FY 2023 cycles, the approval rate was between 90 and 100 percent. Of the first cycle of FY 2024, 22 applications were received and 15 were awarded funds.

In response to questions from Senator Thayer, Ms. Lyons said that in FY 23, 90 percent of the applications were approved that year. Regional representatives travel to counties upon request and as often as requested.

In response to a question from Representative Meredith, Ms. Lyons said that KDLA has awarded 90 percent of the grant moneys to clerks pursuant to changes in the law.

Representative Meredith asked that the department ensure that guidance provided by regional representatives to clerks for grant applications and departmental guidelines for grant approvals are consistent. Representative Meredith also asked the department to examine its administrative regulations in light of preservation projects versus modernization projects to see if changes to the administrative regulation are warranted in light of 2022 SB 135.

In response to a question from Representative Bridges, Ms. Lyons said that her goal is to improve communications in general, and for the review committee, specifically. Discussions are continuing about improving the process.

Representative Bridges asked the department to inform the committee regarding the clerk's offices who did not respond to the clerks' association survey.

In response to a question from Representative Frazier-Gordon, Ms. Lyons said that solicitation of vendors for the grant application process is conducted by the county clerks. The application includes information to vendors for making successful bids. Ms. Lyons said she would check to ensure that all the information for a successful bid was included in the paperwork.

In response to a question from Senator Harper-Angel, Ms. Lyons said that regional advisors are staff positions subject to state hiring protocols.

Discussion of Library District Board Selection

Ms. Lyons outlined how library district board members are selected pursuant to 22 SB 167. There are 97 library boards that have been impacted by this. Fiscal courts may adopt a process to be more participatory in board member selection. Thirteen have adopted the alternative board member selection process. KDLA has taken steps to facilitate the process which include having held a meeting with public library directors to inform them of the new process, having a dedicated e-mail address for appointments, updating documents and forms, and providing additional training.

Ms. Lyons discussed the regular process and the alternative process for selecting board members.

In response to a question from Senator Elkins, Jessica Williamson, General Counsel, Education and Labor Cabinet, said that there could be a few reasons why names would be withdrawn and alternative names resubmitted which would include a possible error. If the library has not adopted an alternative process, and a term is expiring, KDLA would follow the statutory process in filling the vacancy. There is a separate statutory process for filling an unexpired term vacancy.

Discussion of Property Valuation Process and HB 44

David O'Neill, President of the Property Valuation Administrators Association, discussed the property valuation administrators' (PVAs') duties relative to property valuation. Physical inspection is performed once every four years. In placing value, industry standard methodologies are used that include cost for new construction, income, for income-producing property, and sales comparisons for single family residential properties to determine value.

Tom Crawford, Executive Director of the Office of Property Valuation, Department of Revenue, said that once the PVAs send the valuations to the Office of Property Valuation, the office compiles them, and adds the tangible assessment totals and sends that information back to the local officials. It also uses the information to estimate state tax income. The valuation and tax estimate information goes then to the Department for Local Government so that the department can provide its rate calculation to counties.

Adjusting to the real property valuation increases, the state rate has decreased from 12.2 cents in 2019 to 11.4 cents in 2023 as they follow HB 44 (enacted during the 1979 special session of the General Assembly).

Jaarod Taylor, Local Government Advisor with the Department for Local Government (DLG) provided an overview of how DLG assists counties with calculating their rates in conformity with HB 44. DLG provides two rates to counties from the assessments it receives from the Department of Revenue: a compensating rate and a rate that is designed to produce revenue equaling four percent over the compensating revenue rate. The compensating rate is that rate which produces the same amount of revenue as the previous year absent new property and personal property. Counties can adopt rates higher or lower than these rates. If a county adopts a rate higher than the compensating rate, it must have a hearing. Any rate set to produce revenues in excess of the four percent is subject to recall to the extent the rate exceeds the level of

producing revenue in excess of four percent. Counties have 45 days from the date of certification from the Department of Revenue to set a rate, otherwise it is limited to the compensating rate.

DLG also assists counties as they set their personal property rates and motor vehicle rates.

In response to a question from Senator Thayer, in which he noted his constituents' concerns that their individual real property tax liabilities have increased, while such increases in value do not add to their liquidity, Mr. O'Neill said that no PVA wishes to send a notice with a 30 to 40 percent increase, unfortunately, the statutes and constitution dictate the values be set at fair cash value.

Senator Thayer asked the PVA Association to explore potential solutions that may alleviate the taxpayers' concerns.

In response to a question from Representative Meredith, Andrew Powell, Immediate Past President of the PVA Association, said that the prime market rates dictate the housing price changes. At present, market rates are rising at the same time as home prices, which is unusual. There may be some legislative policy solutions available to assist taxpayers in this unusual situation.

In response to a question from Senator Williams, Mr. Powell said that the use of drones to assist in visual inspections of properties is not in use in his county. When funds are available, aerial imagery is employed.

In response to another question from Senator Williams, Mr. Powell said that inflation should be a factor that is considered in conjunction with adjusting and calculating rates as a potential policy consideration.

Senator Harper Angel noted the history of the passage of HB 44 and said that the rates are not keeping up with inflation. She suggested that a document sent to her from her county's PVA outlining some potential policy considerations should be sent to all members of the General Assembly.

In response to a question from Senator Mays Bledsoe, Mr. Taylor said DLG does not track which taxing jurisdictions exceed the four percent rate, but it could be investigated. Mr. Powell said that during his term, only one school district tried one time to exceed the four percent limit. Senator Mays Bledsoe said that housing costs are a concern in Fayette County.

Representative Meredith said that school taxes make up over 50 percent of the tax bill in Kentucky. Property taxes are the life blood of schools, and only a supplemental revenue source for local governments.

In response to a question from Representative Bridges, Mr. O'Neill said that the dark store theory in property valuation is one that his office monitors closely.

In response to another question from Representative Bridges, Mr. O'Neill said that the pandemic affected house sales and then affected assessment calculations. This can lengthen the time between numerical assessment changes for a particular property.

Discussion of Sheriffs' Transportation Costs

Warren County Sheriff Brett Hightower provided an overview of Warren County's transportation costs relating to transporting juveniles. The sheriff's office is reimbursed for mileage, food, and lodging. When Warren County transports female detainees, the round-trip distance is 420 miles. The statutes also require an attendant as the same gender as the detainee ride in the vehicle as well. Reimbursement for the attendant is \$5 per hour. That trip is paid as eight hours per employee. The costs to the sheriff's department even after reimbursement are considerable. In 2019, the department conducted 65 out-of-state transports and 414 in-state transports for all detainees—not just juveniles. From August 22, 2022 to August 23, 2023, the department conducted 1,324 transports. The office has had to hire additional persons to transport detainees.

Concerns also include, for juveniles, the time spent in the back of a police vehicle in handcuffs and the public perceptions relative thereto. The distance of travel is also a hardship on families as they try to support their child who is in custody.

Kenton County Chief Deputy Pat Morgan said the closure of juvenile detention facilities have resulted in longer distances of travel. Courts should use available technology to help limit transports. Some courts use the technology, others do not. Law enforcement needs relief from these costs. When officers are away transporting, they are not available to patrol their jurisdictions. Other law enforcement officials must cover these gaps.

In response to a question from Representative Bowling, Mr. Morgan said that most court rooms and justice centers have video technology available. Detention centers have performed upgrades in order to conduct arraignments and status hearings electronically. Sometimes when a detainee is transported to a court appointment, a person involved in the court proceeding may not be present necessitating an additional trip at a future date when all can be present.

In response to another question from Representative Bowling, Mr. Morgan said that they would prefer to have more juvenile detention facilities open to shorten transport distances.

In response to a question from Representative Freeland, Mr. Hightower said that during the COVID pandemic, some judges were more apt to use the video technology and continued it, while other judges did not embrace it. The judges decide to use or not use the technology.

In response to a question from Representative Stevenson, Mr. Hightower said the use of video technology should reduce the time on the road by 20 to 25 percent, which directly equates to paid work hours.

Consideration of Referred Administrative Regulations

Representative Bridges noted the following administrative regulations had been referred to the committee: 109 KAR 017:010; 739 KAR 002:060; 815 KAR 007:130; 815 KAR 010:060; or 815 KAR 025:020.

There being no further business, the meeting was adjourned at 10:58 a.m.