

# **LEGISLATIVE RESEARCH COMMISSION**

## **Minutes of the 559th Meeting**

**June 13, 2018**

### **Call to Order and Roll Call**

The 559th meeting of the Legislative Research Commission was held on Wednesday, June 13, 2018, at 1:30 PM, in Room 125 of the Capitol Annex. Senator Robert Stivers II, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robert Stivers II, Co-Chair; Senators Jimmy Higdon, Ray S. Jones II, Dennis Parrett, Dorsey Ridley, Dan "Malano" Seum, Damon Thayer, and Mike Wilson; Representatives Rocky Adkins, Kevin D. Bratcher, Kenny Imes, Dennis Keene, David Osborne, Jonathan Shell, and Wilson Stone.

LRC Staff: David Byerman and Christy Glass.

There being a quorum, Senator Stivers called the meeting to order.

Senator Stivers called for a motion to approve the minutes of the November 1, 2017, meeting; accept and refer as indicated items A. through N. under Staff and Committee Reports; refer prefiled bills as indicated and approve items A. through Q. under New Business; and, accept and refer as indicated items 1. through 91. under Communications.

A motion was made by Representative Osborne and seconded by Representative Shell. Senator Stivers asked if there was any discussion.

Senator Jones asked to be recognized for discussion of memoranda under New Business.

In response to Senator Jones' question regarding the November 2, 2017, retention of counsel memorandum, Senator Stivers said attorney John Roach is licensed and admitted to practice in Washington, D.C. Mr. Roach's price per hour made it more feasible to hire him rather than hiring an attorney in D.C. at a higher hourly rate. The decision was made based on research by his general counsel, Dave Fleenor.

Dave Fleenor advised that the lawsuit is still pending, but a Motion to Dismiss has been filed.

Senator Jones requested that any invoices paid by LRC to John Roach be forwarded to minority leadership in both the House and Senate.

Responding to Senator Jones' question regarding the November 14, 2017, retention of counsel memorandum, Representative Osborne stated that Middleton Reutlinger issued a report to House Majority, which was then turned over to the Legislative Ethics Commission. There is no ongoing work being done. Representative Osborne said that he did not know what the total charges were for that investigation, and referred the question to LRC general counsel, Greg Woosley.

Mr. Woosley stated that the maximum contract amount authorized was \$50,000 and the invoice came in under contract.

Senator Jones requested that any invoices paid by LRC to Middleton Reutlinger be forwarded to minority leadership in both the House and Senate.

In response to Senator Jones' question regarding the December 22, 2017, retention of counsel memorandum, Representative Osborne stated that the litigation was still pending. Senator Stivers added that litigation cost in this matter is not known.

Responding to Senator Jones' request for documents which show rates for legal fees, LRC Director David Byerman replied that the contract with Stoll, Keenon, Ogden, PLLC was brought before the Government Contract Review Committee and he would provide those documents to minority leadership in both the House and Senate.

In response to Senator Jones' question regarding the January 10, 2018, retention of counsel memorandum, Representative Osborne said that the law firm of Dinsmore & Shohl was retained for the purpose of additional counsel during session.

Responding to Senator Jones' question regarding the April 30, 2018, retention of counsel contract extension memorandum, Representative Osborne stated that House Majority is without general counsel at this time, therefore, the contract with Eric Lycan was extended.

There being no further discussion, a motion having been made, a roll call vote was taken, and the motion passed with 9 yes votes and 6 no votes. The following items were approved, accepted, or referred.

The minutes of the November 1, 2017, meeting were approved.

#### **STAFF AND COMMITTEE REPORTS**

- A. Information requests since November 2017.
- B. Committee Activity Reports since November 2017.

- C. Report of the Administrative Regulation Review Subcommittee meetings on November 13, and December 12, 2017, and January 8, February 12, March 12, April 12, and May 8, 2018.
- D. Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meetings on November 2 and December 7, 2017.
- E. Committee review of the administrative regulations by the Interim Joint Committee on Education during its meeting on November 13, 2017.
- F. Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services during its meetings on November 15 and December 13, 2017.
- G. Committee review of FFY 2018-2019 Unified Community Mental Health and Substance Abuse Prevention and Treatment Block Grant Application by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on November 15, 2017.
- H. Committee review of FFY 2018-2020 Temporary Assistance for Needy Families (TANF) Block Grant Application by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on November 15, 2017.
- I. Committee review of administrative regulations by the House Standing Committee on Health and Family Services during its meetings of January 18, February 15, and March 15, 2018.
- J. Committee review of administrative regulations by the Senate Standing Committee on Health and Welfare during its meetings of January 17, February 21, and March 14, 2018.
- K. Committee review of FY 2018 Small Cities Community Development Block Grant and Section 108 Loan Guarantee Program Application by the Senate Standing Committee on State and Local Government and the House Standing Committee on Local Government during its meeting on February 7, 2018.
- L. Committee review of SFY 2019 Social Services Block Grant Application by the Senate Standing Committee on Health and Welfare during its meeting on March 14, 2018.
- M. Committee review of SFY 2019 Social Services Block Grant Application by the House Standing Committee on Health and Family Services during its meeting on March 15, 2018.
- N. From Teresa Arnold, Deputy Director for Research and Communications: Memorandum regarding the creation of the Diabetes Medical Emergency Response Task Force (2018 HCR 226).

## **NEW BUSINESS**

- A. Referral of prefiled bills to the following committees: **BR 28** (an act relating to public utilities) to **Natural Resources and Energy**.
- B. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing the LRC Director to enter into a personal services contract with Hon. John Roach.

- C. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum appointing Representative Bob Rothenburger as Co-chair of the Interim Joint Committee on Local Government.
- D. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum appointing Representative Myron Dossett as Co-chair of the Budget Review Subcommittee on General Government, Finance, Personnel, and Public Retirement.
- E. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum appointing Representative Phillip Pratt as Co-chair of the Interim Joint Committee on Economic Development and Workforce Investment.
- F. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing and instructing the LRC Director to enter into a personal services contract between the Legislative Research Commission and the law firm of Middleton Reutlinger
- G. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum appointing Kelly Ransdell (Fourth Supreme Court District) and Steve Trimble (Seventh Supreme Court District) to the Local Superintendents Advisory Council.
- H. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum adopting and approving the LRC Non-Partisan Staff Mission/Vision/Values Statement.
- I. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing and instructing the LRC Director to enter into a personal services contract between the Legislative Research Commission and the law firm of Stoll Keenon Ogden PLLC.
- J. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing and instructing the LRC Director to enter into a personal services contract between the Legislative Research Commission and Eric Lycan with the law firm of Dinsmore & Shohl for the months of January through April 2018.
- K. From Senate President Robert Stivers, House Speaker Pro Tempore David Osborne and Representative Tim Moore: Memorandum authorizing the organization and membership of the Pro-Life Caucus.
- L. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing and approving the membership of the LRC Task Force on Tax Expenditures.
- M. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing and instructing the LRC Director to enter into a personal services contract between the Legislative Research Commission and Eric Lycan with the law firm of Dinsmore & Shohl for the months of May through December 2018.
- N. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing the approval of the 2018 Interim Joint Committee Regular Meeting Schedule.
- O. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne:

Memorandum authorizing the creation of the School Safety Working Group for the 2018 legislative interim.

- P. From Senator John Schickel and Representative Adam Koenig, Co-chairs of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations: Memorandum requesting approval to meet July 20, rather than the regularly scheduled meeting date of July 13. There are no apparent conflicts.
- Q. From Senate President Robert Stivers and House Speaker Pro Tempore David Osborne: Memorandum authorizing and instructing the LRC Director to send the attached decision to counsel for the Herald-Leader.

## **COMMUNICATIONS**

- 1. From the Office of the Attorney General: Constitutional Challenge Report for the months of September, October, November, and December 2017, and January, February, March, and April 2018.
- 2. From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of October, November, and December 2017, and January, February, March, and April 2018.
- 3. From the Finance and Administration Cabinet, Office of the Controller: Surtax Receipts Statements for the Law Enforcement and Professional Firefighters Foundation Fund Programs, which reflect activity for Accounting Periods 4, 5, 6, 7, 8, 9, and 10 and year-to-date activity for the period of July 1, 2017, through April 30, 2018.
- 4. From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarters ending December 31, 2017, and March 31, 2018.
- 5. From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center Quarterly Reports for July 1-September 30, 2017, and January 1-March 31, 2018.
- 6. Development Act Incentives 2017 Annual Reports.
- 7. From the Kentucky Office of Homeland Security: 2017 Annual Report.
- 8. From the Kentucky Personnel Cabinet: October 2017, February and April 2018 Quarterly Reports, which lists all employees holding more than one state position.
- 9. From the Kentucky Personnel Cabinet: Semi-Annual Report which lists all filled positions, as of September 1, 2017, and March 1, 2018, exempted from classified service.
- 10. From the Kentucky Higher Education Assistance Authority: FY 17 Actuarial Valuation for Kentucky's Affordable Prepaid Tuition (KAPT).
- 11. From the University of Kentucky: 2017 Kentucky Interagency Groundwater Monitoring Network Annual Report.
- 12. From the Cabinet for Economic Development: 2017 Kentucky Investment Fund Act (KIFA) Annual Report.
- 13. From the Cabinet for Health and Family Services: FY 17 Human Trafficking Annual Report.
- 14. From the Tourism, Arts and Heritage Cabinet, Kentucky Department of Fish and Wildlife Resources: 2017 Law Enforcement Division Training Annual Report.

15. From the Kentucky Department of Education: 2017 Kentucky Facilities Inventory and Classification System (KFICS) Report - Revised.
16. From the Kentucky Department of Fish and Wildlife Resources: 2017 Status of Hunting Land Access in Kentucky.
17. From the Cabinet for Health and Family Services: 2017 Advisory Council on Autism Spectrum Disorder Bi-Annual Report.
18. From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of September 30, 2017.
19. From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2017.
20. From the Cabinet for Health and Family Services: 2017 Public Health Child Fatality Review Program Annual Report.
21. From the Cabinet for Health and Family Services, Department for Community Based Services: SWIFT Adoption Teams Report for the third and fourth quarters of 2017.
22. From the Auditor of Public Accounts: FY 17 Report of the Audit of the Northern Kentucky Convention Center Corporation.
23. From the Department of Revenue, Office of Property Valuation: Report of Real Property Assessment Equity and Quality in Kentucky for the 2014 Assessment Year.
24. From the Kentucky Legislative Ethics Commission: FY 17 Annual Report.
25. From the Kentucky Division of Water: Report to the Kentucky Legislative Research Commission on House Joint Resolution 56.
26. From the Finance and Administration Cabinet, Department of Revenue: 2017 Insurance Premiums Surcharge.
27. From the Commission on Small Business Advocacy: 2017 Kentucky Business One Stop Portal Annual Report.
28. From the Office of the State Budget Director: FYS 18-20 Governor's Office for Economic Analysis, Tax Expenditure Analysis.
29. From the Auditor of Public Accounts: Examination of Commonwealth of Kentucky Election Leave Use.
30. From the Finance and Administration Cabinet, Department of Revenue: FY 17 Energy Efficiency Products Credits Annual Report.
31. From the Finance and Administration Cabinet, Department of Revenue: FY 17 Energy Star Home and Energy Star Manufactured Home Credits Annual Report. (Staff suggested committee referrals: Natural Resources and Energy and Appropriations and Revenue.) Pursuant to KRS 141.437.
32. From the Department of Education: FY 16-17 Efficient School Design Report.
33. From the Auditor of Public Accounts: FYS 16-17 Report of the Audit of the Kentucky Public Employee Health Insurance Program.
34. From the Auditor of Public Accounts: FY 17 Report of the Audit of the Kentucky River Authority.
35. From the Kentucky Judicial Retirement System: Kentucky Judicial Retirement Plan Actuarial Valuation and Report as of July 1, 2017.

36. From the Kentucky Judicial Retirement System: Kentucky Judicial Retirement Plan – Hybrid Tier Report as of July 1, 2017
37. From the Kentucky Judicial Retirement System: FYS 2016 and 2017 Financial Statements.
38. From the Kentucky Legislators Retirement Plan: Kentucky Legislators Retirement Plan Actuarial Valuation and Report as of July 1, 2017.
39. From the Kentucky Legislators Retirement Plan: Kentucky Legislators Retirement Plan – Hybrid Tier Report as of July 1, 2017.
40. From the Auditor of Public Accounts: FYS 16-17 Report of the Audit of the Kentucky Public Transportation Infrastructure Authority.
41. From Northern Kentucky University: FY 17 Annual Financial Report.
42. From the Cabinet for Health and Family Services: 2017 Annual Report on Committed Children.
43. From the Justice and Public Safety Cabinet: 2017 Child Fatality and Near Fatality External Review Panel Annual Report.
44. From the Department of Criminal Justice Training: 2017 Annual Carrying Concealed Deadly Weapons Report.
45. From the University of Kentucky: Letter providing the link to the 2017 Audited Financial Statements of the University of Kentucky and its affiliated corporations, <http://www.uky.edu/ufs/financial-statements-and-investor-information>.
46. From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, and Financial Activity of the City of Whitesburg, Kentucky.
47. From the Cabinet for Health and Family Services: 2017 Kentucky Elder Abuse Annual Report.
48. From the Cabinet for Health and Family Services: 2017 Pediatric Cancer Research Trust Fund Annual Report.
49. From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, and Financial Activity of the City of Campbellsville, Kentucky.
50. From the Kentucky Personnel Cabinet: 2017 Kentucky Employees' Health Plan Annual Report.
51. From the Kentuckiana Regional Planning and Development Agency: 2017 Annual Report of Receipt and Expenditure of State and Federal Fundings.
52. From the Department of Agriculture: 2017 Annual Report of Cervid Chronic Wasting Disease Surveillance Identification Program.
53. From the Cabinet for Health and Family Services: FY 2016-2017 Commission for Children with Special Health Care Needs Biennial Report.
54. From the Kentucky Employees Retirement System: 2017 Comprehensive Annual Financial Report and 2017 Summary Annual Financial Report.
55. Kentucky Law Enforcement Council: 2017 Annual Report.
56. From the Cabinet for Health and Family Services: 2017 Annual Report of the Kentucky Traumatic Brain Injury Trust Fund.
57. From the Attorney General and the Auditor of Public Accounts: 2016-2017 Biennial Report of the Kentucky Employers' Mutual Insurance Authority.

58. From the Administrative Office of the Courts: 2017 Annual Report of the Kentucky Citizen Foster Care Review Board.
59. From the Energy and Environment Cabinet: 2017 Waste Tire Program Annual Report.
60. From the Kentucky Personnel Cabinet: Quarterly Reports as of December 31, 2017, and March 31, 2018, which list the number of all full-time classified and unclassified employees.
61. From the Kentucky Association of Sexual Assault Programs: The Cost of Not Testing Safe Kits in Kentucky: An Economic Harm Study.
62. From the Kentucky Council on Postsecondary Education: 2017 Annual Report on CPE and Institutional Board Members.
63. From the Cabinet for Health and Family Services: 2017 Annual Report on Receipt and Expenditure of State and Federal Funds to Area Development Districts.
64. From the Kentucky Board of Dentistry: FY 2016-2017 Annual Report.
65. From the Kentucky Board of Licensure for Massage Therapy: 2017 Annual Report.
66. From the Kentucky Board of Licensure of Marriage and Family Therapists: 2017 Annual Report.
67. From the Public Protection Cabinet: 2017 Kentucky Claims Commission Report.
68. From the Finance and Administration Cabinet: Contract Workers reports for the periods of July 1, 2015, through June 30, 2016, and July 1, 2016, through June 30, 2017.
69. From the Kentucky Employers' Mutual Insurance Authority: 2017 Annual Report.
70. From the Kentucky Employers' Mutual Insurance Authority: 2017 Annual Statement of Actuarial Opinion.
71. From the Governor's School for Entrepreneurs: 2017 Program Report.
72. From the Louisville Firefighters Pension Fund: 2018 Actuarial Report.
73. From the Kentucky Personnel Board: 2017 Annual Report.
74. From the Auditor of Public Accounts: Suggested changes for the Henderson County 2015 Fiscal Court Audit (attached).
75. From the Kentucky Personnel Cabinet: 2017 Annual Turnover Report of 15% and greater.
76. From the Louisville Policemen's Retirement Fund: 2018 Actuarial Valuation and Report.
77. From Kentucky Employer's Mutual Insurance Authority: 2017 Management's Discussion and Analysis with Supplementary Schedules.
78. From the University of Kentucky: 2016-2017 Kentucky Geological Survey Annual Report.
79. From the Kentucky Employers' Mutual Insurance Authority: 2017 Report of Independent Auditors.
80. From the Auditor of Public Accounts: 2017 Report of the Audit of Motor Vehicle and Motorboat Taxes and Registration Fees Collected and Remitted to the Commonwealth of Kentucky By Each County Clerk.
81. From the Justice and Public Safety Cabinet: 16RS HB 303 Management of the State Inmate Population 1<sup>st</sup> Quarter Report.



82. From the Auditor of Public Accounts: Examination of Certain Policies, Procedures, and Financial Activity of the Kentucky Fire Commission and the Kentucky Firefighters Foundation Program Fund.
83. From the Department of Workers' Claims: The Link Quarterly Report for January-March 2018.
84. From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of March 31, 2018.
85. From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending March 31, 2018.
86. From the Finance and Administration Cabinet, Department of Revenue: 2018 Summary of Property Assessments Exempt from Taxation.
87. From the Kentucky Stroke Encounter Quality Improvement Project (SEQIP), Kentucky Heart Disease and Stroke Prevention Program: 2018 Annual Report.
88. From the Auditor of Public Accounts: Independent Accountant's Report of the expenditures of the Lung Cancer Research Fund.
89. From the Auditor of Public Accounts: Independent Accountant's Report of the expenditures of the Early Childhood Development Fund.
90. From the Auditor of Public Accounts: Independent Accountant's Report of the expenditures of the Kentucky Health Care Improvement Fund.
91. From the Education and Workforce Development Cabinet: CY 2017 Unemployment Insurance Trust Fund Annual Report.

Representative Osborne and Senator Stivers welcomed Representative Kenny Imes to the Legislative Research Commission.

There being no further business, the meeting was adjourned.