

# LEGISLATIVE RESEARCH COMMISSION

## Minutes of the 560th Meeting

September 5, 2018

### Call to Order and Roll Call

The 560th meeting of the Legislative Research Commission was held on Wednesday, September 5, 2018, at 1:30 PM, in Room 125 of the Capitol Annex. Representative David Osborne, 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 Meade, David Osborne, Jonathan Shell, and Wilson Stone.

LRC Staff: David Byerman and Christy Glass.

Representative Adkins gave an update on Representative Chris Harris's son, Corbin, and conveyed Representative Harris's gratitude to everyone across the state for texts, phone calls, and prayers. Representative Adkins asked for a moment of silence for the Harris family.

Representative Osborne called for a motion to approve the minutes of the June 13, 2018 meeting; accept and refer as indicated items A. through L. under Staff and Committee Reports; refer prefiled bills as indicated and approve items A. through M. under New Business; and, accept and refer as indicated items 1. through 18. under Communications.

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

There being no further discussion, a motion having been made, a roll call vote was taken, and the motion approved unanimously. The following items were approved, accepted, or referred.

The minutes of the June 13, 2018, meeting were approved.

### STAFF AND COMMITTEE REPORTS

- A. Information requests since June 1, 2018.
- B. Committee Activity Reports since June 1, 2018.

- C. Report of the Administrative Regulation Review Subcommittee meetings on June 12, July 11, and August 14, 2018.
- D. Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meetings on June 7, July 5, and August 6, 2018.
- E. Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services during its meetings on June 20 and July 18, 2018.
- F. Committee review of the administrative regulations by the Education Assessment and Accountability Review Subcommittee during its meeting on June 19, 2018.
- G. Committee review of the administrative regulations by the Interim Joint Committee on Agriculture during its meeting on July 20, 2018.
- H. Committee review of the administrative regulations by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on August 13, 2018.
- I. Committee review of the administrative regulations by the Interim Joint Committee on Local Government during its meeting on August 22, 2018.
- J. Committee review of FFY 2019-2021 Child Care and Development Fund Block Grant Application by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on June 20, 2018.
- K. Committee review of FY 2019 Low Income Home Energy Assistance Program Block Grant Application by the Interim Joint Committee on Natural Resources and Energy during its meeting on July 5, 2018.
- L. Committee review of Reorganization Order 2018-325 by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on June 20, 2018.

### NEW BUSINESS

- A. Referral of prefiled bills to the following committees: **BR 138** (An act relating to homestead food operators and homestead food products) to **Agriculture**; **BR 7** (An act relating to property taxes for veteran service organizations), **BR 37** (An act relating to legislative procedures for state fiscal measures), **BR 64** (An act relating to an exemption of feminine hygiene products from sales and use taxation), **BR 65** (An act relating to the exemption certain baby products from sales and use taxation) and **BR 76** (An act relating to nonprofit exemptions in taxation and declaring an emergency) to **Appropriations and Revenue**; **BR 51** (An act relating to pregnancy-related discrimination) to **Economic Development and Workforce Investment**; **BR 22** (An act relating to public charter schools), **BR 31** (An act relating to public charter schools) and **BR 159** (An act relating to the display of the national motto in public schools) to **Education**; **BR 45** (An act establishing the Kentucky Rare Disease Advisory Council and making an appropriation therefor) and **BR 103** (An act relating to minimum staffing requirements for long-term care facilities) to **Health and Welfare and Family Services**; **BR 3** (An act relating to racial and ethnic community criminal justice and public safety impact statements), **BR 4** (An act relating to prosecutions under criminal

gang statutes), **BR 32** (An act relating to the investigation of a shooting or deadly incident by a law enforcement officer), **BR 48** (An act relating to firearm storage), **BR 120** (An act relating to the safety of canines and felines) and **BR 121** (An act relating to an animal abuse registry) to **Judiciary**; **BR 29** (An act relating to sports wagering and making an appropriation therefor) to **Licensing, Occupations, and Administrative Regulations**; **BR 98** (An act relating to an emergency contact information registry) to **Transportation**; **BR 36** (An act proposing an amendment to Section 42 of the Constitution of Kentucky relating to compensation for members of the General Assembly) and **BR 107** (An act proposing to amend Sections 99, 124, and 144 of the Constitution of Kentucky relating to a Judge of the County Court) to **State Government**.

- B. Referral of administrative regulations to the following committees for secondary review pursuant to KRS 13A.290(6): **012 KAR 003:007**, (Definitions for 12 KAR Chapter 3), **012 KAR 003:012** (Labeling format and labeling), **012 KAR 003:017** (Brand and product names), **012 KAR 003:022** (Expression of Guarantees), **012 KAR 003:027** (Ingredients), **12 KAR 003:028** (Descriptive terms), **012 KAR 003:032** (Feeding directions), **012 KAR 003:037** (Drugs and pet food additives), **012 KAR 003:039** (Nutritional adequacy), **012 KAR 003:042** (Statements of calorie content), (Structural Pest Control) and **302 KAR 029:020** (General provisions for structural pest control) to **Agriculture**; **806 KAR 009:360** (Pharmacy benefit manager license) to **Banking and Insurance**; **011 KAR 005:145** (CAP grant award determination procedure), **011 KAR 015:010** (Definitions for 11 KAR Chapter 15) and **011 KAR 015:110** (Scholarships for Registered Apprenticeship programs) to **Education**; **201 KAR 002:015** (Continuing education), **910 KAR 001:090** (Personal care attendant program and assistance services), **910 KAR 002:030** (Accounting provisions for adult guardianship), **910 KAR 002:052** (Repeal of 910 KAR 2:050), **921 KAR 001:380** (Child Support Enforcement Program application and intergovernmental process) and **921 KAR 003:030** (Application process) to **Health and Welfare**; **503 KAR 005:090** (Participation: requirements; application; withdrawal), **505 KAR 001:120** (Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services), **505 KAR 001:140** (Department of Juvenile Justice Policies and Procedures Manual: detention services) to **Judiciary**; **301 KAR 001:115** (Propagation of aquatic organisms), **405 KAR 001:011** (Repeal of 405 KAR Chapter 1) and **405 KAR 003:011** (Repeal of 405 KAR Chapter 3) to **Natural Resources and Energy**; **031 KAR 003:010 & E** (Current address of Kentucky registered voters and distribution of voter registration lists), **101 KAR 002:020** (Job classification plan), **101 KAR 002:034** (Classified compensation administrative regulations), **101 KAR 002:076** (Vacancies, detail to special duty and temporary overlap), **101 KAR 002:095** (Classified service general requirements), **101 KAR 003:045** (Compensation plan and pay incentives for unclassified service), **101 KAR 003:050**, (Unclassified service; promotion, transfer, and disciplinary actions) to **State Government**; **301 KAR 002:172** (Deer hunting seasons, zones, and requirements) and **301 KAR 002:176** (Deer control tags, deer destruction permits, and landowner designees) to **Tourism, Small Business, and Information Technology**,

and **830 KAR 001:010**. (Application, certification of registration, and fees) to **Veterans, Military Affairs, and Public Protection**.

- C. From Senator Alice Forgy Kerr and Representative Phillip Pratt, Co-chairs of the Interim Joint Committee on Economic Development and Workforce Investment: Memorandum requesting approval to meet September 21, rather than the regularly scheduled meeting date of September 20. There are no apparent conflicts.
- D. From Senator Max Wise and Representative John Carney, Co-chairs of the School Safety Working Group: Memorandum requesting approval for expense reimbursement under LRC guidelines to unpaid consultants.
- E. From Senator Alice Forgy Kerr and Representatives Tommy Turner and Diane St. Onge, Co-chairs of the Interim Joint Committee on Tourism, Small Business, and Information Technology: Memorandum requesting to meet on October 19, rather than the regularly scheduled meeting date of October 18, in eastern Kentucky. There are no apparent conflicts.
- F. From Senator Ernie Harris and Representative Ken Upchurch, Co-chairs of the Interim Joint Committee on Transportation: Memorandum requesting to meet on September 12, rather than the regularly scheduled meeting date of September 4, in Monticello. There are no apparent conflicts.
- G. From Senator Paul Hornback and Representative Richard Heath, Co-chairs of the Interim Joint Committee on Agriculture: Memorandum requesting reauthorization of the Rural Issues Subcommittee and the Equine Issues Subcommittee.
- H. From Senate President Robert Stivers and Speaker Pro Tempore David Osborne: Memorandum authorizing and approving membership of the 2018 Diabetes Medical Emergency Response Task Force.
- I. From Senator Joe Bowen and Representative Jerry Miller, Co-chairs of the Public Pension Oversight Board: Memorandum requesting approval and authorization of membership of the Kentucky Retirement System Administrative Subcommittee.
- J. From Senate President Robert Stivers and Speaker Pro Tempore David Osborne: Memorandum appointing members to the Local Superintendent Advisory Council.
- K. From Senate President Robert Stivers and Speaker Pro Tempore David Osborne: Memorandum appointing members to the National Conference of Commissioners on Uniform State Laws.
- L. From Director David Byerman: Memorandum requesting approval of Prefiling Deadlines for the 2019 Regular Session.
- M. From Director David Byerman: Memorandum requesting approval of the 2019 Regular Session Calendar

## COMMUNICATIONS

- 1. From Senator Danny Carroll and Representative Lynn Bechler, Co-chairs of the Program Review and Investigations Committee: Memorandum regarding the opportunity to appoint ex officio members for particular studies.
- 2. From the Office of the Attorney General: Constitutional Challenge Report for the months of May and June 2018. Pursuant to KRS 418.075(3).

3. From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of May, June, and July 2018. Pursuant to KRS 42.410.
4. 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 11 and 12 and year-to-date activity for the periods of July 1, 2017, through June 30, 2018, and for Accounting Period 1, and year-to-date activity for the period of July 1, 2018, through July 31, 2018. Pursuant to KRS 42.190.
5. From the Cabinet for Economic Development: Construction activity reports for each loan approved as of the quarter ending June 2018. Pursuant to KRS 154.20-150.
6. From the Kentucky Commission on the Deaf and Hard of Hearing: FY 18 Telecommunications Access Program (TAP) Annual Report. Pursuant to KRS 163.527.
7. From the Energy and Environment Cabinet, Department for Environmental Protection: FY 18 Hazardous Waste Management Fund. Pursuant to KRS 224.46-580(13)(c).
8. From the Auditor of Public Accounts: FYS 14-17 Report of the Audit of the Kentucky 911 Services Board (formerly known as the Commercial Mobile Radio Service Board).
9. From the Cabinet for Health and Family Services, Department for Community Based Services: FY 18 Citizen Review Panels Annual Work Report.
10. From the Cabinet for Health and Family Services, Department for Community Based Services: SWIFT Adoption Teams Report for the first quarter of 2018. Pursuant to KRS 199.565.
11. From the Kentucky Judicial Form Retirement System: Operating Statements of the Judicial Retirement Fund and the Legislators Retirement Fund for FY 18; list of investments held by the Fund as of June 30, 2018; and Portfolio Valuations of the Fund as of June 30, 2018. Pursuant to KRS 42.615.
12. From the Kentucky Personnel Cabinet: June 2018, Quarterly Report, which lists all employees holding more than one state position. Pursuant to KRS 224.50-872.
13. From the Kentucky Personnel Cabinet: Report as of June 30, 2018, which lists the number of all full-time classified and unclassified employees. Pursuant to 101 KAR 2:095(4).
14. From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period April through June 2018.
15. From Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending June 30, 2018.
16. From the Kentucky Employers' Mutual Insurance Authority: Statement of Assets, Liabilities, and Policyholder Equity; Statement of Income; and Statement of Solvency as of June 30, 2018. Pursuant to KRS 342.821.
17. From the Kentucky Legislative Ethics Commission: Recommended changes to the Legislative Code of Ethics 2018. Pursuant to KRS 6.666.
18. From the Department of Military Affairs, Adjutant General Stephen R. Hogan: Military Assistance Trust Fund State FY18 Annual Report. Pursuant to KRS 36.476.

Senator Jones asked to be recognized for discussion regarding the decision not to renew David Byerman's contract. He expressed his desire that the public know that the decision not to renew Mr. Byerman's contract was not made with any discussion with the Senate Democratic Caucus, and he does not think, with the House Democratic Caucus. Senator Jones stated that he believed all LRC members should be involved in the discussions of hiring and firing of an LRC director, and not just the members of the majority party. He said given the historically non-partisan nature of the LRC staff who try their best to serve both Republicans, Democrats, and Independents, that it would be important that the employees at LRC know that partisan politics will not creep into the LRC. Senator Jones requested that all members of the LRC of both the majority and minority parties in the House and the Senate be included in any decisions to change the leadership of the LRC, and that when the new LRC director is selected, it will be open for people across the country to apply, and that it will be a decision made in unison with the Democratic members of the LRC. Senator Jones said the members need to have bipartisan discussion as they move forward with the selection of a new LRC director.

In response to Senator Jones' concerns, Representative Adkins stated that he also hoped there would be a national search done when looking for a new director, and that the interview process, as was done before, would include both the majority and minority parties. Representative Adkins said that in his time here, he has been impressed with the LRC, as everybody at the table has been, on the non-partisanship stature. Representative Adkins said that to be able to maintain--what is looked at across America as one of the finest Commissions that has been established, not only because of the expertise, but because also of the non-partisanship of the research and the information and the help that staff gives to citizen legislators. He asked as they move forward with the process, that it is kept open, the majority and minority parties are a part of it, and they maintain what he believes is the signature of the LRC, and that is the non-partisanship of that expertise to be able to help all members.

There being no further business, the meeting was adjourned.