

LEGISLATIVE RESEARCH COMMISSION

Minutes of the 561st Meeting

December 19, 2018

Call to Order and Roll Call

The 561st meeting of the Legislative Research Commission was held on Wednesday, December 19, 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 Julie Raque Adams, Jimmy Higdon, Dennis Parrett, Dorsey Ridley, Damon Thayer, and Mike Wilson; Representatives Rocky Adkins, Kevin D. Bratcher, Dennis Keene, David Meade, David Osborne, and Jonathon Shell.

Guests: Ethan Bingham.

LRC Staff: Christy Glass.

Senator Stivers asked for a moment of silence in memory of Senator Damon Thayer's father, who passed away this week.

Senator Stivers recognized and welcomed Senator Julie Raque Adams, who has taken the position of the Caucus Chair for the Senate Republicans.

Senator Stivers called for a motion to approve the minutes of the September 5, 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 D. under New Business; and, accept and refer as indicated Items 1. through 50. under Communications.

A motion was made by Representative Osborne and seconded by Senator Raque Adams.

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 September 5, 2018, meeting were approved.

STAFF AND COMMITTEE REPORTS

- A. Information requests since September 1, 2018.
- B. Committee Activity Reports since September 1, 2018.
- C. Report of the Administrative Regulation Review Subcommittee meetings on September 11, October 9, and November 13, 2018.
- D. Committee review of the administrative regulations by the Interim Joint Committee on Natural Resources and Energy during its meetings on September 6, October 4, and November 1, 2018.
- E. Committee review of the administrative regulations by the Interim Joint Committee on Health and Welfare and Family Services during its meetings on September 19, November 27, and December 12, 2018.
- F. Committee review of the administrative regulations by the Interim Joint Committee on State Government during its meetings on September 26 and October 24, 2018.
- G. Committee review of the administrative regulations by the Interim Joint Committee on Agriculture during its meetings on September 28, October 10, and November 14, 2018.
- H. Committee review of the administrative regulations by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on September 13, 2018.
- I. Committee review of the administrative regulations by the Interim Joint Committee on Education during its meeting on November 19, 2018.
- J. Committee review of Reorganization Order 2018-718 by the Interim Joint Committee on Veterans, Military Affairs, and Public Protection during its meeting on October 11, 2018.
- K. Committee review of Reorganization Order 2018-780 by the Interim Joint Committee on Health and Welfare and Family Services during its meeting on November 27, 2018.
- L. From Senator Ralph Alvarado and Representative Danny Bentley, Co-chairs of the Diabetes Medical Emergency Response Task Force: Findings and Recommendations.

NEW BUSINESS

- A. Referral of prefiled bills to the following committees: **BR 304** (An act relating to grain discounts) to **Agriculture**; **BR 24** (An act relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency), **BR 47** (An act relating to family resource and youth services center), **BR 71** (An act relating to resale certificates for sales and use tax and declaring an emergency), **BR 72** (An act relating to exempting admissions to events held by nonprofit organizations from sales and use taxation), **BR 94** (An act relating to the taxation of admissions for sales and use tax), **BR 147** (An act relating to the exemption of certain animal services from sales and use tax), **BR 155** (An act relating to drug treatment and prevention and making an appropriation therefor), **BR 207** (An act relating to the taxation of pension income, making an appropriation therefor, and declaring an emergency), **BR 240** (An act relating to income tax checkoff programs and making an appropriation therefor) and **BR 276** (An act relating to an exemption of income taxation for military pensions) to **Appropriations and Revenue**; **BR 52** (An act relating to infertility treatment

coverage) and **BR 453** (An act relating to deferred deposit transactions) to **Banking and Insurance**; **BR 140** (An act relating to workers' compensation for first responders), **BR 141** (An act relating to employment schedules), **BR 142** (An act relating to leave from employment for crime victims), **BR 163** (An act relating to workers' compensation), **BR 165** (An act relating to earned paid sick leave), **BR 166** (An act relating to employment provisions for employees on maternity leave), **BR 168** (An act relating to prevailing wage), **BR 175** (An act relating to economic development incentives), **BR 177** (An act relating to the misclassification of employees in the construction industry), **BR 302** (An act relating to wages) and **BR 333** (An act relating to employment discrimination based on smoking) to **Economic Development and Workforce Investment**; **BR 55** (An act relating to local boards of education), **BR 156** (An act relating to the display of the national motto in public schools), **BR 238** (An act relating to Kentucky educational excellence scholarships and declaring an emergency), **BR 280** (An act relating to tuition benefits and making an appropriation therefor), **BR 324** (An act relating to healthy goals for the school children of the Commonwealth), **BR 429** (An act relating to corporal physical discipline), **BR 445** (An act relating to members of boards of education) and **BR 485** (An act relating to providing free feminine hygiene products for women public postsecondary students) to **Education**; **BR 69** (An act relating to mental illness), **BR 133** (An act relating to kinship and fictive kin care), **BR 180** (An concurrent resolution calling for the expediting of research regarding the safety and efficacy of the use of marijuana for medical purposes), **BR 271** (An act relating to pharmacists), **BR 325** (an act relating to the eternal child fatality and near fatality review panel), **BR 329** (An act relating to kinship and fictive kin care and making an appropriation therefor), **BR 355** (an act relating to disclosure of Medicaid managed care organizations' payment schedules to the Medicaid Oversight and Advisory Committee), **BR 375** (An act relating to service improvements in the Medicaid program), **BR 386** (An act relating to ground ambulance service providers and making an appropriation therefor), **BR 440** (An act relating to physicians assistants) and **BR 465** (An act relating to breast-feeding) to **Health and Welfare and Family Services**; **BR 66** (An act relating to domestic violence), **BR 172** (An act relating to gang violence), **BR 181** (An act relating to accountability of charitable organizations), **BR 208** (An act relating to road safety), **BR 272** (An act relating to special grand juries), **BR 285** (An act relating to firearms fabricated with additive manufacturing), **BR 299** (An act relating to firearms), **BR 335** (An act relating hate crimes), **BR 349** (An act relating to firearms and declaring an emergency), **BR 351** (An act relating to expungement), **BR 357** (An act relating to hate crimes), **BR 393** (An act relating to caller identification), **BR 476** (An act relating to the safety of canines and felines) and **BR 493** (An act relating to pretrial release) to **Judiciary**; **BR 15** (An act relating to sports wagering and making appropriation therefor), **BR 144** (An act relating to charitable gaming), **BR 320** (An act relating to sports wagering and making an appropriation therefor), **BR 360** (An act relating to causes of actions for building code violations) and **BR 460** (An act relating to licensing fees for the sale of alcoholic beverages) to **Licensing, Occupations, and Administrative Regulations**; **BR 12** (An

act relating to local investments), **BR 21** (An act relating to fire protection and making appropriation therefor), **BR 67** (An act relating to local procurement), **BR 205** (An act relating to county finance) and **BR 268** (An act relating to certified law enforcement telecommunicators and making an appropriation therefor) to **Local Government**; **BR 178** (An act relating to a youth crossbow deer hunting season) and **BR 382** (An act relating to water well drillers) to **Natural Resources and Energy**; **BR 11** (An act relating to Kentucky Retirement Systems), **BR 134** (An act relating to sanctuary cities and universities), **BR 174** (An act relating to public procurement), **BR 179** (An act relating to sexual harassment), **BR 202** (An act relating to reemployment of elected officials), **BR 204** (An act relating to the reporting of retirement contributions), **BR 212** (An act relating to legislative ethics), **BR 264** (An act proposing an amendment to Sections 30, 31, and 32 of the Constitution of Kentucky relating to terms of members of the General Assembly), **BR 266** (An act relating to oaths), **BR 319** (An act relating to state parks), **BR 350** (An act proposing an amendment to Section 145 of the Constitution of Kentucky relating to persons entitled to vote), **BR 420** (An act relating to executive branch ethics), **BR 352** (An act relating to contingency fee legal personal service contracts), **BR 353** (An act proposing to amend Sections 30 and 31 of the Constitution of Kentucky relating to elections of members of the General Assembly) and **BR 361** (An act proposing to amend Sections 70, 72, 73, 74, 84, 85, 86, 87, 90, 91, and 95 and repeal Section 82 of the Constitution of Kentucky relating to abolishing the Office of the Lieutenant Governor) to **State Government**; **BR 96** (A joint resolution designating the Laurel River bridge on Interstate 75 in Laurel County, Kentucky, in honor and memory of fallen soldier Sergeant First Class 3 Lance Scott Cornett), **BR 99** (An act relating to the renewal of identity documents), **BR 106** (An act relating to all-terrain vehicles and making an appropriation therefor), **BR 251** (An act relating to operator's license testing), **BR 253** (An act relating to motor vehicle insurance) and **BR 455** (A joint resolution designating the Irene Patrick Memorial Highway in Boone County) to **Transportation**; **BR 97** (An act relating to concealed deadly weapons) to **Veterans, Military Affairs, and Public Protection**.

- B. From Senate President Robert Stivers and House Speaker Pro Tem David Osborne: Memorandum appointing Andy Smith as a member to the School Safety Working Group.
- C. From Senate President Robert Stivers and House Speaker Pro Tem David Osborne: Memorandum appointing Representative D.J. Johnson as Co-chair of the Interim Joint Committee on State Government.
- D. From Greg Woosley, LRC General Counsel: Memorandum regarding the proposed settlement in *Dan Seum, Jr. v. David Osborne and David Byerman*.

COMMUNICATIONS

- 1. From the Office of the Attorney General: Constitutional Challenge Report for the months of July, August, and October 2018. Pursuant to KRS 418.075(3).

2. From the Finance and Administration Cabinet: Monthly Investment Income Report for the months of August, September, October, and November 2018. Pursuant to KRS 42.410.
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 2, 3, and 4, and year-to-date activity for the period of July 1, 2018, through October 31, 2018. Pursuant to KRS 42.190.
4. From the Cabinet for Economic Development: Construction activity reports for each loan approved as of July, August, September, and October 2018. Pursuant to KRS 154.20-150.
5. From the Cabinet for Health and Family Services: 2018 Child Abuse and Neglect Annual Report of Child Fatalities and Near Fatalities. Pursuant to KRS 620.050(12).
6. From the Kentucky Council on Postsecondary Education: FY 18 Kentucky Lung Cancer Annual Report. Pursuant to KRS 164.476(7).
7. From the Kentucky Council on Postsecondary Education: FY 18 Ovarian Cancer Screening Annual Report. Pursuant to KRS 164.476(1).
8. From the Kentucky Association of Food Banks: 2018 Advisory Committee Annual Report. Pursuant to KRS 247.984.
9. From the Kentucky Board of Medical Licensure: 2018 Annual Report.
10. From the Kentucky Department of Fish and Wildlife Resources: 2018 Status of Hunting Land Access in Kentucky. Pursuant to KRS 150.0241(6).
11. From the Kentucky Housing Corporation: FY 18 Report of the Kentucky Affordable Housing Trust Fund Awards.
12. From the Kentucky Housing Corporation: FY 18 Report of the Methamphetamine Housing Clean-up Assistance Program.
13. From the Cabinet for Health and Family Services: 2018 Kentucky Commission on Services and Supports for Individuals with Intellectual and Other Developmental Disabilities Annual Report. Pursuant to KRS 210.577(3).
14. From the Cabinet for Economic Development: FY 18 Linked Deposit Loan Investment Program Annual Report. Pursuant to KRS 41.606.
15. From the Finance and Administration Cabinet, Department of Revenue: FY 18 Disaster Relief Sales and Use Tax Refund Totals. Pursuant to KRS 139.519(7)(b).
16. From the Auditor of Public Accounts: FY 18 Report of the Audit of the Cabinet for Health and Family Services' Breast Cancer Research and Education Trust Fund.
17. From the Auditor of Public Accounts: Examination of Certain Contracts, Operations, and Activities of the Kentucky Communications Network Authority.
18. From the Cabinet for Health and Family Services: Response to the 2018 Citizen Review Panel Annual Report.
19. From the Office of the Governor, Department for Local Government: 2018 Special Purpose Governmental Entity Compliance Report. Pursuant to KRS 65A.

20. From the University of Kentucky, Kentucky Geological Survey: 2018 Kentucky Interagency Groundwater Monitoring Network Annual Report. Pursuant to KRS 151.625.
21. From the Finance and Administration Cabinet, Commonwealth Office of Technology: 2018 Personal Information Security and Breach Notification Annual Report. Pursuant to KRS 42.726(4).
22. From the Teachers' Retirement System: 2018 In-state Investments Report. Pursuant to KRS 161.430.
23. From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Department of Agriculture Spay and Neuter Program.
24. From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Department of Veterans' Affairs I Support Veterans License Plate.
25. From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Department of Veterans Affairs Veteran's Program Trust Fund.
26. From the Teachers' Retirement System: FY 18 Teachers' Retirement Annual Report. Pursuant to KRS 42.615.
27. From the Administrative Office of the Courts: 2018 Open Courts Pilot Project: Observations and Evaluation Report.
28. From the Kentucky Higher Education Assistance Authority: FY 18 Actuarial Valuation for Kentucky's Affordable Prepaid Tuition (KAPT Pursuant to KRS 164A.704(8)).
29. From the University of Kentucky, College of Agriculture: Kentucky Tobacco Research and Development Center, Quarterly Report for the period July through September 2018.
30. From the Kentucky Department of Education: 2018 Physical Activity and Nutrition Report.
31. From the Auditor of Public Accounts: 2018 Report of the Audit of the Kentucky Reclamation Guaranty Fund.
32. From the Kentucky Employers' Mutual Insurance Authority: Quarterly Statement and Financial Status for the period ending September 30, 2018. Pursuant to KRS 342.813.
33. 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, 2018. Pursuant to KRS 342.821.
34. From the Cabinet for Health and Family Services: 2018 Report of Child Victims of Human Trafficking. Pursuant to KRS 620.029(b).
35. From the Kentucky Employers' Mutual Insurance Authority: 2019 Administrative Budget. Pursuant to KRS 342.813(3)(b).
36. From the Kentucky Fire Commission: FY 18 (Year End) and FY 19 (Estimates) Financial Disclosures. Pursuant to KRS 95A.055.
37. From the Cabinet for Health and Family Services, Department for Community Based Services: 2018 Social Service Worker Caseload Averages. Pursuant to KRS 199.461(4).
38. From the Finance and Administration Cabinet, Department of Revenue: FY 18 Energy Efficiency Products Credits Annual Report. Pursuant to KRS 141.436.

39. From the Tourism, Arts and Heritage Cabinet, Kentucky Department of Fish and Wildlife Resources: 2018 Annual Professional Standards Update. Pursuant to KRS 235.312.
40. From the Legislative Ethics Commission: FY 18 Annual Report. Pursuant to KRS 6.666(16).
41. From Northern Kentucky University: FY 18 Annual Financial Report.
42. From the Cabinet for Health and Family Services: 2018 Annual Report on Committed Children. Pursuant to KRS 194A.365.
43. From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky Artisan Center at Berea.
44. From the Auditor of Public Accounts: FYS 17-18 Report of the Audit of the Kentucky Public Employee Health Insurance Program.
45. From the Auditor of Public Accounts: 2018 Report of the Audit of the Kentucky Heritage Land Conservation Fund.
46. From the Auditor of Public Accounts: FYS 17-18 Report of the Audit of the Kentucky Lottery Corporation.
47. From the Kentucky Pollution Prevention Center: FY 18 Annual Energy Management Reporting Requirements for KRS 160.325.
48. From the Executive Branch Ethics Commission: FYS 2014-2015 Biennial Report. Pursuant to KRS 11A.110(13).
49. From the Auditor of Public Accounts: FYS 17-18 Report of the Audit of the Kentucky Public Transportation Infrastructure Authority.
50. From the Auditor of Public Accounts: FY 18 Report of the Audit of the Kentucky River Authority.

Representative Adkins said there had been questions from members of their Caucus regarding the LRC Director search for a non-partisan LRC Director and whether that search had been started or if there was a plan to start that in the near future. He said that he would like to give his Caucus an update.

Senator Stivers said that at this point in time, there had not been any discussion. He said they felt it was only fair to hold off on any search until after it was established who would be here. Senator Stivers went on to say that as far as personnel matters, the Commission might want to have a time where there is a closed discussion since they can go in, under Open Records Law, into an Executive Session. However, at this point in time, as when Speaker Stumbo was the Speaker, the chiefs of staff have done a very good job at managing, and he thinks the Commission needs to have a private discussion about how to proceed and in what direction. Senator Stivers says that he has full confidence in Becky Harilson and Dave Floyd.

Representative Adkins said that he was not questioning that. He said that he read when this happened, that there would be a search, and that he wanted to put it on the table. Representative Adkins stated that he was not questioning either one of the people who is

doing the job; that he knows them both very well, and he has full confidence. He said he just wanted a path forward of what may be getting ready to take place. He said that he agrees with Senator Stivers and that a discussion needs to happen regarding that, and he looks forward to that discussion.

Representative Adkins mentioned that they had lost two other special people over the past week. Marshall Long, a longtime friend, and a person that served in both the House and the Senate passed away. Representative said that today is the day of the funeral for Representative Adrian Arnold, as well. He said he wanted to make sure the members of LRC knew about those two events and that it would be appropriate to have a moment of silence for them and their families, for their outstanding service to the people of the Commonwealth of Kentucky.

Senator Stivers said that he served with both and he knows many of the members know both. Senator Stivers asked for a moment of silence.

Senator Stivers proposed that he, the Speaker of the House, Minority Leader of the House, and the Minority Leader of the Senate sign off on an Amicus Brief before the Supreme Court. He said that he believes them doing an Amicus Brief is the appropriate mechanism for them to speak within court to state their position as it relates to what is called a Certification of the Law, as requested by the 6th Circuit Court of Appeals sitting in Cincinnati on the question of the 7 Counties issue of whether or not the obligations to the pension system is that of contract or statute. Senator Stivers said that is something that will have far-reaching implications on the certification by the Supreme Court back to the 6th Circuit Court of Appeals. He stated that most of them are aware that 7 Counties filed bankruptcy and it has now been taken upon appeal. The issue is whether they can bankrupt out of that provision for making contributions to the pension system for their respective employees and former employees who are now retirees. Senator Stivers said that it is his position that this is statutory and not contractual. If it is defined as contractual, they can bankrupt out. If that is the precedent that is set, then it causes a greater potential for fiscal problems for the pension systems as they currently exist, which are not in good positions as they sit there today.

Senator Stivers said with that explanation, he is not asking for a comment, but that he would hope to have a conversation with each of the respective leaders and they join him in signing off on an Amicus Brief establishing their position before the Kentucky Supreme Court. The Amicus Brief has to be filed by January 3, and Senator Stivers said he felt it was the appropriate position for them to take in something that could be of a bipartisan nature, and he thinks everyone understands what the fiscal impact could be, depending on the ruling of or the decision of the Kentucky Supreme Court and how it is dealt with at the 6th Circuit Court of Appeals in Cincinnati.

Senator Stivers asked for any questions or discussions.

Senator Stivers thanked Senator Ridley and Representative Shell for their service and wished them the best in their future endeavors. He said for those individuals who will continue to stay in the General Assembly but who will not be serving on the LRC, they look forward to continuing their working relationship with them. He said that they truly appreciate the public service that each of them has provided.

There being no further business, the meeting was adjourned.