

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 2nd Meeting of the 2018 Interim

July 5, 2018

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Natural Resources and Energy was held on Thursday, July 5, 2018, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Jared Carpenter, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jared Carpenter, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senators C.B. Embry Jr., Ernie Harris, John Schickel, Brandon Smith, Johnny Ray Turner, Robin L. Webb, and Whitney Westerfield; Representatives John Blanton, Larry Brown, McKenzie Cantrell, Matt Castlen, Tim Couch, Jeffery Donohue, Myron Dossett, Daniel Elliott, Chris Fugate, Angie Hatton, Reginald Meeks, Suzanne Miles, Robby Mills, Rick G. Nelson, Jim Stewart III, Jim Wayne, and Jill York.

Guests: Elizabeth Caywood, Acting Commissioner, Department for Community Based Services; Maribeth Schneber-Rhemrev, Director, Division of Family Support, Department for Community Based Services; Roger McCann, Executive Director, Community Action Kentucky, Inc.; Bruce Scott, Deputy Secretary, Energy and Environment Cabinet; and Tony Hatton, Commissioner, Department for Environmental Protection.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, Shelby Bevins-Sullivan, and Rachel Hartley.

Presentation and public hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application - Federal Fiscal Year 2019

Elizabeth Caywood provided an overview of the Department for Community Based Services (DCBS), which is the largest organizational unit within the Cabinet for Health and Family Services (CHFS) with a budget over \$1 billion. The Low Income Home Energy Assistance Program (LIHEAP) is a federal block grant received by DCBS on behalf of Kentucky. LIHEAP provides assistance to low income households that pay a high proportion of income for home energy. DCBS anticipates Kentucky's award will be \$48 million for 2019. Less than 10 percent is used for administrative costs.

DCBS maintains a contractual arrangement with Community Action Kentucky, Inc. (CAK) and the Kentucky Housing Corporation (KHC) to provide support, training, and monitoring. CAK and KHC have a subcontract arrangement with Kentucky's Community Action Network that makes LIHEAP benefits available in all counties.

The benefits offered by LIHEAP include bill payment assistance, emergency assistance, summer cooling assistance, and weatherization activities. In 2019, to further increase participation, LIHEAP weatherization benefits will not be subject to the Department of Energy weatherization rules pertaining to maximum statewide average and the average health and safety cost limitation per dwelling.

In 2018, four agencies participated in the LIHEAP pilot program to help additional consumers become more pro-active in managing their utility costs instead of waiting for a crisis. Applicants were only required to bring a past due or late notice instead of a disconnect bill. CHFS will administer the pilot again in 2019.

There are 23 community action agencies that together cover all Kentucky counties. Each agency allows local control, so specific needs can be met. CAK utilizes a continuous process for quality improvement including review of policy and procedure, committee structure, data collection analysis, use of technology, and training and technical assistance.

In response to a question from Representative Wayne, Ms. Schneber-Rhemrev stated weatherization is available to renters. However, there must be cooperation with the landlord to weatherize their building or home. Mr. McCann stated funding is available through the Department of Energy (DOE) and LIHEAP. LIHEAP is used for dwellings that do not qualify under DOE guidelines. DOE measures regional costs and estimates energy savings. There must be a proven savings in energy costs over a given time period for the project to qualify for DOE benefits. LIHEAP has a broader set of rules and allows for more flexibility in the payback period for energy efficiency measures and allows for health and safety projects.

In response to a question from Representative Hatton, Mr. McCann stated that he would provide statistics by region or county on how LIHEAP requests have changed over the past few years since electricity rates have dramatically increased in eastern Kentucky.

In response to a question from Senator Webb, Mr. McCann stated he has not had any dialogue with the utility companies regarding the increased heat this summer and how the very poor can receive assistance. The Summer Cooling Program is a component of LIHEAP that requires a weather emergency be declared for available funding to be awarded. There are cooling shelters available for temporary relief. Ms. Schneber-Rhemrev stated that participation in the pilot program that allowed applicants to submit late notices instead of disconnect bills was voluntary. The four agencies involved were the only agencies who volunteered for the program. The pilot program was organized in response

to a request from this committee to work on an issue in Jefferson County where energy consumers were not allowed to participate in the crisis component of LIHEAP unless they had a disconnect notice. The pilot program targeted areas where less bulk fuels were used for electricity.

In response to a question from Representative Meeks, Ms. Schneber-Rhemrev stated less than 10 percent of the funds are used for administrative costs due to federal LIHEAP requirements.

The LIHEAP block grant findings of fact were approved by unanimous voice vote.

Kentucky Brownfield Program - Working Together for a Better Future

Tony Hatton provided testimony on Kentucky's Brownfield Program. A waste site is a facility where the release of solid waste, hazardous waste, hazardous substances, or petroleum has occurred and may have impacted the environment. These waste sites were left fallow, unmanaged, and blighted, creating lower property values, decreased tax revenues, and lower quality of life for adjacent areas. The Brownfield Program was created to deal with these sites.

The Resource Conservation and Recovery Act of 1976 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 were federal legislation passed to address the growing volume of municipal and industrial waste. These laws have been effective in cleanup and preventing environmental issues, but they are also inflexible resulting in financial, legal, and technical challenges. The results have been slow and minimal cleanup, lack of closure of waste sites, and a branding of a waste site as a property to be avoided with little prospects for future use. In response, the Environmental Protection Agency and Kentucky have proactively improved the cleanup process for Brownfields sites through statutory and regulatory changes.

Bruce Scott stated the Underground Storage Tank Program significantly reduced the number of backlogged cleanup sites. The program also reduces cleanup time and costs, which allowed for quicker redevelopment of properties. Many of the sites were located in prime redevelopment locations. The Energy and Environment Cabinet (EEC) works closely with the Cabinet for Economic Development (CED) to redevelop these sites for industrial and commercial development. The program is funded by the Petroleum Storage Tank Environmental Assurance Fund (PSTEAF).

Mr. Hatton stated Kentucky's Superfund Program represents a large number of sites that offer the greatest challenges for cleanup. Most of the sites do not have a viable responsible party, so EEC is authorized to take action necessary to protect human life and the environment by taking the lead on cleanup. The program has conducted a review of the site list to prioritize actions to identify waste sites with the greatest potential risks. The

waste sites often represent future economic development opportunities due to their location, but they are not viable for those purposes due to the environmental conditions.

There are approximately 613 state-led Superfund sites and 221 Brownfield Redevelopment Program sites. The estimated liability cost to remediate the sites is between \$1.4 billion and \$2.4 billion. EEC currently receives approximately \$1.8 million a year to provide emergency response services, Superfund oversight, and cleanup costs.

In 2012, the Brownfield Redevelopment Program was established to allow parties who did not cause contamination at a site to purchase the property without assuming the cleanup liability, while still holding the responsible parties accountable. The objective of the program is to provide a process for a site purchaser to receive a Notice of Concurrence from EEC that the site purchaser is not responsible or liable for contamination.

The Kentucky Solid Waste Program handles waste that does not meet the definition of hazardous waste. Prior to federal regulations passed in 1992, cities and counties operated their own landfills and dumps. The regulations put those facilities out of business. Kentucky now has 30 permitted regional municipal contained landfills.

The Kentucky Personal Responsibility in a Desirable Environment Program (PRIDE) became effective in July 2002 and provided a revenue stream based on a \$1.75/ton fee on solid waste generated and disposed in the state. The fee generates approximately \$11 million annually. EEC is evaluating whether a reallocation and increase in the PRIDE fee will address the remediation needs and redevelopment opportunities.

Prior to 1990, there were approximately 720 city and county historic landfills with 670 now remaining. The current estimated cost to close these historic landfill sites ranges from \$900 million to \$1.8 billion. EEC currently receives \$2.5 million annually in PRIDE cleanup funds and \$750,000 annually for administrative oversight.

The Division of Oil and Gas (DOG) operates a well plugging program for abandoned wells that are prioritized based on environmental or safety impact. There are nearly 14,000 unplugged wells in Kentucky. Funding for the program is currently generated by oil and gas well bond forfeitures. Mr. Scott stated that EEC requests that legislators consider taking part of the \$11.5 million that the General Assembly transfers from PSTEAF to the general fund and reallocate \$3.5 million to the Hazardous Waste Management Fund and \$1.5 million to the Oil and Gas Well Plugging and Tank Abandonment Fund. Mr. Scott said this would address serious environmental issues in the Commonwealth without raising taxes.

In response to a question from Senator Westerfield, Mr. Scott stated the purpose of PSTEAF is to cleanup tanks and provide insurance. EEC has to adjust expenditures based on the amount of money allotted by the legislature.

In response to a question from Senator Webb, Mr. Scott stated that EEC prefers to deal with sites through Kentucky's Superfund Program because it is more flexible. When the superfund is used, there is expedient cleanup and redevelopment.

In response to a question from Representative Meeks, Mr. Scott stated that EEC needs flexibility on how to spend restricted funds to help local communities with redevelopment of their waste sites.

In response to a question from Representative Castlen, Mr. Scott stated the turnaround time from identification of a site to approval is becoming more efficient since 2013. Mr. Hatton stated the Brownfield sites do not require a total cleanup before reuse. There is usually less than a 30-day turnaround period for approval of an application.

In response to a question from Representative York, Mr. Scott stated oil and gas hazardous sites are prioritized and ranked. Mr. Scott stated that he wanted to discuss this issue with the Oil and Gas Workgroup.

The next meeting of the Interim Joint Committee on Natural Resources and Energy will be August 6, 2018. Documents distributed during the meeting are available in the LRC Library and at www.lrc.ky.gov.

There being no further business, the meeting was adjourned.