

INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY

Minutes of the 2nd Meeting of the 2023 Interim

July 20, 2023

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Natural Resources and Energy was held on July 20, 2023, at 1:00 PM in Room 154 of the Capitol Annex. Senator Brandon Smith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Brandon Smith, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senator Cassie Chambers Armstrong, Senator Adrienne Southworth, Senator Johnnie Turner, Senator Robin L. Webb, Senator Phillip Wheeler, Senator Gex Williams, Representative Jared Bauman, Representative John Blanton, Representative Randy Bridges, Representative Lindsey Burke, Representative Myron Dossett, Representative Ryan Dotson, Representative Patrick Flannery, Representative Chris Fugate, Representative Daniel Grossberg, Representative DJ Johnson, Representative Bobby McCool, Representative Suzanne Miles, Representative Tom Smith, Representative Bill Wesley, Representative Richard White, and Representative Wade Williams.

Guests: Roger McCann, Executive Director, Community Action Kentucky, Inc.; Todd Trapp, Director, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services; Tony Hatton, Commissioner, Department for Environmental Protection, Energy and Environment Cabinet; and Larry C. Taylor, Executive Advisor, Office of Legislative and Intergovernmental Affairs, Energy and Environment Cabinet.

LRC Staff: Stefan Kasacavage, Kayla Carroway, Tanya Monsanto, Rachel Hartley, and Emily Wiley.

Approval of minutes for the meeting of June 8, 2023

A motion to approve the minutes was made by Representative Fugate and seconded by Representative Dotson. The minutes were approved by voice vote.

Presentation and Public Hearing on the Low Income Home Energy Assistance Program (LIHEAP) Block Grant Application - Federal Fiscal Year 2024

Todd Trapp stated that Department for Community Based Services (DCBS) administers the Low Income Home Energy Assistance Program (LIHEAP) in partnership with Community Action Kentucky. LIHEAP was established in 1982 to meet home energy needs for low-income households. DCBS anticipates the federal funding for 2024 to be \$58 million. Less than 10 percent is used for administrative costs. Mr. Trapp provided an overview of the benefits of the LIHEAP program, which included bill payment, emergency assistance, and weatherization activities.

In response to Senator Smith, Mr. Trapp confirmed that bulk fuel is an option for utilizing LIHEAP funding by Kentucky citizens. Roger McCann stated that LIHEAP provides funding for electricity, natural gas, propane, coal, wood, and kerosene. A monetary payment is always made to the vendor for energy fuel purchases.

In response to Representative Blanton, Mr. McCann stated that it is important to ensure that benefits are being used by the person intended. For instance, a vendor must provide written documentation that propane has been delivered to the same address as the beneficiary and in-store vendors must verify identification of the recipient.

In response to Representative Burke, Mr. Trapp stated that he will provide the percentage of vendor vouchers versus direct payments to utility companies to the committee.

A motion was made to approve the Findings of Fact for the LIHEAP State Plan for Federal Fiscal Year 2024, including that the block grant application does meet the standards and criteria set out in KRS 45.353, by Representative Blanton and seconded by Representative Flannery. The motion passed by voice vote.

Discussion of Per- and Polyfluorinated Substances (PFAS) in Kentucky

Tony Hatton stated that Per- and Polyfluorinated Substances (PFAS) are compounds that are in commerce. PFAS are commonly referred to as “forever chemicals” or “emerging contaminants.” PFAS are a family of chemical compounds developed in the 1940s that have been widely used in consumer and industrial products, such as Teflon and Scotchgard, and aqueous film-forming foam (AFFF) for firefighting. The strong chemical bonds in PFAS materials make them very difficult to break apart and give them their heat and stick resistant properties.

States are taking different approaches to address this issue. Mr. Hatton stated that Kentucky has taken a measured strategy aimed towards public protection. The primary potential receptor issue for PFAS is ingestion through contaminated water, which is where the Department for Environmental Protection (DEP) has focused their efforts. There are pending federal PFAS guidelines that would affect the application of the Clean Water Act, Safe Drinking Water Act, Resource Conservation Recovery Act, and the State Superfund.

Mr. Hatton stated that the danger of PFAS comes when the chemical is released into the environment because PFAS migrates through groundwaters and accumulates in aquatic life.

In response to Senator Wheeler, Mr. Hatton stated that industrial processes are the major contributor to PFAS discharges. For example, if there is a large fire and only AFFF can extinguish it, AFFF will be utilized and can end up in waterways.

In response to Representative Smith, Mr. Hatton stated industrial discharges into publicly-owned treatment works is a long-term common practice. There are 26 municipal landfills in Kentucky and 25 of those manage their leachate through discharges to publicly-owned treatment works. Landfills are currently accepting products that may contain PFAS, and their leachate is becoming an issue for those public-owned treatment works. The DEP is not looking at changing requirements for treatment facilities. The decision to reject leachate is a local decision.

In response to Representative Gooch, Mr. Hatton stated that AFFF is still legal for firefighting activity. Electric vehicles are outside of the DEP’s jurisdiction.

In response to Senator Chambers-Armstrong, Mr. Hatton stated the DEP is concerned about the sources of PFAS. PFOA and PFOS are the two most toxic PFAS compounds and are not widely manufactured or distributed. Standards for PFAS have not been set. Therefore, there isn’t an

opportunity to control sources.

Senator Webb commended the work of the Energy and Environment Cabinet (EEC) for their continued efforts to educate the public about PFAS.

In response to Representative Burke, Mr. Hatton stated that there are processes and technologies that vendors have developed and will continue to develop for PFAS filtration models for homes. He encourages the public to utilize those opportunities.

Mr. Hatton provided potential costs to drinking water facilities. As one example, it will take roughly \$1 million in startup costs for the Leitchfield Facility to install Granular Activated Carbon to filter PFAS out of water. Water treatment facilities in Kentucky can utilize the State Revolving Fund (SRF) to fund construction projects, which has received \$115 million in 2024 requests to renovate or build new facilities, some of which may include PFAS treatment.

In 2019, the EEC studied 81 drinking water plants across Kentucky. The EEC has recently completed sampling at the remaining 113 drinking water plants in the state. Mr. Hatton shared a map of preliminary PFAS results and provided a list of likely and potential sources of PFAS in Kentucky's environment. Mr. Taylor stated that many of the higher amounts of PFAS are along the Ohio River, meaning that Kentucky facilities may not be the source of PFAS water contamination. Mr. Hatton stated that the DEP has collected fish tissue from rivers and lakes across the state and all samples had traces of PFAS. In collaboration with the Department of Fish and Wildlife Resources, PFAS has been added to the fish consumption advisories that are currently established.

In response to Representative McCool, Mr. Hatton stated that, whenever a sample is taken, its respective facility will receive a report of the results.

In response to Representative Wesley, Mr. Hatton stated that dredging will not be able to help the PFAS issue. PFAS is soluble and stays in the water. Mr. Taylor stated that PFAS does not bind to organic matter. Dredging could help if there is a concern about intake capacity of drinking water treatment facilities.

Referred Administrative Regulations

Chair Smith provided a brief overview of the administrative regulations on the agenda.

401 KAR 058:040 Proposed - Requirements for asbestos abatement entities.

301 KAR 002:222 Proposed - Waterfowl hunting requirements on public lands.

301 KAR 001:001 Proposed - Definitions for 301 KAR Chapter 1.

Adjournment

There being no further business, the meeting was adjourned.