

PUBLIC WATER AND WASTEWATER SYSTEM INFRASTRUCTURE TASK FORCE

Minutes of the 2nd Meeting of the 2019 Interim

August 28, 2019

Call to Order and Roll Call

The 2nd meeting of the Public Water and Wastewater System Infrastructure Task Force was held on Wednesday, August 28, 2019, at 1:00 PM, in Room 129 of the Capitol Annex. Senator Phillip Wheeler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Phillip Wheeler, Co-Chair; Representative Jim Gooch Jr., Co-Chair; Senator Robin L. Webb; Representatives Derek Lewis and Ashley Tackett Laferty; David Farrar, Mike Gardner, John Holiday, Donna McNeil, and Brian Traugott.

Guests: Lisa Daniel, Managing Director, PFM Financial Advisors LLC and Jayrd Crum, Inez, Kentucky.

LRC Staff: Stefan Kasacavage, Janine Coy-Geeslin, Tanya Monsanto, and Susan Spoonamore, Committee Assistant.

The July 24, 2019, minutes were approved by voice vote upon motion made by Representative Gooch and seconded by Representative Lewis.

Water Infrastructure Financing

Donna McNeil, Executive Director, Kentucky Infrastructure Authority (KIA), gave an overview of funding sources available to assist community water systems and utilities. She stated that KIA has some funds for small and disadvantaged community water systems. The Kentucky Department of Local Government has funds available through the Appalachian Regional Commission and Community Development Block Grant program. The Energy and Environment Cabinet funding sources include grants through the Division of Abandoned Mine Lands, Clean Water Act Section 319 (non-point source pollution) grants, and Brownfield funding and incentives. Other grants funds are available through the United States Environmental Protection Agency (USEPA), the Kentucky Cabinet for Economic Development, the Kentucky Department of Transportation, the United States Army Corps of Engineers Section 595 program, and the Delta Regional Authority. Loans are available through KIA, USDA/Rural Development, USEPA, National Rural Water Association, Rural Community Assistance Partnership, and Kentucky Association of Counties.

Ms. McNeil stated that KIA mandates include providing assistance for water services, maintaining water resources information, gather water resource data for development and management, promulgate regulations related to financial, managerial, and technical information for potential borrowers. As of January 1, 2019, KIA had \$1.4 million in assets. Current balance left to distribute is \$9 million. KIA is administering 34 state grants with over 600 active loans. As of January 2, 2019, KIA had 239 borrowers. KIA and the Department of Water (DOW) funding sources include the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF), the Infrastructure State Revolving Program (Fund B) and the Governmental Agencies Program (Fund C). For fiscal year 2020, KIA will have \$134.5 million in available funds, but the Water Resource Infrastructure System (WRIS) will need \$4.97 billion.

Ms. McNeil proposed items to be considered by the task force such as the creation of a loan program to improve financial, managerial, and/or technical capacity of utility. As part of that program, the utility must implement best management practices. The utility would receive principal forgiveness, if specific metrics are met showing improvement (reduction of water loss, consolidation or merger with another utility, or financial controls to safeguard against theft). A KIA funding workgroup would help to facilitate better communication with funding agencies and regulators. An annual rate adjustment clause based on the consumer price index and periodic rate studies would help to ensure adequate rates. Other items to consider would be to mandate training for all water utility decision-makers, maintain a replacement reserve account, and encourage regionalization and consolidation of water systems.

Lisa Daniel, Managing Director, PFM Financial Advisors LLC said that the low cost funding provided by KIA allows more dollars to be used for project funds rather than interest expense. During the last 10 years, \$4.8 billion of municipal bonds were issued by Kentucky municipalities for water and wastewater infrastructure projects away from KIA. If those municipalities had borrowed through the State Revolving Funds, approximately \$1 billion of additional project funds would have been available for project costs. She gave examples of other state water infrastructure initiatives that included New Jersey, Indiana and North Carolina.

In response to Representative Lewis, Ms. Daniel said that Kentucky is like other states who are struggling with big debt levels. State funds are restricted from co-mingling with federal funds.

Ms. McNeil stated that Plan B was not subject to Davis Bacon or environmental review. If seeded with state funds, it can be setup as a grant program.

In response to Mr. Gardner, Ms. McNeil stated that requiring local accountability and best management practices would be a start for utilities having to qualify for loans. If

certain metrics are met showing improvement, then the utility could receive partial or full principal forgiveness.

In response to Mr. Farrar, Ms. McNeil said that most are in compliance with their financial assistance agreement.

In response to Senator Webb, Ms. Daniel stated that she did not know how many states used privatization for funding. Public/private partnerships could be used to create opportunities through a framework to help municipalities explore their value. Ms. Daniel suggested creating policies and practices for municipalities to public/private partnerships. North Carolina has performed a study on the impact of using public/private partnerships to finance water projects.

In response to Senator Wheeler, Ms. Daniel said that there are some municipalities who have contracts with management companies. Some management companies charge larger rates than others.

Mr. Jaryd Crum, Inez, Kentucky stated that he was recently appointed to the Martin County Water Board in 2018. All the former board members have been replaced. Martin County is facing many challenges in fixing the water supply problems. Over the years the pipes deteriorated, and people were stealing water with no enforcement. Since some of the pipelines have been replaced, the loss of water has decreased from 70 percent to roughly 45 percent.

In response to Senator Wheeler, Mr. Crum stated that the board had asked the Public Service Commission (PSC) to allow a rate increase but the request was denied. Although, the PSC was serious about fixing the problems. People in the community are concerned about the PSC imposing a substantial rate increase when many of the residents live in poverty.

In response to Representative Tackett Lafferty, Ms. McNeil said that mandatory training should be for all utilities. KIA looks at 3 years of audits, but some utilities do not have audits. There is a need for standardized categories for audits.

In response to Senator Webb, Ms. McNeil stated that KIA's list of recommendations for audits and promulgating regulations related to potential borrowers financial, managerial, technical information is still a work in process.

Mr. Gardner stated that consolidating and/or regionalization of water utilities could have financial risks and burdens. He suggested that loan forgiveness could be based on Best Management Practices being followed by the water district.

Ms. McNeil stated that the Water Infrastructure Act provides that a state agency can implement mandates for assessment of regionalization or consolidation. If Kentucky implements a mandated assessment for regionalization, the KIA could fund the assessment with any of KIA's loan programs and could be considered for loan forgiveness too.

In response to Senator Webb, Ms. McNeil stated that a stakeholder workgroup should be put into place to consider best management practice options for Kentucky water infrastructure needs.

Meeting adjourned.