2014 Interim

LEGISLATIVE RECORD

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Budget, revenue bills become law

by Rebecca Hanchett, *LRC Public Information*

FRANKFORT--The Kentucky General Assembly approved a two-year spending plan during its 2014 Regular Session that authorizes around $20 billion in spending for education, public safety, Medicaid, and other state government services while cutting spending for most state agencies by 5 percent through fiscal year 2016.

House Bill 235, sponsored by House Appropriations and Revenue Committee Chairman Rick Rand, D-Bedford, was granted final passage by a vote of 89-11 in the House and passed the Senate by a vote of 37-1. The bill has since passed into law, although some portions were vetoed. (Those vetoes were not overridden by the General Assembly in the session's final hours).

Senate Appropriations and Revenue Committee Chairman Bob Leeper, I-Paducah, called the agreement a "budget that, I believe, sets us on a good stead for the future."

"It makes me feel good about what you all will face in the next biennium," Leeper said.

"We did what you paid us to do," House Speaker Greg Stumbo, D-Prestonsburg, said of the state budget process. "It was democracy in its purest form, but it worked."

The Executive Branch budget agreement adds around $189 million in guaranteed base per pupil funding (or SEEK funds) for schools, protects funding for Medicaid, PVAs and prosecutors, and adds hundreds of millions of dollars in new General Fund and authorized agency bond debt—mostly for postsecondary education.

HB 235 will also require smaller cuts to postsecondary education than originally proposed. State university budgets will be cut by 1.5 percent rather than 2.5 percent as proposed by the governor, with bond authorizations for many university projects restored. Community and technical college budgets will also be reduced by 1.5 percent instead of 2.5 as earlier proposed, with those institutions' capital projects paid for with student fees and private donations culled by the colleges.

Also included in the bill are pay raises for state workers of at least 2 percent over the biennium—with the lowest-paid workers receiving higher raises in the first year—and 3 percent raises for teachers over the biennium. A total of $3.3 million in 2015 and $6.6 million in 2016 for K-12 education technology are also found in the budget rather than the $50 million bond issue that had been proposed in an earlier budget version.

HB 235 also includes: full funding of the

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For the record:
Notable bills that passed in 2014

by Rob Weber
LRC Public Information

The Kentucky General Assembly's 2014 regular session ended on April 15, capping off a session in which lawmakers approved the state's next two-year budget and measures that will impact people throughout the state.

Since the session's start in early January, lawmakers approved measures to allow medical use of cannabis oil, create an adult abuse registry, prevent children from buying electronic cigarettes, establish a two-year plan for road and bridge construction, improve the juvenile justice system, and establish legal protections for victims of human trafficking.

Most new laws – all that don't come from legislation with emergency clauses or different specified effective dates – will go into effect in 90 days.

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Budget,
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actuarial required contribution (ARC) to Kentucky's public pension system; funding for expanded preschool for four-year-olds statewide in 2016 totaling $18 million; additional funding to boost foster care rates; and restoration of child care subsidies for low-income families that had been cut from the state budget last year by adding $39 million for the subsidies the first year of the biennium and $58 million in the second year. Families with household incomes of up to 125 percent of the federal poverty level would receive the subsidies under HB 235 in 2015, with subsidies expanded to families making up to 160 percent of the poverty level in 2016.

The Executive Branch budget agreement adds around $189 million in guaranteed base per pupil funding (or SEEK funds) for schools.

State lawmakers also passed HB 445, the session "revenue bill" that will provide some new dollars to fund state needs over the biennium. Provisions in that bill—now law—include, but are not limited to, a phased-in barrel tax credit for distilled spirits, an angel investor tax credit, an expanded historic preservation tax credit, and "new markets" tax credit to help underserved areas of Kentucky. The revenue measure was signed into law by the Governor on April 10.

Two-year budgets for the Judicial and Legislative branches of government, found in HB 238 and 253 respectively, were also enacted.

The General Assembly also passed a $5.1 billion two-year state Road Plan (HB 237) along with legislation to fund it found in HB 236. The plan authorizes road and bridge projects through fiscal year 2016. Another piece of legislation, House Joint Resolution 62, prioritizes state road projects through 2020 in the "six year road plan" as required by law.

Bills,
from page 1

Bills approved this year by the General Assembly include measures on the following topics:

Acupuncture. Senate Bill 29 will require acupuncturists to be licensed.

Adult protection. SB 98 will create an adult abuse registry to help employers in the adult care profession determine if a prospective employee has a previous history of substantiated adult abuse, neglect or exploitation.

All terrain vehicles. House Bill 260 will allow an ATV operator 16 years of age or older to cross a public roadway if the speed limit is 45 miles per hour or less without protective headgear in order to get from one ATV trail to another.

Boaters. SB 66, known as the "Boater Freedom Act," will require boating enforcement officers to have a reasonable suspicion of violation of the state's boating laws before boarding and inspecting a boat on Kentucky waterways.

Budget. HB 235 is the $20.3 billion budget that will guide state spending for the next two years. Many state agencies will face 5 percent budget cuts, though some critical areas, such as Medicaid, will be protected from reductions. Per pupil school funding at K-12 schools will go up. Funding for universities and community and technical colleges will be cut by 1.5 percent, though plans for bond-funded capital construction can go forward on many campuses. State employees and teachers will get raises and full contributions will be made to the state employee pension system.

Bullying. SB 20 will designate October as Anti-Bullying Month and a purple and yellow ribbon as the symbol for anti-bullying awareness. The bill was the idea of students at Madison Middle School in Richmond.

Cannabis oil. SB 124 will allow doctors at the University of Kentucky and University of Louisville to research and prescribe cannabis oil for medical purposes, such as treatment of pediatric epilepsy.

Child abuse. HB 157 will require more training for doctors on recognizing and preventing abusive head trauma among children.

Concealed weapons. HB 128 will allow anyone who has been granted an emergency protective or domestic violence order to receive a provisional concealed carry permit in one business day. The petitioners would undergo the same background checks and application requirements as other applicants but would have up to 45 days to complete the necessary training for a full concealed carry license.

Consumer protection. HB 232 requires businesses and other entities to notify consumers if a security breach might have resulted in the unauthorized acquisition of consumers' personal or financial information.

Cybersecurity. HB 5 will improve electronic safeguards in state agencies and require that people be notified if a security breach occurs on a government computer system.

Diabetes. HB 98 will allow school staff trained by health professionals to assist diabetic students with insulin administration.

Driver safety. HB 90 will require parents or guardians to make a court appearance when a driver under 18 is cited for a traffic violation.

Electronic cigarettes. SB 109 prohibits the sale of e-cigarettes to those under the age of 18.

Legislative ethics. HB 28 will tighten ethics rules to prevent a lobbyist from buying food or drink for an individual legislator. It will also prevent interest groups from paying for lawmakers' out-of-state travel and prohibits legislators and legislative candidates from accepting campaign contributions during General Assembly sessions from political action committees or organizations that employee lobbyists.

Health care. SB 7 will broaden the prescribing authority of Advanced Practice Registered Nurses.

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Photo at left: House Speaker Greg Stumbo, D-Prestonsburg, right, and House Majority Floor Leader Rocky Adkins, D-Sandy Hook, talk at the Speaker's dais during the 2014 Regular Session. At right: Reps. Addia Wuchner, R-Burlington, left, and Diane St. Onge, R-Lakeside Park, talk on the House floor during a day's proceedings.

Bills, from page 2

Human trafficking. SB 184 will allow a person's record to be cleared of a non-violent offense if a judge determines the offense resulted from being a victim of human trafficking.

Invasive plants. SB 170 will update and expand the state's list of invasive and noxious plants, such as kudzu and poison hemlock, targeted for eradication from roadsides and public right-of-ways.

Jobs retention. HB 396 expands eligibility for Kentucky Jobs Retention Act benefits to include manufacturers of appliances. The legislation is expected to help GE invest up to $325 million in its Appliance Park operations in Louisville.

Juvenile justice. SB 200 will increase and strengthen evidence-based early intervention programs and services provided to young offenders of certain non-violent crimes, such as truancy. It will also increase education and training of certain employees in the juvenile justice system. The measure calls for data collection and reporting to measure the effectiveness of programs and policies, and would create a committee to oversee implementation of the legislation, monitor effectiveness and make recommendations for improvements based on outcomes.

Legislative Research Commission. HB 81 will implement an employee suggestion system for employees of the Legislative Research Commission and require that the national motto, "In God We Trust," be prominently displayed in legislative committee rooms.

Newborn health. SB 7 will require periodic reporting of health statistics relating to drug-addicted or dependent newborns.

> Most new laws will go into effect 90 days after "sine die" adjournment—the end of the session.

Road plan. HB 237 outlines the state's $5.2 billion plan for road and bridge projects throughout the state for the next two fiscal years.

School calendar. HB 211 gives schools flexibility in adjusting their calendars to make up for the unusually high number of days schools were closed due to snow in recent months. The bill will allow school districts to increase the length of their school days to a maximum of seven hours for the remainder of this school year. Schools that aren't on track to reach the number of instructional hours required annually by the state by June 6 can ask the commissioner of education to waive the requirement for some of their instructional hours.

State parks. HB 475 will allow residents near state park lodges and golf courses in counties where alcohol sales currently aren't allowed to vote on whether by-the-drink alcohol sales should be allowed at the facilities.

Tax zappers. HB 69 would make it a Class D felony to possess a "tax zapper," a device that could be used on a computerized cash register to help a retailer hide sales subject to tax from tax collectors.

Veterans. HB 337 will make it easier for veterans with applicable military experience to become licensed as an HVAC professional.

Voyeurism. SB 225 will update the state's voyeurism laws to outlaw a practice called "up-skirting" in which a cell phone is used to take pictures underneath a woman's skirt without her consent.

Wineries. SB 213 will allow Sunday alcohol sales at small farm wineries if authorized by a fiscal court vote or a local option election.

Juvenile justice bill becomes law

by Amy Rose Karr, *LRC Public Information*

The state's juvenile justice system will receive significant updates under a measure passed by the Kentucky General Assembly on April 14.

Senate Bill 200, sponsored by Senate Judiciary Committee Chair Whitney Westerfield, R-Hopkinsville, is the result of work by the bi-partisan Unified Juvenile Code Task Force. It comes after two years of research, work and review of the state's juvenile code and practices.

The bill will increase and strengthen evidence-based early intervention programs and services provided to offenders of certain non-violent crimes or status offenses, such as truancy or running away. More than a thousand Kentucky children are held in detention centers each year for these types of offenses. Under the measure, those children will instead by assigned to court-designated workers to complete individual diversion plans.

Local school boards will also be allowed to collaborate with stakeholders in identifying and using truancy diversion and other early intervention programs.

According to Westerfield, the measure will help identify and address underlying issues facing juvenile offenders, such as poverty or abuse. "It is a step towards getting better outcomes for our kids," he told lawmakers prior to the bill's final passage.

SB 200 will require data collection and reporting by the Cabinet for Health and Family Services and Administrative Office of the Courts to measure the effectiveness of programs and policies to a committee created by the legislation. The Juvenile Justice Oversight Council will oversee implementation of the legislation, monitor effectiveness and make recommendations for improvements based on outcomes.

It will also increase education and training of certain employees in the juvenile justice system.

Westerfield said the measure could save $24 million in the next five years. It will also provide fiscal incentives to some communities for improved services to juveniles.

The Senate passed the bill 30-8. The measure cleared the House by an 84-15 vote on March 27.

Senate Bill 200 will go into effect in 2015.

Top, clockwise: Senate President Robert Stivers, R-Manchester, center, Sen. David Givens, R-Greensburg, Senate Majority Floor Leader Damon Thayer, R-Georgetown, Senate Minority Floor Leader R.J. Palmer, D-Winchester, Senate President Pro Tem Katie Stine, R-Southgate, Senate Majority Whip Brandon Smith, R-Hazard, and Sen. Mike Wilson, R-Bowling Green, discuss legislation at the President's Desk.

Cannabis oil bill approved

by Amy Rose Karr, *LRC Public Information*

Cannabis oil is now legal for limited medical use under a bill unanimously passed by the Kentucky Legislature in March.

Senate Bill 124, sponsored by Sen. Julie Denton, R-Louisville, and Sen. Whitney Westerfield, R-Hopkinsville, allows doctors at the state's two university research hospitals to prescribe the oil derived from industrial hemp or marijuana plants.

According to Westerfield, the measure is aimed at providing another treatment option for children suffering from pediatric epilepsy. The legislation is called the Clara Madeline Gilliam Act in honor of a baby in his district who has multiple seizures each day and inspired the legislation.

Rep. John Tilley, D-Hopkinsville, who presented the bill in the House, called the oil "nothing short of a miracle."

The bill also allows the University of Kentucky and University of Louisville medical schools to conduct studies of cannabis oil to determine its effectiveness at treating pediatric epilepsy and other illnesses. Legislators stressed that the oil does not contain the high-producing chemical found in marijuana plants and the bill does not legalize marijuana use.

The measure included an emergency clause and became effective upon the governor's signature on April 10.

Senate Minority Leader R.J. Palmer, D-Winchester, at right, talks on the Senate floor with Senate Minority Whip Jerry Rhoads, D-Madisonville, center, and Senate Minority Caucus Chair Johnny Ray Turner, D-Prestonsburg.

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Committee Meetings

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INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Minutes of the 7th Meeting of the 2013 Interim

December 19, 2013

Call to Order and Roll Call

The 7th meeting of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, December 19, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Bob Leeper, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Bob Leeper, Co-Chair; Representative Rick Rand, Co-Chair; Senators Walter Blevins Jr., Sara Beth Gregory, Ernie Harris, Stan Humphries, Ray S. Jones II, Christian McDaniel, Gerald A. Neal, and Robin L. Webb; Representatives Dwight D. Butler, John Carney, Leslie Combs, Ron Crimm, Robert R. Damron, Mike Denham, Bob M. DeWeese, Kelly Flood, Jim Glenn, Martha Jane King, Jimmie Lee, Reginald Meeks, Marie Rader, Sal Santoro, Arnold Simpson, Rita Smart, John Will Stacy, Tommy Turner, David Watkins, Jim Wayne, Susan Westrom, Addia Wuchner, and Jill York.

Guests: Senator Katie Stine; Mr. Van Ingram, Executive Director, Kentucky Office of Drug Control Policy; and Ms. Jane C. Driskell, State Budget Director.

LRC Staff: Pam Thomas, John Scott, Charlotte Quarles, Jennifer Hays, and Sheri Mahan.

Representative Crimm moved to approve the minutes from the previous meeting as written. The motion was seconded by Representative Denham. The motion carried by voice vote.

Heroin addiction in Kentucky

Senator Katie Stine discussed the heroin addiction problem in Kentucky. She then discussed the provisions of a bill draft, which she plans to introduce during the 2014 Regular Session, to address this problem.

Mr. Van Ingram, Executive Director of the Kentucky Office of Drug Control Policy, discussed heroin use in the state and the measures being taken to address the problem. He discussed the number of overdose related deaths in the state during the first three quarters of 2013. Of the 639 deaths, 26 percent had heroin in the toxicology report. He discussed the geographic distribution of heroin related deaths, stating that while the larger numbers are still located within metropolitan areas, more rural areas are also starting to see heroin use and related overdose deaths.

Mr. Ingram said that there were 451 heroin related arrests in 2010. As of September 10, 2013, there had been 2,382 arrests. This highlights the increase in heroin use in the state. He detailed the reason behind this increase, discussing Kentucky's long history with opioid abuse and the recent crackdown on opioid accessibility. With the influx of Mexican brown heroin, the drug has become a cheaper and more readily available substitute for traditionally abused opioids.

Mr. Ingram discussed ways to address this problem, including public education, increased access to treatment, enhanced penalties for traffickers, and greater access to the treatment drug Naloxone.

In response to questions from Senator McDaniel, Mr. Ingram said that methamphetamine, cocaine, and prescription drug use in Kentucky is declining due to stricter enforcement and dwindling supply while heroin use is increasing. Overdoses in general are declining, but only slightly over previous years.

In response to questions from Senator Gregory, Mr. Ingram said that family members of addicts have access to Naloxone. The proposed bill would increase access and allow advocacy groups to also have access to the drug.

Ms. Jane C. Driskell, State Budget Director, discussed state substance abuse funding. The total expenditure for substance abuse programs in FY 13 was $162.6 million. Of that total, $76.6 million were general funds, $8.3 million were agency funds, and $77.6 million were federal funds. The funds were distributed with the Justice Cabinet receiving $38.5 million, Health and Family Services receiving $38.3

million, the Drug Courts receiving $16.4 million, and the University of Kentucky receiving $63 million. She provided details of how each division distributed those funds.

Being no further business, the meeting was adjourned at 2:45 p.m.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE

Budget Review Subcommittee on Transportation
Minutes of the 6th Meeting of the 2013 Interim

December 19, 2013

Call to Order and Roll Call

The sixth meeting of the Budget Review Subcommittee on Transportation of the Interim Joint Committee on Appropriations and Revenue was held on Thursday, December 19, 2013, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Leslie Combs, Co-Chair; Senators Ernie Harris and R.J. Palmer II; Representatives Tim Couch, Jim Gooch Jr., Dennis Keene, John Short, and Jim Stewart III.

Guests: Steve Frank, Mayor Pro Tem, City of Covington; Mike Hancock, Transportation Cabinet Secretary; and, Tammy Branham, Executive Director, Office of Budget and Fiscal Management, Transportation Cabinet.

LRC Staff: Chuck Truesdell, Jennifer Anglin, and Spring Emerson.

Motor Fuels Tax Update

Secretary Hancock and Ms. Branham provided a brief update on the status of the Motor Fuels Tax.

In response to questions from Senator Harris, Secretary Hancock said that it was premature to recommend a stabilization rate. He added that sustainable revenues are a concern when planning for future projects.

In response to a question from Chair Higdon, Ms. Branham said that a decline in the tax rate to $1.786 is possible but unlikely. She said it is conceivable that gas prices could fall lower than the current price, adding that the current forecast is realistic.

In response to a question from Chair Higdon, Secretary Hancock said there is concern on the national level about the sustainability of the motor fuels tax. He added that according to the Transportation Research Board, the future for oil and gasoline is fairly bright in terms of supply, and if the demand decreases, prices could be driven lower. Ms. Branham said that, when comparing the Average Wholesale Price versus the motor fuel tax collected in surrounding states, there is not always a correlation between the price of gas and the tax collected.

In response to a question from Representative Couch, Ms. Branham stated that the last time the General Assembly took action to freeze the floor was in fiscal year 2009, when the floor was frozen at $1.786 which netted 16.1 cent per gallon.

In response to a question from Representative Stewart, Secretary Hancock said that he did not recall a specific discussion in which he told employees that there were funds available for raises. He added that the extent to which he would be willing to help Transportation employees is beyond measure.

In response to questions from Co-Chair Combs, Secretary Hancock said that there is approximately $500 million for projects. Ms. Branham stated that funds in the maintenance program do not lapse but carry forward to the next fiscal year. She added that some projects are seasonal and contracts that are awarded for one year often have a renewal option of four years.

In response to a question from Representative Stewart, Ms. Branham said factors such as weather conditions, terrain, fine turf mowing, available funds, and county priorities may determine the frequency of mowing throughout the state.

In response to questions from Representative Couch, Ms. Branham said that $110 million in Economic Development Bonds remain unauthorized and $200 million remain unsold. Secretary Hancock added that the original $400 million authorization of State Property and Buildings Commission (SPBC) bonds has been obligated and seventy-five percent of the SB2 bonds have also been authorized. The status of both bond issues is included in the Governor’s budget.

A motion was made by Representative Stewart and seconded by Co-Chair Combs to approve the minutes of the November 25, 2013, meeting. The motion carried, and the minutes were approved without objection.

Public-Private Partnerships

Steve Frank, Mayor Pro Tem, City of Covington, presented an update on the use of Public Private Partnerships (P3s) in large scale transportation projects.

In response to a question from Chair Higdon, Mr. Frank said that the best solution would be vehicle miles traveled, in which how much you pay is based on how much you have driven no matter how your vehicle is propelled.

A motion to adjourn was made by Co-Chair Combs and seconded by Representative Stewart. The motion passed, and the meeting was adjourned at 11:05 AM.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Elementary and Secondary Education
Minutes of the 3rd Meeting of the 2014 Interim

December 18, 2013

Call to Order and Roll Call

The third meeting of the Subcommittee on Elementary and Secondary Education of the Interim Joint Committee on Education was held on Wednesday, December 18, 2013, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Wilson Stone, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Wilson Stone, Co-Chair; Senators David P. Givens and Jimmy Higdon; Representatives Jeffery Donohue, Derrick Graham, Brian Linder, and Marie Rader.

Guests: Ashley Parrott, Cabinet for Education and Workforce Development; Sue Cain, Council on Postsecondary Education; Erick Jarboe, LEARNet; Marty White, Kentucky Association of School Superintendents; and Wayne Young, Kentucky Association of School Administrators.

LRC Staff: Jo Carole Ellis, Janet Stevens, and Lisa Moore.

Approval of September 9, 2013, and October 14, 2013, minutes

The minutes were not approved due to a lack of a quorum.

Unbridled Learning: College/Career Readiness for All 2013 Assessment Results

Dr. Terry Holliday, Commissioner, Kentucky Department of Education (KDE), said the college and career readiness of Kentucky graduating students increased from 34 percent in 2010, to 54.1 percent in 2013. He noted Kentucky is on a good trajectory to reach its goal of 67 percent by 2017.

Dr. Holliday said there are multiple ways for high school students to prove college and career readiness other than their score on the ACT. He discussed some of the other assessments such as the COMPASS, the ACT WorkKeys, the Armed Services Vocational Aptitude Battery (ASVAB), and Kentucky Online Testing (KYOTE).

Dr. Holliday said Kentucky switched over to a cohort graduation rate, and all states are using the same calculations for computing the graduation rate. Kentucky reached an 86 percent graduation rate, and the goal is 90 percent by 2015. This percentage ranks Kentucky in the top 10 to 15 states nationally.

Dr. Holliday said the number of distinguished middle schools, high schools, and school districts in the state increased in 2013. A total of 179 distinguished schools are in Kentucky, and 25 school districts are distinguished.

Ken Draut, Associate Commissioner, Office of Assessment and Accountability, KDE, said KDE recently completed the second year of testing. In grades three through eight, over 300,000 students were tested, and over 180,000 students were tested in the end-of-course high school testing program.

Mr. Draut said reading scores in high school and middle school improved, while the elementary scores went slightly down. The mathematics scores increased in elementary and middle school, while high school scores dropped. The testing scores for science went up for high school students and decreased for high school and middle school students. The testing scores for social studies increased in high schools and middle schools and dropped in elementary schools. Writing on-demand and language mechanics scores increased in elementary, middle, and high schools.

Mr. Draut said the number of elementary students at the novice level decreased in reading, mathematics, social studies, and language mechanics, while increasing in science and on-demand writing. Middle and high schools are reducing novice level students in every subject area, while increasing the number of students testing at the proficient and distinguished levels.

Mr. Draut said there are two parts to KDE's Gap Group data. KDE uses a non-duplicated group of students who are traditionally underperforming and places them in a single group. KDE then tracks the Gap Group scores over time to identify any increases in performance. At the elementary and middle school level, there was an increase in every content area for non-duplicated Gap Group students scoring proficient and distinguished. At the high school level, there was an increase in every content area except mathematics.

Mr. Draut said 60 percent of students are reaching their growth achievement gap goals, while 40 percent are not. Most struggling students are making some improvements with the exception of high school math. All achievement gap group scores can be tracked on the "School Report Card" accessible through the KDE website.

Mr. Draut said one component of the accountability system is growth and student growth percentiles. KDE uses students' beginning test scores from 2012 and tracks the students through the 2013 year school year to see how they performed. KDE uses the student growth percentile model that is used by 25 other states. This model compares how a student performs against academic peers.

Mr. Draut said another component for accountability tracking is the college and career readiness rate. The college readiness rate is based on ACT scores and how many students met the ACT benchmark. The Council on Postsecondary Education (CPE) has set the benchmark for ACT scores. If the CPE benchmark is met, there is an agreement from every public university in Kentucky that the student is ready to enroll in credit- bearing courses. The career readiness rate focuses on technical readiness and academic readiness. The WorkKeys test, provided by ACT, is used by business and industry, and the ASVAB test is for military applicants. Also, a student has to be able to demonstrate technical skills by completing a skills test in a selected career area. Over the past two years the number of college and career ready students has increased 7 percentage points.

Kelly Foster, Associate Commissioner, Office of Next Generation Schools and Districts, said priority schools in Kentucky are categorized by cohorts. Cohort 1 schools are persistently low-achieving (PLA) schools that are the lowest 5 percent of Title 1 eligible schools that failed to make their adequate yearly progress or had a graduation rate of 60 percent or less for three consecutive years. The first cohort of PLA schools was identified in 2010-2011. Cohort 2 schools, identified in 2011-2012, are schools that KDE identified as the next 5 percent of low-performing schools in the state, which are referred to as "priority schools" as part of a United States Education Department flexibility waiver. The second cohort consisted of 12 priority schools. In 2012-2013, the third cohort of 19 priority schools was identified. She said there are 39 priority schools in Kentucky for the 2013-2014 school year.

Dr. Foster said the 2012-2013 test scores showed improvement. Out of the original 41 schools that were identified in the bottom 5 percent, six schools scored in the distinguished category, seven schools scored in the proficient category, and 19 schools were categorized as progressing in addition to their classification as distinguished, proficient, or needs improvement. She also noted that 11 of the 41 schools had overall scores above the state average; 36 of the 41 schools met their annual measurable objective; 21 of the 41 schools achieved their college and career ready targets; and four schools made the rewards category of high progress, which requires a school to be in the top 10 percent of improvement in all schools.

Dr. Foster said KDE has provided education recovery staff to work in each of the priority schools. The education recovery staff consists of an education recovery leader who mentors the principal in the school turnaround and two education recovery specialists for literacy and math. She said KDE would like to continue the priority school work being done by education recovery staff, which has been supported by state funds from different sources. However, no state funds are currently appropriated to continue support of this program. To continue the transformative work with Kentucky's lowest-performing schools, the Kentucky Board of Education approved KDE to request $3.4 million for fiscal year 2015, and $4.77 million for fiscal year 2016.

Responding to a question from Representative Stone regarding the community response and turning around PLA schools, Dr. Foster said communities have different reactions to PLA schools based on whether it's a small, rural community or a large, urban community. She said when local organizations make it a priority to assist PLA schools, such as by providing resources, sponsoring students to have the opportunity to take the ACT preparation classes or the ACT, and working with business and industry on job shadowing to motivate students, they make a big difference in the success of improving the PLA schools. Representative Stone said community response has made a tremendous difference in a PLA school in his district.

Responding to a question from Representative Stone regarding the data and how much improvement in the assessment scores is necessary to be significant, Mr. Draut said the KDE would like to see a two to three point increase. He said three to four years of data will need to be collected in order to identify significant change or trends.

Responding to a question from Senator Givens regarding school districts using a moving average approach to measure student success, Mr. Draut said KDE uses a process to set targets for schools, but the current model does not use a moving average. He said KDE could incorporate a moving average in the future in order to analyze data over certain periods of time.

Responding to Senator Given's question regarding low gap populations and skewing numbers, Mr. Draut said KDE does not calculate gap groups with 10 or less students in the accountability model. He said the scores are shown to the schools but not counted in the accountability system as per federal guidelines.

Responding to a question from Senator Givens, Dr. Holliday said Senate Bill 1 is the KDE's most important goal, but the graduation rate, college and career readiness rate, and the gap rate are equally weighted in the accountability model. Mr. Draut said the overall goal is a one point gain every year in overall scores and annual measurable objectives. By 2012, the statistical number would be a 64.3 overall score using a formula that weights each component (achievement, gap, growth, college and career readiness, and graduation rate). He noted as additional components are added, the numbers may change.

Responding to a question from Senator Givens regarding gaming the formula in order to meet the target goals, Mr. Draut said program reviews will be added this year and Next-Generation Professionals data will be added in the third year so the formula will be modified when these two components are included. He noted the School Report Card will show the three components and track those categories from year to year.

Responding to a question from Senator Higdon regarding the Support Education Excellence in Kentucky (SEEK) formula and how it affects career and technical education, Dr. Holliday said the Southern Regional Education Board has completed a report on the key recommendations for the career and technical education funding formula for the future. He noted as the two programs merge, the issue needs to be addressed on how to most effectively and efficiently combine the three pots of money, local operating center funds, state funding, and Carl Perkins funding, from the federal level to serve career and technical education. He has never had to withhold SEEK funds from districts as a motivational tactic.

Responding to Senator Higdon's question on teachers losing 10 instructional days due to testing, Mr. Draut said that is not true for state tests as it takes about 1 percent of instructional time and has to be completed in five days. He noted teachers may be required to perform some local district and informative testing throughout the year.

Adjournment

With no further business before the subcommittee, the meeting adjourned at 10:55 a.m.

INTERIM JOINT COMMITTEE ON EDUCATION

Subcommittee on Postsecondary Education

Minutes of the 3rd Meeting of the 2013 Interim

December 18, 2013

Call to Order and Roll Call

The 3rd meeting of the Subcommittee on Postsecondary Education of the Interim Joint Committee on Education was held on Wednesday, December 18, 2013, at 10:00 AM, in Room 149 of the Capitol Annex. Representative Reginald Meeks, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Reginald Meeks, Co-Chair; Senator Katie Stine; Representatives C.B. Embry Jr., Jim Glenn, Derrick Graham, Richard Heath, Donna Mayfield, Jody Richards, Tom Riner, Rita Smart, and Addia Wuchner.

Legislative Guest: Representative Dennis Horlander.

Guests: Erin Klarer, Kentucky Higher Education Assistance Authority; Sue Cain, Council on Postsecondary Education; Clyde Caudill, Jefferson County Public Schools and Kentucky Association of School Administrators.

LRC Staff: Ben Boggs, Kenneth Warlick, and Daniel Clark.

Digital Learning Integration in the Public Schools

David Couch, Associate Commissioner, Office of Knowledge and Information and Data Services, Kentucky Department of Education (KDE), said KDE's Kentucky Educational Technology System (KETS) has attained major achievements since 1992. Kentucky was the first state to have all districts and schools connected to the internet and is a top state nationally in K-12 cloud based computing and K-12 product standards. Kentucky is a top state in equity of access and services along with stewardship of taxpayer funds. Most recently, Kentucky was recognized as a top 10 state in education quality with technology playing a role.

Mr. Couch said there needs to be a good instructional strategy and plan before school districts purchase technology for schools. When technology is purchased and brought into the school's environment, ample professional development is required for teachers to know how to integrate the tools properly for instruction. Also, there must be Wi-Fi available throughout the school buildings along with a modern mobile device and high-speed internet access.

Mr. Couch said when technology is utilized in the students learning, it becomes a more problem-solving, project-based learning. The student is in control more of their learning when there is a wide variety of electronic content. Mr. Couch said students like the collaboration and communication tools so that the student can apply the content in ways they want to do it. There is also an increase in academic performance and an increased interest in going to college. Also, because of the use of technology and mobile devices, schools can reduce the amount of paperwork used in the school building, including books. A lot of schools are using electronic books now to make learning a more engaging experience.

Mr. Couch said there are Technology Integration Specialists (TIS) throughout Kentucky who work with the teachers to help them understand the technology that has been implemented in each school. Also, teachers across Kentucky who have taken KDE's TELL survey have said that their schools high speed internet access is not sufficient enough statewide to support the instructional practices and there is not access to reliable communication technology, including phones, faxes, and emails. Teachers claim this is a problem for their working conditions.

In response to Representative Rita Smart's questions regarding a working relationship between KDE and newly built school buildings and concerns with limited resources at home, Mr. Couch said KDE does have a working relationship with school districts' new schools as long as the district includes them. Marty Park, Chief Digital Officer, Office of Knowledge, Information and Data Services, KDE, said KDE has a new construction checklist with technology components that is presented to each school district before a new school is built. Mr. Couch said some schools allow students to take a digital device home but having access to the internet at home is still a concern for some students.

In response to Representative Reginald Meeks' question regarding a model for instructional strategies, Mr. Couch said the instructional strategy should be sound and if technology goes with the instructional strategy, educational goals can be achieved much faster.

In response to Representative Richard Heath's questions regarding students retaining what they have learned compared to just finding an answer on Google and more money being spent on IPads and smart phones instead of textbooks, Mr. Couch said there is tremendous growth in technology and the younger kids are now more tech savvy then most adults. Mr. Park said when using digital materials, students and teachers shift more to learning and if students can Google an answer, there should be a different question asked.

In response to Representative Jody Richards' question regarding how students in Kentucky can get access to computers, Mr. Couch said a lot of school districts cannot afford iPads, laptops, or computers for every student and there is a need for state funding and assistance for those school districts to help provide students computer access.

Representative Jody Richards spoke about textbooks being outdated and technology helping keep the content updated.

In response to Addia Wuchner's question regarding recommendations and guidelines for families when purchasing certain types of technology at home, Erin Waggoner, Director of Technology, Jessamine County Public Schools, said if families ask for recommendations, the school systems will provide them. There is not anything that has been published for parents that recommends what to buy or use in regards to technology.

In response to Representative Reginald Meeks' questions regarding statewide Wi-Fi access on school buses, lack of state funding in Jefferson County for textbooks and security, Mr. Couch said wifi access on school buses is new and is not statewide. Mr. Couch said using electronic textbooks in schools instead of paper ones would be more economic for a school district. Mr. Couch said that, when it comes to security, the biggest area of risk is passwords.

Representative Derrick Graham said Kentucky is fortunate to have Mr. Couch and a technology system that is in place to help meet the needs of the 21st century and beyond when connecting our students through technology.

Approval of the September 9 and October 14, 2013 Minutes

Upon motion from Representative Jody Richards, seconded by Representative Jim Glenn, the September 9, 2013 minutes were approved by voice vote. Upon motion from Representative Jody Richards, seconded, by Representative Jim Glenn, the October 14, 2013 minutes were approved by voice vote.

Erin Waggoner, Director of Technology, Jessamine County Schools said, 73 percent of college students cannot study without technology, 70 percent of students take notes electronically, 91 percent use email to communicate with their professor, and 65 percent use digital devices for their presentations. College students today are using more technological devices than ever before.

Ms. Waggoner said nearly 70 percent of Jessamine County High School (JCHS) students currently have a daily online component to their learning and 56 percent of Jessamine County high school students are currently enrolled in a career and technical education course. In 2011-12, 1161 students were enrolled in dual credit courses with 92 percent of the students earning college credit. JCHS uses a learning management system called Moodle that is a blended working environment similar to Blackboard, which is used at colleges. It is an online forum where high school students can answer questions given by the teacher, talk to other students about those questions, and get feedback from the teacher.

Ms. Waggoner said according to the Brightback Survey, in Jessamine County Public Schools, 28 percent of students are asked to collaborate online with classmates at least monthly; 31 percent of students are asked to write online at least monthly; 40 percent of students are asked to identify and solve authentic problems using technology at least monthly; 28 percent of teachers ask their students to complete online assessments at least monthly; 80 percent of teachers spend less than three hours per year teaching digital citizenship; and 55 percent of teachers who use assistive technology, do go with students at least monthly. For a district, these numbers are fairly low.

Ms. Waggoner said according to the Brightback Survey, in Jessamine County Public Schools, 61 percent of teachers can get devices for their students when needed half of the time; 30 percent of teachers report high quality internet speed; 91 percent of teachers have access to a computer for their own use all the time at school; and 56 percent of teachers report a typical student to computer ratio of 2 to 1 or 1 to 1.

Ms. Waggoner said during the 2008-09 school year in Jessamine County, there were 11 full-time Technology Integration Specialists (TIS) in the school district. There was at least one at every school. TIS staff helped the teachers at each school use the technology and integrate technology into school lessons. As of the 2012-13 school year, Jessamine County does not have a TIS in the district.

In response to Representative Reginald Meeks' questions regarding how bandwidth is determined for each school, Mr. Couch said the bandwidth is determined by average daily attendance at each school.

In response to Representative Rita Smart's question regarding Technology Integration Specialists, Ms. Waggoner said several schools in Jessamine County have designated a classroom teacher to be a technology specialist. That can be difficult for that particular classroom teacher because the specialist workload is in addition to their regular duties.

Closing the Digital Divide

Greg French, Vice President of Educational Innovation, eCampus.com, said eTechCampus goals are to add valued service to Kentucky schools, prepare students for the next generation of jobs, help schools and teachers adapt to digital learners, and bridge the gap between K-12 and higher education. Mr. French said digital learners prefer receiving information quickly from multimedia sources while many educators prefer a slow and controlled release of information from limited sources. Digital learners prefer processing pictures, sounds, color, and video before text and many educators prefer to provide text before pictures, sounds and video. Digital learners also prefer instant gratification with immediate and deferred rewards while many educators prefer deferred gratification and delayed rewards. Mr. French said the eTechCampus that he envisions and is building for Kentucky is about digital transition and helping schools convert to digital content. Also, eTechCampus focuses on leadership, infrastructure, teachers, and innovation.

In response to Representative Reginald Meeks' question regarding the states eTechCampus is currently working with, Mr. French said eTechCampus is working mostly with Florida, Indiana, and Ohio. Mr. French stated eTechCampus has only worked with Kentucky on professional development matters.

In response to Representative Jim Glenn's question regarding Kentucky's structure and having a state or regional director of technology, Mr. French said Kentucky definitely needs more resources. Mr. Couch added that KDE's main technology goal right now is to ensure that school districts have the infrastructure pieces in place.

Representative Jody Richards' stated school districts need more flex money for computers and technology to download electronic books instead of spending more money on traditional textbooks. Also, Kentucky has such limited resources that the legislature will not be able to fund all needs. However, he would love to see some of the funding go to technology.

Representative Reginald Meeks thanked all of the presenters for their informative presentations.

With no further business before the committee, the meeting adjourned at 12:07 p.m.

CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

February 18, 2014

Call to Order and Roll Call

The Capital Projects and Bond Oversight Committee meeting was held on Tuesday, February 18, 2014, at 1:00 p.m., in Room 169 of the Capitol Annex. Senator Chris Girdler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senators Chris Girdler, Bob Leeper, and Christian McDaniel; Representatives Steven Rudy and Jim Wayne.

Guests Testifying Before the Committee: Mr. Mitchell Payne, Interim Vice President for Business Affairs, University of Louisville (UofL); Ms. Donna Gissen, Assistant Vice President for Health Affairs, UofL; Mr. Bob Wiseman, Vice President for Facilities Management, University of Kentucky; Mr. Scott Aubrey, Director of Real Properties, Finance and Administration Cabinet; Mr. John Hicks, Deputy State Budget Director; Mr. Jon Wilcoxson, Director of Division of Maintenance, Transportation Cabinet; Mr. John Covington, Executive Director, Kentucky Infrastructure Authority; Mr. Ryan Barrow, Executive Director, Office of Financial Management; and Mr. David Talley, Deputy Executive Director, Budget and Fiscal Management, Transportation Cabinet.

LRC Staff: Josh Nacey, Katherine Halloran, and Angela Offerman.

Approval of Minutes

Senator Leeper moved to approve the minutes of the December 17, 2014, meeting. The motion was seconded by Representative Rudy and approved by voice vote.

Correspondence Items

Josh Nacey, Committee Staff Administrator, presented two correspondence items. The first item included letters from the committee to the Secretary of the Finance and Administration Cabinet and the Vice President for Administration and Finance of Northern Kentucky University (NKU) advising them that no action had been taken on the projects submitted for January 2014, because the meeting was cancelled.

The second item included letters from the Finance and Administration Cabinet and NKU advising the committee that it would proceed with the projects as permitted in statute.

Information Items

Mr. Nacey said there were three information items for members to review. The first item was proposed legislation related to the jurisdiction of the committee.

The second item was a notice of advertisement for leased space for the Cabinet for Health and Family Services in Warren County. The third item included quarterly status reports on capital projects provided by the Administrative Office of the Courts; the Commonwealth Office of Technology; Finance and Administration Cabinet; and the universities that manage their own capital construction programs.

Project Report from the University of Louisville (UofL)

Mr. Mitchell Payne, Interim Vice President for Business Affairs, UofL, requested an unbudgeted capital project to renovate 2,000 square feet (sq. ft.) of existing research space in the Delia Baxter Building at the Health Science Center to construct a certified clean-room facility to support cardiac research activities. The project scope was $2,500,000, which will be supported by philanthropic funds from a private foundation.

Senator McDaniel made a motion to approve the unbudgeted capital project. The motion was seconded by Representative Rudy and approved by roll call vote.

Project Reports from the University of Kentucky (UK)

Mr. Bob Wiseman, Vice President for Facilities Management, UK, presented three items. First, UK requested an unbudgeted capital project to construct the new Football Training Facilities and Practice Field for the university's football program. The project will include a new two-story structure and two practice fields with an adjoining drill area. The project had a $45,000,000 scope, which will be paid from private funds and will be in addition to the $110,000,000 stadium improvement project.

Senator McDaniel made a motion to approve the unbudgeted capital project. The motion was seconded by Senator Leeper and approved by roll call vote.

The second item was a request for an increase in the authorized scope of the Construct/Replace/Upgrade Student Housing Phase II project from $277,000,000 to $362,000,000, which will come from private funds.

Representative Rudy made a motion to approve the unbudgeted capital project. The motion was seconded by Senator Leeper and approved by roll call vote.

The third item was an update reporting a project scope increase to a new total of $613,100,000 to accommodate the fit-up of the Clinical Decision Unit of the Patient Care Facility project. The increase in scope was within the existing authorization. No action was required.

Lease Reports from the Finance and Administration Cabinet

Mr. Scott Aubrey, Director, Division of Real Properties, Finance and Administration Cabinet, presented two items. The first item was for a lease renewal for the Unified Prosecutorial System, Louisville Jefferson Metro Government, under the same terms and conditions, for a total annual rent cost of $313,838 through June 30, 2016.

Senator Leeper made a motion to approve the lease renewal. The motion was seconded by Representative Wayne and approved by roll call vote.

The second item was for a lease modification and amortization of leasehold improvements for the Department of Agriculture in Franklin County. The department requested the modification to allow for four extension periods and to provide renovations to convert 600 sq. ft. of office space and 4,846 sq. ft. of unfinished warehouse space to office use. The renovations are necessary to accommodate offices that were located at the Fair Oaks complex.

Two estimates were obtained for the improvements and the department recommended accepting the lowest bid of $241,478 from Warnick Construction. The cost will be amortized through the term of the lease, which will expire June 30, 2019.

Senator McDaniel made a motion to approve the lease modification. The motion was seconded by Representative Wayne and approved by roll call vote.

Project Reports from the Finance and Administration Cabinet

Mr. John Hicks, Deputy State Budget Director, presented two requests for scope increases in federal funds for the Transportation Cabinet. The capital projects were authorized in 2012 Extraordinary Session House Bill 2.

The first request was for a Laser Crack Measurement System. The project scope included $480,000 in federal funds and $120,000 in Road Funds for a total project scope of $600,000. The Transportation Cabinet received an increase of $120,000 in federal funds from the Federal Highway Administration. The increase in federal funds will allow the $120,000 appropriation from the Road Fund be transferred back to the fund.

Senator Leeper made a motion to approve the Laser Crack Measurement System capital project. The motion was seconded by Representative Rudy and approved by roll call vote.

The second request was for a Video-Logging Roadway Feature System. The project scope included $480,000 in federal funds and $120,000 in Road Funds for a total project scope of $600,000. The Transportation Cabinet received an increase of $120,000 in federal funds from the Federal Highway Administration. The increase in federal funds will allow the $120,000 appropriation from the Road Fund be transferred back to the fund.

In response to questions from Chairman Girdler, Mr. Jon Wilcoxson, Director of Division of Maintenance, Transportation Cabinet, said the Video-Logging Roadway Feature System was a large commercial van and the Laser Crack Measurement System was a component of the van. The Laser Crack Measurement System will be used to capture roadway images and gather pavement-related data for condition assessments. The current fleet consists of three vehicles.

Senator McDaniel made a motion to approve the Video-Logging Roadway Feature System capital project. The motion was seconded by Representative Rudy and approved by roll call vote.

Kentucky Infrastructure Authority (KIA) Loans

Mr. John Covington, Executive Director, KIA, presented a Fund A loan increase for the Sanitation District No. 1 of Perry County. The request was for an $800,000 increase to the previously approved $875,000 Chavies Wastewater Treatment Plant project. The new Fund A loan amount was $1,675,000. Mr. Covington said the loan will have a 20-year term, an interest rate of one percent, and an estimated annual debt service payment of $86,366.

Representative Wayne made a motion to approve the Fund A Loan increase. The motion was seconded by Senator McDaniel and approved by roll call vote.

Reports from the Office of Financial Management (OFM)

Mr. Ryan Barrow, Executive Director, OFM, presented one status update and two new bond issues. The first report was a status update on the financing plan for the Louisville-Southern Indiana Ohio River Bridges Project (LSIORB).

The Kentucky Public Transportation Infrastructure Authority (KPTIA) First Tier Toll Revenue Bonds, Series 2013, (Downtown Crossing Segment) and the Subordinate Toll Revenue Bonds Anticipation Notes (BANs), Series 2013, (Downtown Crossing Segment) will fund the remaining costs to complete the Downtown Crossing segment of the LSIORB project. The Downtown Crossing Project includes reconstructing the Kennedy Interchange in downtown Louisville at the convergence of I-64, I-65, and I-71; constructing a new bridge over the Ohio River adjacent to and east of the existing I-65 Kennedy Bridge; and reconfiguring I-65 and associated ramps north of the new Downtown Bridge.

The KPTIA First Tier Toll Revenue Bonds, Series 2013 A, B, & C, transaction closed on December 20, 2013 with a final maturity of July 1, 2053. The par amount is estimated at $275,670,369 and a true interest cost of 6.291 percent. It was a negotiated transaction with Citigroup Global Markets Inc.

The Subordinate Toll Revenue BANs, Series 2013 A & B, transaction closed on December 20, 2013 with a final maturity of July 1, 2017. The par amount is estimated at $452,200,000 and a true interest cost of 2.301 percent. It was a negotiated transaction with Citigroup Global Markets Inc.

In response to questions from Representative Wayne, Mr. Barrow said the bonds were rated investment grade, which is in the category for a start-up non-recourse toll facility. Rating agencies perform annual reviews on all credits brought before the committee.

Mr. David Talley, Deputy Executive Director, Budget and Fiscal Management, Transportation Cabinet, said information, including recommendations, were received from environmental justice populations in the project area.

Based on the information collected, potential environmental justice mitigation measures, including recommendations, were made to the Federal Highway Administration. The results of the process will be consolidated into an environmental justice mitigation plan, which will become a part of an overall toll policy that will be adopted by the tolling body and joint board overseeing the project.

The second item presented was a new bond issue for Kentucky Asset/Liability Commission (ALCo) Project Notes, 2014 Federal Highway Trust Fund Grant Anticipation Revenue Vehicles (GARVEEs) First Series A and 2014 Federal Highway Trust Fund First Refunding Series B.

The bond issues will provide permanent financing for approximately $150,000,000 of the $330,000,000 authorized, but unissued bonds authorized by 2010 Extraordinary Session House Bill 3. The purpose of the bond issues are to finance expenditures for the US-68/KY-80 Lake Barkley and Kentucky Lake Bridges Project, to advance refunding of outstanding 2005 Federal Highway Trust Fund Project Notes, and to pay for costs of issuance.

The proposed date of sale is March 5, 2014, with a closing of March 19, 2014. The estimated par amount of the Series A bond issue is $131,530,000 and $39,860,000 for Series B. The true interest cost is estimated to be 3.31 percent and an average annual debt service of $20,152,572. The present value savings for Series B is 5.1 percent.

It will be a negotiated transaction with Goldman Sachs; Kutak Rock LLP, bond counsel; Peck, Shaffer & Williams LLP, underwriter's counsel; The Bank of New York Mellon, trustee; and OFM, financial advisor.

Representative Rudy made a motion to approve the new bond issues. The motion was seconded by Senator Leeper and approved by roll call vote.

The second bond issue presented was University of Kentucky General Receipts Bonds, 2014 Series A, B, & C. Series A will finance a portion of the authorization of the Expansion and Renovation of Commonwealth Stadium and Nutter Training Center, finance the authorization of the Construction of the Academic Science Building, and pay associated costs of issuance. Both projects were authorized in 2013 Regular Session House Bill 7.

The estimated par amount of the bonds is $195,415,000 and they were approved by the university's Board of Trustees on December 17, 2014. The proposed date of sale will be March 4, 2014, with a closing of March 18, 2014. The expected ratings are Moody's Aa2 and S&P AA-. The estimated true interest cost is 4.77 percent, with a 30-year term, and the total estimated debt service is $12,637,648. This will be a competitive transaction and Peck, Shaffer and Williams will serve as bond counsel; Hilliard Lyons as financial advisor; and US Bank as trustee.

Bond proceeds from Series B will be used to finance the authorization of the Expansion of the Gatton College of Business and Economics project, authorized in 2013 Regular Session House Bill 7, and to pay associated costs of issuance.

The par amount of the bonds is $38,350,000 and they were approved by the university's Board of Trustees on December 17, 2014. The proposed date of sale will be March 4, 2014, with a closing on March 18, 2014. The expected ratings are Moody's Aa2 and S&P AA-. The estimate true interest cost is 4.45 percent, with a 20-year term, and the total estimated debt service is $3,094,596. This will be a competitive transaction and Peck, Shaffer and Williams will serve as bond counsel; Hilliard Lyons as financial advisor; and US Bank as trustee.

Bond proceeds from taxable Series C will be used to finance the remaining private use component of the authorization of the Expansion and Renovation of Commonwealth Stadium, authorized in 2013 Regular Session House Bill 7, and to pay associated costs of issuance.

The par amount of the bonds is $10,125,000. They were approved by the university's Board of Trustees on December 17, 2013. The proposed date of sale will be March 4, 2014, with a closing on March 18, 2014. The expected ratings are Moody's Aa2 and S&P AA-. The estimate true interest cost is 2.24 percent, with a 6-year term, and the total estimated debt service is $1,806,072. This will be a competitive transaction and Peck, Shaffer and Williams will serve as bond counsel; Hilliard Lyons as financial advisor; and US Bank as trustee.

Senator McDaniel made a motion to approve the new bond issues. The motion was seconded by Representative Wayne and approved by roll call vote.

New School Bond Issues with School Facilities Construction Commission (SFCC) Debt Service Participation

Mr. Barrow reported one school bond issue with SFCC debt service participation with a total par amount of $480,000. The state portion of the annual debt service payment was $35,050. The bond issues did not involve tax increases.

Senator Leeper made a motion to approve the new bond issue. The motion was seconded by Representative Wayne and approved by roll call vote.

With there being no further business, the meeting adjourned at 1:56 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the December Meeting

December 10, 2013

Call to Order and Roll Call

The December meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, December 10, 2013, at 1:00 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Joe Bowen, and Sara Beth Gregory; Representatives Robert R. Damron, Jimmie Lee, and Tommy Turner.

Guests: Becky Gilpatrick, Jacqueline Korengel, Kentucky Higher Education Assistance Authority; Travis Powell, Council on Post Secondary Education; Jennifer Jones, Christopher Tapia, Brian Thomas, Kentucky Retirement Systems; Michael Rodman, C. Lloyd Vest II, Board of Medical Licensure; Larry Disney, Jim Grawe, Kentucky Real Estate Appraisers Board; Timothy Owen, Michael West, Board of Interpreters for the Deaf and Hard of Hearing; Clint Quarles, Dr. Robert Stout, Department of Agriculture; Shawn Cecil, Tony Hatton, Aaron Keatley, Division of Waste Management; Kara Daniel, Department of Corrections; Lisa Lang, David Wickersham, Department of Education; Stephanie Brammer-Barnes, Diona Mullins, Stuart Owen, Connie Payne, Cabinet for Health and Family Services; David Leightty, Citizen.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Emily Harkenrider, Karen Howard, Laura Napier, and Betsy Cupp.

The Administrative Regulation Review Subcommittee met on Tuesday, December 10, 2013, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Commonwealth Merit Scholarship Program

11 KAR 15:020. Student eligibility report. Becky Gilpatrick, director, represented the

authority.

COUNCIL ON POSTSECONDARY EDUCATION: Adult Education and Literacy

13 KAR 3:050. GED® eligibility requirements. Jacqueline Korengel, director, and Travis Powell, general counsel, represented the council.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Kentucky Board of Medical Licensure: Board

201 KAR 9:081. Disciplinary proceedings. Michael Rodman, executive director, and C. Lloyd Vest II, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Sections 1 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Real Estate Appraisers Board: Board

201 KAR 30:315 & E. Renewal and reinstatement. Larry Disney, executive director, and Jim Grawe, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. Disney stated that initially, the board was unsure regarding how many applicants there would be. There was one (1) Kentucky company, and there were 119 out-of-state companies that would be affected by these fees. The complexities of banking law had increased the processing costs of these applications. Costs were lower than the maximum cap provided in the authorizing statute. Mr. Grawe stated that this administrative regulation established reinstatement and renewal requirements, with the actual fees established in another administrative regulation. Mr. Disney stated that the previous surety bond requirements had proven insufficient; therefore, the $300 recovery fund fee would be placed in a fund to ensure protection in cases of default.

In response to a question by Representative Damron, Mr. Disney stated that surety bonds were now more difficult to acquire, and this administrative regulation established provisions for renewal and reinstatement.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the material incorporated by reference to add information for applicants for reinstatement, including the fees required to comply with KRS Chapter 324A and this administrative regulation, which requires both applicants for renewal and for reinstatement to use the same renewal form. Without objection, and with agreement of the agency, the amendments were approved.

Board of Interpreters for the Deaf and Hard of Hearing: Board

201 KAR 39:040. Fees. Timothy Owens, chair, and Michael West, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. West stated that a temporary license was sometimes necessary if an applicant was in the process of completing requirements for ordinary licensure. Costs for the board had been rising, including the cost changed by the Division of Occupations and Professions, which had risen 146% since 2002.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1 through 5, to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Brownfield's Redevelopment

401 KAR 102:005. Definitions for 401 KAR Chapter 102. Shawn Cecil, environmental scientist IV; Tony Hatton, executive director; and Aaron Keatley, deputy commissioner, represented the department.

In response to a question by Senator Bowen, Mr. Hatton stated that brownfield size was based on property boundaries. These administrative regulations applied to specific properties and property owners.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

401 KAR 102:010. Brownfield Redevelopment Program.

In response to a question by Co-Chair Harris, Mr. Keatley stated that the cost of the Brownfield Redevelopment Program was funded one-third from the General Fund, one third from the fee established in this administrative regulation, and one third from federal funds. This was a voluntary program. The $2,500 fee would cover some, but not all, of the actual application processing costs. Lowering the fee would require the division to also use general funds to cover the costs of application processing. Public comments expressed surprise that the fee was not higher. Mr. Hatton stated that the application processing procedure included a technical review, which cost approximately $740. For one (1) in ten (10) of the applications, a Phase One review was conducted as a "random audit." The Phase One review cost approximately $4,000. There would also be ongoing expenses.

401 KAR 102:020. General requirements for a Property Management Plan for Brownfield Redevelopment Program.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:020 & E. Corrections policies and procedures. Kara Daniel, special assistant to the general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to clarify provisions and comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: Kentucky Board of Education: Food Service Programs

702 KAR 6:101. Repeal of 702 KAR 6:100. Lisa Lang, assistant general counsel, and David Wickersham, assistant general counsel,

represented the department.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: State Health Plan

900 KAR 5:020 & E. State Health Plan for facilities and services. Diona Mullins, policy advisor, and Emily Parento, executive director, represented the cabinet.

Office of Inspector General: Division of Health Care: Health Services and Facilities

902 KAR 20:058. Operation and services; primary care center. Stephanie Brammer-Barnes, policy analyst, and Connie Payne, acting inspector general, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to amend Section 3 to clarify requirements for the Quality Assurance Program. Without objection, and with agreement of the agency, the amendments were approved.

Department for Medicaid Services: Commissioner's Office: Division of Healthcare Facilities Management: Medicaid Services

907 KAR 1:180. Freestanding birth center services. Stuart Owen, regulation coordinator, represented the cabinet.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:190. Payments for freestanding birth center services.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the January 13, 2014, meeting of the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:140 & E. Employer's administrative duties. Jennifer Jones, assistant general counsel; Christopher Tapia, staff attorney; and Brian C. Thomas, general counsel, represented the systems. David Leightty, attorney, represented the Kentucky Fraternal Order of Police and appeared in opposition to this administrative regulation.

In response to questions by Co-Chair Harris, Mr. Thomas stated that the agency amendment deleted the prohibition to classify an employee as a temporary or probationary employee more than one (1) time. A statutory amendment would be required to amend requirements pertaining to spiking to allow overtime for emergency situations and for emergency-related agencies to remain immune to actuarial costs associated with the last five (5) years of employment prior to employee retirement.

Mr. Leightty stated that the Kentucky Fraternal Order of Police (FOP) was concerned that requirements for actuarial costs to be covered by an agency with employees who acquired overtime in the last five (5) years prior to retirement would be difficult to enforce and would potentially harm public safety. He stated that the statute did not intend for the requirement to apply to emergency situations and emergency-related agencies because the statute exempted "bona fide" compensation. Including emergency situations and emergency-related agencies was an unintended consequence, which the Kentucky FOP believed could be remedied by amending this administrative regulation to clarify the statutory intent. It would be nearly impossible to determine which employees intended to retire within five (5) years and, if it even was possible, it may constitute age discrimination to limit overtime for those employees. As a result, agencies would probably limit overtime for all employees. Such an amendment to exempt public emergencies and joint task force exercises would be more protective of public safety. The Kentucky FOP respectfully requested that the subcommittee find this administrative regulation deficient if such an amendment was not added.

In response to questions by Representative Damron, Mr. Thomas stated that the statutory spiking provisions did not affect individual employees, but agencies with employees who are retiring. The last employment agency of a retired person was required to pay actuarial costs to cover retirement liability, except for bona fide advancement or employment change. This requirement would help cover some of the pension fund's unfunded liability. If a soon-to-retire employee changed jobs during the last five (5) years of employment, it was possible that an agency would be required to assume the costs incurred at the previous agency because the costs would be to the last employment agency. Ms. Jones stated that the systems would follow up with data regarding specific cases and actuarial cost estimates. Mr. Tapia explained that actual costs would vary greatly on a case-by-case basis using the formula. Representative Damron stated that he was uncomfortable allowing this administrative regulation to progress until the data was submitted. He stated that a few thousand dollars of overtime could create tens of thousands of dollars in actuarial obligation. Co-Chair Bell stated that he too would prefer that this administrative regulation be deferred until the fiscal impact information was reviewed by the Subcommittee.

In response to a question by Representative Lee, staff read the statutory definition for "bona fide" from KRS 61.598.

In response to a question by Senator Bowen, Mr. Leightty stated that, because overtime was paid at 150% of standard salary, the ten (10) percent threshold was easy to reach with even a single serious emergency.

In response to questions by Co-Chair Bell, Mr. Leightty stated that an employer may try to avoid these actuarial costs by not appropriately staffing for emergency and related situations. This could lead to a reduction of public safety. Mr. Leightty stated that, as a retiree, he was concerned about protecting the pension system, but believed that this administrative regulation would incentivize agencies to short staff crucial programs. Mr. Thomas stated that the term "bona fide" was defined by statute and did not include overtime. The definition only included professional advancement or a change in employment status. For this administrative regulation to include overtime, a statutory amendment would first be required.

A motion was made and seconded to approve the following amendments: (1) to delete Section 1(9)(b), which prohibited an employer in the County Employees Retirement System from classifying an employee as temporary or probationary more than one (1) time; and (2) to add Section 8(13), which stated than an employer who is required to pay the additional actuarial cost pursuant to KRS 61.598 shall be treated as a participating employer in the system to which the employer is required to pay the additional actuarial cost solely for purposes of making the required payment. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Representative Lee, Mr. Thomas agreed to defer consideration of this administrative regulation as amended to the January 2014 meeting of the Subcommittee. Without objection, and with agreement of the agency, this administrative regulation as amended was deferred.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of Consumer and Environmental Protection: Division of Environmental Services: Livestock

302 KAR 21:001. Definitions for 302 KAR Chapter 21. Clint Quarles, attorney, and Dr. Robert Stout, state veterinarian, represented the division.

In response to questions by Co-Chair Bell, Mr. Quarles stated that the subject matter committee staff review stated that these administrative regulations did not conform to KRS 257.196 because the standards were vague. However, these administrative regulations did conform because the statute required minimum, rather than comprehensive, standards. There were multiple techniques for the various practices authorized by these administrative regulations, and these administrative regulations did not characterize all possible techniques; however, the regulated community was always obligated by statute to use a technique that is the least traumatic for the animal involved.

In response to a question by Senator Gregory, Mr. Quarles stated that the division's intent in the definition for "soring" was that a chemical agent used on an equine had to be intentionally used to create an abrasion. Senator Gregory expressed concern that the intent was not clearly elaborated in the definition. She requested an amendment to clarify that intentionality was a requirement. The division agreed to the amendment.

In response to questions by Co-Chair Bell, Mr. Quarles stated that the division had remained in open dialogue with all stakeholders during the promulgation process of these administrative regulations. While the division did not amend these administrative regulations in response to public comments, each comment was taken into consideration. The division did not feel the need to further define commonly used terms and believed that further specification would cause these administrative regulations to be in conflict with the statutory mandate for minimum standards. If more specification was needed in the future, the division was willing to amend these administrative regulations as needed after they had become effective. Mr. Quarles stated that the division was staffed by livestock experts who had no intention of overstepping appropriate rights of the agricultural industry. Co-Chair Bell stated that the standard of "sufficient to maintain" established in these administrative regulations seemed vague and difficult to enforce. Protecting the rights of farmers was paramount, and it was not in a farmer's best interest to provide insufficient care to livestock.

In response to a question by Representative Lee, Mr. Quarles stated that these administrative regulations were results driven, and it was unnecessary to provide the specific requirements, which would vary on a case-by-case basis. The federal guidelines were fairly commensurate in terms of specificity.

In response to a question by Senator Bowen, Mr. Quarles stated that the agricultural industry was unanimous in support of these administrative regulations. Dr. Stout stated that these administrative regulations were developed minimally to ensure that the requirements were not overburdensome.

A motion was made and seconded to approve the following amendments: to amend the definition for "soring" to clarify that a chemical agent shall be applied intentionally to create an equine abrasion. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Representative Damron, Dr. Stout stated that, while the commission needed to approve all substantive amendments, he did not consider Senator Gregory's amendment to be substantive as it aligned with formatting to the USDA definition. He agreed to consult with the commission about the amendments to 302 KAR 21:001.

In response to a question by Representative Turner, Mr. Quarles agreed to defer consideration of these administrative regulations to the January 2014 meeting of the Subcommittee. Without objection, and with agreement of the agency, these administrative regulations were deferred.

302 KAR 21:020. General livestock and poultry provisions.

302 KAR 21:030. Beef cattle, bison, and veal specific provisions.

302 KAR 21:040. Dairy cattle specific provisions.

302 KAR 21:050. Equine specific provisions.

302 KAR 21:060. Swine specific provisions.

A motion was made and seconded to approve the following amendment: to add Section 3 to incorporate by reference the Pork Quality Assurance Guidelines. Without objection, and with agreement of the agency, the amendment was approved prior to the deferral.

302 KAR 21:070. Ovine, caprine, camelid and cervid specific provisions.

302 KAR 21:080. Poultry specific provisions.

Office of Agricultural Marketing and Product Promotion: Organic Agricultural Product Certification

302 KAR 40:010. Certification of organic production, processing, or handling operations.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Education: Kentucky Board of Education: Office of Learning Support Services

704 KAR 7:151. Repeal of 704 KAR 7:150.

The Subcommittee adjourned at 3:10 p.m. until January 13, 2014 at 1 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January Meeting

January 13, 2014

Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 13, 2014, at 1:00 PM, in Room 154 of the Capitol Annex. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Perry B. Clark, Sara Beth Gregory, and Alice Forgy Kerr; Representatives Jimmie Lee, and Tommy Turner.

Guests: Becky Gilpatrick, Kentucky Higher Education Assistance Authority; Alicia Sneed, Education Professional Standards Board;

Jennifer Jones, Chris Tapia, Bill Thielen, Brian Thomas, Kentucky Retirement Systems; Nathan Goldman, Paula Schenk, Board of Nursing; Margaret Everson, Karen Waldrop, David Wicker, Department of Fish and Wildlife Resources; Kristen Branscum, James Comer, Clint Quarles, Dr. Robert Stout, Adam Watson, Department of Agriculture; Kevin Brown, Kay Kennedy, Amy Peabody, Karen Kidwell, Department of Education; Elizabeth Caywood, Virginia Carrington, Martha Hockensmith, Chandra Jones, Wendy Morris, Cabinet for Health and Family Services, Jeff Harper, Kentucky Farm Bureau, and Dave Maples, Kentucky Cattleman's Association.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Emily Harkenrider, Karen Howard, Laura Napier, and Betsy Cupp.

The Administrative Regulation Review Subcommittee met on Monday, January 13, 2014, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Commonwealth Merit Scholarship Program

11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) Program. Becky Gilpatrick, director of student aid services, represented the division.

EDUCATIONAL PROFESSIONAL STANDARDS BOARD: Educator Preparation

16 KAR 5:020. Standards for admission to educator preparation. Alicia Sneed, director of legal services, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Assessment

16 KAR 6:010. Examination prerequisites for teacher certification.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1:140 & E. Employer's administrative duties. Bill Thielan, executive director, and Brian Thomas, general counsel, represented Kentucky Retirement Systems.

Mr. Thielan stated that Kentucky Retirement Systems sent a letter to Subcommittee members explaining this administrative regulation and, in that letter, presented theoretical fiscal impact information.

In response to a question by Co-Chair Harris, Mr. Thielan stated that changing the spiking requirements in this administrative regulation would first require amendment to the authorizing statute, which strictly defined spiking as it related to overtime.

In response to questions by Co-Chair Bell, Mr. Thielan stated that Kentucky Retirement Systems was not currently soliciting legislators to amend the authorizing statute for this administrative regulation because the current statute assisted budget shortfalls. Kentucky Retirement Systems would implement whatever legislation the General Assembly enacted. An emergency situation that required significant overtime would require Kentucky Retirement Systems to treat the compensation as spiking. The theoretical fiscal impact information provided with Kentucky Retirement Systems' letter to Subcommittee members included an example of an emergency situation that resulted in spiking.

A motion was made and seconded at the December meeting of the Subcommittee to approve the following amendments: (1) to delete Section 1(9)(b,) which prohibited an employer in the County Employees Retirement System from classifying an employee as temporary or probationary more than once; and (2) to add Section 8(13), which stated that an employer required to pay the additional actuarial cost pursuant to KRS 61.598 shall be treated as a participating employer in the system to which the employer is required to pay the additional actuarial cost solely for purposes of making the required payment. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Nursing: Board

201 KAR 20:056. Advanced practice registered nurse licensure, program requirements, recognition of a national certifying organization. Nathan Goldman, general counsel, and Paula Schenk, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 1 to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1, 2, 3, 5, 6, 9, 10, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:061. Approval of Doctor of Nursing Practice (DNP) degree programs. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:062. Standards for advanced practice registered nurse (APRN) programs of nursing. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 10 to comply with the drafting requirements of KRS Chapter 13A; and (4) to amend Section 4 to change references from "nursing unit administrator" to "designated chief nursing academic officer." Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:240. Fees for applications and for services. In response to a question by Senator Kerr, Mr. Goldman stated that all nursing programs had finished the application process for APRN programs; therefore, the application fee was deleted because it was obsolete. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY

paragraphs to correct statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:260. Organization and administration standards for prelicensure programs of nursing. In response to a question by Co-Chair Harris, Mr. Goldman stated that the deletion in this administrative regulation and in 201 KAR 20:310 of the twenty-five (25) percent time minimum was appropriate because this requirement was no longer necessary. Sometimes these nursing administrators became overwhelmed, and time minimums were generally used to ensure adequate time for certain required duties. Other board administrative regulations included time minimum requirements to provide that protection to nursing administrators.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:270. Programs of nursing site visits.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:280. Standards for initial approval of prelicensure registered nurse and practical nurse programs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:290. Standards for prelicensure registered nurse and practical nurse secondary sites.

A motion was made and seconded to approve the following amendments: to amend Sections 2 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 3, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:320. Standards for curriculum of prelicensure nursing programs.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; and (2) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 20:390. Nursing Incentive Scholarship Fund.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (2) to amend Sections 1, 2, 4, 7, 8, 9, 11, and 12 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:221 & E. Waterfowl seasons and limits. Margaret Everson, assistant attorney general, and Karen Waldrop, wildlife division director, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 8 and add Section 9 to incorporate forms by reference. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:222 & E. Waterfowl hunting requirements on public lands.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Sections 4 and 5 and add Section 8 to incorporate forms by reference. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Department of Agriculture: Office of Consumer and Environmental Protection: Division of Environmental Services: Livestock

302 KAR 21:001. Definitions for 302 KAR Chapter 21. James Comer, commissioner; Jeff Harper, director of public affairs, Kentucky Farm Bureau; Dave Maples, Kentucky Cattlemen's Association; and Dr. Robert Stout, state veterinarian, represented the division. Representative Tom McKee appeared in support of these administrative regulations.

Representative McKee stated that these administrative regulations were good for the livestock industry.

A motion was made and seconded at the December meeting of the Subcommittee to approve the following amendments: to amend the definition for "soring" to clarify that a chemical agent shall be applied intentionally to create an equine abrasion. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 21:020. General livestock and poultry provisions.

302 KAR 21:030. Beef cattle, bison, and veal specific provisions.

302 KAR 21:040. Dairy cattle specific provisions.

302 KAR 21:050. Equine specific provisions.

302 KAR 21:060. Swine specific provisions.

A motion was made and seconded at the December meeting of the Subcommittee to approve the following amendment: to add Section 3 to incorporate by reference the Pork Quality Assurance Guidelines. Without objection, and with agreement of the agency, the amendment was approved.

302 KAR 21:070. Ovine, caprine, camelid and cervid specific provisions.

302 KAR 21:080. Poultry specific provisions.

Office of Agricultural Marketing and Product Promotion: Organic Agricultural Product Certification

302 KAR 40:010. Certification of organic production, processing, or handling operations. Kristen Branscum, executive director for markets; James Comer, commissioner; Clint Quarles, staff attorney, and Adam Watson, value-added plant production, represented the department.

In response to a question by Co-Chair Harris, Mr. Comer stated that there had been an increased demand for organics, but Kentucky had been at risk because the program was inadequate and did not comply with new federal mandates such as soil testing requirements. This administrative regulation would improve Kentucky's program.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify that a producer, processor, or handler shall comply with the department's Quality Manual and application requirements in addition to the National Organic Program standards; (2) to amend Section 2 to: (a) clarify application and inspection procedures; (b) specify that fees shall be calculated in accordance with the Fee Schedule; (c) establish registration procedures for small operations; and (d) establish procedures for withdrawing a certification application or surrendering a certification; (3) to amend Section 3 to establish registration procedures for nonprofit, educational, or charitable organizations that have less than $5,000 gross sales of organic products; (4) to amend Section 4 to clarify membership requirements for the Organic Agricultural Advisory Committee; (5) to amend Section 5 to clarify procedures for requesting export documentation; and (6) to amend Section 6 to: (a) incorporate by reference additional required forms; and (b) make technical corrections to existing forms. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: School Terms, Attendance and Operation

702 KAR 7:125. Pupil attendance. Kay Kennedy, director of district support, and Amy Peabody, assistant general counsel, represented the department.

In response to questions by Co-Chair Bell, Ms. Kennedy stated that this administrative regulation provided guidance for maintaining attendance records for purposes of the SEEK funding calculation. The actual attendance data, not estimates, were used on a daily and even an hourly basis, except for a provision for a substitution for inclement weather days.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 9 and 10 for clarity; and (2) to amend Section 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Instruction

704 KAR 3:305. Minimum requirements for high school graduation. Kevin Brown, general counsel, and Karen Kidwell, division director, represented the department.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. Elizabeth Caywood, policy analyst; Virginia Carrington, assistant director; and Wendy Morris, deputy commissioner, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1, 2, 3, 7, and 8 to update citations; (2) to amend Section 6 to clarify what shall be considered a major area of living; (3) to amend Section 9 to correct the starting date for the 2013 standard of need for individuals with serious mental illness; and (4) to amend Section 17 to make minor technical corrections to two (2) forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Food Stamp Program

921 KAR 3:090 & E. Simplified assistance for the elderly program or "SAFE".

In response to questions by Representative Lee, Ms. Caywood stated that benefit amounts were being lowered because funding for federal portions of the program had been terminated. The actual benefit reductions were established in the material incorporated by reference. A one (1) person household would experience an eleven (11) dollar reduction, while a two (2) person household would experience a twenty (20) dollar reduction. Congress was still debating this issue, so it was not possible to determine if funding would be reinstituted or if further reductions would take place. Approximately 13,500 participants were enrolled, all of whom would be impacted. The vast majority of households were one (1) person households.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 6 for clarity. Without objection, and with agreement of the agency, the amendments were approved.

Other Business: Co-Chair Bell welcomed Senator Alice Forgy Kerr back to the Subcommittee. She replaced Senator Joe Bowen, who resigned from the Subcommittee.

The following administrative regulations were deferred to the February 10, 2014, meeting of the Subcommittee:

JUSTICE AND PUBLIC SAFETY CABINET: Department of Juvenile Justice: Child Welfare

505 KAR 1:130. Department of Juvenile Justice Policies and Procedures: juvenile services in community.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: Office of Learning Support Services

704 KAR 7:151. Repeal of 704 KAR 7:150.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Community Alternatives: Certified Provider Requirements

907 KAR 7:005. Certified waiver provider requirements.

The Subcommittee adjourned at 1:50 p.m. until February 10, 2014 at 1:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February Meeting

February 10, 2014

Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 10, 2014, at 1:30 PM, in Room 149 of the Capitol Annex. Senator Ernie Harris, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-

Chair; Representative Johnny Bell, Co-Chair; Senators Perry B. Clark, and Sara Beth Gregory; Representatives Jimmie Lee, and Tommy Turner.

Guests: Frank Hideg, Brian Judy, Karalee Oldenkamp, Dr. Mark Woodward, Board of Chiropractic Examiners; Tom Veit, Michael West, Real Estate Appraisers Board; Sheryl Abercrombie, Vanessa Breeding, Board of Medical Imaging and Radiation Therapy; Amy Barker, Department of Corrections; Miranda Denney, LaShana Harris, Louise Inman, LaDonna Koebel, Marty White, Department of Juvenile Justice; Ann D'Angelo, Godwin Onodu, Department of Transportation; Trey Hieneman, Steve Humpress, Department of Alcoholic Beverage Control; Robin Coombs, DJ Wasson, Department of Insurance; Jack Coleman, Michael Davis, Department of Housing, Buildings and Construction; Noelle Bailey, Marty Hammons, Mark A. Posnansky, Department of Charitable Gaming; Stuart Owen, Neville Wise, Department for Health and Family Services; David Adams, Private Citizen.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Emily Harkenrider, Karen Howard, Laura Napier, and Betsy Cupp.

The Administrative Regulation Review Subcommittee met on Monday, February 10, 2014, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Chiropractic Examiners: Board

201 KAR 21:001. Definitions for 201 KAR Chapter 21. Brian Judy, assistant attorney general; Dr. Karalee Oldenkamp, executive director; and Dr. Mark Woodward, president, represented the board.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:015. Code of ethical conduct and standards of practice.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:041. Licensing; standards, fees.

A motion was made and seconded to approve the following amendments: (1) to amend Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:042. Standards, application, and approval of continuing education courses.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:051. Board hearings.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:052. Appeal of denial of license.

201 KAR 21:053. Appeal of revocation of probation.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:054. Emergency orders.

201 KAR 21:065. Professional advertising; seventy-two (72) hour right of rescission.

A motion was made and seconded to approve the following amendment: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

201 KAR 21:075. Peer review committee procedures and fees.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:085. Preceptorship Program.

In response to a question by Co-Chair Harris, Dr. Oldenkamp stated that this administrative regulation did not increase fees.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 21:095. Licensure, registration, and standards of persons performing peer review.

In response to questions by Co-Chair Harris, Dr. Oldenkamp stated that the annual registration fee was increased from twenty (20) dollars to fifty (50) dollars to provide funding for the new peer review complaint process, which added expenses associated with investigating complaints. The purpose of the peer review process was to protect the public. Additional staffing was not necessary.

In response to questions by Representative Lee, Dr. Oldenkamp stated that the board's authorizing statutes and its administrative regulations did not establish a specific amount of the board's revenue to be reserved if the Commonwealth budget swept board funds; however, the board's goal was to maintain approximately $300,000. The board was unable to maintain that amount consistently since 2007 because of funds swept by the Commonwealth budgets. The current budget proposal would sweep $100,000 for Fiscal Year 2014 – 2015. Mr. Judy stated that the board did not control the amount of funds swept. Dr. Oldenkamp stated that the board no longer had adequate cash reserves, and may operate in the red if the 2014 - 2015 budget swept the proposed $100,000. In that event, fees would need to be raised again.

In response to a question by Senator Gregory, Dr. Woodward stated that the board received approximately six (6) peer review-related complaints yearly. This administrative regulation established a more formal process for addressing peer review complaints. Dr. Oldenkamp stated that this administrative regulation affected forty (40) to fifty (50) licensees, and the fee increase was expected to generate approximately $1,200 to $1,500, which would provide little offset to funds that were swept.

201 KAR 21:100. Minimum standards for recordkeeping or itemized statements.

Kentucky Real Estate Appraisers Board: Board

201 KAR 30:125. Continuing education for appraisers. Tom Veit, executive assistant, and Michael West, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 30:321. Repeal of 201 KAR 30:320.

Board of Medical Imaging and Radiation Therapy: Board

201 KAR 46:015. Compensation. Sheryl Abercrombie, chair; Vanessa Breeding, executive director; and Brian Judy, assistant attorney general, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to add statutory citations; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 46:090. Complaint process and administrative hearings.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to add statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:070. Kentucky Correctional Institution for Women. Amy Barker, assistant general counsel, represented the department.

In response to questions by Co-Chair Harris, Ms. Barker stated that this administrative regulation was being amended as part of the annual review of the department's policies. Correctional institutions for females had slightly different policies than correctional institutions for males.

Department of Juvenile Justice: Child Welfare

505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services. Miranda Denney, division director; LaShana Harris, assistant director and compliance officer; Louise Inman, nurse service administrator; and LaDonna Koebel, assistant general counsel, represented the department.

In response to questions by Co-Chair Harris, Ms. Koebel stated that 505 KAR 1:120 and 1:130 were being amended to facilitate annual staff training. Training topics alternated each year. Only 505 KAR 1:130 applied to facilities with nurses. Ms. Denney stated that 1,773 youth were currently active in the system in some capacity, and the average length of time in the system was five (5) to six (6) months, with longer time lengths for sex offenders because of treatment needs for that population.

In response to questions by Co-Chair Bell, Ms. Koebel stated that national certification standards had been revised and these administrative regulations were being revised to reflect those standards, which pertained to observation and isolation of at-risk youth. A youth who is suicidal and assaultive shall be observed and isolated if dangerous to others, himself, or herself. Facilities had cameras to assist in making a determination regarding the appropriateness of observation and isolation. The superintendent and nursing staff were also involved in determinations regarding a youth to be observed and isolated. A youth involved in escape, assault, or serious injury was a youth who exhibited at least one (1) of those behaviors, not a youth with a legal charge of escape, assault, or serious injury. Such a youth was subject to loss of privileges. Ms. Inman stated that all youth in their programs were at least twelve (12) years of age, and age and development were taken into consideration if making a determination regarding discipline.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) reinstate the requirement in DJJPP 405.6 that an escape, assault, or serious injury while a youth was hospitalized for psychiatric services shall be reported to the superintendent and to the youth's parents; (2) reinstate the requirement in DJJPP 411 that all suicide attempts shall be reported to the youth's parents; (3) correct form names; (4) clarify provisions; and (5) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

505 KAR 1:130. Department of Juvenile Justice Policies and Procedures: juvenile services in community.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to: (1) correct the name of a form; (2) clarify policies and procedures; and (3) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

505 KAR 1:170 & E. Department of Juvenile Justice Policies and Procedures: Prison Rape Elimination Act of 2003 (PREA).

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 and the material incorporated by reference to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 1 and DJJPP 910 to require staff of the opposite gender to announce their presence upon entering a resident housing unit or an area where residents are likely to be showering, performing bodily functions, or changing clothing. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Vehicle Tax

601 KAR 9:085. Procedures for becoming a

certified motor vehicle inspector. Ann DAngelo, assistant general counsel, and Godwin Onodu, assistant director, represented the department.

In response to a question by Co-Chair Harris, Mr. Onodu stated that staff of sheriffs' offices usually performed motor vehicle inspections in conjunction with Kentucky State Police.

A motion was made and seconded to approve the following amendment: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Advertising Distilled Spirits and Wine

804 KAR 1:110. Distilled spirits and wine tastings. Trey Hieneman, legislative liaison, and Steve Humphress, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 1 through 3 for clarity and to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Licensing

804 KAR 4:400. ABC basic application and renewal form incorporated by reference.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete a reference to a form that is no longer being used; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 for clarity and to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Sections 3 and 4 and the Renewal Notice form to: (a) rename the form; (b) make technical corrections to the form; and (c) delete the prohibition against paying the renewal fee with cash as it is specifically authorized by KRS 243.380(2). Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:410. Special applications and registration forms incorporated by reference.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Department of Insurance: Property and Casualty Division: Motor Vehicle Reparations (No-fault)

806 KAR 39:070. Proof of motor vehicle insurance. Robin Coombs, assistant director, Property and Casualty Division, and DJ Wasson, administrative coordinator, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings and Construction: Division of Heating, Ventilation and Air Conditioning: Heating, Ventilation, and Air Conditioning Licensing Requirements

815 KAR 8:050. Continuing education requirements for heating, ventilation, and air conditioning (HVAC) license holders. Roger Banks, assistant director of HVAC, and Michael Davis, general counsel, represented the division.

In response to a question by Co-Chair Harris, Mr. Davis stated that online and physical courses continued to be offered. Mr. Banks stated that online courses were available through those providers that offered them.

A motion was made and seconded to approve the following amendment: to amend Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Department of Charitable Gaming: Charitable Gaming

820 KAR 1:001. Definitions for 820 KAR Chapter 1. Noelle Bailey, general counsel; Marty Hammons, commissioner; and Mark Posnansky, staff attorney, represented the department.

820 KAR 1:005. Exempt organizations.

In response to questions by Co-Chair Harris, Ms. Bailey stated that this administrative regulation streamlined the application process. Mr. Hammons stated that this administrative regulation also updated options for electronic bingo to help charities without adequate volunteers for traditional bingo. This administrative regulation simplified paperwork to allow, but not require, electronic processing. Officers and chairpersons, but not volunteers, were required to have a background check.

820 KAR 1:015. Issuance of annual license for a charitable organization.

820 KAR 1:016. Distributor and manufacturer licensees.

820 KAR 1:025. Financial reports of a licensed charitable organization.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A and for clarity. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:026. Quarterly reports of a licensed charitable gaming facility.

820 KAR 1:027. Quarterly reports of a licensed distributor.

820 KAR 1:029. Facility licensees.

A motion was made and seconded to approve the following amendments: to amend Section 4: (1) for clarity; (2) to make a technical correction; and (3) to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:044. Bingo equipment.

A motion was made and seconded to approve the following amendment: to amend Section 2 for clarity. Without objection, and with agreement of the agency, the amendment was approved.

820 KAR 1:046. Bingo rules of play.

820 KAR 1:055. Charity fundraising event standards.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend the material incorporated by reference to delete superfluous language. Without objection, and with agreement of the agency, the amendments were approved.

820 KAR 1:056. Special limited charity fundraising event standards.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1: (a) to comply with the drafting requirements of KRS Chapter 13A; and (b) for clarity; and (3) to amend the material incorporated by reference to delete superfluous language. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Commissioner's Office: Division of Healthcare Facilities Management: Medicaid Eligibility

907 KAR 20:001 & E. Definitions for 907 KAR Chapter 20. Stuart Owen, regulation coordinator, and Neville Wise, deputy commissioner, represented the cabinet. David Adams, resident of Nicholasville and president, Kentucky Citizens Judicial, appeared in opposition to 907 KAR 20:100.

In response to a question by Senator Clark, Mr. Wise stated that modified adjusted gross income was determined by a filer's tax form.

In response to a question by Senator Gregory, Mr. Owen stated that some amendments to these administrative regulations were necessary due to the expansion of Medicaid under the Affordable Care Act, and some amendments were related to foster care mandates and requirements regarding modified adjusted gross income. 907 KAR 20:100, in particular, had significant amendments due to Medicaid expansion.

In response to questions by Co-Chair Bell, Mr. Owen stated that these administrative regulations reorganized requirements to create shorter administrative regulations, rather than a few very long administrative regulations. Without these administrative regulations, some programs such as programs for the elderly, veterans, and foster care system, might be adversely affected. Funding for some of these programs may have been reduced by as much as twenty-eight (28) percent in the past six (6) years; however, Mr. Owen was unable to verify those amounts.

Mr. Adams, Nicholasville citizen and president of Kentucky Citizens Judicial, appeared in opposition to 907 KAR 20:100, pertaining to the expansion of Medicaid under the Affordable Care Act. In particular, Mr. Adams was opposed to 907 KAR 20:100, and desired that the Subcommittee find 907 KAR 20:100 deficient. Mr. Adams stated that these provisions were not mandated. A Supreme Court opinion stated that these provisions were optional. It was inappropriate for the cabinet to file these provisions as emergency administrative regulations because the public was unable to provide input prior to the emergency administrative regulations going into effect. Media outlets had suggested that there were no costs associated with this expansion; however, state government had not made that claim. There would be a net increase of administrative costs of $21.5 million, which was unappropriated for the current fiscal year. This was an illegal expansion of Medicaid, and the matter was currently before the Kentucky Supreme Court.

Mr. Wise stated that he had not intended to imply that these provisions were mandated. They were optional, and Kentucky had opted to implement them. Mr. Owen stated that Medicaid expansion was optional, but requirements pertaining to modified adjusted gross income were mandated, including those in 907 KAR 20:100.

In response to a question by Co-Chair Harris, Mr. Wise stated that federal matching fund percentages varied depending on the type of administration. For example, eligibility administration was improving the federal funding match to ninety (90) percent federal and ten (10) percent state. When eligibility operation administration was in place, the funding match percentage would change to seventy-five (75) percent federal and twenty-five (25) percent state, which would be in effect soon and for the foreseeable future.

A motion was made by Senator Gregory, and seconded by Representative Turner, to find 907 KAR 20:100 deficient due to lack of statutory authority. A roll call vote was conducted, and with three (3) votes to find the administrative regulation deficient, three (3) votes against a finding of deficiency, and two (2) members absent, the motion failed. A majority vote of at least five (5) votes for a finding of deficiency is required for the motion to pass.

A motion was made and seconded to approve the following amendments: to amend Section 1 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A, including: (a) deleting definitions for terms not used in 907 KAR Chapter 20; (b) putting definitions in alphabetical order; and (c) clarifying language; and (2) insert a definition of "deemed eligible newborn". Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:005 & E. Medicaid technical eligibility requirements not related to a modified adjusted gross income standard or former foster care individuals.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 5, 6, 8, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 7 to clarify inmate eligibility for Medicaid in specified circumstances. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:010 & E. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 3 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:015 & E. Medicaid right to apply and reapply for individuals whose Medicaid eligibility is not based on a modified adjusted gross income eligibility standard or who are not former foster care individuals.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (2) to amend Sections 2 and 5 to: (a) specify the name of required forms; and (b) comply with the drafting and formatting requirements of KRS Chapter 13A; and (3) to create a new Section 7 to incorporate by reference the two required forms. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:020 & E. Income Standards for Medicaid other than Modified Adjusted Gross Income (MAGI) standards or for former foster care individuals.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4, and 7 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:025 & E. Resource standards for Medicaid.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clarify that this administrative regulation establishes the resource standards for Medicaid other than modified adjusted gross income standards or for former foster care individuals; and (2) to amend Sections 1 through 4 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:030 & E. Trust and transferred resource requirements for Medicaid.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clarify that this administrative regulation establishes the trust and transferred resource standards for Medicaid other than modified adjusted gross income standards or for former foster care individuals; and (2) to amend Sections 1 and 3 to: (a) comply with the drafting and formatting requirements of KRS Chapter 13A; and (b) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:035 & E. Spousal impoverishment and nursing facility requirements for Medicaid.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 3, and 5 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:040 & E. Relative responsibility requirements for Medicaid.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:045 & E. Special income requirements for hospice and home and community based services.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Sections 1 and 2 to: (1) comply with the drafting requirements of KRS Chapter 13A; and (2) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:050 & E. Presumptive eligibility.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 5 to: (1) comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) correct citations. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:060 & E. Medicaid adverse action and conditions for recipients.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 3, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:075 & E. Eligibility provisions and requirements regarding former foster care individuals.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5, and 7 through 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 7 to clarify inmate eligibility for Medicaid in specified circumstances. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 20:100 & E. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 4, and 6 through 12 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 6 to clarify inmate eligibility for Medicaid in specified circumstances. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the March 10, 2014, meeting of the Subcommittee:

GENERAL GOVERNMENT CABINET: Board of Licensure for Professional Art Therapists: Board

201 KAR 34:020. Fees.

201 KAR 34:025. Application; approved programs.

201 KAR 34:030. Continuing education requirements.

201 KAR 34:040. Code of ethics.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: Office of Learning Support Services

704 KAR 7:151. Repeal of 704 KAR 7:150.

LABOR CABINET: Kentucky Occupational Safety and Health Review Commission: Commission

803 KAR 50:010. Hearings; Procedure, Disposition.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services: Division of Policy and Operations: Medicaid Services

907 KAR 1:350. Coverage and payments for organ transplants.

Division of Community Alternatives: Certified Provider Requirements

907 KAR 7:005. Certified waiver provider requirements.

The Subcommittee adjourned at 2:40 p.m. until March 10, 2014 at 1:30 p.m.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the March Meeting

March 10, 2014

Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 10, 2014, at 1:30 PM, in Room 149 of the Capitol Annex. Representative Johnny Bell, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ernie Harris, Co-Chair; Representative Johnny Bell, Co-Chair; Senators Perry B. Clark, Sara Beth Gregory, and Alice Forgy Kerr; Representatives Robert R. Damron, Jimmie Lee, and Tommy Turner.

Guests: Andy Crocker, Personnel Board; Tim Bennett, David Gordon, Steve Washing, Department of Revenue; Michael West; Long Term Care Administrators; Angela Evans, Board of Hearing Instrument Specialists; Stewart Bridgeman, Jim Grawe, Board of Licensure for Professional Art Therapists; Tina Brunges, David Wicker; Department of Fish and Wildlife Resources; Amy Barker, Department of Corrections; Alice Blackwell, Virginia Carrington, Elizabeth Caywood, Allison Lile, Gretchen Marshall, and Stuart Owen, Cabinet for Health and Family Services.

LRC Staff: Donna Little, Emily Caudill, Sarah Amburgey, Carrie Klaber, Emily Harkenrider, Karen Howard, and Betsy Cupp.

The Administrative Regulation Review Subcommittee met on Monday, March 10, 2014, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL BOARD: Board

101 KAR 1:325. Probationary periods. Andy Crocker, general counsel, represented the board.

A motion was made and seconded to approve the following amendment: to amend Section 1(2) to insert two (2) classifications that were inadvertently omitted. Without objection, and with agreement of the agency, the amendment was approved.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Forms

103 KAR 3:010 & E. General Administrative Forms Manual. Tim Bennett, assistant director; David Gordon, executive director of property valuation; and Steve Washing, director of the Division of Income Tax, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 3:020 & E. Sales and Telecommunications Forms Manual.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a statutory citation; and (2) to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 3:030 & E. Property and Severance Forms Manual.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 3:040 & E. Income Tax Forms Manual.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; and (2) to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Licensure for Long Term Care Administrators: Board

201 KAR 6:020. Other requirements for licensure. Michael West, assistant attorney general, represented the board.

In response to questions by Co-Chair Bell, Mr. West stated that the substantive revisions to the material incorporated by reference were for the purpose of making the material correspond to recent amendments to these administrative regulations. Licensees were alerted of these changes by the new forms being posted to the board's Web site. The board would alert licensees who inadvertently filed older forms and give them time to refile.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:040. Renewal, reinstatement, and reactivation of license.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response; and (3) to revise a form incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 6:050. Licensure by endorsement.

201 KAR 6:070. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to change the reference from a "licensed nursing home administrator" to "a licensed long-term care administrator"; (2) to amend Sections 3, 5, 6, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 8 to specify that an appeal of the board's denial of continuing education hours shall be conducted in accordance with KRS Chapter 13B; and (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct an agency response. Without objection, and with agreement of the agency, the amendments were approved.

Licensing Board for Specialists in Hearing Instruments: Board

201 KAR 7:015. Fees. Angela Evans, assistant attorney general, represented the board.

In response to a question by Co-Chair Harris, Ms. Evans stated that an applicant paid the nonrefundable fee prior to taking the apprentice licensure examination. The fee covered the board's cost of processing the application.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a statutory citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensure for Professional Art Therapists: Board

201 KAR 34:020. Fees. Stewart Bridgeman, board member, and James Grawe, assistant attorney general, represented the board.

In response to questions by Co-Chair Harris, Mr. Bridgeman stated that continuing education requirements were commensurate with other states. Professional art therapy had been omitted from Medicaid participation; however, the board was hoping to expand professional art therapy in Kentucky. Out-of-state applicants for licensure were required to comply with all applicable requirements of KRS Chapter 309 and 201 KAR Chapter 34.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to reference statutory requirements; (3) to amend Sections 1, 4, 5, and 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to create a new Section 2 to establish that the applicant shall pay the national examination fee established by the National Art Therapy Credentials Board; (5) to amend Section 3 to lower the renewal fee for professional art therapist associate licensure from $150 to $100; (6) to amend Section 5 to lower the reinstatement fee for a professional art therapist associate license from $100 to fifty (50) dollars; and (7) to amend Section 6 to incorporate by reference a new reinstatement form for a licensed professional art therapist associate. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 34:025. Application; approved programs.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to add statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A; (3) to amend Section 2 to clarify that education for psychopathology shall be required specific to the practice of art therapy and also more generally; and (4) to amend the material incorporated by reference to correspond to the requirements established in this administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 34:030. Continuing education requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 6, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; (4) to and Section 2 to clarify that the three (3) hours of continuing education in ethics are included within the number of hours required for each category of licensee; and (5) to amend Section 10 to establish that a person requesting reinstatement or reactivation of professional art therapist associate licensure shall submit eighteen (18) hours of continuing education within the twenty-four (24) month period immediately preceding the submission of the request and, if reinstated, shall obtain eighteen (18) hours of continuing education within six (6) months. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 34:040. Code of ethics.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct a statutory citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; (3) to amend Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (4) to revise the REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT to correct agency responses. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:172. Deer hunting seasons, zones, and requirements. Tina Burges, elk and deer coordinator, and David Wicker, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5, 7, 9, and 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:178. Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 10 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 11 to incorporate by reference the application form. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:130. Western Kentucky Correctional Complex. Amy Barker, general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to change the edition date of material incorporated by reference; and (2) to amend WKCC 16-01-01 to: (a) delete redundant provisions; and (b) clarify dress code requirements. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office for Health Policy: Data Reporting and Public Use Data Sets

900 KAR 7:030 & E. Data reporting by health care providers. Allison Lile, data administrator, represented the cabinet.

Department for Medicaid Services: Medicaid Services

907 KAR 1:350. Coverage and payments for organ transplants. Alice Blackwell, assistant director, and Stuart Owen, regulation coordinator, represented the department.

In response to questions from Co-Chair Bell, Mr. Owen stated that managed care organizations were required to contract with enough providers that agreed to reimbursement terms to ensure adequate options and access. Recipients may change providers during open enrollment or other specified opportunities.

In response to a question from Representative Lee, Mr. Owen indicated his agreement that organ transplants required preauthorization; therefore, the amount of procedural reimbursement, not including after care, would have already been agreed to.

Representative Damron stated his ongoing concern that Medicaid recipients were at risk of receiving substandard care in comparison with other patients. In cases of denial of services, Medicaid recipients would have less recourse to appeal because denial review was not as independent or external as non-Medicaid systems. Mr. Owen stated that recipients who wished to appeal denials first appeal to the MCO, and a second appeal may be made to the cabinet afterward if necessary. A clinical professional was required on the MCO appeal consideration team, and the cabinet also had clinical professionals for second appeals, if applicable.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to correct citations to federal regulations; and (2) to amend Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:913E. Repeal of 907 KAR 1:900.

Certified Provider Requirements

907 KAR 7:005. Certified waiver provider requirements.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 6, 9, 10, 11, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) to amend Section 4 to specify that the department shall have thirty (30) days in which to review a corrective action plan and notify the provider of the results of that review; and (3) to amend Section 9 to specify provisions for not renewing a provider's participation or not enrolling an applicant. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:035. Right to apply and reapply. Virginia Carrington, assistant director; Elizabeth Caywood, internal policy analyst IV; and Gretchen Marshall, branch manager, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to correct statutory citations; and (2) to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division for Protection and Permanency: Child Welfare

922 KAR 1:330. Child protective services.

The following administrative regulations were deferred to the April 14, 2014, meeting of the Subcommittee:

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Division of Student and Administrative Services: Authority

11 KAR 4:080. Student aid applications.

OFFICE OF THE GOVERNOR: Department for Local Government: Special Purpose Governmental Entities

109 KAR 16:010 & E. Special purpose governmental entities.

GENERAL GOVERNMENT CABINET: Board of Barbering: Board

201 KAR 14:015. Retaking of examination.

201 KAR 14:030. Five (5) year expiration of license.

201 KAR 14:040. Inspection of shops and schools.

201 KAR 14:050. Probationary license; qualifications.

201 KAR 14:052. Repeal of 201 KAR 14:051, 201 KAR 14:080, and 201 KAR 14:170.

201 KAR 14:060. Licensing requirements for qualified nonresidents.

201 KAR 14:065. Place of business requirements.

201 KAR 14:085. Sanitation requirements.

201 KAR 14:115. Examinations; school and board.

201 KAR 14:150. School records.

201 KAR 14:180. License fees, examination fees, renewal fees, and expiration fees.

Board of Nursing: Board

201 KAR 20:470. Dialysis technician credentialing requirements and training program standards.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Kentucky Board of Education: Department of Education: Office of Learning Support Services

704 KAR 7:151. Repeal of 704 KAR 7:150.

LABOR CABINET: Kentucky Occupational Safety and Health Review Commission: Commission

803 KAR 50:010. Hearings; Procedure, Disposition.

PUBLIC PROTECTION CABINET: Kentucky Horse Racing Commission: Thoroughbred Racing

810 KAR 1:040. Drug, medication, and substance classification schedule and withdrawal guidelines.

Harness Racing

811 KAR 1:090. Medication; testing procedures; prohibited practices.

811 KAR 1:093. Drug, medication, and substance classification schedule and withdrawal guidelines.

811 KAR 1:095. Disciplinary measures and penalties.

Quarter Horse, Appaloosa and Arabian Racing

811 KAR 2:093. Drug, medication, and substance classification schedule and withdrawal guidelines.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Kentucky Health Benefit Exchange: Kentucky Health Benefit Exchange

900 KAR 10:100 & E. Appeals of Eligibility Determinations for KHBE Participation and Insurance Affordability Programs.

Department for Medicaid Services: Medicaid Services

907 KAR 1:039 & E. Hearing Program reimbursement provisions and requirements.

Private Duty Nursing

907 KAR 13:015 & E. Private duty nursing service reimbursement provisions and requirements.

The Subcommittee adjourned at 2:15 p.m. until March 10, 2014 at 10 a.m.; however, if either chamber of the General Assembly is in session at that time, the time will be adjusted.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

December 11, 2013

Call to Order and Roll Call

The Government Contract Review Committee met on Wednesday, December 11, 2013, at 10:00 AM, in Room 129 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, and Paul Hornback; Representatives Jesse Crenshaw, and

Brad Montell.

Guests: Lisa Beran, Danny Ford, David Holcomb, Craig Hopkins, Jennifer Miracle, Joe Barrows, Charlie Harman, Todd Baldwin, Jennifer Baker, Brian Kiser, Marvin Miller, and Tim Hughes.

LRC Staff: Kim Eisner, Charles Booker, and Becky Brooker.

A motion was made by Senator Carroll to approve Minutes of the November 2013 meeting of the committee. Senator Hornback seconded the motion, which passed without objection.

NOVEMBER 2013 DEFERRED LIST

CORRECTIONS, DEPARTMENT OF

Correct Care Solutions, LLC, 1400000447. A motion was made by Senator Gregory to defer the contract to the January 2014 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

DECEMBER 2013 DEFERRED ITEM

POST SECONDARY EDUCATION, COUNCIL ON:

SCIMED Consultants, 1400000595. A motion was made by Senator Gregory to defer the contract to the January 2014 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Senator Gregory to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Senator Gregory to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Senator Gregory to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Senator Gregory to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Stites and Harbison, 1400000755; Chrysalis House Incorporated, 1400000760.

DEPARTMENT FOR MEDICAID SERVICES:

Barbara J Burns, 1400000685.

DEPARTMENT FOR NATURAL RESOURCES:

Alpha Reclamation, 1400000725.

EDUCATION PROFESSIONAL STANDARDS BOARD:

Bonnie N Marshall, 1400000762.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services Incorporated, 1400000625.

FISH & WILDLIFE, DEPARTMENT OF:

Copperhead Environmental Consulting, Inc., 1400000689.

KENTUCKY STATE UNIVERSITY:

Advocates for Youth, 14-13.

MILITARY AFFAIRS, DEPARTMENT OF:

Federal Resources Supply Company, 1400000697.

MURRAY STATE UNIVERSITY:

Boswell, Sims, & Vasseur, PLLC, 015-14; Boehl, Stopher, & Graves, LLP, 016-14.

NURSING, BOARD OF:

Landrum & Shouse, LLP, 1400000668.

TRANSPORTATION CABINET:

GRW Engineers Incorporated, 1400000706; Palmer Engineering Company, 1400000708; QK4, 1400000709; URS Corporation, 1400000710; Strand Associates Inc., 1400000729.

UNIVERSITY OF KENTUCKY:

Facility Commissioning Group, A141110; Murphy, Graves, Trimble, A141120; JRA Architects, A141130; Smith Management Group, K14-134; WorleyParsons Group Incorporated, K14-135.

UNIVERSITY OF LOUISVILLE:

Strothman & Company, 14-039.

WESTERN KENTUCKY UNIVERSITY:

The Danielson Group, 131429; Barry M. Prizant, PhD, 131430; Mid-Continent Research for Education & Learning (McREL), 131432.

WORKFORCE INVESTMENT, OFFICE OF:

Burt J Danovitz, 1400000691.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS:

CDM Services Incorporated, 1300002171.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Occupational Medicine Center, 1200002796.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Jackson & Coker Locumtenens, LLC, 1200003638; Registry of Physician Specialists, A Medical Corporation, 1200003640.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Kenvirons Incorporated, 1100002227.

DEPARTMENT FOR MEDICAID SERVICES:

Myers and Stauffer, LC, 1200000868.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services, Inc., 0700003463; Lucas Schwering Architects, 1200001461; Tate Hill Jacobs Architect Incorporated, 1200002460; Eop Architects, P.S.C., 1300001016; Patrick D. Murphy Company Incorporated, 1300002656; Patrick D Murphy Company Incorporated, 1300002659.

KENTUCKY BOARD OF LICENSURE FOR MASSAGE THERAPY:

Scanlan Associates, LLC, 1300002051.

MEDICAL LICENSURE, BOARD OF:

Multi, 1200002107.

MOREHEAD STATE UNIVERSITY:

Central Kentucky Interpreter Referral Incorporated 14-016.

TRANSPORTATION CABINET:

GRW Engineers Incorporated, 0700004081; GRW Engineers Incorporated, 1100000003; URS Corporation, 1100000861; Burgess and Niple Incorporated, 1200000158; HDR Engineering Incorporated, 1200000355; BTM Engineering Incorporated, 1200000360; Lochner H W Incorporated Consulting, 1200001193; CDM Smith, Incorporated, 1200002310; Presnell Associates Incorporated, C-03349284-1; Gresham Smith and Partners, C-05260813; H A Spalding Incorporated, C-99005052-6.

UNIVERSITY OF KENTUCKY:

Ross Tarrant Architects, A0131090; Bell

Engineering, A121130; Paladin Incorporated, A131190.

UNIVERSITY OF LOUISVILLE:

Stites & Harbison, PLLC, 14-022.

WESTERN KENTUCKY UNIVERSITY:

Grant Thornton, LLP, 121329.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Bluegrass Prevention Center, 1400000390.

EDUCATION, DEPARTMENT OF:

Boyle County Board of Education, 1400000450.

INFRASTRUCTURE AUTHORITY:

Daviess County Fiscal Court, 1400000739.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Providence, 1400000671; Letcher County Fiscal Court, 1400000712; Letcher County Fiscal Court, 1400000713; USDA Forest Service, 1400000719; City of Jeffersontown, 1400000721; City of Buckhorn, 1400000726; Pike County Fiscal Court, 1400000730; City of Morehead, 1400000740.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

University of Kentucky Research Foundation, 1200002134; River Valley Behavioral Health, 1300003154.

AGRICULTURE, DEPARTMENT OF:

Multi, 1300001593; Multi, 1300001595.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Barren River Area Development District, 1300002028.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Kentucky River Community Care, 1200001140.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Bell Whitley Community Action Agency, 1300002079.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

U.S. Department of Interior Geological Survey, 1300002269.

DEPARTMENT FOR NATURAL RESOURCES:

Kentucky KYTC Capital City Airport, 1200003746.

EDUCATION, DEPARTMENT OF:

Boys & Girls Club of Greater Cincinnati, 1300000074; Campbellsville Independent Board of Education, 1300000075; Caverna Independent Board of Education, 1300000081; Covington Independent Board of Education, 1300000088; Cumberland County Board of Education, 1300000090; Treasurer Fulton Co Board of Education, 1300000095; Grayson County Board of Education, 1300000098; Greenup County Board of Education, 1300000099; Henderson County Board of Education, 1300000107; Kenton County YMCA, 1300000116; Monroe County Board of Education, 1300000154; Knott County Board of Education, 1300001609; Gallatin County Board of Gallatin County Board of Education, 1300002229; Central Kentucky Educational Cooperative, 1300002504; Southeast/Southcentral Educational Cooperative, 1300002510; Campbellsville Independent Board of Education, 1300002554; Kentucky Educational Development Corporation, 1300002700; West Kentucky Education Cooperative, 1300002704; Barren County Board of Education, 1300002918; Fleming County Board of Education, 1300002919.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Martin County Fiscal Court, 1100001336; Henderson County Fiscal Court, 1100001744; Mclean County Fiscal Court, 1100002023; City of Providence, 1200000206; Martin County Fiscal Court, 1200001279; Monroe County Fiscal Court, 1300000276; City of Paris, 1300000770; City of Nicholasville, 1300000905; Knox County Fiscal Court, 1300001028; Menifee County Fiscal Court, 1300001111; Menifee County Fiscal Court, 1300001192; Menifee County Fiscal Court, 1300001198; Wolfe County Fiscal Court, 1300001216; Laurel County Fiscal Court, 1300001278; Laurel County Fiscal Court, 1300001279; City of Prestonsburg, 1300001415; Menifee County Fiscal Court, 1300001417; City of Benham, 1300001538; Lawrence County Fiscal Court, 1300001665; City of Frankfort, 1300001746; Webster County Fiscal Court, 1300001857; City of Benton, 1300002605; Kenton County Fiscal Court, 1300002646; City of Jackson, 1300002817; Pike County Fiscal Court, 1300002869; Lee County Fiscal Court, 1300003089; Clay County Fiscal Court, 1400000232; Letcher County Fiscal Court, 1400000427.

TRAVEL, DEPARTMENT OF:

Multi, 1300003080; Multi, 1300003128; Multi, 1300003129; Multi, 1300003130; Multi, 1300003131; Multi, 1300003133; Multi, 1300003134; Multi, 1300003135; Multi, 1300003136.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

KENTUCKY HOUSING CORPORATION

Winifred K. Smith, 2014-26. Lisa Beran discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Hornback seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING

Kentucky Auctioneers Associates Incorporated, 1300002627. Danny Ford discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Senator Gregory seconded the motion, which passed without objection.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM

Spartanburg Community College, 564. David Holcomb, Craig Hopkins, and Jennifer Miracle discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

OFFICE OF HOMELAND SECURITY

Goldberg Simpson, LLC, 1300003002. Joe Barrows discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS

SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF

U. S. Education Delivery Institute, 1400000602. Charlie Harman and Todd Baldwin discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

GOVERNORS OFFICE FOR TECHNOLOGY

Multi, 1400000658. Brian Kiser discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR PUBLIC HEALTH

University of Kentucky Research Foundation, 1200002268. Marvin Miller discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with Representative Montell electing to abstain (PASS).

DEPARTMENT OF ENERGY DEVELOPMENT AND INDEPENDENCE

University of Kentucky Research Foundation, 1300001183. Tim Hughes discussed the contract with the committee. A motion was made by Senator Hornback to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT OF

Western Kentucky University Research Foundation, 1300000432; Kentucky State University, 1300000515; NKU Research Foundation, 1300000602; Western Kentucky University Research Foundation, 1300000703. Charlie Harman, Todd Baldwin, and Jennifer Baker discussed the contracts with the committee. A motion was made by Senator Hornback to consider the contracts as reviewed. Senator Carroll seconded the motion, which passed without objection.

EDUCATION, DEPARTMENT OF

Southern Regional Education Board, 1400000017. Charlie Harman and Todd Baldwin discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

EXEMPTION REQUESTS

CABINET FOR HEALTH AND FAMILY SERVICES

The Cabinet for Health and Family Services requested continued exemption for all Local Health Department Memoranda of Agreements and Amendments from the committee's routine review process. The cabinet will provide quarterly reports. A motion was made by Senator Gregory to grant the requested exemption until December 31, 2014. Representative Horlander seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES, KENTUCKY COMMISSION ON COMMUNITY VOLUNTEERISM AND SERVICES (KCCVS)

The Cabinet for Health and Family Services, Kentucky Commission on Community Volunteerism and Services (KCCVS), requested an exemption from two year contracting restrictions for AmeriCorps program contracts, which are 100 percent federally funded. A motion was made by Senator Gregory to grant the requested exemption until August 31, 2014. Representative Horlander seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES

The Cabinet for Health and Family Services requested an exemption from the committee's routine review process for CHFS Intra-Agency Agreements. The cabinet will provide semi-annual reports. A motion was made by Senator Gregory to grant the requested exemption until June 30, 2016. Representative Horlander seconded the motion, which passed without objection.

CABINET FOR HEALTH AND FAMILY SERVICES

The Cabinet for Health and Family Services requested an exemption from two year contracting restrictions for an agreement with the University of Kentucky for the purposes of conducting data collection for the Behavioral Risk Factor Surveillance System (BRFSS), which is 100 percent federally funded. A motion was made by Senator Gregory to grant the requested exemption until December 31, 2014. Representative Horlander seconded the motion, which passed without objection.

DEPARTMENT OF MILITARY AFFAIRS, OFFICE OF THE ADJUTANT GENERAL

The Department of Military Affairs, Office of the Adjutant General, requested an exemption from committee's routine review process for: 1) federally funded Chemical Stockpile Emergency Program (CSEPP) agreements; and 2) FEMA funded MOAs and grants for declared emergencies and will provide the committee with quarterly reports. A motion was made by Senator Gregory to grant the requested exemption until December 31, 2014. Representative Horlander seconded the motion, which passed without objection.

THE COMMERCIAL MOBILE RADIO SERVICE EMERGENCY TELECOMMUNICATIONS BOARD (CMRS)

The Commercial Mobile Radio Service Emergency Telecommunications Board (CMRS) requested an exemption from committee's routine review process for all Purchase Orders issued as instruments of obligation for grant funds awarded by the CMRS Board. CMRS will provide quarterly reports. A motion was made by Senator Gregory to grant the requested exemption until December 31, 2014. Representative Horlander seconded the motion, which passed without objection.

OFFICE OF HOMELAND SECURITY

The Office of Homeland Security requested an exemption from committee's routine review process for all agreements issued as instruments of obligation for funds under State and Federal Homeland Security Grant Programs. The office will provide quarterly reports. A motion was made by Senator Gregory to grant the requested exemption until December 31, 2014. Representative Horlander seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 11:20 AM.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

January 14, 2014

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, January 14, 2014, at 3:00 PM, in Room 131 of the Capitol Annex.

Senator Sara Beth Gregory, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and Christian McDaniel; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Sandy Etherington, Dan Strauss, David McFaddin, Marcia Seiler, Laura Hendrix, Joanna Strange, Carrie Banahan, Tammy Bullock, Bill Harris, Steve Byars, Tony Glisson, Stephen Castle, Dana Todd, William Baker, Mike Hill, Kevin Damron, Hollie Spade, Laurie Daugherty, John Wehrle, and Charlie Harman.

LRC Staff: Kim Eisner, Charles Booker, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the December 2013 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

NOVEMBER 2013 DEFERRED LIST

CORRECTIONS, DEPARTMENT OF

Correct Care Solutions, LLC, 1400000447. A motion was made by Representative Yonts to defer the contract to the February 2014 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

DECEMBER 2013 DEFERRED ITEM

POST SECONDARY EDUCATION, COUNCIL ON:

SCIMED Consultants, 1400000595. A motion was made by Representative Yonts to defer the contract to the February 2014 meeting of the committee. Representative Horlander seconded the motion, which passed without objection.

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt Tarrant and Combs, 1400000238. A motion was made by Representative Yonts to defer the contract to the February 2014 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Hope Center, 1400000820; Chrysalis House Incorporated, 1400000847.

DEPARTMENT FOR MEDICAID SERVICES:

Deloitte Consulting, 1400000690.

EASTERN KENTUCKY UNIVERSITY:

The NCHERM Group, LLC, 14-069.

EDUCATION, DEPARTMENT OF:

Kentucky School Boards Association Educational Foundation, 1400000756.

EDUCATIONAL TELEVISION, KENTUCKY:

Rex Hart Consulting, 1400000783; Rebecca F. Embry, 1400000784.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

EOP Architects, PSC, 1400000675; Thelen Associates Incorporated, 1400000717.

MOREHEAD STATE UNIVERSITY:

Michelle Carson, 14-029.

TRANSPORTATION CABINET:

Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1400000759; Vaughn & Melton Consulting Engineers Kentucky, Incorporated, 1400000764; Allgeier Company, 1400000771; Lochner H W Incorporated Consulting, 1400000808; ICA Engineering Incorporated f/k/a Florence & Hutcheson Incorporated, 1400000810; Palmer Engineering Company, 1400000811; Assured Nl Insurance Services, Incorporated, 1400000818; Stantec Consulting Services Incorporated, 1400000824.

UNIVERSITY OF KENTUCKY:

CMTA Incorporated, A141140; Sherman Carter Barnhart, A141150; Scientific Certification Systems, K14-137; Witt / Kieffer, K14-138; Richard Halbrook, K14-139; IBM, K14-140.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt Tarrant and Combs, 1400000238.

CABINET FOR HEALTH AND FAMILY SERVICES:

Janet M. Hall, 1400000264; Thomas J Hellmann, Attorney-at-Law, PLLC, 1400000265.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Theracare Alliance, 1200001102; Staff Easy, LLC, 1200001130; Reach of Louisville Incorporated, 1200001178; Guardian Healthcare Providers, 1200001687; The Chyron Group LLC, 1200002442.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Stantec Consulting Services Incorporated, 1000001351.

EASTERN KENTUCKY UNIVERSITY:

Dr. Vincent J. Mullen II, 14-010.

EDUCATION, DEPARTMENT OF:

Kentucky Clean Fuels Coalition, 1200003824.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Staggs and Fisher Consulting Engineers Incorporated, 1200000308; Wells Engineering, PSC, 1200001198; Patrick D. Murphy Company Incorporated, 1300002659; S&ME, Inc., 1300003119.

FISH & WILDLIFE, DEPARTMENT OF:

Amec Environment & Infrastructure, Inc., 1200002664.

JUSTICE CABINET:

William C. Ralston, 1300001399.

MILITARY AFFAIRS, DEPARTMENT OF:

Family Dynamics Behavioral Health Care PLLC, 1200003729.

MOREHEAD STATE UNIVERSITY:

Provations Group, 14-011.

NORTHERN KENTUCKY UNIVERSITY:

Multi, 2014-563-1; Mercer Health Benefits, LLC, 2014-633.

REAL ESTATE COMMISSION:

PSI Services, LLC, 1200002958.

TRANSPORTATION CABINET:

H W Lochner Consulting, Incorporated, 0700006607; BTM Engineering Incorporated, 1100001221; WMB, Incorporated, 1200001589; Michael Baker Jr. Incorporated, 1200001733; Berkley Appraisal Company, 1200001996; Stephen G. Raleigh, 1200002039; Stantec Consulting Services Incorporated, 1200002977; American Engineers Incorporated, 1300000977; WMB, Incorporated, 1300001394; W M B Incorporated, C-01318842; CDP Engineers Incorporated, C-05505738.

UNIVERSITY OF KENTUCKY:

GBBN Architects, A131160; Stidham & Associates, K13-105-1.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1400000391; Morehead State University, 1400000814; Mountain Comp Care Center, 1400000822.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

City of Winchester, 1400000617; Eastern Kentucky University, 1400000619; Banklick Watershed Council, 1400000656.

EDUCATION, DEPARTMENT OF:

Fleming County Board of Education, 1300003096; Education Professional Standards Board, 1400000490; University of Kentucky Research Foundation, 1400000513; Eastern Kentucky University, 1400000630.

INFRASTRUCTURE AUTHORITY:

City of Sebree, 1400000780.

MEDICAID SERVICES BENEFITS, DEPARTMENT FOR:

Kentucky Transportation Cabinet, 1200001605-1.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1400000699.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Pike County Fiscal Court, 1400000743; McCracken County Fiscal Court, 1400000796; City of Guthrie, 1400000829; Knott County Fiscal Court, 1400000833.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1100001371; Morehead State University, 1100001372.

AGRICULTURE, DEPARTMENT OF:

Multi, 1300001593; Multi, 1300001595; Multi, 1300002879.

CORRECTIONS, DEPARTMENT OF:

Pike County Detention Center, 1300002675.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

NKCES, 1300001923; Purchase Area Development District, 1300002025; Northern Kentucky Area Development District, 1300002031; Buffalo Trace Area, 1300002032; Gateway Area Development District, 1300002033.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

NAMI Lexington (Kentucky), Inc., 1200001143; People Advocating Recovery, 1200001212; Seven Counties Services, 1200001288.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentucky Domestic Violence Association, 1200001640; Kentucky Association of Sexual Assault Programs, 1300002077; Eastern Kentucky University, 1300002117.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Western Kentucky University, 1100001150.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky, 1100000957.

EDUCATION, DEPARTMENT OF:

Treasurer Cloverport Independent Board of Education, 1300000086; Lee County Board of Education, 1300000124; Nelson County Board of Education, 1300000157; Paintsville Independent Board of Education, 1300000163; Treasurer Paris Independent Board of Education, 1300000164; Pulaski County Board of Education, 1300000167; RC Durr YMCA, 1300000168; Woodford County Board of Education, 1300000179; University of Kentucky, 1300000607; Madison County Board of Education, 1300002540; Knox County Board of Education, 1400000026.

ENERGY AND ENVIRONMENT CABINET, OFFICE OF THE SECRETARY:

McCracken County Fiscal Court, 1300001407.

FISH & WILDLIFE, DEPARTMENT OF:

University of Tennessee, 1300002528.

KY RACING COMMISSION:

University of Kentucky Research Foundation, 1300001387.

MEDICAID SERVICES BENEFITS, DEPARTMENT FOR:

Kentucky Transportation Cabinet, 1200001605.

MILITARY AFFAIRS, DEPARTMENT OF:

Daviess County EMA, 1300000017.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Federation of Appalachian Housing Enterprises, 1000000714; City of Berry, 1100002893; City of Hazel, 1200000301; City of Olive Hill, 1200002855; City of Bonnieville, 1300000304; Greenup County Fiscal Court, 1300000375; City of Berea, 1300000725; Breathitt County Fiscal Court, 1300000944; City of Berry, 1300001735; Morgan County Board of Education, 1400000660.

POST SECONDARY EDUCATION, COUNCIL ON:

U.S. Education Delivery Institute, 1300001583.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

ARTS COUNCIL

Mt. Auburn Associates Incorporated, 1400000718. Sandy Etherington and Dan Strauss discussed the contract with the committee. A motion was made by Senator Carroll to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

EASTERN KENTUCKY UNIVERSITY

Employee Network Incorporated 14-067. David McFaddin discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

LEGISLATIVE RESEARCH

COMMISSION

Dressman Benzinger LaVelle, PSC, 13/14-16. Marcia Seiler, Laura Hendrix, and Joanna Strange discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with Senators Gregory, Hornback and McDaniel voting NO and Representative Montell voting NO.

LEGISLATIVE RESEARCH COMMISSION

National Conference of State Legislatures (NCSL), 13/14-17. Marcia Seiler, Laura Hendrix, and Joanna Strange discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

OFFICE OF THE KENTUCKY HEALTH BENEFIT EXCHANGE

Anthem Health Plans of Kentucky Incorporated, 1400000753. Carrie Banahan and Tammy Bullock discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

UNIVERSITY OF KENTUCKY

APAX Mobile, K14-136. Bill Harris and Steve Byars discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

WESTERN KENTUCKY UNIVERSITY

The Segal Company d/b/a Sibson Consulting, 131434. Tony Glisson discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed with Senator McDaniel voting NO.

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

CORRECTIONS, DEPARTMENT OF

Correctcare Incorporated, 1300001272. Stephen Castle discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed without objection.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF

Law Enforcement Services Incorporated, 1200001593. Dana Todd discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

DEPARTMENT FOR PUBLIC HEALTH

Labone of Ohio Incorporated, 1300002438. William Baker discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

TRANSPORTATION CABINET

Parsons Brinckerhoff Incorporated, 1300001909. Mike Hill and Kevin Damron discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY

Kentucky Science and Technology Corporation, 1400000763. Hollie Spade, John Wehrle, and Laurie Daugherty discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Senator Gregory seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

EDUCATION, DEPARTMENT OF

KCTCS, 1300002899. Charlie Harman discussed the contract with the committee. A motion was made by Senator McDaniel to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 4:15 PM.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

February 11, 2014

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, February 11, 2014, at 4:00 PM, in Room 131 of the Capitol Annex. Representative Dennis Horlander, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senators Paul Hornback and Christian McDaniel; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Kathy Burke, Kevin Mudd, Tabitha Buckhart-Wilson, David Gayle, Stacy Phillips, Bill Harris, Steve Byars, Sean Riley, Larry Clarke, and Fran Pinkston.

LRC Staff: Kim Eisner, Charles Booker, and Becky Brooker.

A motion was made by Representative Yonts to approve Minutes of the January 2014 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

NOVEMBER 2013 DEFERRED ITEM

CORRECTIONS, DEPARTMENT OF

Correct Care Solutions, LLC, 1400000447. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

DECEMBER 2013 DEFERRED ITEM

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt Tarrant and Combs, 1400000238. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Crenshaw seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Crenshaw seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Crenshaw seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Crenshaw seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

_AUDITOR OF PUBLIC ACCOUNTS, OFFICE OF THE:

NASACT, 1400001006.

CABINET FOR HEALTH AND FAMILY SERVICES:

Susan Gormley Tipton, 1400000266-1.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Quest Diagnostics, 1400000923.

DEPARTMENT FOR INCOME SUPPORT:

Tonya R. Gonzalez, 1400000798; Kay Barnfield Psyd, PSC, 1400000799; Psych, Incorporated, 1400000800; Michelle D. Bornstein, 1400000801.

EDUCATION, DEPARTMENT OF:

CN Resource, LLC, 1400000894; Walter W. Hulett, 1400000945.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

RBS Design Group PSC, 1400000715.

HISTORICAL SOCIETY, KENTUCKY:

Randi Korn & Associates, 1400000700.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Association of Community College Trustees Incorporated (ACCT), 574.

KENTUCKY LOTTERY CORPORATION:

Affiliated Forensic Laboratory Incorporated, 14-12-019-2.

MILITARY AFFAIRS, DEPARTMENT OF:

Mark E. Demuth, 1400000974.

TRANSPORTATION CABINET:

Thurston Freeman, 1400000754; HMB Professional Engineers Incorporated, 1400000809; Appco Appraisal Service Incorporated, 1400000823; American Engineers Incorporated, 1400000963; E A Partners PLC, 1400000965; HMB Professional Engineers Incorporated, 1400001002; Qk4, 1400001041; Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1400001085.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Wyatt Tarrant and Combs, 1400000238.

AGRICULTURE, DEPARTMENT OF:

McBrayer McGinnis Leslie and Kirkland, 1300001780.

BOARD OF CLAIMS & CRIME VICTIMS COMPENSATION:

Florence Sue Huffman, 1300000872.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Concentra Laboratory LLC, 1200002459.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Kentucky Partnership for Families and Children Incorporated, 1200001139.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

URS Corporation, 1000001352.

DEPARTMENT FOR MEDICAID SERVICES:

Island Peer Review Organization Incorporated, 1300000281.

DEPARTMENT FOR PUBLIC HEALTH:

Heartland Cares Incorporated, 1300001996; Volunteers of America of Kentucky Incorporated, 1300002001.

EDUCATIONAL TELEVISION, KENTUCKY:

Catherine Fillmore-Hoyt, 1300003152.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Amec Environment & Infrastructure, Inc., 1000000638; Amec E & I Incorporated, 1000002150; Stantec Consulting Services, Incorporated, 1100001637; EOP Architects, PSC, 1100002570; Myers Jolly Architects, 1200000117; Staggs & Fisher Consulting Engineers Inc., 1200000308; Florence & Hutcheson, Incorporated, 1200001112; Amec Environment & Infrastructure, Inc., 1200001195; ATC Associates Incorporated, 1200002604; Patrick D. Murphy Company Incorporated, 1300002656; Ross Tarrant Architects Incorporated, 1400000338.

FISH & WILDLIFE, DEPARTMENT OF:

Veterinary Associates, 1300000848.

JUVENILE JUSTICE, DEPARTMENT OF:

Management Registry Incorporated, 1200003322.

PUBLIC ADVOCACY, DEPARTMENT FOR:

Bette J Niemi, Attorney At Law, 1300001742; George Burgess, 1400000498.

TRANSPORTATION CABINET:

Municipal Engineering Company, 1000003652; Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1200000458; Vaughn & Melton Consulting Engineers (Kentucky), Inc., 1200000653; URS Corporation, 1200000728; R H & Associates, 1200000893; Stantec Consulting Services Incorporated, 1200001738; Palmer Engineering Co., 1300001873; Bacon Farmer Workman Engineering & Testing, Inc., 1300002822; Stantec Consulting Services, Inc., 1300002846; Quest Engineering Incorporated, C-03117944-1; Presnell Associates, Incorporated d/b/a QK4, C-04224166-2.

UNIVERSITY OF KENTUCKY:

Sasaki Associates Incorporated, A131070; Omni Architects, A131080; THP Limited Incorporated, A131110.

WESTERN KENTUCKY UNIVERSITY:

Ross Tarrant Architects, 121404.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Campbell County Agricultural Society, 1400000998; Owen County Fair, 1400001000.

DEPARTMENT FOR NATURAL RESOURCES:

Finance Real Property, 1400000384.

ECONOMIC DEVELOPMENT - OFFICE OF THE SECRETARY:

Western Kentucky University Research Foundation, 1400000639.

EDUCATION, DEPARTMENT OF:

University of Louisville Research Foundation, 1400000557; University of Kentucky Research Foundation, 1400000727; Partnership for Successful Schools, 1400000734; University of Kentucky Research Foundation, 1400000786; West Kentucky Education Cooperative Special Education, 1400000797; University of Kentucky Research Foundation, 1400000827; NKU Research Foundation, 1400000828; Green River Regional Education, 1400000835; Green River Regional Education, 1400000837.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Harlan Co Fiscal Court, 1400000789; Laurel County Fiscal Court, 1400000943; Johnson County Fiscal Court, 1400000964; Hopkins County Fiscal Court, 1400000989; City of Richmond, 1400001018; Newport Millennium Housing Corporation Iii, 1400001058; City of Earlington, 1400001060.

THE FOLLOWING MEMORANDA OF AGREEMENTS AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1300001593; Multi, 1300001595.

CORRECTIONS, DEPARTMENT OF:

University of Kentucky Research Foundation, 1200002642.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Purchase Area Development District, 1300002004; Pennyrile Area Development District, 1300002026; Green River Area Development, 1300002027; Barren River Area Development District, 1300002028; Lincoln Trail Area Development District, 1300002029; Kentuckiana Regional Planning & Development Agency, 1300002030; Fivco Area Development District, 1300002034; Big Sandy Area Development District, 1300002035; Kentucky River Area Development District, 1300002036; Cumberland Valley Area Development District Ag, 1300002037; Lake Cumberland Area Develop District, 1300002038; Bluegrass Area Development District, 1300002039.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Seven Counties Services, 1200001157; Kentucky Self-Advocates for Freedom Incorporated, 1200001251; Four Rivers Behavioral Health, 1300001811; Pennyroyal Mental Health, 1300001812; Green River Regional Mental Health Mental Retardation Board, 1300001813; Lifeskills Incorporated, 1300001814; Communicare Incorporated, 1300001815; Seven Counties Services, 1300001816; Northern Kentucky Regional Mental Health Mental Retardation Board, 1300001817; Comprehend Incorporated, 1300001818; Pathways Incorporated, 1300001819; Kentucky River Community Care, 1300001821; Cumberland River Mental Health Mental Retardation Board Incorporated, 1300001822; Lake Cumberland Mental Health Mental Retardation Board d/b/a The Adanta Group, 1300001823; Bluegrass Regional Mental Health Mental Retardation, 1300001824; Mountain Comp Care Center, 1300003030.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Community Action of Southern Kentucky Incorporated, 1200002113; Kentucky Housing Corporation, 1300001283; Community Action Kentucky, Inc., 1300002076; Community Action Kentucky, Inc., 1300002076.

DEPARTMENT FOR PUBLIC HEALTH:

Eastern Kentucky University, 1200002379; University of Kentucky Research Foundation, 1300001994; Arthritis Foundation Great Lake Region, 1300002380.

EDUCATION, DEPARTMENT OF:

Boyd County Board of Education, 1300000072; Carlisle County Board of Education, 1300000076; Christian County Board of Education, 1300000083; Covington Independent Board of Education, 1300000088; Crittenden County Board of Education, 1300000089; Floyd County Board of Education, 1300000094; Lawrence County Board of Education, 1300000122; Treasurer Leslie Co Board of Education, 1300000142; Metcalf County Board of Education, 1300000152; Morgan County Board of Education, 1300000156; University of Louisville Research Foundation, 1300000497; Morehead State University, 1300002845; Madison County Board of Education, 1300002882; Letcher County Board of Education, 1300002954; Eastern Kentucky University, 1300003024; Southern Regional Education Board, 1400000468.

FISH & WILDLIFE, DEPARTMENT OF:

UK Research Foundation, 1300002995.

KY RACING COMMISSION:

University of Kentucky Research Foundation, 1300001388.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Muhlenberg County Fiscal Court, 1200000169; Whitley County Fiscal Court, 1300000571; Webster County Fiscal Court, 1300000804; Whitley County Fiscal Court, 1300000942; Whitley County Fiscal Court, 1300001039; Whitley Co Fiscal Court, 1300001120; Whitley County Fiscal Court, 1300001245; City of Pineville, 1300001560; City of Pineville, 1300001561; City of Evarts, 1300001602; Whitley County Fiscal Court, 1300001914; Floyd County Fiscal Court, 1300001947; Perry County Fiscal Court, 1300002862; City of Wheatcroft, 1300003187.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Res Care Incorporated, 1400000515. Kathy Burke, Kevin Mudd, and Tabitha Buckhart-Wilson discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

DEPARTMENT FOR COMMUNITY BASED SERVICES

Public Consulting Group Incorporated, 1400000444. David Gayle and Stacy Phillips discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

UNIVERSITY OF KENTUCKY

Selge Holdings & Ventures, LLC d/b/a Wheless Partners, K14-141. Bill Harris and Steve Byars discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW:

ATTORNEY GENERAL, OFFICE OF THE

Kentucky Housing Corporation, 1400000939. Sean Riley, Larry Clarke, and Fran Pinkston discussed the contracts with the committee. A motion was made by Senator Hornback to adjourn. Senator McDaniel seconded the motion. Representatives Horlander, Crenshaw, and Yonts voted NO.

The meeting adjourned at 4:26 PM.

The following memoranda of agreements were selected for further review but were not discussed:

ATTORNEY GENERAL, OFFICE OF THE

DMHMRS and DMS Supports for Collection, 1400000941; Office of Inspector General, 1400000942.

EDUCATION, DEPARTMENT OF

Kentucky Center for the Arts, 1400000616.

FAIR BOARD

Louisville Convention & Visitors Bureau, 1400001020.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

March 11, 2014

Call to Order and Roll Call

The Government Contract Review Committee met on Tuesday, March 11, 2014, at 4:45 PM, in Room 131 of the Capitol Annex. Senator Sara Beth Gregory, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Representative Dennis Horlander, Co-Chair; Senator Christian McDaniel; Representatives Jesse Crenshaw, Brad Montell, and Brent Yonts.

Guests: Janaki Kannan, Andrew Yunt, Karen Sams, Rebecca Brown, Nancy Carpenter, Charlie Harman, Harry Carver, and Darren Sammons.

LRC Staff: Kim Eisner, Becky Brooker, and Jennifer Wilson.

A motion was made by Representative Yonts to approve Minutes of the February 2014 meeting of the committee. Representative Montell seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed, the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Representative Horlander seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

EASTERN KENTUCKY UNIVERSITY:

Solaritech d/b/a The Solarity Group, 14-070.

FINANCE AND ADMINISTRATION CABINET:

McBrayer, McGinnis, Leslie and Kirkland, 1400001253.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Omni Architects, 1400000794; EOP Architects, PSC, 1400000960.

NORTHERN KENTUCKY UNIVERSITY:

Landor Ohio, LLC d/b/a Landor Associates, 2014-653.

TRANSPORTATION CABINET:

Amec E & I, Incorporated, 1400001197; EA Partners, PLC, 1400001234; WMB, Incorporated, 1400001260; Parsons Brinckerhoff Incorporated, 1400001352.

UNIVERSITY OF KENTUCKY:

Bell Engineering, A141170; Cleverley & Associates, K14-142; Blue & Company, LLC, K14-143; The Vortechs Group, K14-144.

VETERANS AFFAIRS, DEPARTMENT OF:

Hargis & Associates, LLC, 1400001278; Multi, 1400001280; Multi, 1400001408.

WESTERN KENTUCKY UNIVERSITY:

row27 Studios, PS131439.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Littler Mendelson, 1300001566.

CORRECTIONS, DEPARTMENT OF:

Correct Care Solutions, LLC, 1400000447.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Tetra Tech Incorporated, 1100002229.

DEPARTMENT OF INSURANCE:

Taylor-Walker & Associates, Incorporated, 1200002873; Actuarial Resources Corporation, 1200002955.

EASTERN KENTUCKY UNIVERSITY:

McCandlish Holton, PC, 14-001.

FINANCE AND ADMINISTRATION CABINET:

Multi, 1200003660.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Omni Architects, 0600000391; Amec E & I, Incorporated, 1000001118; Ross Tarrant Architects Incorporated, 1200001550; BFMJ Incorporated, 1200002456; Third Rock Consultants LLC, 1200003126; Luckett and Farley Architects Engineers and Construction Managers Incorporated, 1300002653.

MEDICAL LICENSURE, BOARD OF:

Multi, 1200002107.

NORTHERN KENTUCKY UNIVERSITY:

Michael Schuster Associates, 2014-629.

TRANSPORTATION CABINET:

J M Crawford and Associates Incorporated, 0700003229; QK4, 1000000927; S&ME Incorporated, 1100000552; HMB Professional Engineers, 1200000411; David T. Owen, 1200002785; QK4, 1300001567; URS Corporation, 1300001719; HDR Engineering Incorporated, 1300001910; American Engineers Incorporated, 1300002003; H A Spalding Incorporated, C-00120549-5; ICA Engineering Incorporated f/k/a Florence & Hutcheson Incorporated, C-01063751-3; Presnell Associates Incorporated, C-99005358-4; Presnell Associates Incorporated QK4, C-99109299-7.

UNIVERSITY OF KENTUCKY:

Fellon-McCord & Associates, K13-115; Aon Risk Services (previously Hewitt Associates Public Sector Consulting), K13-128.

UNIVERSITY OF LOUISVILLE:

Strothman & Company, 14-039.

WESTERN KENTUCKY UNIVERSITY:

Ross Tarrant Architects, 121431; Murphy & Graves Architects, 121439.

WORKFORCE INVESTMENT, OFFICE OF:

Burt J. Danovitz, 1400000691.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Communicare Incorporated Adult, 1400001529.

AGRICULTURE, DEPARTMENT OF:

Lincoln County Fiscal Court, 1400000990; McCracken County Fair, 1400000993; Laurel County Fair, 1400001001.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Eastern Kentucky University, 1400001007.

DEPARTMENT FOR PUBLIC HEALTH:

Department of Education, 1400000982.

EDUCATION, DEPARTMENT OF:

KET Foundation, 1400001040; Adair County Board of Education, 1400001094; Bourbon County Board of Education, 1400001095; Campbellsville Independent Board of Education, 1400001096; Carroll County Board of Education, 1400001097; Eminence Independent Board of Education, 1400001098; Floyd County Board of Education, 1400001099; Garrard County Board of Education, 1400001100; Henderson County Board of Education, 1400001101; Somerset Independent School District, 1400001102; Wayne County Board of Education, 1400001103; Ballard County Board of Education, 1400001104; Clinton County Board of Education, 1400001105; Corbin Independent Board of Education, 1400001106; Leslie County Board of Education, 1400001107; Lincoln County Board of Education, 1400001108; Ludlow Independent Board of Education, 1400001109; Monroe County Board of Education, 1400001110; Owensboro Independent Board of Education, 1400001111; Russell County Board of Education, 1400001112; Spencer County Board of Education, 1400001113; Fayette County Board of Education, 1400001114; Livingston County Board of Education, 1400001115; Whitley County Board of Education, 1400001116; Barren County Board of Education, 1400001118; Lotts Creek Community School, 1400001120; YMCA of Greater Cincinnati, 1400001122; Fayette County Board of Education, 1400001227; Bethune Institute, 1400001268; Boys & Girls Club of Greater Cincinnati, 1400001272.

INFRASTRUCTURE AUTHORITY:

Troublesome Creek Environmental Authority, 1400001283.

KENTUCKY STATE UNIVERSITY:

Auburn University, 14-16.

KY RACING COMMISSION:

University of Kentucky Research Foundation, 1400000328.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Letcher County Water and Sewer, 1400001092; City of Owensboro, 1400001171; Muhlenberg County Fiscal Court, 1400001282; Marion County Fiscal Court, 1400001401.

POST SECONDARY EDUCATION, COUNCIL ON:

Prichard Committee, 1400001055.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Morehead State University, 1200001314.

AGRICULTURE, DEPARTMENT OF:

Multi, 1300001593; Multi, 1300001595.

BOARD OF LICENSING HEARING AID DEALERS & FITTERS:

Occupations and Professions, 1200002360.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Bluegrass Regional Mental Health Mental Retardation, 1300001908; Pennyrile Area Development District, 1300002005; Green River Area Development, 1300002006; Barren River Area Development District, 1300002007; Northern Kentucky Area Development District, 1300002010; Buffalo Trace Area Development District, 1300002011; Gateway Area Development District, 1300002012; Big Sandy Area Development District, 1300002014; Kentucky River Area Development District, 1300002015; Lake Cumberland Area Development District, 1300002019; Bluegrass Area Development District Title III, 1300002020.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Community Action Kentucky, Inc., 1300002076; Lake Cumberland CSO Incorporated, 1300002089.

EDUCATION, DEPARTMENT OF:

Jefferson County Board of Education, 1300002041; Jefferson County Board of Education, 1300002494; Shelby County Board of Education, 1300002551; Trigg County Board of Education, 1300002583; Shelby County Board of Education, 1300002588; Boone County Board of Education, 1300002689; Eastern Kentucky University, 1300002710; Morehead State University, 1300002712; Allen County Board of Education, 1300002716; Jefferson County Board of Education, 1300002719; Western Kentucky University, 1300002855; University of Louisville Research Foundation, 1300002921; Kentucky Educational Development Corporation, 1300002992; Carter County Board of Education, 1300003040; Christian County Board of Education, 1300003042; Covington Independent Board of Education, 1300003044; Fayette County Board of Education, 1300003046; Grant County Board of Education, 1300003049; Grayson County Board of Education, 1300003050; Kenton County Board of Education, 1300003061; Livingston County Board of Education, 1300003066; McCreary County Board of Education, 1300003071; Newport Independent Board of Education, 1300003073; Scott County Board of Education, 1300003075; KCTCS, 1400000245; University of Kentucky Research Foundation, 1400000568.

INFRASTRUCTURE AUTHORITY:

City of Elkhorn City, 0800010383; Perry County Fiscal Court, 0800010408; Henderson County Fiscal Court, 0900011658; Mountain Water District, 0900012076; Letcher County Fiscal Court, 0900012845; Letcher County Fiscal Court, 0900012856; Letcher County Water & Sewer District, 1000001146; Harlan County Fiscal Court, 1000002567; City of Buckhorn, 1000002778; Knott County Fiscal Court, 1100001474; Knott County Fiscal Court, 1100001475; Letcher County Fiscal Court, 1100001541; City of Pikeville, 1100001685; City of Pikeville, 1100001725; Drakesboro Water & Sewer, 1200000427; Knott County Fiscal Court, 1200000867; Henderson County Water District, 1200000887; City of Elkhorn City, 1200001030; City of Elkhorn City, 1200001031; City of Pikeville, 1200001436; Knott County Fiscal Court, 1200002053; City of Whitesburg, 1200002311; Mountain Water District, 1200002325; City of Campton, 1200002327; City of Elkhorn City, 1200002474; City of Pikeville, 1200002480; Mountain Water District, 1200002485; Letcher County Fiscal Court, 1300001081; Mountain Water District, 1300001249; Clay County Fiscal Court, 1300001289; City of Hanson, 1300001295; Breathitt County Water District, 1300001301; Breathitt County Water District, 1300001302; Breathitt County Water District, 1300001303; Breathitt County Water District, 1300001305; Floyd County Fiscal Court, 1300001341; Perry County Fiscal Court, 1300001373; City of Sturgis, 1300001386; Perry County Fiscal Court, 1300001501; Perry County Fiscal Court, 1300001502; Muhlenberg County Water District #3, 1300001556; Lawrence County Fiscal Court, 1300001564; City of Dawson Springs, 1300001628; Letcher County Fiscal Court, 1300001671; Union County Fiscal Court, 1300001741; Knott County Fiscal Court, 1300001804; Breathitt County Water District, 1300001835; Letcher County Fiscal Court, 1300001942; Mountain Water District, 1300002172; City of Manchester, 1300002440; Johnson County Fiscal Court, 1300002896; Johnson County Fiscal Court, 1300002897; Union County Fiscal Court, 1400000531; Jackson County Fiscal Court, 1400000534; Magoffin County Fiscal Court, 1400000535; Jackson County Fiscal Court, 1400000536; Daviess Count Fiscal Court, 1400000575; Daviess County Fiscal Court, 1400000576; Daviess County Fiscal Court, 1400000578; Jackson County Fiscal Court, 1400000626; Daviess County Fiscal Court, 1400000739; City of Sebree, 1400000780.

<u>OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT</u>:

Housing Authority of Henderson, 1100000881; Greenup County Fiscal Court, 1200001582; Henderson County Fiscal Court, 1300000596; Henderson County Fiscal Court, 1300000599; Henderson County Fiscal Court, 1300000740; City of Jackson, 1300000748; Hopkins County Fiscal Court, 1300000914; Hopkins County Fiscal Court, 1300000915; Hopkins County Fiscal Court, 1300000916; Hopkins County Fiscal Court, 1300000920; Johnson County Fiscal Court, 1300000946; Hopkins County Fiscal Court, 1300001026; Knox County Fiscal Court, 1300001035; Harlan County Fiscal Court, 1300001121; Harlan County Fiscal Court, 1300001122; Harlan County Fiscal Court, 1300001123; Harlan County Fiscal Court, 1300001137; Harlan County Fiscal Court, 1300001138; Harlan County Fiscal Court, 1300001146; Harlan County Fiscal Court, 1300001147; Harlan County Fiscal Court, 1300001149; Harlan County Fiscal Court, 1300001150; Harlan County Fiscal Court, 1300001151; Harlan County Fiscal Court, 1300001154; Harlan County Fiscal Court, 1300001155; Harlan County Fiscal Court, 1300001157; Harlan County Fiscal Court, 1300001158; Harlan County Fiscal Court, 1300001159; Harlan County Fiscal Court, 1300001160; Johnson County Fiscal Court, 1300001235; Johnson County Fiscal Court, 1300001236; Johnson County Fiscal Court, 1300001237; Bell County Fiscal Court, 1300001367; Bell County Fiscal Court, 1300001368; Bell County Fiscal Court, 1300001369; Bell County Fiscal Court, 1300001370; Bell County Fiscal Court, 1300001370; Daviess County Fiscal Court, 1300001471; City of Harlan, 1300001558; Bell County Fiscal Court, 1300001597; Harlan County Fiscal Court, 1300001633; Harlan County Fiscal Court, 1300001634; Harlan County Fiscal Court, 1300001635; Harlan County Fiscal Court, 1300001636; Harlan County Fiscal Court, 1300001637; Harlan County Fiscal Court, 1300001638; Harlan County Fiscal Court, 1300001639; Harlan County Fiscal Court, 1300001640; Harlan County Fiscal Court, 1300001641; Harlan County Fiscal Court, 1300001642; Harlan County Fiscal Court, 1300001644; Harlan County Fiscal Court, 1300001647; Floyd County Fiscal Court, 1300001666; Harlan County Fiscal Court, 1300001697; Harlan County Fiscal Court, 1300001698; Harlan County Fiscal Court, 1300001699; Harlan County Fiscal Court, 1300001700; Harlan County Fiscal Court, 1300001701; Harlan County Fiscal Court, 1300001702; Bell County Fiscal Court, 1300001711; Bell County Fiscal Court, 1300001712; Bell County Fiscal Court, 1300001712; Bell County Fiscal Court, 1300001717; Bell County Fiscal Court, 1300001717; Harlan County Fiscal Court, 1300001773; Bell County Fiscal Court, 1300001782; Bell County Fiscal Court, 1300001782; Bell County Fiscal Court, 1300001808; Bell County Fiscal Court, 1300001842; Bell County Fiscal Court, 1300001894; Bell County Fiscal Court, 1300001949; Lawrence County Fiscal Court, 1300002063; Floyd County Fiscal Court, 1300002203; Breathitt County Board of Education, 1300002301; Bell County Fiscal Court, 1300003055; Floyd County Fiscal Court, 1300003140; Bell County Fiscal Court, 1400000226; Bell County Fiscal Court, 1400000227; Bell County Fiscal Court, 1400000228; Clay County Fiscal Court, 1400000232; Henderson County Fiscal Court, 1400000651; City of Catlettsburg, 1400000722; Bell County Fiscal Court, 1400000745; Johnson County Fiscal Court, 1400000802; Johnson County Fiscal Court, 1400000964; Bell County Fiscal Court, 1400000969; Bell County Fiscal Court, 1400000970.

<u>TRANSPORTATION CABINET</u>:

University of Kentucky Research Foundation, 1200002111; University of Kentucky Research Foundation, 1200002761.

<u>UNIVERSITY OF KENTUCKY</u>:

Gateway Community & Technical College, 004-14.

<u>THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW</u>:

<u>COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS</u>:

CDM Services Incorporated, 1300002171. Janaki Kannan and Andrew Yunt discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed without objection.

<u>DEPARTMENT FOR PUBLIC HEALTH</u>:

Matthew 25 AIDS Service Incorporated, 1300001998. Karen Sams and Rebecca Brown discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Horlander seconded the motion, which passed with Senator McDaniel voting NO.

<u>EDUCATIONAL TELEVISION, KENTUCKY</u>:

Brian Vincent, 1300001099. Nancy Carpenter discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Montell seconded the motion, which passed without objection.

<u>THE FOLLOWING MEMORANDUM OF AGREEMENT WAS SELECTED FOR FURTHER REVIEW</u>:

<u>EDUCATION, DEPARTMENT OF</u>:

Collaborative Center for Literacy Development, 1400000633. Charlie Harman discussed the contract with the committee. A motion was made by Representative Yonts to consider the contract as reviewed. Representative Crenshaw seconded the motion, which passed without objection.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

City of Greensburg, 1400001053. Harry Carver and Darren Sammons discussed the contract with the committee. A motion was made by Representative Crenshaw to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

EXEMPTION REQUESTS:

KENTUCKY DEPARTMENT OF AGRICULTURE:

The Kentucky Department of Agriculture requested an exemption from two year contracting restrictions for five grant recipients for the purpose of researching and promoting specialty crop farming techniques in Kentucky; 100% federally funded. A motion was made by Representative Yonts to grant the request to September 30, 2016. Representative Crenshaw seconded the motion, which passed without objection.

KENTUCKY DEPARTMENT OF AGRICULTURE:

The Kentucky Department of Agriculture requested an exemption from two year contracting restrictions for the UK Veterinary Diagnostic Laboratory, Murray State University Breathitt Veterinary Center and Approved Kentucky Accredited Veterinarians for the purpose of diagnostic testing and Animal Disease Traceability (ADT). A motion was made by Representative Yonts to grant the request to March 31, 2015. Representative Crenshaw seconded the motion, which passed without objection.

KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION:

The Kentucky Council on Postsecondary Education requested an exemption from two year contracting restrictions for various grant agreements; 100% federally funded. A motion was made by Representative Yonts to grant the request to December 31, 2015. Representative Crenshaw seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET, DIVISION OF CONSERVATION:

The Division of Conservation, Energy and Environment Cabinet requested an exemption from

two year contracting restrictions for Nonpoint Source MOAs and PSCs; 100 percent federally funded. A motion was made by Representative Yonts to grant the request to September 30, 2014. Representative

Crenshaw seconded the motion, which passed without objection.

DEPARTMENT FOR LOCAL GOVERNMENT:

The Department for Local Government requested an exemption from two year contracting restrictions for various Coal Severance Grants. A motion was made by Representative Yonts to grant the request to June 30, 2016. Representative Crenshaw seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 5:23 P.M.

GOVERNMENT CONTRACT REVIEW COMMITTEE

Committee Minutes

April 14, 2014

Call to Order and Roll Call

The Government Contract Review Committee met on Monday, April 14, 2014, at 9:00 AM, in Room 169 of the Capitol Annex. Senator Sara Beth Gregory, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Sara Beth Gregory, Co-Chair; Senators Julian M. Carroll, Paul Hornback, and Christian McDaniel; Representatives Brad Montell and Brent Yonts.

Guests: David McFaddin, Peter Goodman, Kristie Graham, David Wicker, Mike Hardin, Amy Barnes, Shawnee Bennett, Todd Mobley, Doug Lefevers, Craig Farmer, Peggy Stratton, Stacy Phillips, Claudette Tracy, Julie Brewer, and Jennifer Washabaugh.

LRC Staff: Kim Eisner, Becky Brooker, and Jennifer Wilson.

A motion was made by Representative Yonts to approve Minutes of the March 2014 meeting of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Personal Service Contract Amendment List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

A motion was made by Representative Yonts to consider as reviewed the Memoranda of Agreement Amendment List, with exception of those items selected for further review by members of the committee. Senator Carroll seconded the motion, which passed without objection.

THE FOLLOWING PERSONAL SERVICE CONTRACTS WERE REVIEWED WITHOUT OBJECTION:

CABINET FOR HEALTH AND FAMILY SERVICES:

Frost Brown Todd, LLC, 1400001514.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Allyson Honaker, 1400001433; Tom Szurlinski, 1400001434; Brett Scott, 1400001518; Doug Czor, 1400001523; Anthony P. Vilardo, 1400001525; Quest Diagnostics, 1400001546.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

The Chyron Group, LLC, 1400001454.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Uspiritus Incorporated, 1200003285-1.

DEPARTMENT FOR PUBLIC HEALTH:

Norton Healthcare Incorporated, 1400001128; Crown Services Incorporated, 1400001199.

EDUCATION, DEPARTMENT OF:

Arroyo Research Services, 1400001612.

FINANCE AND ADMINISTRATION CABINET:

Vanantwerp, Monge, Jones, Edwards & McCann, LLP, 1400001622; Boehl Stopher and Graves, LLP, 1400001686.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Omni Architects, 1400001237; JRA Incorporated, 1400001269; Paladin Incorporated, 1400001412; Sherman Carter Barnhart, 1400001413; Paladin Incorporated, 1400001416.

GOVERNOR'S OFFICE FOR TECHNOLOGY:

Columbia Telecommunications Corporation, 1400001624.

KENTUCKY COMMUNITY & TECHNICAL COLLEGE SYSTEM:

Sturgill, Turner, Barker & Moloney, 575.

KENTUCKY LOTTERY CORPORATION:

Avnet Government Solutions, 14-14-038; Affiliated Forensic Laboratory, Inc., 15-12-0192.

MOREHEAD STATE UNIVERSITY:

Perceptive Software, 14-032.

MURRAY STATE UNIVERSITY:

Rubin Brown, LLP, 017-14.

NORTHERN KENTUCKY UNIVERSITY:

Dean Dorton Allen Ford, 2014-578-3; Witt/Kieffer, 2014-654.

TRANSPORTATION CABINET:

ICA Engineering Incorporated f/k/a Florence & Hutcheson Incorporated, 1400001576; QK4, 1400001663; Strand Associates Incorporated, 1400001670; Burgess and Niple Incorporated, 1400001672.

UNIVERSITY OF KENTUCKY:

Heapy Engineering, A141160; Murphy, Graves, Trimble, A141180; LuAnn S. Phillips, K14-145; The Bernard Consulting Group Incorporated, K14-146; NAMI Lexington (KY) Incorporated, K14-147; Baker & Associates, LLC, K14-148.

VETERANS AFFAIRS, DEPARTMENT OF:

Multi, 1400001271; Multi, 1400001554; Multi, 1400001570; Multi, 1400001684; Trilogy Rehabilitation Services, LLC, 1400001698; Trilogy Rehabilitation Services, LLC, 1400001721.

WESTERN KENTUCKY UNIVERSITY:

Multi, 131442; Lisa Jane Graumlich, 131445.

WORKFORCE INVESTMENT, OFFICE OF:

Karen Wolffe, 1400000967.

THE FOLLOWING PERSONAL SERVICE AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Sherman Carter Barnhart, 1200002990.

CRIMINAL JUSTICE TRAINING, DEPARTMENT OF:

Mark Wynn, 1300002499; William Oscar Rousseau, 1300002515.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

AMS Temporaries Incorporated, 1300001454; Crown Services Incorporated, 1300001455; Guardian Angel Staffing Agency, 1300001456; Guardian Healthcare Providers, 1300001457; Nurse Staffing Group Kentucky, LLC, 1300001458; Supplemental Health Care, 1300001459.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Bellewood Presbyterian Home for Children, 1200003285.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Tetra Tech Incorporated, C-05120724-1.

DEPARTMENT FOR PUBLIC HEALTH:

Multi, 1300002599; Multi, 1300002607.

EDUCATIONAL TELEVISION, KENTUCKY:

Diana Rhea Deen, 1300001100.

FINANCE AND ADMINISTRATION CABINET - DIVISION OF ENGINEERING:

Stantec Consulting Services Inc., 0800007671; Stantec Consulting Services Incorporated, 1100001637; EOP Architects, PSC, 1100002570; Brandstetter Carroll Incorporated, 1200000309; HMB Professional Engineers Incorporated, 1200002582; Stantec Consulting Services Incorporated, 1400000625; Omni Architects, C-05256615; Ross Tarrant Architects Incorporated, C-06082726.

NORTHERN KENTUCKY UNIVERSITY:

Omni Architects, 2014-602; Carole Beere, 872-14.

REAL ESTATE APPRAISERS BOARD:

PSI Services, LLC, 1300000056.

TRANSPORTATION CABINET:

CDP Engineers Incorporated, 1000000961; HMB Professional Engineers Incorporated, 1000003205; EA Partners, PLC, 1200000447; HMB Professional Engineers Incorporated, 1200001404; ICA Engineering Incorporated f/k/a Florence & Hutcheson Incorporated, 1200001861; QK4, 1200002605; Integrated Engineering, 1300001848; Bacon Farmer Workman Engineering & Testing, Inc., 1300002000; HMB Professional Engineers Incorporated, 1300002496; Michael Baker Jr. Incorporated, 1300003116; HMB Professional Engineers Incorporated, C-03027186-2; Gresham Smith and Partners, C-05260813; CDP Engineers Incorporated, C-05505738; GRW Engineers Incorporated, C-99004860-4.

UNIVERSITY OF KENTUCKY:

Equine Medical Associates, PSC, K13-137; DDC Works f/k/a Diccicco Battista Communication, K13-138.

UNIVERSITY OF LOUISVILLE:

EOP Architects, 11-089; Strothman & Company, 14-039.

VETERANS AFFAIRS, DEPARTMENT OF:

Firstlab, LLC, 1200002478.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE REVIEWED WITHOUT OBJECTION:

AGRICULTURE, DEPARTMENT OF:

Multi, 1400001677.

CORRECTIONS, DEPARTMENT OF:

Breckinridge County Jail, 1400001635; Daviess County Detention Center, 1400001700; Shelby County Detention Center, 1400001742.

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Morehead State University, 1400001224.

DEPARTMENT FOR INCOME SUPPORT:

State of Rhode Island Department of Human Services, 1400000952; South Carolina of Social, 1400000953.

EDUCATION, DEPARTMENT OF:

Walton Verona Independent Board of Education, 1400000325.

INFRASTRUCTURE AUTHORITY:

Johnson County Fiscal Court, 1400001549; Mountain Water District, 1400001555; Mountain Water District, 1400001558; Mountain Water District, 1400001591; Lawrence County Fiscal Court, 1400001630; Harlan County Fiscal Court, 1400001631; Harlan County Fiscal Court, 1400001632; Harlan County Fiscal Court, 1400001637; Harlan County Fiscal Court, 1400001638.

LIBRARIES & ARCHIVES, DEPARTMENT FOR:

Bell County Public Library, 1400001134.

MILITARY AFFAIRS, DEPARTMENT OF:

Multi, 1400001322.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Floyd County Fiscal Court, 1400000723; Bourbon County Fiscal Court, 1400001051; Lexington Fayette Urban County Government, 1400001059; Union County Fiscal Court, 1400001305; City of Glasgow, 1400001348; Kenton County Fiscal Court, 1400001543; Henderson County Fiscal Court, 1400001560; Hopkins County Fiscal Court, 1400001619; Adair County Fiscal Court, 1400001664; Adair County Fiscal Court, 1400001665; City of Auburn, 1400001679; Perry County Fiscal Court, 1400001787; Perry County Fiscal Court, 1400001788; Adair County Fiscal Court, 1400001795.

WORKFORCE INVESTMENT, OFFICE OF:

Kentucky Revenue Cabinet, 1400001567.

THE FOLLOWING MEMORANDA OF AGREEMENT AMENDMENTS WERE REVIEWED WITHOUT OBJECTION:

ADMINISTRATIVE OFFICE OF THE COURTS:

Pennyroyal Mental Health, 1200002129.

AGRICULTURE, DEPARTMENT OF:

Multi, 1300001593; Multi, 1300001595.

DEPARTMENT FOR AGING & INDEPENDENT LIVING:

Lincoln Trail Area Development District, 1300002008; FIVCO Area Development District, 1300002013.

DEPARTMENT FOR BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES:

Eastern Kentucky University, 1300002415.

DEPARTMENT FOR COMMUNITY BASED SERVICES:

Kentucky Association of Sexual Assault Programs, 1300002077; Community Action of Southern Kentucky Incorporated, 1300002098; Tri County Community Action Agency, 1300002099; Big Sandy Area Development District, 1400000470.

DEPARTMENT FOR FAMILY RESOURCE CENTERS & VOLUNTEER SERVICES:

Northern Kentucky Cooperative for Educational Services Incorporated, 1300001966.

DEPARTMENT FOR NATURAL RESOURCES:

University of Kentucky Research Foundation, 1300000613.

EDUCATION, DEPARTMENT OF:

Treasurer Monroe County Board of Education, 1300000154; Green River Regional Education, 1300002699; Fayette County Treasurer Board of Education, 1300002718; Bowling Green Independent Board of Education, 1300003034; Franklin County Board of Education, 1300003048; Jessamine County Board of Education, 1300003054; Kentucky Valley Education, 1400000696.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Henderson County Fiscal Court, 1100001744; City of Clay, 1200000599; Martin County Fiscal Court, 1200001279; Webster County Fiscal Court, 1200001573; Webster County Fiscal Court, 1200001672; Webster County Fiscal Court, 1200002130; City of Olive Hill, 1200002855; Hopkins County Fiscal Court, 1300000907; Hopkins County Fiscal Court, 1300000908; Hopkins County Fiscal Court, 1300000912; Hopkins County Fiscal Court, 1300000918; Hopkins County Fiscal Court, 1300000919; Martin County Fiscal Court, 1300000932; Martin County Fiscal Court, 1300000934; Martin County Fiscal Court, 1300000938; Lawrence County Fiscal Court, 1300000960; Leslie County Fiscal Court, 1300001012; Hopkins County Fiscal Court, 1300001025; Wolfe County Board of Education, 1300001058; Madisonville Community College, 1300001112; Breathitt County Board of Education, 1300001168; City of Louisa, 1300001175; Wolfe County Fiscal Court, 1300001216; Hopkins County Fiscal Court, 1300001221; Menifee County Fiscal Court, 1300001225; Hopkins County Fiscal Court, 1300001275; City of Loyall, 1300001276; Lee County Fiscal Court, 1300001280; Clinton County Fiscal Court, 1300001292; Bell County Fiscal Court, 1300001367; Lee County Fiscal Court, 1300001374; Perry County Fiscal Court, 1300001472; Webster County Fiscal Court, 1300001536; City of Benham, 1300001538; Hopkins County Fiscal Court, 1300001559; Bell County Fiscal Court, 1300001597; Bell County Fiscal Court, 1300001713; Bell County Fiscal Court, 1300001949; Breathitt County Board of Education, 1300002301; City of Providence, 1300002821; Lee County Fiscal Court, 1300002853; Lee County Fiscal Court, 1300002856; Martin County Fiscal Court, 1300002863; Jackson County Fiscal Court, 1300002895; Pendleton County Fiscal Court, 1400000016; Martin County Fiscal Court, 1400000315; Wolfe County Fiscal Court, 1400000363; Jackson County Fiscal Court, 1400000440; Jackson County Fiscal Court, 1400000441; Jackson County Fiscal Court, 1400000442; Floyd County Fiscal Court, 1400000723; Ohio County Fiscal Court, 1400000724.

WORKFORCE INVESTMENT, OFFICE OF:

Northern Kentucky Area Development District, 1200002698; Buffalo Trace Area Development District, 1200002699; Independence Place, 1400000138.

THE FOLLOWING PERSONAL SERVICE CONTRACT WAS SELECTED FOR FURTHER REVIEW:

EASTERN KENTUCKY UNIVERSITY:

Sturgill, Turner, Barker, and Moloney, 14-074. David McFaddin discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Senator Carroll seconded the motion, which passed with Representative Montell and Representative Yonts electing to abstain (pass).

THE FOLLOWING PERSONAL SERVICE CONTRACTS AMENDMENTS WERE SELECTED FOR FURTHER REVIEW:

DEPARTMENT FOR ENVIRONMENTAL PROTECTION:

Larry J. Sowder, 1300002335. Peter Goodman and Kristie Graham discussed the contract with the committee. A motion was made by Representative Montell to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

DEPARTMENT FOR INCOME SUPPORT:

Edward A. Ross, Jr., 1200001229; Dan K. Vandivier, 1200001231; Mary Thompson, PhD, 1200001242; Donna Fay Sadler, 1200001964; John M. Reed, MD, 1200001965. Todd Moberly, Shawnee Bennett and Doug Lefevers discussed the contracts with the committee. A motion was made by Representative Montell to consider the contracts as reviewed. Representative Yonts seconded the motion, which passed without objection.

THE FOLLOWING MEMORANDA OF AGREEMENTS WERE SELECTED FOR FURTHER REVIEW:

FISH & WILDLIFE, DEPARTMENT OF:

Kentucky Natural Lands Trust Incorporated, 1400001647. David Wicker and Mike Hardin discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

OFFICE OF THE GOVERNOR, DEPARTMENT FOR LOCAL GOVERNMENT:

Leslie County Fiscal Court, 1400001320. Amy Barnes discussed the contract with the committee. A motion was made by Senator Gregory to consider the contract as reviewed. Representative Yonts seconded the motion, which passed without objection.

EXEMPTION REQUESTS:

KENTUCKY TRANSPORTATION CABINET:

The Kentucky Transportation Cabinet requested an exemption from committee's routine review process for the KYTC's Aviation Economic Development Grant Agreements. A motion was made by Representative Yonts to grant the request to June 30, 2016. Senator Carroll seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET, OFFICE OF THE SECRETARY:

The Office of the Secretary, Energy and Environment Cabinet requested an exemption from two year contracting restrictions regarding the department's Cumulative Hydrologic Impact Assessment (CHIA) Program. A motion was made by Representative Yonts to grant the request to June 30, 2018. Senator Hornback seconded the motion, which passed without objection.

ENERGY AND ENVIRONMENT CABINET, DEPARTMENT FOR ENERGY DEVELOPMENTANDINDEPENDENCE:

The Department for Energy Development and Independence, Energy and Environment Cabinet requested an exemption from the two year contracting restrictions for projects which are funded through U.S. DOE Federal grants. A motion was made by Representative Yonts to grant the request to June 30, 2016. Senator Carroll seconded the motion, which passed without objection.

With no further business before the committee, the meeting adjourned at 9:32 a.m.

MILITARY AND OVERSEAS VOTING ASSISTANCE TASK FORCE

Minutes of the 3rd Meeting of the 2013 Interim

December 11, 2013

Call to Order and Roll Call

The third meeting of the Military and Overseas Voting Assistance Task Force was held on Wednesday, December 11, 2013, at 12:00 PM, in Room 149 of the Capitol Annex. Representative Darryl T. Owens, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Darryl T. Owens, Co-Chair; Senator Jimmy Higdon, Representative Tanya Pullin; Keith Cain, James Fowler, Bobbie Holsclaw, Charles T. Jones, and Lindsay Thurston.

Guests: Justin Lee, Deputy Director of Elections, Office of the Utah Lieutenant Governor; Lori Steele, Founder, Chairman and CEO, Everyone Counts, Inc.; Dan Nolan, Vice President of Strategic Planning/Government Relations, SOE Software; and David Jefferson, Ph.D., Center for Applied Scientific Computing, Lawrence Livermore National Laboratory.

LRC Staff: Greg Woosley, Kristopher Shera, and Ashlee McDonald.

Approval of Minutes

The minutes of the November 12, 2013 meeting were approved, upon motion by Senator Higdon and second by Ms. Thurston.

Utah's Approach to Military and Overseas Voting

Justin Lee, Deputy Director of Elections, Office of the Utah Lieutenant Governor, stated that there are 2.8 million residents in the twenty-nine counties of Utah. Utah allows limited electronic voting that began with a pilot program approximately fifteen years ago. Military and overseas citizens can apply for and return ballots by fax and email and have been permitted to do so for the last several election cycles. Almost all ballots sent electronically are returned successfully, and no significant issues have been reported.

In 1998, Utah began its pilot program to allow electronic voting, and initially a large number of ballots were returned by fax. By the 2012 election cycle, the numbers had dramatically switched, with two faxed ballot returns, 1,008 email ballot returns, and 1,307 regular mail ballot returns.

For the ballot to be sent to a voter and received by the elections officials in a timely manner, the voter must request the ballot by the Thursday before an election. Utah is able to do this because of the electronic means implemented to allow online voter registration and ballot retrieval. By sending a ballot electronically, the voter signs a form waiving the right to a secret ballot. The waiver is not required; if a voter chooses not to waive the right, the voter can still send it by mail and retain the right to a secret ballot.

Utah has also implemented a signature program in which it works with the Department of Driver's Licenses to obtain signatures of the residents when they apply for a driver's license. Through this partnership, Utah has approximately 95 percent of voters' signatures on file. When the voter receives a downloaded ballot, it is signed, scanned, and returned to a clerk's office, and the clerk's first step is to check the signature against the one on file. The voter casting a ballot is then "marked off" in the statewide voter database, and no duplicate ballot is counted for that signature.

After the signature is verified, the ballot is duplicated on a second ballot to make it "secret," and this second ballot is submitted for counting purposes. The original ballot is then locked away and stored and cannot be opened or examined unless ordered by a judge. The first cast ballot received from a voter is the one that is counted and recorded, and no additional ballots or changed ballots are accepted. Mr. Lee also noted that Utah's military and overseas balloting process was partially funded by a grant from the Federal Voting Assistance Program (FVAP), which allowed Utah to establish an online ballot retrieval system. Although this system is not an online voting system, the online ballot retrieval system allows military and overseas voters to access a ballot online, and then mark, sign with an electronic signature, print, and return it by an approved means.

Mr. Lee said that over 80 percent of the voters that use the system are overseas, and over 90 percent of voters have reported they would use the system again. The biggest complaint heard from Utah voters is that they are not able to complete the entire voting process online. Aside from this complaint, Utah's county clerks report that voters are happy with the modernized voting system.

In response to a question from Senator Bowen regarding the privacy of a voter and why a waiver is required, Mr. Lee stated that when a ballot is emailed back to a county clerk's office, an election official must open the ballot and verify the voter's signature, and at that time an election official can see how a voter has voted. However, no more than two election officials are authorized to view the ballot, and because the emailed ballot is converted to a second ballot after the signature is verified, privacy concerns are minimized. In response to a question regarding signatures, Mr. Lee testified that Utah has a partnership with the drivers' license bureau to obtain signatures, and that anyone who registers online consents to allowing his or her signature to be used. There has not been, to his knowledge, any incident where a signature has been duplicated or ballot secrecy compromised other than being seen by the two election officials who examine it.

In response to Ms. Thurston's question regarding options for the return of ballots in the case of an emergency or natural disaster, Mr. Lee explained that if there were an emergency disrupting military voting, Utah has the authority to use alternative dates and times, and other emergency procedures to ensure votes can be cast and counted.

Mr. Lee responded to a question from Mr. Fowler as to why ballots are printed out and copied to a second ballot by explaining that the ballot reader only accepts a specific format and type of paper. The transmitted ballot has the voter's name on it for verification purposes.

In response to a question from Senator Higdon about the number of counties and election cycles that have used the electronic voting system, Mr. Lee stated that during the pilot program, only half of the counties in Utah were involved. Utah has used a similar system for all elections since 2010.

In response to Mr. Cain, Mr. Lee explained that Utah needed a statutory amendment for citizens to be allowed to waive their right to a secret ballot. He noted that Kentucky might need to make a similar change to allow its voters to waive any ballot secrecy provisions.

Technology Utilized for Electronic Absentee Voting

Lori Steele, Founder, Chairman and CEO, of Everyone Counts, Inc., showed a comparison of traditional mailed-in ballots versus electronically transmitted ballots. While technology is not perfect, the proper use of technology can raise the bar on election efficiency, security, and privacy. The use of the military common access cards (CAC) can aid the security of ballots for military voters. The key to electronic voting is security in the ballot transmission process. Ballot encryption is very important, and a robust encryption process can result in far greater security with electronic ballots than with standard glue-sealed mailed ballots. The use of electronic ballots greatly increases the accessibility of voting, particularly for overseas voters.

Nineteen of twenty states that participated in a military absentee voting pilot program failed to deliver ballots properly and on time. However, these failures were largely a result of poorly designed systems or processes. If proper funds are spent on good systems and processes, the use of electronic voting can be successful at delivering ballots on time, securely, and privately. Everyone Counts has assisted several states and numerous countries in conducting either online voting or elections using electronically transmitted ballots for the last several election cycles without any security issues reported. The deployed systems have passed all audits conducted and most, if not all, users have been elated at the successful use of the systems.

To accomplish these results, Everyone Counts takes security very seriously, and its system uses a high level of encryption for ballot preparation, transmission, and authentication. The system is designed to resist denial of service attacks, and although deploying these protections is expensive, they are critical to ensuring the security of the system. The protocol Everyone Counts uses enables voters to securely communicate with elections officials in a way that is designed to prevent and detect any eavesdropping, tampering, or forgery; however, the system is also designed to allow voters the flexibility to use any HTML compatible device.

Everyone Counts recently developed a new version of its system using CAC cards. Everyone Counts has been working with South Dakota, has tested hundreds of users in the South Dakota National Guard, and has received positive feedback. The program manager stated that Everyone Counts needed to find a solution for South Dakota so that the turn-around time for military and overseas ballot requests and submission was less than the average 60 days. Everyone Counts implemented a system using the already-in-place CAC card, which the military uses for all online access purposes and contains a digital signature. The original implementation allowed a user to scan the barcode on the bottom of the card, which would contain the user's information, and Everyone Counts' system would validate all of the information for the ballot and ensure that all of the required areas of the ballot were filled out accurately.

There are several states and countries with increased internet voting, and there have been slight security issues, as would be expected with any technology software. Overall, voters and elections officials that have used the systems have been extremely pleased. In response to a question from Representative Owens, Ms. Steele stated that more systems have been utilized in western states because those states generally see a higher rate of absentee voting, but Everyone Counts has deployed a system in West Virginia as well. There have been no detected security breaches and no evidence of voter fraud using the systems.

Dan Nolan, Vice President of Strategic Planning/Government Relations for SOE Software, testified that with the SOE system voters could request an absentee ballot, submit credentials for system verification, and log on to the state's online voting website. Mr. Nolan then walked through a short demonstration of how the SOE system would work for a hypothetical voter. There are numerous voter verification steps to be followed in order to submit a vote, and only once a ballot has been verified against the voters' information, can it be successfully submitted. Mr. Nolan also confirmed that, like the Everyone Counts system, the SOE system is designed to detect any attempted security breach or effort to hack into the system.

Ms. Steele responded to Mr. Fowler's question in regards to online delivery and online return by stating that the percentage is much higher for online delivery rather than online return.

In response to a question from Senator Higdon regarding electronic returns that are unaccounted for, Ms. Steele stated that with encrypting each ballot and encrypting each election, it is highly unlikely that this would happen.

David Jefferson, Ph.D., Center for Applied Scientific Computing, Lawrence Livermore National Laboratory, said that there was no question that electronic voting is the more convenient way to vote. The security community nearly universally agrees that online voting is one of the greatest challenges facing security professionals. He said he is not opposed to electronic registration of voters or electronic delivery of ballots to voters, but electronic return of ballots is one of the most dangerous processes when it comes to ensuring the integrity of an election. As an example, Dr. Jefferson stated that if an automated attacker attacks an online election, it could attack a large number of votes, and anyone, anywhere in the world, can conduct a fraud on an online ballot or election. Voters and elections officials may not be able to detect if a ballot, or an entire election, has been the subject of an attack because one of the goals of a successful attacker is to purposely hide the tracks of the attack and erase the log files.

Dr. Jefferson explained that there are three types of fundamental attacks. One is a malware attack in which the actual device or machine a voter is using to vote is attacked. The second is a denial of service attack, which is designed to prevent people from voting or prevent votes from getting to their destination, which were successfully used in elections in Canada in 2003 and Hong Kong in 2012. The last type is the penetration attack, where an attacker directly attacks the server that is collecting the ballots. As one example of how these attacks might work, Dr. Jefferson noted an online voting system was deployed for a mock election in the District of Columbia and was subjected to tests to determine if the system was secure. Within 36 hours, the system was breached, all ballots were removed and replaced with other ballots, and the breach was not detected. The D.C. system was likely not as sophisticated as the systems developed by Everyone Counts and SOE software, but there are no fundamental ways to prevent a similar penetration and manipulation of the elections process if electronic voting systems are used, which means these systems are not appropriate for important elections.

Sophisticated technology companies spend an exorbitant amount of money on security, but Google, Apple, Microsoft, and even the non-classified side of the Lawrence Livermore Labs, have all been breached. Ballot secrecy is not just a privacy issue, but also is a fundamental issue of democracy that is threatened by the possibility of vote buying, coercion, and threats or reprisals over how a person has voted. Dr. Jefferson stated that, in his opinion, email and faxing ballots are the most dangerous electronic processes as there is no method of encryption for a ballot.

Senator Higdon voiced his concerns over the frustration of technology not working properly and how that may affect the online voting process and submission. Mr. Nolan explained that, during the online submission process, there are three steps to allow a voter to discontinue casting the ballot online if the effort was unsuccessful. The voter could then choose to return the ballot by mail.

In response to a question from Ms. Thurston, Mr. Nolan stated that his software has experienced a denial of service attack, but the attack was unsuccessful. Ms. Steele agreed, saying her company has faced similar attacks but has mitigated every one.

With no further business to come before the task force, the meeting adjourned at 2:00 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 1st Meeting of the 2013 Interim

December 17, 2013

Call to Order and Roll Call

The 1st meeting of the Public Pension Oversight Board was held on Tuesday, December 17, 2013, at 1:00 PM, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Jimmy Higdon and Gerald A. Neal; Representative Brian Linder; Robyn Bender, Tom Bennett, Michael Bowling, Jane Driskell, James M. “Mac” Jefferson, and Sharon Mattingly.

Guests: Eric Jarboe, Lear Net; Clyde Caudill, Jefferson Community Technical College System (JCTCS) and Kentucky Association of School Administrators (KASA); Lowell Reese, Kentucky Roll Call; and Marti White, Kentucky Association of School Superintendents (KASS).

LRC Staff: Brad Gross, Judy Fritz, Karen Powell, Marlene Rutherford.

Board Member Introductions

Chair Bowen provided the opportunity for each board member to introduce themselves and provide a brief background personally and professionally. Mr. Bennett, the board designee representing the Auditor of Public Accounts, stated that the Auditor’s Office audits the state-administered retirement systems and that there may be situations in which he will not involve himself in discussions or not cast a vote due to his position and the duties required of the Auditor’s Office. He also stated that an audit of the Kentucky Retirement Systems (KRS) was recently completed on December 11, 2013, by the State Auditor and is available on the Auditor of Public Accounts’ website. This was the first audit completed by the Auditor’s Office since the passage of HB 300 in the 2012 Regular Session, which required the systems’ annual audit be completed by the Auditor’s Office every five years.

Public Pension Oversight Board Duties and Responsibilities

Chair Bowen provided an overview of the duties and responsibilities of the board outlined in KRS 7A.250. The board is charged with reviewing the administration, benefits, funding, and investments of the Kentucky Retirement Systems. Duties include: reviewing laws, regulations, policies, and plan documents of the Kentucky Retirement Systems and making recommendations; completing a review of employee benefits every five years for employees who began participating on or after January 1, 2014, and making recommendations necessary to maintain sustainability of the systems; reviewing investment programs semiannually of the Kentucky Retirement Systems (KRS); reviewing benefits, by-laws, policies, or charters established by the KRS; studying and recommending changes on legislative proposals affecting the KRS as requested by the Speaker and President and report the findings of costs, implications, and whether those proposals are desired as a matter of public policy; reviewing and providing comments regarding administrative regulations issued by the KRS; studying issues related to KRS as directed by the Legislative Research Commission; and publishing by December 1 each year an annual report that will include legislative recommendations, a summary of the financial and actuarial condition of the retirement systems and an analysis the adequacy of funding levels, with the first report being issued in 2014. A work plan is being developed and will be provided by the next meeting of the board. Future meetings will mainly encompass overviews of benefits and funding and a review of investments.

LRC staff members Brad Gross, Committee on State Government and staff the Public Pension Oversight Board provided an overview of SB 2; Frank Willey, Budget Review, discussed the budgetary impact of SB 2; and Jennifer Hays, Interim Joint Committee on Appropriations and Revenue, provided a fiscal analysis of HB 440.

Mr. Gross provided a PowerPoint presentation and noted that he would be providing background information on SB 2 including the funding policies, cost of living (COLA) changes to current employees and retirees, the hybrid cash balance plan for new hires, governance and oversight changes, employer rate projections and values provided by KRS during the 2013 Session with and without the changes by SB 2, and updated employer rate projections by the KRS of the most recent actuarial valuation after the passage of SB 2. The board will be reviewing and discussing the details of benefits, funding, and investments.

Funding of benefits are made up of three sources: employee contributions fixed by statute as a percentage of employee pay, employer contributions that vary based upon the results of the annual actuarial valuations, and investment returns. The individual employer contribution rate for a system is made up of two parts: the "normal costs," which is the on-going costs of the plan or how much the actuary has determined needs to be budgeted to pay for benefits earned during the year based on upon plan assumptions and the "unfunded liability payment," which is an amount needed to pay off the unfunded actuarial liability typically over a 30 year period. SB 2 incorporated most of the 2012 Public Pensions Task Force recommendations that were established by HCR 162 in the 2012 Regular Session, and other changes and revisions added through the legislative process. SB 2 did not impact the Kentucky Teachers' Retirement Systems (KTRS). One of the biggest issues in developing SB 2 was paying the full actuarially required employer contribution rate to the Kentucky Employees Retirement System and the State Police Retirement System which had been reduced in past years, mostly since FY 2002-03. SB 2 removed the provisions of HB 1 passed in 2008 that established a phase-in schedule to incrementally increase the employer contribution to reach the full actuarially required contribution (ARC) over time for those two systems and replaced it with a policy to begin fully funding the ARC in FY 2014-15. When the full ARC is not paid, additional unfunded liabilities are created that leads to higher employer contribution rates. Unfunded liabilities have grown in recent years and as a result the payments for financing the unfunded actuarial liabilities (UAL) over the 30 year period (provided by statute) have also increased. Part of SB 2 was to reset the amortization period for financing the unfunded liabilities which will reduce the employer contributions in the short term but will require additional cost in the long term.

Another major change in SB 2 related to the retiree COLA that ended the annual automatic COLA but included language that authorized a 1.5 percent adjustment if the retirement system is 100 percent actuarially funded and legislation authorized surplus funds to provide the COLA or if funds are appropriated to prefund the COLA by the General Assembly in the year provided. Mr. Gross said these same provisions were also amended for the legislative and judicial plans in SB 2 and noted that the COLA for KRS and the legislative and judicial plans had already been suspended for the 2012-2014 biennium in the current biennial budgets passed in 2012. Another major benefit change is the benefit modification for new hires, which established a hybrid cash balance plan for new KRS participants beginning on or after January 1, 2014. The cash balance plans are a type of defined benefit plan but have characteristics of a defined contribution and defined benefit plan because it is an individual account that pays benefits based upon an account balance of employee and employer contributions (or credits) and investment returns, but provides guaranteed level of investment return with investments that are managed by the systems instead of the employee and allow the employee to annuitize the balance upon retirement into a monthly benefit.

The hybrid cash balance plan after passage of SB 2 has the same employee contribution and employer contribution policy however the pension benefit calculation is based upon an individual account balance that includes employee contributions (5 percent nonhazardous and 8 percent hazardous duty), employer credits (4 percent nonhazardous and 7.5 percent hazardous duty), and a guaranteed 4 percent annual investment return plus 75 percent of the five year average investment returns above 4 percent. In the hybrid cash balance plan, the employee is able to annuitize the account balance into monthly benefit payments for life. The same unreduced retirement eligibility provisions in place prior to SB 2 still apply to cash balance participants with a nonhazardous member being able to retire under the Rule of 87 (age plus years of service) or age 65 with five years' service and with hazardous members being able to retire at any age with 25 years of service or at age 60 with five years' service, except that reduced retirement eligibility provisions were eliminated for hybrid cash balance participants.

The disability and death benefits are essentially the same with certain modifications to incorporate the cash balance plan. Retiree health benefits remain the same for members of the hybrid cash balance plan as are currently provided to new hires, but the level of benefits for new hires is different from most of the KRS employee and retiree membership due to legislative changes made for new hires in 2003, 2004, and 2008. Individuals who began participating in KRS prior to July 1, 2003, still receive a percentage of the premium based upon service credit with the full premium paid for the individual at twenty years of service with additional premium payments being made for the spouse and dependents of hazardous duty participants based upon their hazardous service credit. As it relates to inviolable contract for the cash balance plan effective January 1, 2014, it is limited to the benefits accrued, which is essentially the account balance in the cash balance plan. The portability of the cash balance plan allows vested employees to withdraw their account as a lump sum, including employee and employer contributions and earned interest, or leave the account with the retirement system to access upon retirement age. The employee contributions and investment return are immediately vested but the employer contribution and investment returns are vested after five years.

Governance and oversight changes made in SB 2 increased the KRS board structure from a nine member board to a thirteen member board and established the thirteen member Public Pension Oversight Board.

One provision of SB 2 is to charge an employer for "pension spiking." This provision requires an employee's last participating employer to pay the actuarial cost for increases in compensation greater than the ten percent earned annually by the employee during the last five years of employment. This was to address the issue of increases in an employee's salary in the last five years to increase the retirement benefit when calculating the five high years. Exceptions for the employer "spiking" charge are bona fide promotions or career advancements and lump-sum payments for compensatory time at retirement.

Relating to employer cost projections, the retirement systems are required by state law to provide an actuarial analysis of all pension related bills. They also have their actuaries perform a 20 year projection of employer contribution rates once the annual actuarial valuation is completed. Both sets of projections assume the plan meets all economic and demographic assumptions over the long term. The actuarial analysis from SB 2 for the KERS non-hazardous plan shows that without any changes the employer contributions rate as a percentage of payroll was anticipated to grow from the current budgeted amount of 26.79 percent in 2014 to 64.59 percent by the year 2032. With the changes from SB 2, the actuarial analysis anticipated the employer contribution rate growing from 26.79 percent of payroll in 2014 but leveling off over time to 40.19 percent by the year 2032. Without the provisions of SB 2, KRS projected the total dollar value of employer contributions for the KERS non-hazardous plan would grow from $460 million in 2014 to $2.1 billion by the year 2032. With the passage of SB 2, the dollar amount was projected to grow from $460 million to $1.3 billion by 2032.

The employer contribution rate projections completed after the 2013 actuarial valuation results and after passage of SB 2 were also provided. As a percentage of payroll, there is a projected increase initially from 26.79 percent to 38.77 percent from 2014 to 2015 for the KERS nonhazardous plan, but then decreasing over time to 33.82 percent by 2032. In terms of dollars, KERS nonhazardous employer contributions are anticipated to grow from $450 million and increase steadily to $1.3 billion by 2032. It was noted that the employer contribution rate has a pension contribution fund and a retiree health funding component. CERS nonhazardous projections from the SB 2 actuarial analysis indicated a growth in employer contributions as a percent of payroll ranges from 18.89 percent in 2014 to 25.88 percent in 2032 without the changes from SB 2. With the changes from SB 2, the actuarial analysis showed a decline in CERS hazardous employer contributions over this same time period, reaching 16.49 percent by 2032. The 2013 actuarial valuation projections completed after the passage of SB 2, reflects the current 18.89 percent employer contribution rate as a percent of payroll in 2014 falling to 13.32 percent in 2032. However, the dollar value continues to go up due to the expectation of a growing payroll. The CERS hazardous duty projections were also provided and discussed.

Jennifer Hays discussed the changes to the tax statutes in 2013 HB 440. This is the funding mechanism to help fund the actuarially required contribution (ARC). The discussion on SB 2 during the session identified approximately $100 million additional General Fund dollars would be required to fund the higher employer contributions. HB 440 contained the provisions that would create these additional dollars. The changes were made to the individual income tax totaling $62.5 million, a personal credit and a limit on itemized deductions that will be lower than the federal limit; corporation income tax totaling $15 million by amending disclosure requirements to require the same disclosure for management fees required for intangible expenses and interest expense; amendments to the sales and use tax laws that generated $16.4 million by increasing compensation for retailers with sales in excess of $1,000 and by requiring retailers with sales from a location outside this state for consumption in Kentucky to notify the purchaser of the state sales tax due; and an administrative provision relating to a suspension of certificates or licenses of delinquent taxpayers that would generate $6.0 million.

Ms. Hays indicated that the Road Fund tax was also modified in HB 440 that would allow a new car trade-in allowance credit on motor vehicles purchased on or after July 1, 2014, decreasing the motor vehicle usage tax by approximately $34 million. This fiscal impact relates to the 2015-16 fiscal year because tax provisions take time for a full implementation to occur and achieve the highest dollar amount. The $30 million individual income tax revenue generated with respect to the limit on itemized deductions was the result of inaction of the General Assembly and the definition of the Internal Revenue Code (IRC) and how Kentucky relates to the actions of the federal government for individual income tax because Kentucky's income tax code applies to the end of the federal tax code; therefore, federal income tax is calculated and then Kentucky's individual income tax is calculated; that Kentucky has not updated reference to the IRC since 2006 and still operate under that code. The limit on itemized deductions was in the code adopted in 2006 and as the deduction was expanded Kentucky expanded also. In 2012, the expanding limit on itemized deductions for federal purposes was changed, and Kentucky fell back to the Code in effect in 2006, which results in a limit of federal purposes that is higher than the itemized deduction limit now in effect for state income tax purposes.

Frank Willey discussed the funding for the full implementation of the ARC. He noted that the 20 year employer projection values based on the 2013 actuarial valuation results includes a group of employers that participate in the system that are outside the state budget system and that the actuarial valuation includes all employers; that in staff discussions the numbers will include those employers covered by the state budget or appropriations made by the General Assembly. The actuary does not consider the source of funds, and LRC is extremely concerned from a budget standpoint because the monies are General, Tobacco, or Agency Restricted Funds. A difference in numbers also occurs because the actuary uses a 4.5 percent payroll growth; that using this assumption for active member valuation data over the last five years has not materialized and the percent payroll growth on the average salary has resulted in an annual average pay as of June 30, 2008, of $38,221 to an average salary of $38,943 as of June 30, 2013, therefore very little payroll growth as a result of annual increment policy and a decrease in the number of active employees during this period for non-hazardous employees participating in the KERS. Therefore, the actuary is not accounting for the loss of employees in the system but at the same time is accounting for an increase in payroll. Assuming the payroll growth occurred during the five years the average salary would be at $49,773 as of June 30, 2013.

Mr. Willey also discussed the additional cost of the full ARC implementation of the affected retirement systems. The total of all fund sources for FY 2013-14 is $184.4 million and $198.8 million in FY 2015-16 for all three branches of government. He stated that in order to fund the direct state employees there would need to be $71 million in General Fund. In order to fund nonstate employees providing state services such as county and non-prosecutorial employees, the amount needed would be $1.1 million of total funds, mental health and mental retardation boards would be $20.2 million, and local health departments would be $18.3 million, and rape crisis and child abuse centers would be $845,000. These agencies provide a direct service through contracts with the state; regional universities, the Kentucky Employer Mutual Insurance (KEMI) agency, and other quasi-organizations, although not providing a direct service to the state, would need $19.4 million. All of these participants, a portion, or selected participants may be funded.

In response to question by Chair Bowen concerning "spiking," Mr. Gross indicated this was an issue brought up during the Public Pensions Task Force in 2012 and is a situation where an individual takes a different job in the last couple years of employment or works a large amount of overtime during the last couple years of employment to increase retirement benefits by inflating their last high three or five years of compensation, known as final compensation, which is a part of the benefit calculation. The magnitude of "spiking" and its impact on unfunded liabilities are unknown because it is not typically tracked by the retirement systems. SB 2 included a provision that if compensation was increased in the last five years increased by more than ten percent per year then the last participating employer would be responsible for paying the additional actuarial costs over that period. The retirement systems have implemented this provision by looking at situations in the last five years where the compensation increased more than the ten percent and, if so, then it is categorized as a "spike" and then look at the benefit that would have otherwise been paid without the "spike" and the benefits paid with the increase and calculate that amount over the course of a lifetime to produce a dollar that the employer would be responsible.

Responding to a question by Representative Yonts with regard to routine overtime such as firefighters and police personnel, Mr. Gross indicated that the only two exceptions written in the bill, one was an exemption for bona fide promotions and salary advancements and another was lump-sum payments for compensatory time and that the statute does not address directly situations of emergency nature. These other types of payments have been an issue as the Kentucky Retirement Systems develops administrative regulations. In response to a comment from Representative Yonts, he noted that final compensation does not typically include accumulated sick pay but rather sick leave is most often converted to additional months of service credit at retirement.

Ms. Hays responded to a question by Representative Yonts regarding the collection of the sales and use tax on on-line and catalog retailer transactions, stating that Richard Dobson in the Department of Revenue participates in the streamlining or simplification of sales tax law committee that is working toward implementation of changes to the state's sales and use tax law in the event the Marketplace Fairness Act is enacted by Congress; that Kentucky will be ready to move forward immediately with any changes that need to be adopted to implement collection of the sales tax on transactions by remote sellers. She said that from voluntary retailers the state is currently collecting approximately $20 million in taxes and that according to projected data if these collections are mandatory the state would collect approximately $225 million per year.

Upon being asked by Mr. Bennett questions concerning the percent of employer contributions decreasing but the dollar amount increasing and healthcare costs, Mr. Gross stated there are two parts to the employer's contribution rate, a normal cost or on-going cost of the plan and the payment to finance the unfunded liability. A significant portion of the KERS contribution rate is being applied to pay off that unfunded liability and that since the unfunded liability is being paid off by a level percentage of payroll and the systems project payroll to grow by 4.5 percent annually, the dollar amount to pay off the unfunded liability increases over time as payroll grows. He also stated that of the 26.79 percent employer contribution in FY 2012-13, 17.29 percent is applied to pension and 9.5 percent is applied to insurance as set by the state budget and that the insurance rate will decrease as a percentage of payroll over time and that by FY 2032-33 it is projected to be about 5 percent of payroll.

Mr. Bowling indicated he was interested in the collections from securities litigation, the type of collections undertaken by all the retirement boards, collection amounts over the years, what is currently being done now and who is collecting the settlements, the coordination between the retirement boards and the Attorney General's Office to make sure that future pension rights are not being settled, and the results. Mr. Gross pointed out that the retirement systems do have recovery processes and procedures and that staff would be happy to obtain that information from the retirement systems and have their staff testify in the future.

Mr. Jefferson requested a copy of the actuarial report provided by the Kentucky Retirement Systems. Mr. Gross indicated he would e-mail a link available on the KRS website. In response to questions by Mr. Jefferson regarding actuarial assumptions, Mr. Willey indicated that the plan beginning next year will be undergoing a review of assumptions and from that review a determination made if any of the assumptions being used need to be changed and that the retirement board makes that decision, not the actuary; that any changes made at the review effective June 30, 2014, would be made for the next valuation period. Mr. Gross pointed out that the retirement board is required by law to conduct a review of the assumptions once every ten years and typically perform a review every five years and that April is the target date for 2014. He further noted that this upcoming June 30 valuation would impact CERS employer rates the following year but KERS will not be impacted until the following biennial budget period.

Representative Yonts asked about the Kentucky Teachers' Retirement System (KTRS) situation and indicated that this retirement system could in the future also be impacted and a part of the oversight board's review. He also asked about the impact of the Seven Counties lawsuit that will be going to trial next spring and how this will affect the many quasi organizations and ultimately the state. Mr. Willey indicated that the unfunded liability would be distributed to the remaining employers in the system, mainly the KERS, and the state's rate would significantly increase in the next budget cycle but the amount was unknown. Mr. Gross stated the impact would depend on the number of employees and how much of a share of the unfunded liability payment is impacted. If a payroll becomes smaller, the cost of financing the liabilities is shared across smaller payroll. He also noted that there are differences in the statutory features of KERS and CERS. For example, Kentucky Retirement Systems has the ability to stop benefit payments in CERS for noncompliance while in KERS the statute does not allow for those payments to cease.

Chair Bowen asked Mr. Willey to provide explanation on the ramifications of the actuary overstating the annual average compensation of employees. Mr. Willey indicated the oversight board could encourage the KRS board to review those assumptions taking into account past history and make an appropriate adjustment as soon as possible.

In response to a question from Senator Higdon, Mr. Willey indicated that LRC staff receives an annual valuation.

Responding to a question by Mr. Bowling, Mr. Willey stated that there are two major factors influencing the decrease in number of employees. Deaths do not affect those numbers but rather budgetary considerations result in payroll being decreased and employees are not replaced, and agencies have ceased paying the retirement system. Mr. Willey noted that the liability has not changed, only the payroll growth assumptions.

Other Business

Chair Bowen indicated that next month the board would review a plan of benefits and funding that will include a detailed discussion of the 2013 actuarial valuation results. Also, the board will meet during the 2014 regular legislative session on the fourth Monday in the months of January, February, March, and April at the hour of 12:00 noon and an evaluation completed heading into the interim.

Adjournment

The meeting adjourned at 2:50 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 1st Meeting of the 2014 Interim

January 27, 2014

Call to Order and Roll Call

The 1st meeting of the Public Pension Oversight Board was held on Monday, January 27, 2014, at 12:00 PM, in Room 154 of the Capitol Annex. Representative Brent Yonts, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senators Jimmy Higdon and Gerald A. Neal; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Jane Driskell, and James M. "Mac" Jefferson.

Guests: Bryan Sunderland, Kentucky Chamber of Commerce, among others.

LRC Staff: Brad Gross, Greg Woosley, Karen Powell, and Marlene Rutherford.

Approval of Minutes

Representative Bowen moved approval of the minutes of the December 17, 2013, board meeting, seconded by Representative Thompson, minutes were approved without objection.

Review of Kentucky Retirement Systems Administration and Benefits

In keeping with the work plan for 2014, Brad Gross provided a basic overview of the administration and benefits of the Kentucky Retirement Systems (KRS) and Bill Thielen, Executive Director of the KRS discussed the funding and actuarial concepts. Mr. Gross stated that he would be covering the state-administered retirement systems, membership, general benefits from retirement to retiree health, disability, and re-employment after retirement and a couple of other benefit provisions. He stated that there are six state-administered retirement plans; that the oversight jurisdiction of the board is the KRS which administers the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System. The other retirement systems are the Kentucky Teachers' Retirement System and the Judicial Form Retirement System which is the Legislators' Retirement and Judicial Retirement plans.

As background, Mr. Gross stated that the Kentucky Employees Retirement System was created by state law on July 1, 1956, and at that time the County Employees Retirement and State Police Retirement was included in that system. The membership of the KERS includes employees of state government, certain health agencies, and quasi-state agencies in the both non-hazardous and hazardous contribution and benefits. He stated a question frequently asked is how do agencies get in the system; that within KERS historically agencies were brought into the system by an executive order issued by the Governor however in 2003 the law was amended requiring a two step process with the Governor issuing an executive order and the KERS board of trustees having the ability to approve or deny that membership for an agency.

The County Employees Retirement System was created on July 1, 1958, with its own structure and was separate from KERS but was subsequently merged back under the KERS. The participation in CERS was optional but over the course of time agencies joined CERS by petitioning the KERS board to participate. The membership in CERS is larger than the membership in KERS and includes employees of city and county governments, police and firefighters, non-teaching staff of local boards of education, circuit clerks, local library employees and other local agencies. The largest participating group is the classified employees at the local school districts. The CERS also has non-hazardous and hazardous benefits and contributions.

The State Police Retirement System (SPRS) was established on July 1, 1958. Mr. Gross noted that the statutory structure for KERS, Chapter 61, also contains many of the statutes dealing with the CERS and SPRS which cross-reference into Chapter 61, such as service purchases and benefit payment options as well as hazardous duty benefits are also contained in Chapter 16 which covers the SPRS. The Kentucky Retirement Systems is administered by a thirteen member board of trustees which changed with the passage of Senate Bill 2; that of the thirteen members, six are elected by the membership of the retirement systems, six appointed by the Governor who must have certain qualifications, and the Secretary of the State Personnel Cabinet who sits on the board as an ex officio member. He pointed out that Senate Bill 2 added an additional member to the CERS elected membership. The board serves four-year terms with a maximum of three consecutive terms and are paid a daily per diem plus expenses and has various committees; that the board of trustees appoints an executive director who serves as the Chief Administrative Officer of the systems. As stated previously, he said that CERS has the largest membership followed by KERS nonhazardous with a lesser membership for state police and the hazardous duty employees; that of the total 340,626 members in the retirement plan, 137,368 are contributing members, 90,796 retired members, and 112,462 inactive members who are those members who have not retired and who are not currently contributing but have funds on deposit in the retirement systems.

He said that of interest over the course of time in the KERS and CERS nonhazardous duty membership since 1998 the ratio of employees to retirees has decreased. In 1998 the KERS nonhazardous ratio was 2.2 employees to one retiree and in 2013 the ratio is 1.1 to one and that in the CERS that ratio has decreased from 3.8 employees to one retiree in 1998 to 1.9 employees to one retiree in 2013. He indicated that some of this decrease could be attributable to the retirement window that ended January 1, 2009, which accelerated some of those retirements. He also noted that that the Kentucky Retirement Systems has changed some of the data reporting; that the Kentucky Retirement Systems has three basic benefits that it provides which are retirement benefits, retiree health benefits, and death and disability benefits which vary based upon the system, type service, and timing of service. He stated that employees who began participating in the KRS prior to January 1, 2014, have a traditional defined benefit plan that provides benefits based upon a statutory formula of an employee's final compensation, an average salary used to determine benefits usually an average of the three or five high years, times a benefit factor, which is a percentage based upon the system an employee participates, the type of duty in which the employees was employed and the time of the member's service, times the years of service, which includes earned service, service purchased and in many cases sick leave service, to arrive at the annual benefit an employee will receive at retirement. Mr. Gross stated that in 2008 there was a graded benefit factor instead of a set benefit factor for all years of service credit it was graded so that it moved up over time based on service credit; that the service credit used to calculate benefits under state law is averaged based on 100 hours or more per month over a calendar fiscal year to participate and earn service and one month of service is given for each month worked however there is one exception to this rule is school board employees who participate in CERS where they are required to average 80 hours per month over the months represented by the days worked. These employees earn service credit by an average of the number of hours and the actual service credit is based on days worked. For example, if the employee works 180 days or more during the school year they receive twelve months of service credit and if they work below that number of days they receive a prorated amount of service credit; that seasonal, part-time, temporary, and interim employees do not participate. He said there are approximately thirty one types of purchase service to buy in the KRS the most common type being air time which was removed for new hires in 2002, military service, past service with an agency out-of-state, university and national guard service time; that the cost of purchasing service is the full actuarial cost determined by the system's consulting actuary; that sick leave service credit is converted at time of retirement to additional months of service; that until 2008 all accumulated sick leave was converted to additional months of service credit but beginning with the passage of House Bill 1 in 2008 for new hires that was limited to twelve months and with the cash balance plan sick leave service credit will no longer apply for participants in that plan. He said an easy way to look at a traditional defined structure is as an income replacement; meaning that for every year worked you receive two percent of the average salary. Members participating in the systems on or after January 1, 2014, will participate in the hybrid cash balance plan. Although it looks similar to a defined contribution plan it is legally a defined benefit plan; there are employee contributions that will go into an individual account along with an employer credit and a minimum investment return of four percent plus 75 percent of the excess above that amount and managed by the retirement systems rather than the employee and it can be annuitized upon retirement to receive a monthly benefit for life. He said that prior o House Bill 1 in 2008 the general standard for most state employees and county employees was getting to twenty-seven years of service credit because at any age with that amount of service credit they could retire with no penalty. House Bill 1 moved away from the twenty-seven years requirement to a rule of eighty seven or age plus years of service must equal eighty seven years with a minimum age fifty seven in the calculation. The hazardous duty change in House Bill 1 was moving from any age with twenty years of service credit to new hires after September 1, 2008, could require at any age with twenty five years of service credit; that members in the hybrid cash balance plan will still follow these unreduced benefits for retirement eligibility, an employee can take the account balance and annuitize it into a monthly benefit however the reduced benefit provision will not apply to the cash balance participant.

Mr. Gross stated that the COLA has changed over time and in 1996 it was a consumer price index (CPI) adjustment annually and in 2008 it was changed to 1.5 percent however the current budget suspended the COLA and Senate Bill 2 no longer has the annual automatic COLA. He discussed briefly retiree health benefits stating that the Kentucky Retirement Systems does provide access to group rates on medical insurance coverage and for retirees who are not eligible for Medicare they participate in the Kentucky Employees' Health Plan as other state and school employees as well as other retirees who are not eligible for Medicare in other state retirement systems; that coverage for Medicare eligible retirees is provided through a plan administered through the systems that then coordinates with Medicare for delivery of health benefits currently with Humana. Members who participated in a plan prior to July 1, 2003, receive a percentage of health insurance premium paid based on years of service with an individual member with twenty or more years receiving 100 percent of their health insurance premium as determined by the KRS as the contribution rate of one of the plans in the state health plan or Medicare eligible plans which becomes the base of how much will be paid; members participating after that time but prior to September 1, 2008 must have ten years of service in order to be eligible for retiree health coverage and benefits; members participating on or after September 1, 2008 must have fifteen years of service to be eligible for retiree health coverage and benefits. The retiree insurance benefit for nonhazardous members is $10 per month for each year of service and $15 for hazardous duty members and contributions are increased annually by 1.5 percent. Mr. Gross noted that in the event a member is disabled in the line of duty or death in the line of duty special benefits occur in those situations. The KRS does provide disability and death benefits with a minimum of five years of service to apply for the benefits with some pre-existing condition provisions in that at least sixteen years of service credit and the benefit received varies based on participating date; KRS also provides death before retirement benefits and after retirement, the benefits remaining to the retiree's beneficiary various based on the payment option selected at retirement, in addition to a $5,000 lump sum benefit for member who retired with at least four years service. He said that all payment options have to be actuarially equivalent, meaning the payout cannot be more in benefits than the option selected by the member. Upon re-employment of a member after retirement there must be a three months break in employment after September 1, 2008, or one month if retired from KERS, CERS or SPRS hazardous duty and if the break is not observed the retirement is voided and the retiree has to pay back all benefits paid in error and the employer has to certify that there is no pre-arranged agreement with the retiring employee to return to work. If the break is observed, the employee can return to work, draw a pension but does not contribute towards a second pension however the employer has to reimburse or pay for the employer's contribution to the systems during the time the member is in a full-time position and is required to reimburse the systems for any cost of retiree health care not to exceed the single premium. Some other provisions mentioned is that all service credit earned prior to January 1, 1009, is exempt from state income taxes and service earned on or after that date is subject to state income tax but subject to a pension exclusion of $41,100; there is reciprocity for members who have service in more than one retirement systems which can be combined to determine eligibility for retirement with each system paying a benefit based on the amount of service in that system; all hazardous duty positions are defined by statute and an agency must petition the retirement board for approval of eligible positions as hazardous duty.

In response to a question from Senator Higdon regarding the conversion of sick time to service credit and whether money is set aside to accommodate those additional dollars or whether this is an unfunded liability, Mr. Gross stated that the benefit factor, depending on the participation date, would be added to the value of that accumulated sick leave converted to service credit, in other words in the case of a member in the KERS with an average salary of $60,000 with a 2 percent benefit factor with 30 years of service ($60,000 x 2 percent x 30 = $36,000 annual benefit), and assuming the member has a whole year of accumulated sick leave to be converted to service credit, that amount would be added to the annual benefit amount ($60,000 x 2 percent x 1 = $1200 or $37,200 annual benefit). Mr. Gross noted that House Bill 1 in 2008 required the participating employer be billed the full actuarial cost so that when an employee retires the agency will verify the sick leave amount with the retirement systems and a bill will be sent to that participating employer however before the implementation of House Bill 1 the first six months of sick leave in KERS and SPRS was absorbed by the retirement trust fund and ultimately the agencies paid for this converted service credit but it was paid down the road. He said that the average amount of sick leave for a state employee is about six months and a state police officer about eighteen months.

Responding to questions by Representative Thompson, Mr. Thielen said that the inactive members are individuals hired, contributed to the system, gained service credit in one of the systems, terminated for whatever reason but contributions remain in the KRS and that at some point in the future when the member reaches normal retirement age the system will owe a benefit determined by how much service credit is in the system, if vested, if the member is not vested this amount does not lapse back to the system but the member will receive an actuarial refund of the amount left in the system. Mr. Gross noted that most of the "inactive" members are not vested in the retirement system who have funds in the system and are simply due a refund and that the member is eligible for a refund, if they choose, upon termination of employment. Mr. Thielen also pointed out that an employee/member that terminates may take their account plus interest at 2.5 percent at the time of termination. With regard to reduced benefits for nonhazardous duty employee, Mr. Gross stated those individuals participating on or after September 1, 2008, but prior to January 1, 2014, a member must be at least 60 years of age with ten years of service before they are eligible for a reduced benefit.

Senator Bowen asked for clarification on members who do not withdraw their contributions and the ratio of employee to retiree increasing over the last several years, and the impact of the recent pension reform, Mr. Gross indicated that interest is accrued at 2.5 percent annually in those situations; that as the system has matured, the benefit payment growth has resulted in cash flow issues, particularly with the KERS retirement window, the number of retirees has increased and the number of active employees have shrunk; that the impact of the legislation and the 1.1 to 1 employee/retiree ratio is difficult to address because policies outside the retirement systems affect the retirement contributions.

Chair Yonts also inquired about the ratio of employee to retiree decreasing from 2.2 to 1 in 1998 to the current 1.1 to 1 ratio as of June 30, 2013, and whether other factors influence this ratio and whether historically over time as changes in the pension system policies and directions occur is there a sudden exodus of people because they of these changes and the future benefits and does this affect people wanting to be employed, Mr. Gross stated that the retirement window in which a large number of employees retired and were not replaced has an affect but was unsure whether entities who cease to pay the employer contributions or whether or not how they are included in those numbers or how KRS is categorizing those employees. Mr. Thielen said that the overall number of state employees are down and if the number of employees on the state payroll was increasing each year the ratio would be different and also the economic recession has also impacted the increase in retirement.

With reference to earlier discussion regarding how agencies come into the system, especially quasi participants, Chair Yonts asked what determines a state agency if there is not an entity that allows a quasi agency to be created and then an executive order issued by the Governor directing that the quasi entity be brought into the retirement system, that the argument could be made that they are not a government agency. Mr. Thielen stated that KRS 61.520 sets forth how participation is determined and that Chapter 61 defines departments but there is not a definition of "instrumentality" in the statutes and that historically state and local governments have used nonstock and nonprofit corporations to perform essential functions of government that would otherwise be performed by an agency of the state; that the retirement would have an executive order issued by the Governor and the board would review whether the agency met certain criteria and if there was uncertainty as to whether they qualify the agency is directed to receive a ruling from the Internal Revenue Service that it is an instrumentality under Section 115 of the Internal Revenue Code and therefore eligible to participate in the system but not all quasi agencies have this ruling; that the retirement board has the authority to determine qualifications an eligibility to participate.

Review of Kentucky Retirement Systems Funding

Mr. Thielen provided a copy of the KRS Comprehensive Annual Financial Report to members for the fiscal year ending June 30, 2013.

In discussing the assumptions and the impact of revenue earned on investments, Mr. Thielen indicated that the actuary makes a number of assumptions to determine how much will be earned on investments; that there is an assumed rate of return on investments of 7.75 percent which is mid range for national pension plans and was lowered in 2006 from 8.25 percent; that every ten years KRS is required by statute to conduct an experience study however it is the practice to conduct one every five years. Mr. Thielen said the experience study reviews the experience over the last five years relative to the assumptions the actuary has recommended the KRS board adopt to determine what changes need to be made in those assumptions; that over the twenty-nine year period of data the rate of return since inception is 9.40 percent with the assumed rate of return of 7.75 percent; that over the last five years it is below the 7.75 percent assumption rate because the impact of the 2008-09 recession losses in the insurance program have been factored in which was a loss of 17 percent in 2009 as opposed to gaining 7.75 percent; that the pension plan is accounted for separately from the insurance fund. He said the one year return rate on the pension plan is 12.85 percent; that during fiscal year 2013 10.8 percent was earned on the pension fund and 10.11 percent on the insurance fund; that the five year numbers are 11.71 percent for the pension fund and 12.28 percent for the insurance fund; that in the long run KRS is exceeding the assumed rate of return on investments. He said that the assumption itself does not impact how much earned it is allocation of assets among the various investments. At this time, Mr. Thielen introduced members of his staff in attendance, Brian Thomas, General Counsel and Shawn Sparks, Director of Planning and Constituent Services and tracks legislation during sessions that impact the retirement system.

Mr. Thielen discussed the funding sources for the KRS which are employee contributions set by statute, employer contributions which are actuarially recommended on evaluation each year and adopted by the KRS board of trustees and these employer contributions in the case of the state agency employers who participate in KERS and SPRS plans are subject to appropriation by the General Assembly in the budget, and return on investments which a statutory five-member investment committee that has the authority subject to ratification by the full to hire investment managers and make investment decisions; that a large number of external investment managers and investment consultants are employed to advise the board and staff in the investment area. He said that for every benefit dollar paid out employees have contributed 12 percent, the employer contributed about 20 percent, and returns on investment make up about 68 percent of every benefit dollar paid; that on a national level approximately 58 percent of every pension dollar is derived from investments, 28 percent from employers, and 14 percent from employees. Mr. Thielen said that prior to September 1, 2008, employees in all systems contributed 5 percent in a nonhazardous plan and 8 percent in a hazardous duty plan and that beginning September 1, 2008, and thereafter an additional 1 percent was contributed that goes into the insurance fund to fund health benefits. In terms of employer contribution, the rate is set by the board based on an actuarial analysis and the contribution consists of two components, a normal cost or the cost of the benefits earned in the year when the first valuation is performed constitutes the normal cost, there is no unfunded liability, and if there is an unfunded actuarial liability there is a component of the employer's contribution designed to pay that unfunded liability off over a period not to exceed 30 years; that the insurance contribution component of the employer contribution rate for insurance benefit which was created in 1978 and made a contractual obligation in 1988 but in 2003 the insurance benefit was removed from inviolable contract but every year a part of the employer's contribution rate is to cover the health benefit.

Mr. Thielen pointed out that for fiscal 2013-14 the actuarially required contribution rate versus the actual contribution rate for the KERS nonhazardous duty plan the actuarially required contribution was 45.28 percent of payroll and the actual contribution for that plan currently being made by the agencies participating is 26.79 percent which is 57 percent of the ARC that was set by House Bill 1 enacted in 2008 and 96.52 percent required contribution for SPRS and an actual contribution rate of 71.15 percent; that CERS contributes 100 percent of the actuarially required contribution. In 2014-15 fiscal year as a percent of payroll for KERS nonhazardous duty the normal pension cost is 3.48 percent of payroll, the administrative expense is .65 percent of payroll, the payment on the unfunded actuarial liability is 26.71 percent of payroll, the insurance fund payment is 7.93 percent and the actuarially required contribution for 2015 is 38.77 percent; that it is the unfunded actuarial liability that is the issue; that the system was be very sustainable if not for the unfunded liability that has developed over the years. Information was provided for each system of the employer contribution rates of the actuarial required contribution rate and the budgeted rates from 1990 through fiscal year 2015-16; that in fifteen out of the last twenty-two years the budgeted rate is less than the actuarially required rate. The contribution rates for fiscal years 2015 and 2016 for the KERS nonhazardous and hazardous duty and the SPRS which was required by Senate Bill 2 to established an actuarially required contribution rate and cannot be changed; that for the KERS nonhazardous the total combined actuarially required rate is 38.77; for KERs hazardous duty a combined rate of 26.34 percent and for SPRS a combined rate of 75.76 percent. As required by Senate Bill 2 provisions, KRS was required to project the contribution rates for the next twenty years and Mr. Thielen discussed those projections that reflected a total contribution rate in 2032 of 40.19 percent of payroll. He said the rate is stable and will not increase drastically according to this twenty year projection if 100 percent of the actuarially contribution is made and if the actuarially assumptions are met.

The funding level is the ratio of the assets in the bank to the liabilities for benefits already earned; that this is a measure of the plan's financial soundness with funding 80 percent or better as financially sound according to rating agencies. Mr. Thielen indicated that the actuarial funding level is based on a five-year smoothing method which means that the KRS does not recognize all the gains or losses on investments in a year but are recognized over a five year period, recognizing 20 percent each year which dampens the volatility in the employer contribution rate. The actuarial funding level for KERS nonhazardous pension has decreased from 52.5 percent in 2008 to 23.2 percent through June 2013; that the funding for KERS hazardous insurance plan has increased from 53.2 percent in 2008 and 96.2 percent in 2013 due to a dampening of inflation in healthcare costs and the increase in the contribution by employees by the 1 percent which impacted the funding of the health insurance plans; that the decrease in the actuarial funding level for the CERS nonhazardous pension from 78.5 percent in 2008 to 60.1 percent in 2013 is not near as drastically as that of the KERS.

Mr. Thielen stated that the unfunded

actuarial liability is amortized over a period not to exceed 30 years which is standard however the KERS board adopted a closed 30 year period which means that each year the amortization period lessens by one year until the unfunded liability is paid; that Senate Bill 2 changed the amortization period back to 30 years which at the time the amortization time had been reduced to 25 years which had an impact of lessening the impact on the employer contribution rate therefore in 2014 a new 30 year amortization period begins which will then decrease each year but once the amortization period begins decreasing the contribution rate will go up because there is a shorter period of time to amortize the unfunded liability. For the KERS nonhazardous plan in 2012 the combined unfunded liability of the pension and insurance plans was $10.94 billion and decreased to $10.38 in 2013 due to a decrease in the insurance plan of the unfunded liability rather than the pension plan which increased; that the overall combined unfunded liability of the three state systems is $11.2 billion; that in the CERS system the pension unfunded liability has increased because this was the last year that losses from 2009 (20 percent smoothing) , the combined unfunded liability for this system is $6.42 billion as of June 30, 2013. The six components for the increased in unfunded liabilities are: 1) reductions to employer contributions rates in the KERS and SPRS; 2) retiree COLA increases not pre-funded; 3) 2008-09 market losses; 4) cost of inflation for retiree insurance; 5) compliance with the Governmental Accounting Standards Board (GASB) 43/45 standards of 2006 for health liability which caused a funding increase and increase in the employer contribution rate to fund the liabilities; and 6) demographic losses.

In response to a request from Senator Bowen to explain the GASB compliance, Mr. Thielen stated that GASB sets standards for government entities for accounting and reporting; that in 2006 two new standards were issued that required pension plans and employers participating in pension plans to account for the full liability for health benefits which had not been reflected previously to that time; that when these liabilities are reported on the financial statements and there is not funding to meet those liabilities the rating agencies can then downgrade the credit rating; that in addition to complying with the accounting and reporting standards funding was increased to show that KRS was funding to meet those liabilities over a period of time.

Responding to a question by Chair Yonts concerning a percentage of increase for the six components that contributed to the unfunded liability, Mr. Thielen stated that at the beginning of the fiscal year 2007 the unfunded actuarial liability for the KERS nonhazardous plan was $3.6 billion and the unfunded actuarial liability at the end of fiscal year 2012 it was $8.26 billion or an increase of $4.66 billion dollars; that the total increase in the unfunded liability attributable to investment gains and losses for the period 2007 through 2012 was $1.2 billion or 24.5 percent of the total increase; that the unfunded cost of living adjustment was approximately $1 billion increase or 21.1 percent; that the benefit changes made in 2008 resulted in a slight gain in benefits and actuarial assumptions because the healthcare costs inflation assumption was changed which resulted in the gain; that employer contribution shortfall or underfunding in the KERS nonhazardous pension plan, the difference between the ARC and what was enacted in the budget bill which caused a $1.15 billion or 24.4 percent increase; and the demographic and salary experience assumptions amounted to a $123 million in the unfunded liability; "other" attributable factors mainly is the reduction in the amortization period; that as you amortize each year the unfunded liability over a shorter period there is an increase and also includes financial transaction timing differences, data corrections, software changes, etc.

In response to a questions by Senator Higdon concerning "other" attributes that contribute to the unfunded liability, Mr. Thielen stated that "spiking" does cause an increase in the unfunded liability but the actuaries have not looked at this situation and there is no data however "spiking" is paid for because the contribution rate increases as the liability for benefits is calculated and compared to the assets of the system, the contribution rate increases to pay the additional liabilities at a cost to the employers. Mr. Thielen indicated this may be topic for discussion with the actuary in the future to answer the board's questions regarding this issue.

For clarification, Representative Linder asked whether the amounts in the chart reflecting the attributable factors for the unfunded liability was his understanding that a negative number would reflect a gain and a loss would be a positive number and the investment as of June 30, 2012, was a $325 million loss, Mr. Thielen indicated that was correct.

Representative Thompson asked about the difference in the actuarially accrued liability for KERS nonhazardous members at the end of the 2013 fiscal year of $15.4 billion and the KERS nonhazardous and hazardous plans and the SPRS plan that reflects a combined unfunded liability of $11.18 billion, Mr. Thielen noted that the $15.4 billion amount is the actuarial accrued liability, not the unfunded portion of the liability; that the $11.18 billion is the unfunded liability; that part of the actuarial accrued liability is funded. Mr. Thielen stated that the total approximate current unfunded liability for the KRS is about $17.6 billion however if the combined (pension and insurance) KERS nonhazardous unfunded liability of $10.38 billion and including the assets on deposit the total accrued liability is approximately $15.46 billion; that in one instance there is an unfunded liability and the other situation is a total actuarial accrued liability which has some funds on deposit.

In response to a question by Mr. Jefferson regarding the COLAs, Mr. Thielen indicated that the COLA is contained in the statutes and that prior to 2008 it was tied to the consumer price index subject to a five percent maximum; that in most years the COLA granted was 3.2 percent, etc. and that in 2008 as part of House Bill 1 reform it was changed to a 1.5 percent each year unless reduced or eliminated or increased the amount, in other words it was automatic; that the current budget cycle the budget bills suspended the COLA for the 2013-14 year and under Senate Bill 2 there are circumstances under which a COLA can be granted but is evident there will be no COLA under that criteria for a number of years. Mr. Thielen indicated that any gain which would result in the elimination of future COLAs has been incorporated in the twenty year projection of contribution rates were determined on Senate Bill 2 changes which include the COLA change which is one of the main reasons the KERS nonhazardous projected rate will remain flat over the next twenty years. Mr. Thielen indicated that the cost of inflation for retiree insurance has increased for non-Medicare individuals; that the costs for the Medicare group has decreased as a result of the board of trustees decision to move from a self-insured plan to a Medicare advantage plan offered by Humana which resulted in a reduction in the rate. He said that the basic funding equation is contributions plus investments equals benefits paid plus expenses.

Mr. Thielen indicated that the KERS nonhazardous plan is the issue; that the SPRS plan is only 43.3 percent funding but that plan is a small plan, approximately $500 million in total assets; that the CERS plan ranges from 59 percent to 75 percent funded but while they are below the funding level it is not in any serious trouble. Mr. Thielen stated that the total normal cost for the KERS pension for nonhazardous duty is 8.48 percent of payroll of which the employees pay 5 percent but the employer's normal cost is 3.48 percent of payroll and .65 percent for administrative expenses; that the rate to amortize the unfunded actuarial liability is 26.7 percent with the total employer contribution rate of 30.8 percent. He said assumptions are based n a number of items such as investment income;, pay increases, service retirement and disability retirement, the mortality rate, withdrawals from the system and new members.

In response to a question by Mr. Jefferson regarding the pay out of approximately 30 percent of the market value in the plan, Mr. Thielen indicated that in 2013 KRS paid approximately $875 million on an asset base of approximately $2.8 billion. Mr. Jefferson indicated this was an extreme figure which the argument can be made for the serious need for funding; that from a statute standpoint and the need for ARC funding in the form of employee compensation and that 38 percent to 40 percent of compensation is what is required by the employer to fund the ARC or about $630 million. According to Mr. Thielen's calculations there is about $191 million need to fully the fund the ARC. Mr. Jefferson asked, if given the liquidity needs, it appears that a greater and greater percentage of the asset base is leading to less liquid funds; that given the trending in the funding ratios what is the game plan if the fund ratios continue to deteriorate or what steps from a liquidity standpoint is being taken, Mr. Thielen said this would be discussed in the investment program; that every five recommendations are made for each plan; that if the full ARC is made and the assumptions are met the KERs nonhazardous plan will bottom out in 2018-19 fiscal year.

Representative Thompson asked for clarification on the ARC contributions, Mr. Thielen indicated that if 100 percent of the of the ARC contributions and if they assumptions that the unfunded liability will peak in 2018 and then start to decrease.

Representative Yonts indicated that a retirement housekeeping bill is being drafted as well as a bill to bring the Judicial and Legislative pensions and the Kentucky Teachers Retirement System under the purview of the Public Pension Oversight Board.

There being no further business, the meeting adjourned at about 2:00 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 2nd Meeting of 2014

February 24, 2014

Call to Order and Roll Call

The 2nd meeting of the Public Pension Oversight Board (PPOB) was held on Monday, February 24, 2014, at 12:00 Noon, in Room 154 of the Capitol Annex. Senator Joe Bowen, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Joe Bowen, Co-Chair; Representative Brent Yonts, Co-Chair; Senator Jimmy Higdon; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Tom Bennett, Jane Driskell, and James M. "Mac" Jefferson.

Guests: Individuals were present but did not sign the "Guest List."

LRC Staff: Greg Woosley, Karen Powell, Judy Fritz, and Marlene Rutherford.

Chair Bowen announced that the PPOB would not be taking action on the minutes of the January 27 meeting until the March meeting, at which time action would be taken on both the January and February minutes.

Chair Bowen asked that questions be held until the end of the presentation so as not to be disruptive to the agenda presenters.

Review of Kentucky Retirement Systems Investments

Bill Thielen, Executive Director, Kentucky Retirement Systems, and David Peden, Interim Chief Investment Officer, Kentucky Retirement Systems, discussed the investments and investment policies of the Kentucky Retirement Systems (KRS). The PPOB was previously provided the following investment policies of KRS, which were included in the members' folders: (1) General Statement of Investment Policy, adopted November 20, 2013; (2) Statement of Investment Policy for the Pension Fund; (3) Statement of Investment Policy for the Insurance Fund; (4) Investment Brokerage Policy, approved May, 2011; (5) Manager and Placement Agent Statement of Disclosure Policy, approved August 16, 2012; (6) Securities Trading Policy for Trustees and Employees, approved February, 2012; (7) Securities Litigation Policy and Procedures, approved May, 2011; (8) Investment Proxy Voting Policy, approved May, 2011; (9) Real Estate Investment Policy; (10) Conflict of Interest and Confidentiality Policy, approved August 17, 2006, amended August 18, 2011; and (11) Authentication Token Policy, approved July 5, 2011.

Mr. Thielen began by stating that the KRS website at www.kyret.ky.gov contains a multitude of investment information including performance reports, consultant reports on the investment program, and copies of all the investment policies. The investment function for KRS is given to the Board of Trustees in Chapter 61 of the Kentucky Revised Statutes, and that KRS 61.645 requires the Board of Trustees to establish an Investment Committee, which currently consists of five members, composed of two trustees appointed by the Governor with investment experience, and three appointed by the Chair of the Board of Trustees. Mr. Thielen also pointed out that Representative Yonts was sponsoring a "housekeeping" bill in the 2014 session that includes a proposal to increase the size of the Investment Committee to seven members, since the Board of Trustees was increased from nine to thirteen members with the passage of Senate Bill 2 in the 2013 regular session. The Investment Committee has the authority to implement all the board's investment policies and to act on behalf of the board, subject to ratification, in all investment related matters including acquiring, selling, monitoring, and managing investments and hiring investment managers. Mr. Thielen also testified that the Chief Investment Officer (CIO) supervises the internal investment decisions on a daily basis and subsequently reports to the Investment Committee. The CIO also reports to Mr. Thielen administratively. KRS has a very qualified investment staff consisting of eight professionals and one administrative assistant, and that the investment staff professionals have advanced degrees and relevant industry certifications.

Mr. Thielen indicated that currently KRS has $15.5 billion worth of assets, and that of this total approximately 81 percent of the assets ($12.5 billion) are invested by external investment managers, and approximately $3 billion by the internal investment staff. He said that in addition to the external investment managers who invest portions of the asset base, KRS hires a number of national investment consultants through a request for proposal (RFP) process. R.V. Kuhns & Associates is the general investment consultant, Albourne is the consultant on absolute and real return assets, ORG Portfolio Management is the consultant on real estate investments, and Altius Associates is the consultant in the private equity area.

David Peden gave a more detailed presentation on the investments and investment performance of the systems. Investment performance is a product of asset allocation and manager selection, and to make decisions in these areas, the Board of Trustees, through the Investment Committee, conducts an asset liability modeling study every three to five years using an independent expert. The first objective in the process of asset allocation is to construct a portfolio that meets the minimum acceptable return, or assumed rate of return, which for all systems in KRS is 7.75 percent. He noted the assumptions that go into the study are known as capital market assumptions, and that the other factors affecting asset allocation are the various constraints and unique circumstances of each retirement system.

Mr. Thielen pointed out that KRS is not in competition with other public retirement systems, and that each retirement system is different in terms of cash flow needs, maturity of its membership, etc., and that the goal of KRS is to outperform the assumed rate of return of 7.75 percent – it is not to be the best invested retirement system in the nation in terms of total numbers.

Mr. Peden stated it is important to note that each system has its own portfolio, and that despite the fact that investments of the five systems (KERS, KERS Hazardous, CERS, CERS Hazardous, and SPRS) are often made with the same money manager or asset, KRS knows exactly how much each system owns in each asset and has a customized asset allocation for each of the five systems for both pension and insurance. Mr. Peden then further discussed capital market assumptions. Working with R.V. Kuhns, three components have been developed for these market assumptions: (1) the expected return for each asset class in which the systems are invested; (2) agreement on what the expected standard deviation or price volatility is for each asset class; and (3) the correlation or co-movement of two asset classes in relation to one another.

These factors are used to set the expectations and indicators for what asset classes need to be combined together to reach the 7.75 percent assumed rate of return. He also said another factor that goes into asset allocation are constraints, and that the constraints for many of the systems inside KRS are the willingness to make the actuarially required contributions, the ability to make the actuarially required contributions, and the age of the plan. In other words, the asset allocation question looks at the level of assets that are being paid out in benefits versus the amount of contributions that are being received. Mr. Peden noted that these constraints contribute to the risk that can be taken compared to peers, and that every public pension plan has different constraints that must be factored in to the asset allocation modeling.

Mr. Peden said the second most important process that determines the outcome of investment performance is the KRS investment manager process. He pointed out that KRS continuously performs the equivalent of an RFP process because staff conducts 200 face to face meetings, and 400 phone interviews, with investment managers every year, and that it is incumbent upon asset class specialists, or directors of each asset class, to continuously monitor both the performance of current managers, as well as track and maintain a database of any potential managers that might be utilized in the future.

Mr. Peden noted the first stage of the due diligence process is to develop and maintain a pipeline of managers, which requires constantly taking meetings and knowing who the best managers are in any given asset class. He said that further due diligence may be needed to replace an existing manager who is not performing to expectations, or there could be a new asset allocation that includes an asset class not previously utilized. Additionally, unique strategies occasionally present themselves as an opportunity that KRS would want to pursue, which would require a new manager position to be filled. KRS concentrates on a couple of areas in the due diligence process: (1) investment performance, or what the investment manager or asset class is expected to accomplish; and (2) investment fit, which is how a manager fits in with the current roster of managers, and if the manager will add or contribute expertise not already included in the portfolio.

Mr. Peden also noted that the other side of manager due diligence is an evaluation of the business or operational aspects of the firm, especially when investing in managers on the "private" side, such as private equity or hedge funds, because there is not only risk in the investment but in the business as well. One aspect of the business characteristics that are evaluated are fees, and these are evaluated at an early stage in the process as to whether the fees are reasonable based on the strategy being evaluated and the size of the investment that KRS is looking to place with a particular manager. Mr. Peden asserted that because of this evaluation, a formal RFP process is not needed to make sure KRS is getting the best fee available. He said after staff has conducted a comprehensive due diligence process in conjunction with the consultant in the respective asset class specialties, a comprehensive memorandum is written and a formal recommendation is presented to the Investment Committee by staff, which sometimes includes a presentation by the investment manager being considered for hire. The Investment Committee then either approves or disapproves the investment, and if approved, there is a final due diligence process, consisting of a legal review and contract negotiation with the investment manager. The final due diligence includes both internal and external counsel to complete the process.

Mr. Peden stated that the KRS pension fund has had good performance on a year-by-year basis, with the poor years commensurate with the overall difficulty seen in the market. He noted trends in the KRS returns were reflective of the overall markets in the 2000-2001 periods, as well as during the significant downturn in 2008-2009. He also noted that the performance in 2011 and 2012 was a period where non-U.S. equity and emerging market equity had a poor return period, and that this period was during a period of time referred to by economists as a risk-on and risk-off cycle, which made it difficult to identify trends occurring in the market. However, he noted that over time the pension fund has met or exceeded the 7.75 percent assumed rate of return.

Mr. Thielen pointed out that KRS uses an actuarial "smoothing" method adopted by the board, where gains and losses are smoothed in over a five year period of time, which dampens the volatility of the employer contribution rate determined each year. As an example, he noted the employer contribution rate would have skyrocketed following the substantial losses in 2008-2009 but for the smoothing of investment returns, and he stated that 2013 was the last year that KRS recognized the substantial losses from that period.

Mr. Peden stated the data for investment performance reflects that, despite the poor performance during the financial crisis, KRS is close to the 7.75 percent assumed rate of return for the latest ten year period, and the five year return, which no longer includes the financial crisis numbers, is well above the assumed rate. He said that as of July 1, 2013, KRS is able to report the rate of return on a system-by-system basis for KERS, CERS, and SPRS, as a result of a change in custodians, noting that KRS has always been able to track each systems' assets, income, and expenses, but prior to this date had not been able to calculate a rate of return for each system. He noted that this data is also now included in the monthly updates.

Mr. Thielen pointed out that the performance and allocation data includes a since inception date number (ITD), which reflects the return over an approximately thirty year period. For the pension plan, the ITD number is based on a 1984 inception date, and for the insurance plan, it is based on a 1987 inception date.

Mr. Peden testified that the total Kentucky based investments by KRS is approximately $50 million, and that the number reported includes companies and bond issuers that are headquartered in Kentucky. Mr. Peden indicated that if the PPOB would like KRS to incorporate in the data firms that have significant exposure in Kentucky, such as Ford or Toyota, the PPOB would need to provide a list to KRS as to which companies to include or the criteria to use to categorize a company as a Kentucky based business. Mr. Thielen noted that the KRS Board is always looking for opportunities to invest in Kentucky based firms, but that the foremost obligation is to maximize the return to the fund.

Mr. Thielen then provided an illustration between the operations under House Bill 1 and Senate Bill 2 for the KERS nonhazardous plan. The illustration began with the actuarial values at the end of the 2011 fiscal year, which was $3.7 billion, and the end of the 2013 fiscal year, which was $2.6 billion, under the funding schedule of House Bill 1. During this period, liabilities increased approximately $200 million, and the funded ratio of the plan dropped from 33.3 percent at the end of FY 2011 to 23.2 percent at the end of FY 2013, on an actuarially funded basis and taking into account the "smoothing" method of returns. On a market value basis, at the end of FY 2011 the funded ratio was 31.7 percent and at the end of FY 2013 it was 24.1 percent. He said that House Bill 1 set a plan for increasing funding to the system over a period of years, but that projections indicated for many years the system continued to be underfunded until approximately 2026, with current annual payouts of around $900 million and an asset value that was projected to decline to below $1.5 billion in 2020. However, he noted that enactment of Senate Bill 2 increased the projected asset value of the KERS nonhazardous plan by an approximate $850 million difference by 2021 – showing that the plan is projected to be much better funded under the 100 percent funding level of Senate Bill 2.

Mr. Peden indicated that on a five year basis the KRS annualized return is average with the peer group, but that KRS is taking less risk than the average of the peer group. He reiterated that KRS is not seeking to compare or compete with the peer group, especially on a one year basis, but that KRS does evaluate how the risk weighted return, or sharp ratio, compares with the peer group on a longer five or ten year basis. The comparison shows that the annualized return over a five year term is consistent with the peer group, but that KRS is taking on less risk. On a ten year term, the annualized return is below the average return, but the KRS investments take on less risk, and that based on the constraints of KRS, the risk and return outcome is favorable. Mr. Peden also compared the 7.75 percent actuarially assumed rate of return to the peer group and noted that 7.75 percent is a common return assumption by various pension plans, with 7.50 percent and 8.00 percent being the next two most common assumed rates of return. However, Mr. Peden stated that if the 7.75 percent return is lowered, the unfunded liability will increase, and that a longer term view needs to be taken on the assumed rate of return rather than increasing or decreasing that rate on a year-to-year basis. Further, Mr. Peden noted that the real rate of return is the total return minus an inflation expectation.

Mr. Thielen stated that currently the actuaries are conducting an experience study for KRS that will be reported to the Board of Trustees at the May quarterly meeting, and based on that experience study and the recommendations of the actuary, the board will adopt assumptions going forward, including the rate of return assumption on investments, the salary growth rate, healthcare cost inflation assumptions, etc., and that this is a practice done at least every ten years, and by recent practice, every five years. In the experience study, the actuaries will be looking at whether the current assumptions are adequate for future projections.

In response to a request by Senator Bowen for clarification of the current KRS organizational structure, Mr. Thielen stated that KRS is governed by a thirteen member board. The board comprises eight different committees, broken down by subject matter, and the Investment Committee is one of these committees, which consists of five members of the board. In response to a second question, Mr. Thielen stated that placement agents are hired by investment managers, not by KRS, and that KRS has never paid or hired a placement agent directly and has not invested any assets where a placement agent has been used for about five years. Mr. Thielen further described the organizational structure to say that under the board and committees is the KRS staff, consisting of approximately 257 staff members, of which nine members are in the investment division, with various educational qualifications, and that those staff members report directly to the Investment Committee.

Senator Bowen asked Mr. Thielen to provide insight into the various newspaper reports of the problems that resulted in the $100 million Arrowhawk investment and the more than $24 million investment with the Camelot group, and what was the chain of command for the oversight of those investments. Mr. Thielen stated that both Camelot and Arrowhawk are outside investment managers, and that staff followed the process of evaluation previously detailed. Also, representatives from those groups appeared before the Investment Committee and made presentations, and the Investment Committee decided to invest funds in both of those groups. Mr. Thielen stated that a little less than $25 million was invested with Camelot, and Mr. Peden indicated that $100 million was invested in Arrowhawk, with $50 million invested initially, which was followed by a second investment of $50 million. The Camelot investment was approved in May, 2009, and the Arrowhawk investment was approved with a special Investment Committee at the end of September, 2009. The Arrowhawk investment was the last investment made by KRS where a placement agent was used.

Mr. Thielen said that placement agents are marketers that are hired by small investment managers that do not have their own marketing staff. The placement agents will talk with public and private pension staff to generate interest in investing money in the fund, and those placement agents are paid by the investment managers, not by KRS. KRS has done a study of its investments over the years in which placement agents were involved, and the results of the study show that there is no difference in the returns that KRS has received overall and that the costs that were paid to the investment managers of those investments were in line with what would be expected in the marketplace.

Mr. Peden reiterated that placement agents are third party marketers and that it is important to note that just because someone uses a third party marketing firm does not mean they are spending more or less on the marketing effort because internal marketing staff is a very expensive aspect of an investment management group. He said that the Auditor of Public Accounts (APA) 2011 report, located on the KRS website, is a good introduction into placement agents, and that from the report recommendations were made that have been adopted by KRS, one of which is the placement agent disclosure document. The recommendation and adopted practice requires that when a manager is presented to the Investment Committee, the completion of a disclosure document is required by the manager, which includes a question as to whether a placement agent was used to introduce the investment to KRS. Since 2009, the answer to that question has always been no; however, the board has not prohibited placement agents from being involved, and neither has the General Assembly, although third-party marketing firms or an internal marketer at a fund must report and describe themselves with the Executive Branch Ethics Commission, who in turn determines whether that person should register as a lobbyist.

Senator Bowen asked whether passage of Senate Bill 2 alleviated the concern of reaching a "pay as you go" situation – i.e. that the fund would not have enough money to pay benefits from existing assets. Mr. Thielen stated that KRS is on a better path than previously, and as long as the General Assembly appropriates 100 percent of the actuarially required contribution, the projection is that the fund will not reach that point. However, he also noted that there are still major concerns that in the event of another recession, or if KRS fails to meet the actuarial assumptions, the plan could be in jeopardy. He stated that the systems are a long way from being solidly funded, given that the rating agencies use 80 percent as being solvent and well-funded.

In response to questions by Senator Higdon, Mr. Thielen said that the drop in funded status is a result of a number of factors, which were discussed at the last meeting, including the shortfall in contributions, the unfunded cost-of-living adjustments, and the investment losses still being factored in over the last five years, which was approximately 17 percent of the asset base due to the 2009 losses. He also noted that KRS expenses and office staff are paid from the budget approved by the General Assembly in the biennial budget, which is currently about $39 million per year, and that by statute this money is paid out of the employer allowance account – where the employer contributions are credited, but that investment staff and consultants, the fund administrative expenses, are paid out of the KRS trust funds. Mr. Thielen also said that the experience study would identify areas that need to be addressed and that the actuaries have to make a significant number of assumptions of what will occur in the future, such as how long individuals will live, how many individuals will terminate before they are vested, and the rate of inflation for healthcare costs.

Responding to a question by Representative Yonts concerning the allegations about the Camelot investment, Mr. Thielen indicated that when KRS learned there was an issue involving Camelot it began taking steps with external counsel to protect the investment. He stated that there is approximately $24 million invested in Camelot, and that losses, if any, are unknown at this time, but that KRS is constantly monitoring the situation to maximize the money KRS might receive back from the fund.

Responding to Representative Yonts concerning what due diligence was exercised in determining how much to invest in a new group, Mr. Peden and Mr. Thielen indicated that the normal due diligence process was performed by KRS. Mr. Peden indicated that the Camelot investment was approved in May, 2009, and that the individual that has been charged had a prior track record for investing that was presented to the Investment Committee. With the benefit of hindsight, he would call into question some of the information that was told to KRS staff and the Investment Committee regarding that track record, and that it does appear that this was the first substantial fund that the individual managed, but that he did have prior investing experience. Further, KRS staff first became aware that there was an issue in June, 2013 when it received a letter from the auditor of the fund, and KRS engaged legal counsel at that time. KRS began working in the fall of 2013 with the Securities & Exchange Commission (SEC) and the Manhattan District Attorney's Office. Mr. Thielen also indicated that the general investment consultant recommended the investment with Camelot as well, although it was a new fund, and Mr. Peden stated that Strategic Investment Solutions (SIS) was the consultant that had reviewed the fund.

In response to questions from Representative Thompson on the internal versus external management for the pension and insurance funds, and the absolute return class and the real return class, Mr. Thielen stated that there is approximately $15.5 billion in assets for all plans. This total was further broken down in the presentation to show that the $2.6 billion in actuarial plan value is the value of the assets invested in the KERS nonhazardous pension plan. Mr. Peden indicated that absolute return is mostly investments in hedge funds, and that KRS has a fund of hedge funds currently being managed by three managers, Prisma Capital Partners, PAAMCO, and Blackstone. Also, KRS has started building out a direct hedge fund program in order to directly invest in hedge funds and to replicate what an external fund of funds might look like, with the goal being a portfolio that has a low standard deviation and a low correlation to the equity and credit markets. Mr. Peden stated that real return is any assets that are inflation sensitive, which should do well when there is inflation, such as treasury inflation protected securities (TIPS), commodities, infrastructure, and real assets like farmland or timberland investments.

Responding to an additional question by Representative Thompson, Mr. Thielen indicated that about $873 million in benefit payments were paid in the last fiscal year for the KERS nonhazardous plan. He also noted the KERS nonhazardous plan has had a negative cash flow at times, and at one time was selling about $75 million in assets per month to make the benefit payments, and that because of the unfunded liability, among other things, KRS is keeping more money more liquid and therefore there is less to invest for a higher return. This also requires KRS to keep more money in short term investments in order to meet the monthly benefit payments.

In response to a question by Mr. Bennett concerning investments in Kentucky, Mr. Peden stated the Kentucky-based investments include only companies or bond issuers headquartered in the state, and that real estate investments include only physical property in the state. Mr. Peden also noted that KRS contracts with River Road Asset Management out of Louisville to manage a portion of the equity portfolio.

In response to questions by Mr. Jefferson regarding the due diligence process and the lessons learned, Mr. Peden stated that staff believes that the current process is more robust than it was five years ago, and one item in particular that has been improved is the analysis of the business aspect of an investment firm. He noted that one area that was lacking in the Camelot investment was there was an absence of a strong accountant, and there was no chief operating officer or chief controller, and that experience has shown that there needs to be a strong back office to be successful and to be recommended as a worthy investment by staff today. In contrast, and in hindsight, Camelot was dominated by a single individual, rather than having a host of resources and "voices" in the firm, which is important so that one individual cannot control outcomes. He said that KRS has conducted an evaluation of its other investments in light of what has occurred, but that in private equity investment there is only one opportunity to get the investment right because once committed you cannot get out of the fund. He further stated that although there may be investments KRS currently holds that he might not personally recommend today, there are no other funds that KRS is concerned about at this time or that they believe require proactive efforts (to terminate).

Mr. Jefferson also inquired about the commissions and administrative expenses for staff, as well as the external manager operating expenses, and whether KRS tracks the payment of all of these separate fees paid to managers. Mr. Peden indicated that the fees are detailed in the Comprehensive Annual Report (CAFR), although he agreed that tracking and adding all of the fees to get a total fee number is difficult. He also noted that fees are absolutely factored in to the decision to hire a manager, but that they are not the driving force in selecting a fund manager. Instead, the first criteria in selection is to make sure the expected return strategy is sensible and fits in the portfolio, and to make sure KRS is getting the best fees possible that match up with the type of investment strategy. He explained that a strategy requiring many employees and analytical work may justify higher fees, and that one criticism is that fees have been creeping up, but that private equity or hedge funds, which have become an increasing part of the total portfolio, are more expensive than the alternative, which is a more passive equity or index tracking account. Specifically, Mr. Peden noted that in order for KRS to achieve a 7.75 percent rate of return consistently, with a low standard deviation, KRS has to pursue a variety of strategies, and one criticism was that KRS did not have enough private equity or hedge funds in the portfolio. Mr. Peden also indicated that the investment managers are evaluated on a net basis, so while the fees may be higher in some cases, they are being evaluated on the expected return on an after fees basis.

Responding to a further question by Mr. Jefferson concerning private equity and possible declining asset values, which could present a liquidity or cash flow issue, and how often this is updated, Mr. Peden stated that investment staff tracks and projects on a month-to-month basis what cash is needed to make sure there is appropriate liquidity to make benefits payments, but one issue is that KRS is not getting distributions back fast enough from private equity and this portion of the asset allocation has been increasing. To address the situation, the public equity portion of the portfolio is reduced below its target level to offset the overweight of the investment assets held in the less liquid private equity funds. Mr. Thielen pointed out that this is due to private equity assets being tied up for seven to ten years, with the initial seed funding committed for three years and then some returns occurring over the later years as assets are sold off within the funds.

In response to another question by Representative Thompson concerning asset allocation targets and the major shifts in the asset classes, Mr. Peden indicated that prior to the financial crisis, KRS did not have any high yield bonds or global bonds, there was very little non-U.S. equity, no emerging market equity, no hedge funds or absolute return, and there was some real return assets in the form of TIPS but these were included in the fixed income class. KRS has tried to get away from the interest rate sensitive aspects of fixed income and have tried to add global bonds because of a tactical aspect related to rising rates in certain countries. He further stated that the goal of absolute return is to have a consistent return, low volatility asset class, and that real return was added to the portfolio because of the inflation aspect of those assets, and because they tend to rise with inflation the assets help to not only meet the return target but also are a hedge against inflation. Mr. Thielen noted that KRS does an asset liability modeling study every five years and will likely be conducting one next year, which will look at asset allocation and liabilities and will make recommendations on where the KRS funds should be with its allocations.

Senator Bowen said there are still challenges in addressing the pension systems, and that the markets need to perform to achieve the projected returns and meet the benchmarks. He brought to the board's attention the legislative proposals contained in the members' packets and announced that the next scheduled meeting will be March 24.

There being no further questions or business, the meeting adjourned at about 1:30 p.m.

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 3rd Meeting of 2014

March 24, 2014

Call to Order

The 3rd meeting of the Public Pension Oversight Board (PPOB) was held on Monday, March 24, 2014, at 12:00 Noon, in Room 154 of the Capitol Annex. Representative Yonts, Chair, called the meeting to order.

Roll Call and Approval of the Minutes

The roll was called, and action was taken on the minutes upon a quorum being present.

Approval of Minutes

Representative Thompson moved that the Minutes of January 27, 2014, and February 24, 2014, be approved, which was seconded by Representative Linder. The minutes were approved without correction.

Present were:

Members: Representative Brent Yonts, Co-Chair; Representatives Brian Linder and Tommy Thompson; Robyn Bender, Tom Bennett, Jane Driskell, and James M. "Mac" Jefferson.

Guests: Lowell Reese, Kentucky Roll Call, Frankfort, Kentucky, was present but did not testify.

LRC Staff: Brad Gross, Greg Woosley, Judy Fritz, and Marlene Rutherford.

Chair Yonts stated that some members had session-related conflicts, but that the scheduled presentations would move forward. He also noted that there was a legislative update in the folders as to pending legislation relating to retirement.

Governmental Accounting Standards Board (GASB) 67/68 Impact and Implementation

Bill Thielen, Executive Director, Kentucky Retirement Systems discussed the new GASB standards effective in fiscal year 2015. These standards were released by the GASB in June 2012, which revised the accounting and financial reporting requirements previously set out in Statement Nos. 25 and 27, and the KRS would be implementing these new standards over the next two years. The purpose of the new standards is to enhance the pension related information and financial statements for pension plans and to standardize valuation practices. GASB 67 applies to plans like those administered by KRS: the multiple employer cost sharing plans such as the Kentucky Employees Retirement System (KERS) and County Employees Retirement System (CERS), and the single employer plan such as the State Police Retirement System (SPRS). GASB 68 applies to participating employers in both the multiple employer cost sharing plan and the single employer plan. GASB 67 becomes effective in fiscal year 2014. KRS will develop the required financial statement information and educational information for the employers in late summer and fall. GASB 68 will be effective in fiscal year 2015.

Mr. Thielen said that a hallmark of the new statements is that they separate the funding of plans from the accounting and reporting requirements. Previously, Statement Nos. 25 and 27, although they did not require funding reporting, defined the concept of actuarially required contribution (ARC), which became the de facto funding standard for pension plans. To comply with the GASB standards, a funding policy will need to be adopted. The ARC is no longer the de facto funding standard. The KERS board adopted a policy in August 2013, and most of the components of the policy are set by statute. However, the board additionally adopted a 100 percent funding goal and a five-year actuarial smoothing method as a part of the policy. Implementation of GASB 67 will require the KRS to enhance the financial statement disclosures by providing various types of information, such as net pension liability, which is the total pension liability–referred to as the actuarially accrued liability–minus the fiduciary net position or the market value of assets. Also, beginning with the implementation of GASB 67, ten-year schedules will be required that show-year-over year changes in the information provided.

Mr. Thielen stated that GASB 68 will require employers to include on their balance sheets and financial statements their proportionate share of the net pension liability, which is the unfunded accrued liability and pension expense. The net pension liability and the pension expense are the two important changes the employer will have to show on their balance sheets and financial statements, which will be a significant amount these employers will have to show for the first time on their financial statements. One result of the new standards is that they could have an effect on some employers' banking contracts and loan agreements if a certain debt to asset ratio is required to be maintained, which is impacted by reporting the liabilities. GASB allows some flexibility in calculating the employer share of the net pension liability and pension expense, and KRS will likely use a proportionate percentage of payroll as the factor to calculate each employer's proportionate share of the unfunded actuarial liability and pension expense. Over the next several months, KRS will be working to educate the 1,474 employers in the plans about their compliance with GASB 68 and provide them the information they need to comply with the new reporting requirements. KRS is not required to provide this assistance to the employers because the standards are the responsibility of each employer, but KRS can provide the information and eliminate the need for each employer to hire an actuary. The cost to KRS of providing the information to the employers will be part of the administrative expense rolled into the contribution rate paid by the employers.

In response to questions by Chair Yonts, Mr. Thielen said that not much information has been sent to the employers, but within the next month or two, KRS will begin sending the information. However, accountants across the state are familiar with the new changes and have begun to provide some general information. Percentage of payroll will be the method by which each employer's proportionate share of the net pension, or unfunded, liability will be calculated. As an example, if the total payroll for KERS nonhazardous is $1.5 billion and if the employer has $100 million of that payroll, then the proportionate ratio will be the same in terms of the employer's share of the unfunded liability for the plan. As to a question about fully funding the ARC under Senate Bill 2, Mr. Thielen said KRS will continue calculating, under the KRS funding policy, the contribution rate in the same manner used for some time, regardless of the terms used by the new GASB standards. Chair Yonts asked that KRS share with PPOB the same information that is provided to employers advising them of the new standards, and that KRS also forward to PPOB any comments received by the KRS from the employers on the standards.

Responding to a question by Mr. Bennett, Mr. Thielen said that the new GASB standards will not change the percentages of funding and liability and that KRS has already been reporting the information is required to be reported. The major change is the manner that the information is required to be presented on the financial statements. The reports will still show the funded status and the employer contribution rate as a percentage of payroll, which will be developed in the same manner as it is currently. Essentially there will be no critical changes to the way the information is reported.

Chair Yonts stated that KTRS has indicated that the GASB standards will impact the unfunded liability reported in that system. Mr. Thielen stated he did not know how it would impact the KTRS because he was unaware of how that system would implement the new standards. Chair Yonts asked that the KRS advise PPOB in advance of the 2015 session if there was a statutory change needed to accommodate the implementation of these new standards so that hearings could be held. Mr. Thielen said that the largest impact will be on the employers having to report the full liability on their financial statement, when previously they were only required to report their annual contributions. The rating agencies have likely taken into account the new reporting, which will not have a significant impact on bond ratings, but some bank covenants may be impacted if this is perceived as a change in debt ratio.

Mr. Thielen gave an investment update, which Chair Yonts asked be provided to PPOB at each meeting. Mr. Thielen stated that the updated performance statistics show that as of the end of February, the KRS pension plan was up 2.39 percent for the month, and that for the fiscal year to date it is up 9.93 percent. The one year total return was 10.91 percent, and the three year total return was 7.36 percent, which is just below the 7.75 percent assumed rate of return. The five year total return was 14.03 percent, but the ten year total return was 6.19 percent, which is slightly less than the assumed rate but is continuing to improve and still takes into account the 2008-09 recession.

Review of Kentucky Retirement Systems Agencies

Brad Gross provided an overview on agency participation in the KERS and CERS. He gave an overview of the different systems in KRS and the agencies that participate in them. Membership numbers are broken out by those members in the hazardous and nonhazardous plans. In the KERS nonhazardous plan, which includes active members, inactive members, and retirees, the total membership is about 118,000, while the total hazardous membership is about 9,251. In the CERS nonhazardous plan, the total membership is about 193,808, while the total CERS hazardous membership is 16,865. SPRS is the smaller system, with about 2,377 members. This is a total of approximately 340,300 participants across all of the systems, with the CERS as the largest.

Mr. Gross stated that KRS 61.520 outlines the two-step process by which an agency can enter KERS. The first step is that the KRS Board makes a determination of whether an agency is eligible and qualified to participate, and the second step is that the agency has to pursue an executive order from the Governor directing the agency to participate in KERS. This process has been in place since 2003, and prior to that time, only the executive order was required from the Governor to participate in KERS. The statute also provides that once an agency begins participating it must continue to participate for as long as it remains qualified, which is one of the changes implemented by HB 461 in 2003. KRS can require that an agency seek a private letter ruling from the federal government as to whether the agency can qualify to participate in a governmental plan. Participation in CERS is a different process. Historically, the only requirements for an agency to participate in CERS was that an agency had to adopt an order authorizing participation, which was presented to the KRS Board, and the KRS Board would determine if the agency could participate and then approve or deny the participation. However, in 2002, a new provision was added relating to health insurance requiring any new CERS agency entering after April 9, 2002, to have an irrevocable contract with the state health insurance plan to participate in CERS.

KRS 78.530 states that, once an agency participates, it must continue to participate, with one exception being participation under KRS 78.535. An agency participating in CERS can exclude certain areas of their agency that are semi-independent, such as a hospital or a 911 center. Mr. Gross said the KRS Board ultimately has the authority to determine who is or is not eligible to participate in CERS, and as with KERS participation, the agency can be required to seek a private letter ruling from the federal government as to whether they are eligible to participate in a governmental plan. An example of a private letter ruling being required for participation was when the Kentucky League of Cities requested to participate in CERS.

He said that 70 percent of the employee population that participates in KERS is in the traditional P-1 state agencies under the state personnel system. Other agencies that participate are regional mental health agencies, which comprise about 10 percent of the population with 4,510 employees, non-teaching staff at regional universities, health departments, county attorneys, etc. Participating employees in non-P-1 state agencies is about 1,381 employees, or about 3 percent of the total population. CERS is a larger system, and has 1,125 agencies participating, with a total of more than 93,000. The largest group is the employees of local boards of education, with 48,634 members or 52 percent of the total population, followed by cities, with 16,817 or 18 percent of the total participation. The remainder is made up of fiscal courts, community action centers, circuit clerks, and special districts and boards. Mr. Gross pointed out that one city may have multiple participating codes, or different types of agency employees, whereas another city may only have a single code. So for example, police or sheriff's departments may be coded as those types of agencies in one city, but be coded in the general "city" code in another.

Mr. Gross stated that once an agency begins participating in a retirement plan, the statute generally requires continued participation. However, there are a few exceptions in both the KERS and CERS plans contained in KRS Chapters 61 and 78. Within KERS there is a "parted employer" provision for when an agency gets taken over by a private corporation. Additionally, there is the requirement that an agency participate as long as they remain "qualified." CERS has a provision that the board may terminate an agency's participation if they fail to comply with statutory requirements, such as paying the employer contributions. The statute also provides that in lieu of terminating an agency's participation for the failure to pay contributions, the board may file an action against the agency and get a court order to attach the general funds of the entity, or the board may suspend all employee benefit payments and refunds until all employer contributions are paid.

Other participation issues have occurred over time as employer contribution rates have increased, and a number of agencies have called for the ability to withdraw from the systems. For example, the employer contribution rate for KERS nonhazardous has grown over time from 7.04 percent in FY 1981-82 to 30.84 percent in FY 2014-15. Additionally, federal tax qualification requirements are coming out that may impact the issue of agency participation and termination, and several recent court cases provide an insight into the desire of some agencies to withdraw from the systems.

Mr. Gross stated that the state-administered retirement systems are qualified governmental plans and are exempt from ERISA. The systems' plans do not participate in the Pension Benefit Guarantee Corporation, which is where private pension plans pay insurance premiums so if the plan ceases to exist or the entity goes bankrupt there is an insurance mechanism to pay some portion of the benefit out to the individual. The Internal Revenue Service published an advance notice of proposed rulemaking regarding the definition of a governmental plan. In the rule making process, the federal government will be defining what constitutes a state or a political subdivision of a state, and will likely describe factors and develop a test as to what constitutes an instrumentality of a state or a political subdivision of a state, which will give some guidance on the issue. However, the rulemaking process has not been released and become official.

The National Association of State Retirement Administrators (NASRA) and the National Council on Teacher Retirement (NCTR), conducted a survey that indicated that 85 percent of the responding systems in the survey had employers other than the state participating in the plans. The survey also documented that of that 85 percent, about 70 percent have employers that are not the traditional units of government, such as cities, counties, or school districts, but include charter schools, private universities, and employers created pursuant to a statute as for-profit or non-profit corporations performing a state function. Mr. Gross noted that the survey results demonstrate that Kentucky is not the only state dealing with the issue of which agencies are eligible to participate, or should participate, in public pension plans.

Greg Woosley discussed three primary cases pending in different forums relating to agency participation. He said there were two factors driving the court cases and the agencies' desire to cease participating in the KRS: (1) the rising costs to the participating agencies in the form of larger employer contribution rates; and (2) the inability of these agencies to terminate participation because of the existing statutory proscription. The agencies that have taken action to get out of participation in the systems are Kentucky River Community Care (KRCC), Bluegrass Oakwood (BG Oakwood), and Seven County Services (SCS). Each of the court cases and the agency's means to terminate participation is a little different. KRCC has reduced itself down to a one employee agency and has created an "alter ego" employment agency called Go-Hire, through which it has hired back most, if not all, of the KRCC employees to continue doing business. Oakwood has created a new subsidiary agency, Oakwood Community Services (OCS), and going forward wants to hire new employees and / or transfer existing employees to this new subsidiary agency. Finally, SCS has filed bankruptcy and is attempting to discharge any obligations owed to the systems. As background, Mr. Woosley indicated that all three cases deal with agencies that were initially designated as mental health and mental retardation boards, which are now referred to as community mental health centers, and that these boards and centers provide mental health services to indigent and dependent patients that were historically provided by the state.

The first case is *Board of Kentucky Retirement Systems v. Kentucky River Community Care and Go-Hire Employment and Development*. The agency in this case, KRCC, is a nonprofit Kentucky corporation and a designated community mental health center, which is organized and operated out of Breathitt County. KRCC was brought into the KERS by executive order of the governor in 1966, and prior to the beginning of litigation, had about 400-500 employees. In 2010, KRCC formed Go-Hire Employment and Development (Go-Hire) as an employment agency to provide workforce training and employees, which appears were employees directly supplied to KRCC. Go-Hire began managing personnel for KRCC in January, 2011, and in March of that year, all of the employees of KRCC were terminated and personnel action forms were sent to the KERS on the terminations. Almost immediately, most of the employees were then re-hired through Go-Hire, and these "new" employees were not enrolled in the KERS, and employee and employer contributions were not deducted and submitted to the KRS. Also, numerous requests were made to the KERS by the fired employees for account refunds.

KRS filed a declaratory judgment action in Franklin Circuit Court in May, 2011, and alleged that Go-Hire is an "alter ego" of KRCC, that the employees of Go-Hire are de facto employees of KRCC, and that the employees are therefore subject to the contribution requirements. In addition to filing the action, both KRCC and Go-Hire were served with discovery requests for information on what transpired between the two corporations and the employees.

Subsequently, KRCC and Go-Hire filed motions to dismiss the suit arguing that it was not a participant in the KERS, that there was no statutory provision for the KRS board's de facto employee theory, and that the board had no authority to force an agency to participate without an executive order. The KRS board responded to the motions and argued that the statute provides that once a department begins participating in the system it cannot withdraw, and that Go-Hire was formed by KRCC for the sole purpose of avoiding payment of the employer contributions to effectively withdrawn from participation. The KRS board also alleged that the executive staff and Go-Hire board were shared with KRCC, and that the employees of Go-Hire serve the same functions as when employed by KRCC. They further argued that the KRS board has the authority to determine whether a person is an employee of a participating agency.

The motions to dismiss filed by KRCC and Go-Hire were denied. In denying the motions, the court essentially acknowledged that KRCC was a participating member, that the statutes provided they could not discontinue their membership, and that the KRS Board has the authority to determine who was an employee. However, the court was careful to point out that because of the current posture of the case, with the limited discovery and with the standard of review on a motion to dismiss requiring the court to take all allegations by the retirement systems as true, the KRS Board had stated a claim upon which relief could be granted and a dismissal of the proceedings at that time would be improper. The court ordered KRCC and Go-Hire to produce the discovery materials that had been requested, and the case is currently pending in Franklin Circuit Court.

Mr. Woosley stated that a second case, *Bluegrass Oakwood and Oakwood Community Services v. Kentucky Employees Retirement Systems and Board of Kentucky Employees Retirement Systems*, is a similar case that deals with a regional mental health and mental retardation board or community health center. The first agency that participated was the Bluegrass Mental Health and Mental Retardation Board (Bluegrass), a non-profit corporation formed in 1971 out of the consolidation of two other boards that were two of the original 1966 regional boards for providing services. Bluegrass is now a designated community mental health center under the Cabinet for Health and Family Services. In 2006, Bluegrass formed a second corporation called Bluegrass Oakwood (BG Oakwood) to perform services at the Somerset facility, an intermediate care facility providing mental health services for individuals with developmental and behavioral disabilities and other dependent individuals. BG Oakwood provided the services at the facility until approximately 2011, when BG Oakwood formed another subsidiary corporation, Oakwood Community Services (OCS). In the case, it is alleged that OCS was formed for the purposes of employing new hires to provide the services at the Somerset facility or to accept any transferring employees from BG Oakwood to OCS.

Prior to 2006, employees of the Cabinet for Health and Family Services (CHFS) provided the services at the Somerset facility and participated in KERS as CHFS employees. So, at that time, all the employees of BG Oakwood were also participants in the KERS. When BG Oakwood formed OCS in 2011, and since that time, the services at that facility have been performed by a mix of employees of BG Oakwood who participate in KERS, and employees of OCS, who are not participating members of KERS. BG Oakwood and OCS filed a petition for declaration of rights and asked the court if the formation of OCS and electing to not participate in KERS was permissible. After limited discovery, two separate motions were filed by BG Oakwood and OCS for partial summary judgments, one arguing that the new employees hired through OCS would not be required to participate in KERS, and the second arguing that employees that wanted to transfer from BG Oakwood to OCS would not be required to participate in KERS. In the motions, BG Oakwood and OCS argued that OCS was never eligible to participate in the KERS because they were never determined to be a qualified department or agency by the KRS Board, that no executive order was issued designating that the entity participate, that the positions at OCS did not exist at the time BGMHMR was included in the system and they were therefore not initially required to participate. Consequently, BG Oakwood and OCS argued that employees in positions at OCS were not required to participate and therefore all the new or transferred employees were not qualified or required to participate in the KERS.

The KERS Board's response to these arguments was that once a department begins to participate in the system it cannot withdraw, that BGMHMR was originally a member agency of the KERS and took steps to enroll employees in the KERS when it formed BR Oakwood and contracted to provide the services at the Somerset facility, and that, according to documents, BG Oakwood had created OCS for the purpose of improving its operating position in the industry with respect to the employee benefit package and that employees would be enrolled in a 401(k) plan to avoid participation in the KERS. The KERS board also alleged in their response that the management, directors, and employees were shared between BG Oakwood and OCS and served in and performed the same functions as when employed by BG Oakwood, and that it was the KERS board that determined whether a person is an employee eligible to participate in the retirement system.

The court granted the motions for summary judgment and noted that OCS was not initially required to participate in KERS, and that it could not be compelled to participate without the statutory preconditions being met. Consequently, any new hires of OCS are not required to participate in the KERS, and the same analysis applied to transferring employees as new employees. Therefore, the essence of the court's rulings was that all employees of OCS were not required to participate in the KERS, whether new or transferred. The court's rulings have been appealed by the KERS board to the Kentucky Court of Appeals, which is currently pending.

Mr. Woosley stated that the third case, *In re: Seven County Services, Inc.*, is a bankruptcy case that was filed in the Western District of Kentucky Bankruptcy Court, and that the process of this case is very different from the first two cases. Seven County Services (SCS) is a non-profit Kentucky corporation formed in 1978 to provide behavioral and mental health services in the seven county region around Louisville. SCS has more than 1,000 employees and an operational budget of about $100 million. As with the previously discussed agencies, SCS is a designated community mental health center by the Cabinet for Health and Family Services and began participating in the KERS by executive order in 1978. SCS is a successor corporation in that it took over the contracts from an entity that was originally called Region Eight, which later became River Region, both of which are non-profit corporations formed in 1966 and 1976, respectively, to provide mental health and mental retardation services.

SCS filed bankruptcy in the Western District and listed the KERS as its primary creditor because of the debt and financial distress caused by the rising employer contribution rates to KERS. In its filing, SCS sought a determination by the court that it had an executory contract with KERS and that, under the bankruptcy code, it was eligible to reject that contract and have it discharged. After filing bankruptcy, SCS ceased making contributions to KERS for its employees, with the exception of about 300 Central State Hospital employees who continue to participate in KERS. Through an adversary proceeding, KERS "intervened" in the case and has moved the court to dismiss the bankruptcy petition. SCS has responded with its own motions to dismiss KERS adversary proceedings and for a declaration from the court that it is not eligible to participate in KERS plan and cannot be required to participate, or alternatively, that it is entitled to withdraw from the plan because the KERS plan is not a governmental plan and is governed by the Employee Retirement Income Security Act (ERISA) and that ERISA withdrawal provisions should apply. Conversely, KERS is seeking a declaration that SCS is a governmental unit and not a person and that SCS is therefore not eligible to be a Chapter 11 bankruptcy debtor. KERS is also requesting an injunction to require SCS to resume making its employer contribution payments.

SCS argues that Region Eight originally fought participation in KERS and that the Kentucky Court of Appeals found Region Eight was not a state agency and therefore not required to participate. KERS argues that the statutes were later amended to expand the definition agencies that could participate and that the changes were made specifically by the General Assembly to include quasi-governmental agencies, such as Region Eight, that the Court of Appeals had previously held were not eligible to participate. SCS also argues that River Region filed for Chapter 11 bankruptcy in 1978, and that the Western District adjudicated River Region as an eligible bankrupt. However, as with the state statutes, KERS argues that the bankruptcy code has been amended since the River Region bankruptcy and that the current definitions are different than when River Region was declared as an eligible bankrupt in 1978.

KERS also argues that there is no executory contract, or any contract, between SCS and KERS, but there are merely statutory obligations for SCS to submit employer contributions as part of its participation in the retirement plans. The main argument by KERS is that SCS is a governmental unit and not a person under the definitions of Chapter 11 and are therefore not an eligible debtor under the code. In support of this argument, KERS asserts that it is a governmental plan exempt from ERISA, and that SCS's participation does not affect the KERS plan's qualified status. KERS also alleges that SCS has attributes of a governmental agency in that it was formed for a public purpose, is tax exempt, receives a majority of its operating funds from tax revenues, can request taxes be imposed for its operations, and that it possesses, or at least has argued that it is entitled to, sovereign immunity. SCS argues that it is not a governmental unit under the bankruptcy code, but rather is a private corporation and therefore eligible for a Chapter 11 filing. SCS argues that it is not a department under KRS Chapter 61, is not a part of state government, a political subdivision, or an agency or instrument of the state, and is therefore not a qualified participant under the IRS test of what entities can participate in governmental plans. SCS also argues that it because it cannot participate in a governmental plan, ERISA should control whether it is allowed to withdraw from participation in the KERS plan, and that because of the presence of quasi-governmental agencies in the plan, the KERS plan is not a governmental plan and SCS can terminate its participation. A trial was held in mid-March on the central issues in the case; however, no opinion has been issued at this time.

Mr. Gross stated that the employer contribution rates for the KERS nonhazardous plan for 2014-15 is 38.77 percent of payroll, and that according to the retirement systems actuary, if SCS is released of its obligations through bankruptcy, the employer rate would increase by 2.75 percent over the next twenty years. Further, the KRS actuary has concluded that if all mental health centers were relieved of the obligation to participate, through a bankruptcy proceeding or otherwise, the rate would increase up to an additional 6.5 percent of payroll over the long term, which is why the outcome of the three discussed cases is so important.

Mr. Gross indicated that there have been some legislative proposals in the last couple of years to allow some or all agencies to discontinue participation for either new hires or a combination of new hires and current employees. For example, SB 201 in the 2012 Regular Session would have allowed regional mental health agencies to discontinue participation in KERS for new hires, and in 2013, SB 168 would have allowed the Kentucky Retirement Systems and Teachers Retirement System to discontinue participation for new hires provided an actuarial study was completed, the employer offered an alternative retirement plan, and the employer paid the full actuarial cost for discontinuing participation for the new hires. Similarly, in 2014, SB 216 would allow certain agencies to voluntarily discontinue participation in the KERS and CERS plans provided that they pay the actuarial costs for no longer participating, and establishes a single process for both plans where the board can require an agency to discontinue participation if it is no longer eligible to participate in the governmental plan or if the agency fails to pay the employer contribution rates. Those agencies that could potentially voluntarily discontinue participation in KERS would be the mental health agencies and quasi-state agencies such as the Commonwealth Credit Union, Kentucky Employers' Mutual Insurance, and other non-stock, non-profit corporations.

Chair Yonts asked if there was a timeline for a federal bankruptcy judge to render a decision, and Mr. Thielen indicated that he was not aware of any timeline, but that the judge at the conclusion of the case gave the parties until April 8, 2014, to file proposed findings of fact and conclusions of law. Chair Yonts also indicated that SB 216 would be taken up in the next House State Government Committee meeting, for discussion only, and asked Mr. Thielen if SB 216 were passed into law what message would it send to a bankruptcy judge and how many more agencies are likely to follow the actions of these other entities that have questions pending before the courts. Mr. Thielen said that there were 13 mental health and mental retardation agencies that could follow the actions of the agencies currently pending in the courts. Mr. Thielen indicated that he was unsure of the effect it would have on the judge, and that the retirement board had taken no official position regarding SB 216. However, the board indicated that the legislation should be monitored to make sure that it did not adversely impact the systems, and that the proposed legislation may help prepare for any new IRS guidelines, which some of the participating agencies would potentially not qualify under. Mr. Thielen said that the new guidelines may provide that currently participating entities would be grandfathered in to governmental plans, but that no new entities would be permitted to join in the future or the guidelines may require a process for dealing with those entities and SB 216 would provide that process.

Mr. Thielen said the other mental health and mental retardation entities are watching the outcome of the current lawsuits and could take similar action. According to the actuary, the overall contribution rate increase for the systems over a 20 year period would be about $2.4 billion if all of those entities ceased participating.

There being no further business or discussion, the meeting adjourned at approximately 1:30 p.m.

TASK FORCE ON THE UNIFIED JUVENILE CODE

Minutes of the 10th Meeting of the 2013 Interim

December 19, 2013

Call to Order and Roll Call

The 10th meeting of the Task Force on the Unified Juvenile Code was held on Thursday, December 19, 2013, at 1:00 PM, in Room 171 of the Capitol Annex. Senator Whitney Westerfield, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Whitney Westerfield, Co-Chair; Representative John Tilley, Co-Chair; Harry L. Berry, Hasan Davis, Glenda Edwards, Steven Gold, Teresa James, Lisa P. Jones, Bo Matthews, Mary C. Noble, and John Sivley.

Guests:

LRC Staff: Matt Trebelhorn, Jessica Causey, Ray DeBolt, and Kathy Miller.

Senator Whitney Westerfield called the meeting to order. A motion was made by John Sivley and seconded by Lisa Jones to approve the minutes of the Juvenile Code Task Force (JCTF) meeting from November 19, 2013.

Members were provided a copy of the proposed final report and given time to read the proposed changes. A motion was made by Steve Gold to allow the co-chairs and LRC to edit for publication. The motion was seconded by John Sivley and adopted by voice vote. A motion was made by Glenda Edwards to change recommendation number 8 on page 9, by adding "and families" after "to assist schools."

The motion was seconded by Steve Gold and accepted by voice vote. A motion was made by Hasan Davis to adopt the *Report of the 2013 Task Force on the Unified Juvenile Code* as amended. The motion was seconded by John Sivley. The roll was called resulting in 11 yay, 0 nay, and 0 pass votes. Mr. Bo Matthews joined the JCTF meeting via teleconference and was counted as a yay vote. The Report of the 2013 Task Force on the Unified Juvenile Code will be reflected as adopted as amended.

Rep. Tilley thanked members for their thoughtful, detailed, and knowledgeable two years of work that will lead to effective and responsive legislation. Rep. Tilley also thanked the PEW team for presenting the task force with national trends on treatment of juveniles.

A motion was made by John Sivley to adjourn the Unified Juvenile Code Task Force sine die. The motion was seconded by Lisa Jones and passed by voice vote.

The Unified Juvenile Code Task Force adjourned sine die at 3:00 PM.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

January 8, 2014

Call to Order and Roll Call

The meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Wednesday, January 8, 2014, upon adjournment of both chambers, in Room 129 of the Capitol Annex. Representative Wilson Stone, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Jimmy Higdon, Dennis Parrett, and Robin L. Webb; Representatives Mike Denham, Tom McKee, Terry Mills, Ryan Quarles, and Jonathan Shell.

Guests: Joel Neaveill, Bill McCloskey, Angela Blank, Brian Murphy, and Biff Baker.

LRC Staff: Lowell Atchley, Kelly Ludwig, and Kelly Blevins.

The December 4, 2013, minutes were approved, without objection, by voice vote, upon a motion by Senator Parrett and seconded by Representative Mills.

Governor's Office of Agricultural Policy

Mr. Joel Neaveill, Chief of Staff, and Mr. Bill McCloskey, Director of Financial Services, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ABD) during its December 2013 meeting.

GOAP officials summarized funding allocations for the previous month under the County Agricultural Improvement (CAIP), Deceased Farm Animal Disposal Assistance, and Shared-Use Equipment programs. Following the overall review, some of the services offered and equipment acquired under programs Deceased Farm Animal Disposal and Shared-Use Equipment programs were explained.

GOAP staff provided details on the statewide and regional projects, which included: ProEquine Link, LLC, approved for $8,000 in state and county funds over a one-year period for the development of a Web-accessible, secure equine database; the Weekly Juicery, LLC, approved for $310,000 in state funds in the form of a $235,000 loan and a $75,000 grant to renovate a centralized manufacturing and distribution facility; Taylor County Cattlemen's Association, Inc., approved for $15,000 in Taylor County funds to implement a youth heifer chain for beef and dairy; Nicholas County Fiscal Court approved for $12,000 in county funds to construct and equip a kitchen within the Nicholas County Livestock Building; Nona's Downtown Market, LLC, approved for $5,000 in Daviess County funds to be used for upgrades at its retail facility that specializes in Kentucky Proud products; Fayette County 4-H Council, Inc., approved for $60,945 in county funds to construct a livestock barn for the Fayette County 4-H Livestock Club; Mercer County Fair and Horse Show, Inc. approved for $94,391 in state and $20,00 in Mercer County funds for the construction and permanent farmers' market structure; Muhlenberg County Fiscal Court, approved for $125,000 in state funds for the construction of a permanent farmers' market that will include commercial kitchens and classrooms; Rowan County Fiscal Court, approved for $7,000 in state and $7,000 in county funds for the construction of a permanent market facility in Morehead; and Simpson County Extension District Board, approved for $50,000 in state funds for the construction of a permanent open-air pavilion. Denied projects included Community Farmers Market, LLC, Warren County; Cave City Tourism and Convention Commission, Barren County; Sustainable Glasgow, Inc., Barren County; and From the Farm Market, Bourbon County.

Responding to concerns raised by Senator Webb, Mr. Biff Baker said the owners of ProEquine Link, LLC, will not control data, and the farm manager will enter information and make it available to the owner.

In response to a question by Senator Parrett, Mr. McCloskey responded that the question of competing companies came up, and that there is an application for this service. Mr. Baker noted there are similar types of data. The ProEquine Link system is very detailed and sophisticated and would be protected with passwords and other security measures.

Mr. McCloskey responded to Representative Stone's concern over the number of famers impacted by the Weekly Juicery, LLC, stating that the project has the potential to benefit farmers beyond what was listed in the application.

Mr. Neaveill commented on the Kentucky Agricultural Development Fund 2014 program revisions, noting that the Agricultural Development Board did not earmark farmers' market funding for 2014.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.

TOBACCO SETTLEMENT AGREEMENT FUND OVERSIGHT COMMITTEE

Minutes

March 10, 2014

Call to Order and Roll Call

The 2nd meeting of the Tobacco Settlement Agreement Fund Oversight Committee was held on Monday, March 10, 2014, at 2:00 PM, in Room 129 of the Capitol Annex. Senator Paul Hornback, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Paul Hornback, Co-Chair; Representative Wilson Stone, Co-Chair; Senators Carroll Gibson, Jimmy Higdon, and Dennis Parrett; Representatives Tom McKee, Terry Mills, and Ryan Quarles.

Guests: Roger Thomas, Joel Neaveill, and Biff Baker.

LRC Staff: Lowell Atchley, Hope Bow, and Kelly Blevins.

The January 8, 2014 minutes were approved, without objection by voice vote, upon a motion by Senator Gibson and seconded by Representative McKee.

Governor's Office of Agricultural Policy

Mr. Roger Thomas, Executive Director, and Mr. Joel Neaveill, Chief of Staff, Governor's Office of Agricultural Policy (GOAP), testified about project funding decisions made by the Agricultural Development Board (ADB) during its January and February meetings.

Mr. Neaveill summarized funding allocations from the February ADB meeting under the County Agricultural Improvement (CAIP), Deceased Farm Animal Removal Program, and Shared-use Equipment programs. Following the overall review, some of the services offered and equipment acquired under programs Deceased Farm Animal Disposal and Shared-use Equipment programs were explained.

Representative McKee commented that he was encouraged with the Deceased Farm Animal Disposal programs that are able to operate a free service to producers. Senator Parrett echoed Representative McKee's remarks and expressed the success in Hardin County. Senator Gibson encouraged GOAP officials to work more closely with the Transportation Cabinet to save resources in this area.

Mr. Neaveill provided details on the statewide and regional projects, which included: Metcalfe County 4-H Council, Incorporated, approved for $2,750 in Metcalfe County funds for its 4-H Country Ham project where youth will learn about the history, process, and science of curing hams, as well as food safety and meat production. Menifee County 4-H was approved for $1,400 in Menifee County funds for a ham curing facility to store youth ham projects.

The committee next received a status report on the Master Settlement Agreement (MSA) litigation pending in Franklin Circuit Court. The status report dealt with the ramifications of an arbitration panel's ruling last fall that Kentucky and other states in 2003 failed to diligently enforce escrow provisions involving tobacco companies not participating in the MSA. The adverse ruling could mean a future MSA payment reduction of an estimated $45-$50 million.

Mr. Thomas explained the Office of the Attorney General has filed two motions – one calling on the court to set aside the ruling and another to set aside an earlier settlement agreement involving tobacco companies and several states. The court had previously heard arguments on the motions.

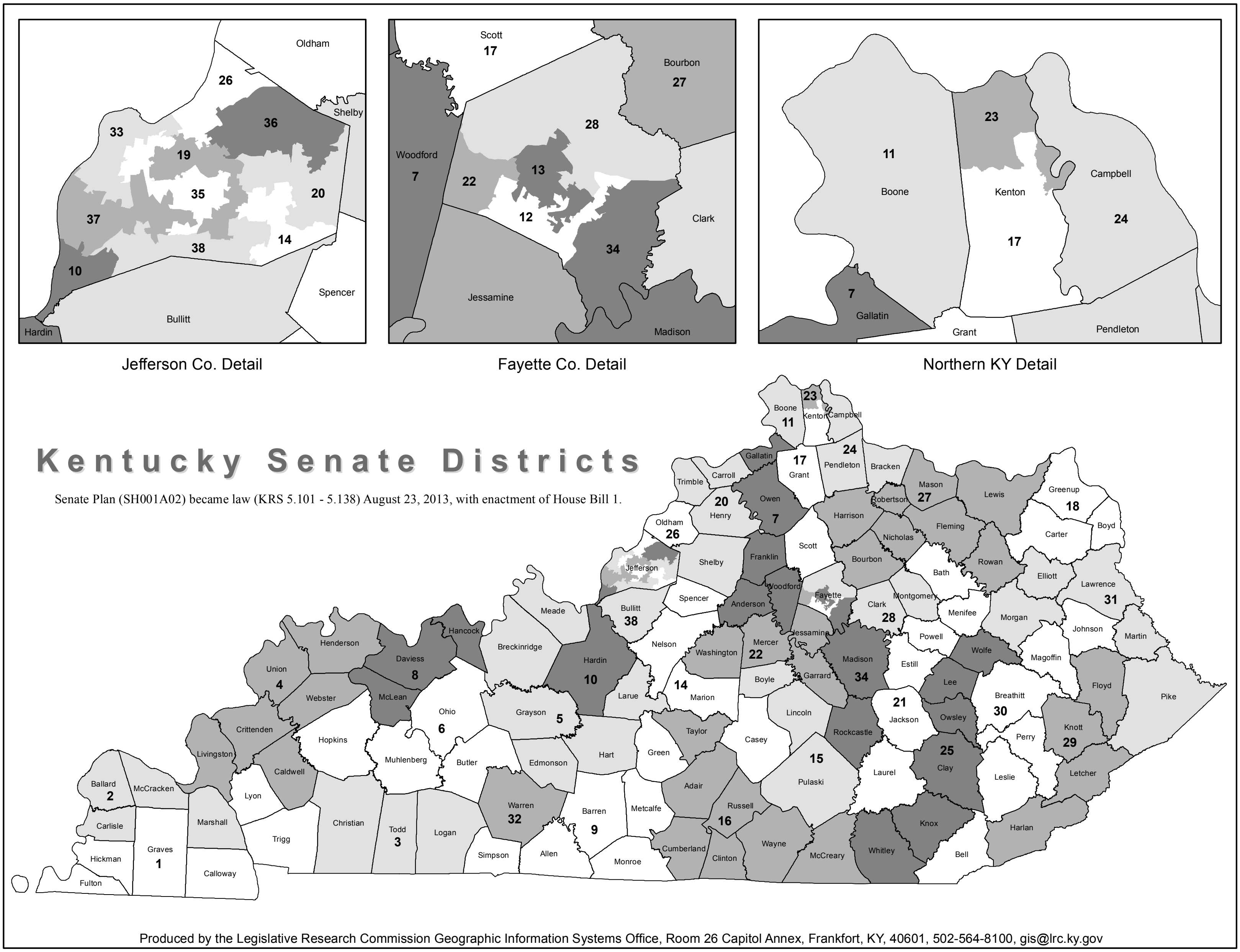
Mr. Thomas explained it may take some time for the Franklin Circuit Court to issue rulings. Because the arbitration ruling could affect the 2014 MSA payment, the Franklin Circuit Court has been asked to stay its decision this year. It was mentioned in the meeting that Kentucky usually receives its MSA payment around April 15.

Responding to Co-Chair Hornback, Mr. Thomas indicated that legal work on the case is essentially being done by outside council.

In a response to Senator Gibson, Mr. Thomas said the original MSA, agreed to in 1998, contains the guidelines on how enforcement was to work. According to his testimony, it is unclear what "diligent enforcement" means.

Mr. Thomas told Senator Hornback that in 2003, not all the legislation ultimately needed for MSA enforcement had been passed.

Documents distributed during the committee meeting are available with meeting materials in the LRC Library. There being no further business, the meeting was adjourned.


Kentucky Senate Districts
Senate Plan (SH001A02) became law (KRS 5.101 - 5.138) August 23, 2013, with enactment of House Bill 1.
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Spencer
Bullitt
Hardin
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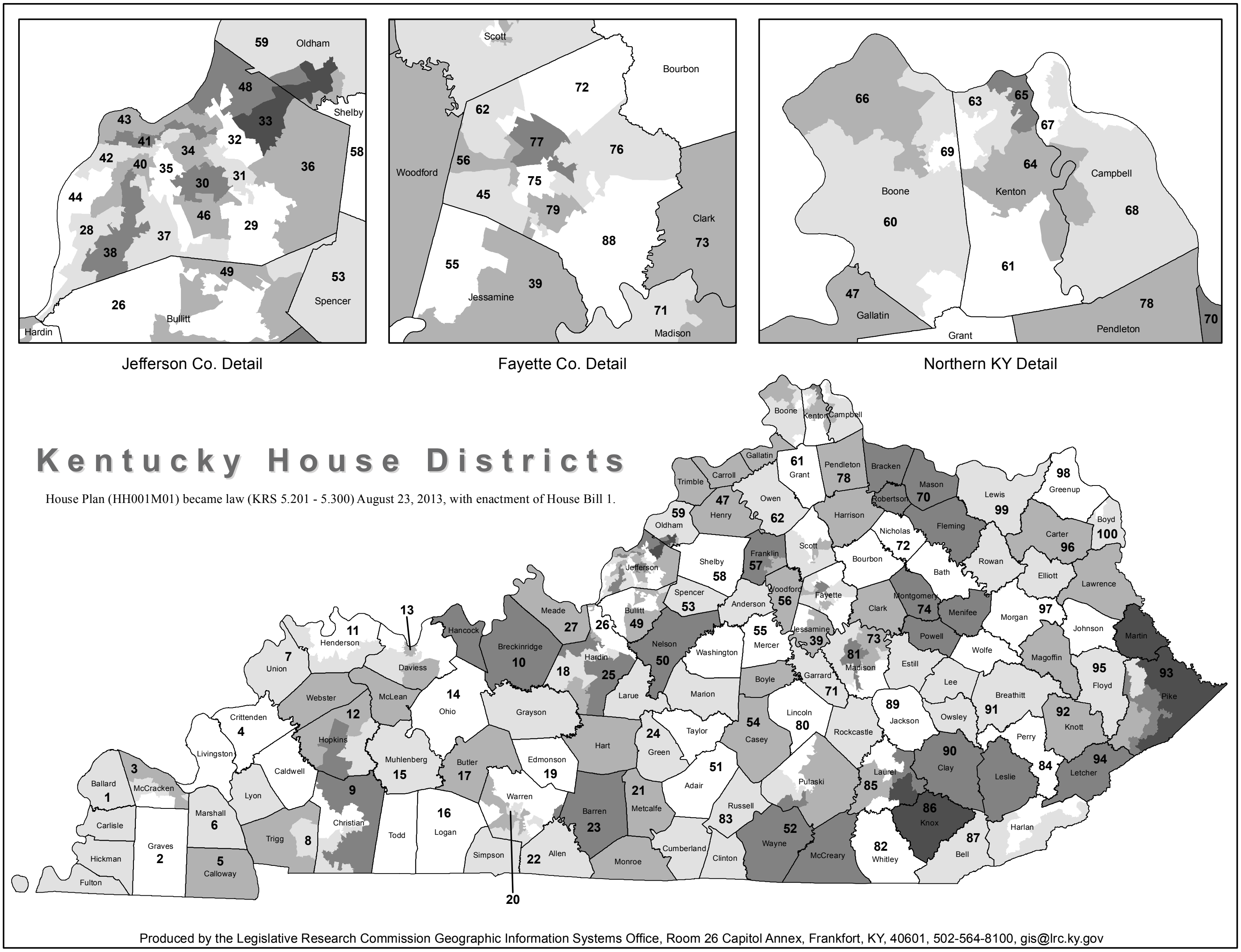
Kentucky House Districts
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