

MINUTES**SENATE & HOUSE INTERIM COMMITTEES ON
CITY, COUNTY, AND LOCAL AFFAIRS****May 23, 2017**

The Senate and House Interim Committees on City, County, and Local Affairs met Tuesday, May 23, 2017, at 2:00 p.m. in Room 209, Hot Springs Convention Center, Hot Springs, Arkansas.

Committee members present: Senators Alan Clark, Chair, Linda Collins-Smith, Lance Eads, and Stephanie Flowers. Representatives Carol Dalby, Jana Della Rosa, David Fielding, Mike Holcomb, Bob Johnson, Fredrick Love, Roger Lynch, Andy Mayberry, Johnny Rye, and Jeff Williams.

Other members present: Senators Linda Chesterfield, Joyce Elliott, Larry Teague, and Eddie Joe Williams. Representatives Fred Allen, David Branscum, LeAnne Burch, Bruce Cozart, Dan Douglas, Trevor Drown, Jon Eubanks, Vivian Flowers, Kenneth Ferguson, Jack Fortner, Mickey Gates, Ken Henderson, Lane Jean, Jack Ladyman, Mark McElroy, Ron McNair, Reginald Murdock, Clint Penzo, Laurie Rushing, Brandt Smith, James Sorvillo, Les Warren, Danny Watson, David Whitaker, and Carlton Wing.

Comments by the Chairs

Senator Alan Clark called the meeting to order. He explained that Representative Lemons was unable to attend the meeting. Senator Clark emphasized that discussion of the state's water resources is an important task the committees should address during interim meetings. Many smaller cities throughout the state are losing population, which creates a challenge for cities to maintain and pay for their water and wastewater systems.

Welcome Remarks – Arkansas Rural Development Conference

Alexandra Johnston, Director, Arkansas Department of Rural Services, welcomed legislators to the Arkansas Rural Development Conference. She suggested that legislators visit with the staff of the Arkansas Natural Resources Commission (ANRC) during the conference to obtain information about funding for current water projects in their districts.

Discussion of Water Resource Development [Exhibit D]

Crystal Phelps, General Counsel, ANRC, spoke about the abundance of water resources in the state. But, problems occur when two or more water or wastewater systems seek to provide service to the same service area.

Edward Swaim, Manager, Water Resources Management Division, ANRC, provided an overview of the responsibilities of the ANRC, which includes conducting surveys of water and wastewater systems, reviewing water quantity, water quality, and addressing infrastructure issues. He said the ANRC estimates that the financial infrastructure needs of the state by the year 2024 will be \$5.74 billion for drinking water and \$3.76 billion for wastewater use. Mr. Swaim reviewed procedures used by the ANRC:

- Water Plan Compliance- ANRC projects that there are multiple resource needs and limitations in water use patterns for water and wastewater systems. Engineering reports are needed and should be filed. Notification is made to water and wastewater systems within five miles of a proposed project, and public hearings are held.
- Factors for Approving Projects- proposed projects must have adequate revenues and a sufficient customer base to support a water or wastewater system. They must also be

able to provide maintenance and adequate resources for repairs and/or replacement. A minimum of 300 customers is the threshold for sewer projects to be financially viable over the life of the system.

- Master Water Plans- used with larger systems where there is a lot of growth. Planning for water and wastewater systems is based on population projections for that service area, including expanding city limits and/or rural areas that are gaining in population. The project planners for proposed systems are to file a master plan with the ANRC.
- Dispute Resolution- An example of a dispute was given showing that when a new water or wastewater system builds infrastructure using loans obtained from the federal government, or the ANRC general obligation bond program, a dispute can arise when an existing water or wastewater system within the specified service area files an objection based on the use of the government funding. Mr. Swaim explained that there have been circumstances when the Commission determined the service area would be better served by allowing a new system provider. In those instances, the ANRC works to mediate and resolve the dispute. The ANRC also provides a mechanism for the incoming provider to pay any indebtedness incurred.

Legislators discussed water resource issues and concerns. Mr. Fenter addressed questions regarding the regulatory authority of the Arkansas Public Service Commission (PSC). He said the PSC has authority only over private entities and does not have authority over water districts or the rates they charge to their customers. He said the ANRC has limited authority over water and wastewater systems. The PSC does have oversight of systems that obtain infrastructure funding through their bond program. The systems who receive these loans undergo a review by the ANRC to ensure that there are adequate funds to repay the loan. The systems are also required to retain funds in a depreciation reserve fund for any necessary repairs or future replacement of the system's infrastructure.

Mr. Fenter said the ANRC evaluates projects and the system's financial documents to ensure that their customer rates are adequate to repay any loans. A system must have licensed operators and a sufficient population within the community they serve to maintain the system. Mr. Fenter told legislators there is no state agency with full oversight over water and sewer system operations. At this time, receiving water service from a utility is not a right unless a utility has agreed to provide service. The ANRC does not have the authority to force a utility to provide service, nor is there an existing state agency with that authority. The ANRC tries to mediate problems and recommend communication channels to help resolve conflicts.

Legislators discussed consideration of a regulatory approach to water resources that would be statewide. Ms. Phelps said there are states who have chosen to regulate water systems and wastewater systems at the state level.

Senator Clark announced that a joint meeting of the Senate and House Agriculture, Forestry, and Economic Development Interim Committees is scheduled for 10:00 a.m., Wednesday, May 24, 2017, and a Senate State Agencies and Governmental Affairs Interim Committee is scheduled to meet at 9:00 a.m., Thursday, May 25, 2017 during the ARDC conference at the Hot Springs Convention Center.

There being no further business, the meeting adjourned at 2:45 p.m.