

**REPORT
OF THE
EXECUTIVE SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

April 20, 2018

Senator Bill Sample, Co-Chair
Senator Terry Rice, Vice Chair
Senator Jonathan Dismang
Senator Jim Hendren

Representative Jim Dotson, Co-Chair
Representative Jon S. Eubanks, Vice Chair
Representative Jeremy Gillam
Representative George B. McGill

We, the Executive Subcommittee of the Arkansas Legislative Council, met upon adjournment of the Joint Budget Committee meeting on March 5, 2018 in Committee Room B of the Big Mac Building, Little Rock, Arkansas. Co-Chair Bill Sample called the meeting to order and saw a quorum of members present. The members present are listed on the sign-in sheet.

Review of Department of Environmental Quality Emergency Rule

The subcommittee heard an explanation from Kevin White, Associate Director for the Office of Land Resources, of the emergency rule that was submitted by the Arkansas Department of Environmental Quality and titled Regulation No. 36, Used Tire Recycling and Accountability Program.

Without objection, the Executive Subcommittee reviewed and approved the proposed emergency rule, and the review and approval of the emergency rule was effective at 12:01 a.m., Wednesday, March 7, 2018.

Review of Department of Education Emergency Rules

The subcommittee heard an explanation from Lori Freno, General Counsel, of the following emergency rules that were submitted by the Arkansas Department of Education:

1. Rules Governing the Public School Rating System ("A-F");
2. Rules Governing Eligibility and Financial Incentives for National Board for Professional Teaching Standards Candidacy and Certification; and
3. Rules Governing Educator Licensure-Repeal of Policies Governing Educator Preparation Program.

Without objection, the Executive Subcommittee reviewed and approved the proposed emergency rules, and the review and approval of the emergency rules was effective at 12:01 a.m., Wednesday, March 7, 2018.

Review of Arkansas State Plant Board Emergency Rule

The subcommittee heard an explanation from Terry Walker, Director Arkansas State Plant Board, of the emergency rule on Arkansas Regulations on Pesticide Classification and Use of Enlist One, which was submitted by the Arkansas State Plant Board within the Department of Agriculture.

Without objection, the Executive Subcommittee reviewed and approved the proposed emergency rule, and the review and approval of the emergency rule was effective at 12:01 a.m., Wednesday, March 7, 2018.

Review of Department of Human Services Emergency Rule

The subcommittee heard an explanation from David Sterling, Chief Counsel, of the emergency rule on the DHS Appeals and Hearings Policy to provide specific protection for minors testifying in Division of Children and Family Services (DCFS) maltreatment hearings, that was submitted by the Department of Human Services.

Without objection, the Executive Subcommittee reviewed and approved the proposed emergency rule, and the review and approval of the emergency rule was effective at 12:01 a.m., Wednesday, March 7, 2018.

Director's Report

Director Marty Garrity delivered her Director's Report and updated the subcommittee of the status of the amicus brief in the case of *Protect Fayetteville v. The City of Fayetteville*.

Director Garrity also informed the members that the Bureau has developed a form for use by state agencies in reporting litigation in compliance with Arkansas Code Annotated § 10-3-312(a)(2) and wishes to notify the state agencies by letter, with the permission of the Executive Subcommittee. Upon the passage of a motion by Representative Dotson, the Executive Subcommittee approved notifying the agencies of the reporting requirement.

Director Garrity also provided the members an overview on the status of compliance with Act 781 of 2017, which provides a process to sunset state agency regulations.

There being no further business before the subcommittee, the meeting was adjourned.

Respectfully submitted,

Senator Bill Sample and Representative Jim Dotson, Executive Subcommittee Co-Chairs

BS/JD/MG:vjf

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We, the Executive Subcommittee of the Arkansas Legislative Council, met at 12:00 noon on April 19, 2018 in Room 205 of the State Capitol Building, Little Rock, Arkansas. Co-Chair Bill Sample called the meeting to order and saw a quorum of members present. The members present are listed on the sign-in sheet.

Review of Department of Human Services Emergency Rule

Mr. Kelley Linck and Ms. Mary Franklin, representing the Department of Human Services, provided the subcommittee with an explanation of the emergency rule concerning Arkansas Works Program Updates that was submitted by the Arkansas Department of Human Services, Division of County Operations.

Without objection, the Executive Subcommittee reviewed and approved the proposed emergency rule, and the review and approval of the emergency rule will be effective upon adjournment of the Legislative Council meeting on Friday, April 20, 2018.

Amendment to Legislative Council Rules

The subcommittee discussed the proposed amendment to Legislative Council Rule 5.(a)(3), concerning the votes required for approval of transfers from the Long Term Reserve Fund, pursuant to Arkansas Code § 19-6-486, and transfers from the Restricted Reserve Fund, pursuant to Arkansas Code § 19-5-1263. Jillian Thayer, Legal Counsel to the Director, explained the changes to the Legislative Council Rules if the amendment is adopted. Ms. Thayer and Marty Garrity, Director of the Bureau of Legislative Research, answered questions. Following discussion, the Executive Subcommittee requested revisions to the language of the amendment.

Upon the passage of the motion by Senator Jonathan Dismang, the Executive Subcommittee recommends that the revised amendment to Legislative Council Rule 5.(a)(3) be adopted.

Director's Report

Director Marty Garrity delivered her Director's Report and noted that the Performance Evaluation and Expenditure Review (PEER) Subcommittee received from the Office of State Procurement, a report concerning an emergency procurement. Ms. Garrity asked the subcommittee for advice on whether moving forward the emergency procurement reports should be submitted to the PEER Subcommittee or the Review Subcommittee. The subcommittee advised that the report should be submitted to the Review Subcommittee.

Director Garrity also noted that the Lottery Oversight Subcommittee will take up this afternoon a request for the transfer of funds. Ms. Garrity asked the subcommittee for advice on whether this request should be reviewed by the Lottery Oversight Subcommittee or the Performance Evaluation and Expenditure Review (PEER) Subcommittee. Following discussion, the subcommittee advised that the matter be referred to the full Legislative Council for review and moving forward, these items should be referred to the PEER Subcommittee.

Director Garrity also gave a report on the various professional activities of the Bureau of Legislative Research. This concluded the Director's report.

Discussion of Process for Review of Rules

The subcommittee also discussed the process required by law for the review of state agency recommendations regarding the sunset of agency rules.

There being no further business before the subcommittee, the meeting was adjourned.

Respectfully submitted,

Senator Bill Sample and Representative Jim Dotson, Executive Subcommittee Co-Chairs

BS/JD/MG:vjf

Proposed Amendment to ALC Rules 5.(a)(3), as set forth in Act 7 of the 1st Extraordinary Session of 2017 and Act 260 of the 2018 Fiscal Session:

(3) Performance Evaluation and Expenditure Review Subcommittee. To this subcommittee shall be referred matters pertaining to:

(A) The financial operation and fiscal performance of state agencies, departments, and institutions, including but not limited to;

(i) Program performance and evaluation;
(ii) Efficiency in the operation of agency programs and services;

(iii) Coordination of programs and services that require the expenditure of state funds;

(iv) The stability and adequacy of the various funds and fund accounts of the state, including without limitation:

(a) Approval of transfers from the Long Term Reserve Fund require prior approval of the Performance Evaluation and Expenditure Review Subcommittee, and, pursuant to Arkansas Code § 19-6-486, final approval of two-thirds (2/3) of the members of the Legislative Council; and

(b) Approval of transfers from the Restricted Reserve Fund require approval of the Performance Evaluation and Expenditure Review Subcommittee, and, pursuant to Arkansas Code § 19-5-1263, final approval of the greater of three-fifths (3/5) of the quorum present or a majority of the membership of the Legislative Council; and

(v) Other matters pertaining to agency performance and accountability in the use of public funds, which are not otherwise within the jurisdiction of another subcommittee of the Legislative Council;

(B) The organization, consolidation, merger, or abolishment of a state agency, board, commission, or program; and

(C) Other matters as may be assigned to the subcommittee by the Legislative Council;