



JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY
March 4, 2014
Room 643 of the Legislative Office Building

The Joint Legislative Commission on Energy Policy met on Tuesday, March 4, 2014 at 1:30 PM. The meeting was held in Room 643 of the Legislative Office Building. Representative Mike Hager presided.

Members present were: Senator Bob Rucho, Chair, Representative Mike Hager, Chair, Senator Andrew Brock, Senator Kathy Harrington, Senator Gene McLaurin, Senator E.S. (Buck) Newton, Senator Ronald Rabin, Senator Trudy Wade, Representative James L. Boles, Representative Rick Catlin, Representative Ken Goodman, and Representative Mike Stone. Dr. Jeff Warren, Senate Senior Policy Advisor; Andy Munn, House Senior Policy Advisor; Emily Wilson, House Policy Advisor; Ms. Jennifer Mundt, Commission Analyst; Ms. Jennifer McGinnis, Mr. Peter Ledford, Mr. Jeff Cherry, Commission Counsel; Lindsey Dowling and William Verbiest, Commission Clerks; and Sergeants-At-Arms Carlton Adams, Ken Kirby, and Billy Fritscher. Attachment #1 and Attachment #2.

On February 24, 2014 and March 3, 2014, notices were sent to members and interested parties via e-mail. Copies of the notices are included in the attachments to these minutes as Attachment #3 and Attachment #4. Copies of the agenda for the meeting and visitor registration sheets are included in the attachments to these minutes as Attachment #5 and Attachment #6.

Call to order and introductory remarks

Representative Hager called the meeting to order at 1:34 PM and welcomed members, staff, and visitors in attendance. Representative Hager started off with opening remarks from Senator Rucho and by introducing the Sergeants-At-Arms. Representative Hager proceeded to the third item on the agenda to approve the minutes from January 7, 2014. Senator Harrington made a motion to approve the minutes and the motion passed.

Report on activity of the Energy Policy Council

Representative Hager recognized Lieutenant Governor Dan Forest. Lt. Gov. Forest provided a report on the latest activity of the Energy Policy Council, along with the Council's plans for the short and long sessions moving forward. Lt. Gov. Forest stressed that North Carolina needs a sound energy policy which is the reason for the existing council. A copy of the report is attached to these minutes as Attachment #7. No questions were asked by the members.



Report from the Office of the Governor on development of a regional interstate offshore energy policy compact pursuant to S. L. 2013-365/S76, Sec. 7

Representative Hager recognized Mr. Donald R. Van der Vaart, Ph. D, J.D., P.E., Energy Policy Director of the Department of Environment and Natural Resources. Dr. Van der Vaart, on behalf of the Governor's office, presented an update of the developments in offshore energy exploration. He stressed that the United States Department of Interior (DOI) is in charge of this due to the offshore being federal jurisdiction. In 2013, Governor Pat McCrory joined the Outer Continental Shelf Governors Coalition (OCS) to work with the federal government with the goal of offshore energy exploration. OCS is compiled of 8 states. The offshore data resources are not well defined and which date back 30 years. There is great interest in DOI allowing seismic testing, the technology has greatly improved. Senate Bill 76 and OCS encourage DOI to perform a Programmatic Environmental Impact Statement (PEIS), which was issued in February 2014. This will allow for a framework of permit applications that can be received for seismic testing. DOI is allowing North Carolina to take the next step towards developing offshore resources. Possible revenue sharing was discussed; federal government views this as a cost to share with state entities, under certain circumstances they may allow limited sharing with states. OCS is encouraging ongoing communications with staff at DOI, including various mechanisms for example an Offshore Energy Committee in which DOI discourages due to formalities associated. DOI did encourage OCS to discuss with staff the development of their 5-year offshore exploration plan. Representative Hager opened the floor and the following questions and comments were made:

Newton

- Asked to elaborate on what process has been made on forming of a compact? Dr. Van der Vaart replied that when Senate Bill 76 passed, the PEIS was hoped to have been issued much sooner. He feels OCS is the most efficient and effective way to work with the federal government and OCS might grow to other states, i.e. Alaska. If OCS does not move forward in their plans, they will look at a three state compact, which looks for congressional action.
- Asked if there has been any correspondence with the other states towards the beginning of forming the compact? Dr. Van der Vaart replied that there has been communication in OCS when Virginia elected their new Governor. They're doing everything they can to ensure Virginia remains a member of OCS, which looks like they will. There is correspondence of the goals outlined in Senate Bill 76. He apologizes for not getting more of the correspondence North Carolina has had.
- Commented that he would like to get correspondence available to the Commission by their next report and wants to know why the administration wouldn't want to push a broad front of offshore development, he encourages the administration to encourage pushing forward as well as working with OCS. Dr. Van der Vaart replied that he can work on developing a framework for a three state compact for the next report.



Catlin

- Asked what is our distance restriction with offshore drilling? Dr. Van der Vaart replied that in the 5-year plan they're looking at 50 miles offshore of interest.
- Asked how are we going to perform seismic testing in a safe way without impacting marine health? Dr. Van der Vaart replied that the PEIS explains the process with passive acoustic testing, which is to be used first if marine life is present and no seismic testing is to be done if marine life is found.
- Asked for technical explanations of all the issues. Dr. Van der Vaart said he would provide them.

Brock

- Responded to Rep. Catlin saying that the United States Geological Survey has been performing passive acoustic testing prior to seismic testing on the east and west coasts.

Hager

- Requested that Dr. Van der Vaart work with Senator Newton to true up what the administration is doing versus what the statute states in Senate Bill 76 to make sure it is matching up. If anything needs to be changed in Senate Bill 76 to match the administration, it can be taken up in the short session.

Follow-up on January presentation concerning addition of propane fuel option to State's school bus bidding form, including status of award(s)

Representative Hager recognized Ms. Dee Jones, Chief Operating Officer of the Department of Administration. Ms. Jones introduced herself and provided a follow-up from January's presentation of the propane fuel option to State's school bus bidding form. The contract was awarded to multiple vendors on December 30, 2013. The three vendors were: Whites International Trucks, Thomasville, and Gregory Poole Blue Bird. The RFP included the following fuel options: diesel engines and propane engines. To date there have been no inquiries or complaints to purchase and contract about the inclusion of propane as a fuel source option. The Department of Public Instruction (DPI) is still testing propane engines versus diesel engine options and has not made results public to LEAs. 183 buses have been ordered to date under the new contract, all calling for diesel fuel. Compressed Natural Gas (CNG) engines are not yet available or in production. Representative Hager opened the floor and the following questions were asked:



Newton

- Asked if there have been any protests filed due to the new school bid contracts? Ms. Jones said there was one filed.
- Asked if she could elaborate to the Commission what the protest is focused on? Ms. Jones replied that she did not have the details but that Mr. Derek Graham, who would speak next, would have more information.

Representative Hager recognized Mr. Derek Graham, Section Chief for Transportation Services with the Department of Public Instruction (DPI). Mr. Graham made himself available for any questions from the Commission. He started off in reply to Senator Newton's previous question about the protests in saying the contract was awarded to three vendors, and the protest has to do with multiple vendors available. The protest was filed by White's International, who was under the impression that with them submitting the lowest bid that they should've been awarded the entire contract. When the RFP went out, it stated that the bid would be awarded to multiple bidders. The propane pilot tests have been concluded at the end of December and they are compiling the results, which will be posted on DPI's website. There are currently three school districts operating on propane to gain experience and to draw their conclusions.

Newton

- Asked what the parameters were for multiple vendors on the contract? Mr. Graham replied that it was clearly stated in the contract that the State intended to award to multiple vendors. DPI has been doing this since 2009.
- Asked if it was clearly stated there would be multiple bidders? Mr. Graham replied yes.
- Asked what the criteria were for additional bidders to be available on the contract? Was there a percentage spread to be available? Mr. Graham replied there was not, there are very specific detailed specifications that DPI looked at in awarding the vendors. Mr. Graham stated to the Chair that because of the protest hearing who could not say more.

Rucho

- Asked how many gallons of diesel the school system use on an annual basis and the miles traveled? Mr. Graham replied that it is somewhere around 27 million gallons of diesel multiplied by 6.5 miles per gallon.
- Asked that if the price per gallon is approximately \$4.00? Mr. Graham replied \$3.30 was the last price he saw.
- Asked when talking about efficiencies in the contract put forward, if there were CNG buses but not of the design they're interested in? Mr. Graham replied that the only CNG buses that are available are Type D transit buses with a flat nose;



they have not purchased those due to the performance of the buses not relating to the fuel type.

- Asked if the bus that a North Carolina company fabricates with a CNG engine is not the design DPI prefers? Mr. Graham replied that he is correct and the Type C bus, which is what DPI prefers, in a CNG model would not be developed until 2015.
- Asked has DPI approached Thomasville about producing what we want to purchase? It has been announced the intentions to go forward. Once started, DPI would go into discussions to do tests with those types of buses as they have done with others.
- Asked what is the average cost of CNG? Mr. Graham did not know.
- Asked, with CNG being around \$2.00 per gallon, wouldn't it be smart for DPI to be aggressive to get CNG buses produced to save money and use the savings in the classroom rather than on the highway? Mr. Graham replied that it is his understanding that with the CNG buses and the ones they have experience with, there were some infrastructure costs associated with that. DPI has some places that would be more suitable for CNG than others where natural gas is not available. If DPI sees a bus available on the market, they are certainly interested in testing the product to get more experience with that fuel.
- Asked if he had a chance to visit the Thomasville bus with a CNG engine when it was parked in front of the legislature? Mr. Graham replied that he did.
- Commented that DPI should be more aggressive in their interest of the cost savings and environmental savings that occur by changing fuels.

Stone

- Asked why wouldn't DPI use a Type D bus, especially if it holds the same amount of seats? Mr. Graham replied that when they started to bring in a Type D, the engine is in the rear. In the mid-90's they began to acquire the buses, and found over the years that school districts were running into problems with the buses from driving on, for example a dirt road, with debris getting sucked into the rear of the bus and ruining the performance. The school districts had to become more aware of where they ran the Type D buses to ensure a positive performance. Also, they're much more expensive to operate due to the weight and efficiency. There is data to show they're much more expensive to operate. They currently have remote fueling to serve the buses when they're not running during the school day, but a CNG engine would not have that same opportunity, buses would have to go to a station. They will look at a remote fueling option once CNG Type C buses become available.
- Commented that he could see the Type D bus being an issue in rural areas; however CNG should be made available, especially for metropolitan areas which most miles are put on. Rep. Stone continued to say that hopefully DPI can look at CNG as an option and have each school district make a determination of what



would work best for them and we will not get to that point if we do not have this as an option.

Catlin

- Asked about an adjusting fuel tax study? Rep. Hager stated that both Chairs have been discussing the study and that may be on the larger bill coming out of Commission.

Hager

- Asked if from the speaker before, if all of the 183 buses that were ordered if they were all diesel powered engines? Mr. Graham replied yes.
- Asked how they determine that, is it based on a life cycle cost? Mr. Graham replied that it's a decision by the school districts. Mr. Graham said they have not had the experience with late-generation fuels to have a lot of options. The schools currently testing propane fueled buses are interested in getting their replacement school buses powered by propane. The infrastructure currently set up is for diesel.
- Asked on determining a fuel source, is there an effort underway of working with DENR to determine where we can put alternative fuel buses, certainly in non-attainment areas? Mr. Graham replied that they are working with DENR; in fact they're receiving an award for their Clean School bus Initiative. Today it is not about emissions anymore, they're looking at dependence on foreign oil and price of operation.

Rabin

- Asked if there is a timeline for a plan of diesel, CNG, and propane? Mr. Graham replied that if Thomasville sticks to their plan of having a CNG bus available in 2015, they will work with them in getting North Carolina school buses powered by CNG in the right counties.
- Asked what the timeline is to drive the issue of what fuel source to buy? Mr. Graham they will keep following the evolution of technologies moving forward. This year, there are about 400 buses to be replaced, in which most of those will be diesel fueled. The contract in place is through next year's cycle. There is new legislation that requires DPI to run buses 250,000 miles instead of 200,000 miles. The propane engine is more heavy duty than diesel. DPI will sit down with Thomasville and encourage them to provide a timeline for a CNG fueled Type C buses that can be provided to the Commission.



Overview of severance taxes in other states

Representative Hager recognized Mr. Michael A. Hannah, Senate Tax Counsel and Ms. Heather Fennell, Commission Counsel. Ms. Fennell and Mr. Hannah provided an overview of severance taxes in other states. A copy of their presentation is attached to these minutes as Attachment #8. Representative Hager opened the floor and the following questions were asked:

Brock

- Asked what were some of the last states to do a revamp or to reduce some of their laws? Mr. Fennell replied that Arkansas was the most recent entrant when they changed their laws and Colorado has recently adopted its graduating program.

There being no further business, the meeting adjourned at 2:52 PM.

Representative Mike Hager
Presiding

Lindsey Dowling, Committee Clerk