

STATE OF ARKANSAS
BOARD OF APPORTIONMENT
MINUTES

The meeting of the Board of Apportionment was held,
Wednesday, March 16, 2011, in the Supreme Court Courtroom, State
Capitol, beginning at 8:30 a.m.

BOARD MEMBERS:

GOVERNOR MIKE BEEBE

ATTORNEY GENERAL DUSTIN McDANIEL

SECRETARY OF STATE MARK MARTIN

ALSO PRESENT:

DOUG MATAYO, Secretary of State's Office

A.J. KELLY, Secretary of State's Office

REBECCA BARFIELD, Secretary of State's Office

PAUL LOUTHIAN, DF&A

Media and the public

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P R O C E E D I N G S

GOVERNOR BEEBE: All right. I guess the first meeting of the Board of Apportionment will come to order.

I'm familiar with the work of this body, having been first interested in it, being interested in it in 1980 as an outsider interested in running for the Senate. But then in '90 and then in 2000 for obvious different reasons, but I've never been sitting here, and I guess none of us have ever been sitting here, so -- so it's all relatively new to us.

I guess the first thing we need to do is probably talk about staff, hiring an executive director or whatever we call them to run the thing. And I assume that that's what we -- I think the bill that was written, doesn't it contemplate three employees or something like that?

MR. MCDANIEL: (Nodding head up and down.)

GOVERNOR BEEBE: However, having said that, I think the bill is for the next fiscal year, and that won't work. So we'll have to have a supplement -- wait a minute, Paul.

Am I saying something wrong?

Why don't you come around here and sit since you're DF&A's main man about all this stuff and you

1 know where all the money is and etc.

2 Sorry to put you on the spot.

3 Is there staff contemplated in the legislation?

4 MR. LOUTHIAN: I believe so.

5 GOVERNOR BEEBE: Or do we need to do something
6 here to request supplementals or what?

7 MR. LOUTHIAN: Yes, sir. I believe you would need
8 to ask for supplemental positions for the rest of this
9 fiscal year.

10 GOVERNOR BEEBE: Okay. Now, the only funding that
11 we have right now is \$200,000, less what's been spent.

12 MR. LOUTHIAN: That's correct, sir.

13 GOVERNOR BEEBE: Which we need to talk about
14 because you spent some money I don't think -- I think
15 legally you couldn't spend yet, so -- I mean I don't
16 think. Maybe you've got an answer for that.

17 MR. MARTIN: I'm not aware of any significant
18 expenditures that wasn't made by the prior
19 administration as far as the purchase of software and
20 the facilities it was actually made available, that was
21 made available when I took office. So I'm -- I have to
22 assume that all of the expenditures have been
23 appropriate up to this point.

24 GOVERNOR BEEBE: Well, and maybe you didn't, maybe
25 your staff did this, but there are -- according to, I

1 guess, DF&A records, there has been about \$70,000 spent
2 out of this proclamation for a vehicle, for a car, and
3 for employees and for consulting that I -- you probably
4 want that in your budget instead of in this budget,
5 don't you?

6 MR. MARTIN: Okay. Just, you know, whatever is
7 actually appropriate, how to actually work that out.

8 GOVERNOR BEEBE: Okay.

9 MR. MARTIN: I'm not aware of anything that's been
10 inappropriately spent but we can work that out.

11 GOVERNOR BEEBE: Well, right now let's -- don't
12 say inappropriately, that's a bad choice of words.
13 Let's say -- maybe we just need to talk about this
14 after a while. Okay?

15 MR. MARTIN: Certainly. I think that this can all
16 be worked out.

17 GOVERNOR BEEBE: Okay. Mr. Attorney General?

18 MR. McDANIEL: Okay. Well, I would just point out
19 that as a board, discussions like that actually need to
20 be handled in public.

21 GOVERNOR BEEBE: Very good point. We'll discuss
22 it in public.

23 All right. The first thing is an executive
24 director. Right?

25 MR. LOUTHIAN: Yes, sir.

1 GOVERNOR BEEBE: And that's contemplated in the
2 law but we need a supplemental position?

3 MR. LOUTHIAN: Yes, sir.

4 GOVERNOR BEEBE: We have somebody that has some
5 experience, I think, that's said something. What's his
6 name?

7 MR. McDANIEL: I received a call indicating that a
8 former attorney or staff person with the Secretary of
9 State's Office named Joe Woodson, I have received no
10 application or resumé, but I was indicated that he's
11 been well trained and that, apparently, on good terms,
12 I don't understand -- I don't understand there is any
13 kind of improper termination of cause but certainly we
14 would have to ask you about that. But I was told that
15 he is no longer employed and would be a very good
16 potential hire, and so obviously to the extent it's a
17 personnel matter, I wanted to ask you about that.

18 MR. MARTIN: There is no personal or performance
19 issues with Joe Woodson.

20 MR. McDANIEL: That's what I was told, so I have
21 no problem with making a recommendation to see if he's
22 available and interested.

23 GOVERNOR BEEBE: And do you --

24 MR. McDANIEL: And we can extend the job to him if
25 he wants to take it.

1 GOVERNOR BEEBE: Is that all right with you?

2 MR. MARTIN: That's fine.

3 GOVERNOR BEEBE: I'll accept that as a motion that
4 we inquire of Mr. Woodson about his interest in being
5 an executive director, whatever you -- whatever Paul
6 and then end up calling him in the -- in the hierarchy
7 of things, that's -- and you're second --

8 MR. MARTIN: I believe that position in the past
9 has actually been referred to as a redistricting
10 coordinator.

11 GOVERNOR BEEBE: Okay. Redistricting coordinator,
12 then. We'll call him redistricting coordinator. Is
13 that okay?

14 MR. MARTIN: Yes, sir.

15 GOVERNOR BEEBE: Okay. And then without any
16 further ado, that will be the first step.

17 What's our second step?

18 MR. McDANIEL: May I?

19 GOVERNOR BEEBE: Sure. Either one of you.

20 MR. McDANIEL: Well, just as we were walking in
21 the door, Governor, you gave me a copy of this, and I
22 understand you've now given the Secretary of State a
23 copy.

24 GOVERNOR BEEBE: Well, I took it back.

25 MR. McDANIEL: Okay.

1 GOVERNOR BEEBE: But I'll give it back to him.

2 MR. McDANIEL: And obviously we need to discuss
3 the expenditures that have been made heretofore, but
4 truthfully, I don't know -- I know that a proclamation
5 was made, the original budget for the board itself did
6 not successfully make it through the legislative
7 process, and so a supplemental appropriation was made
8 and I don't know if that was made to the Secretary of
9 State's Office, in which case the secretary has
10 discretion on how to spend it, or if it was made to the
11 board, in which case it requires two of the three of us
12 to expend it, so that would have to be I guess the
13 initial question.

14 GOVERNOR BEEBE: Well, it wasn't a supplemental
15 appropriation.

16 When -- and I actually vetoed the appropriation
17 because they were taking money out of, as I recall, for
18 local projects that ran counter to what I thought was
19 both good public policy as well as the Supreme Court
20 dictates and so the Board of Apportionment didn't have
21 an appropriation from the last fiscal session. So I
22 released \$200,000 from the Governor's Emergency Fund by
23 proclamation specifically for the board, with the
24 Secretary -- I released it to the Secretary of State's
25 Office, and the Secretary of State is the disbursing

1 agent and it's for the Board of Apportionment. So it
2 is Board of Apportionment money but the paying agent,
3 like it's always been, like it was housed in the
4 Secretary of State's Office.

5 MR. MARTIN: Yes, I'm kind of familiar with the
6 process there. One of the things about that that I
7 just assumed is that since the expenditures for
8 redistricting had already been made without the meeting
9 of the Board of Apportionment for software and
10 materials like that, I was under the understanding that
11 that was a discretion for the Secretary of State for
12 the expenditures of moving forward with redistricting.
13 There is, in support of redistricting, the Secretary of
14 State's Office actually does some work with the
15 counties, there is a lot of work intently helping the
16 counties with their redistricting process, in which
17 case an automobile was necessary. And then also at the
18 time I thought that I was responsible for actually
19 providing the election coordinator, from all the
20 documents that I had actually seen of how it's been
21 done in the past, so we went about actually hiring a
22 redistricting coordinator at that time. So any of
23 the -- any expenditures I think are within what is the
24 normal process, considering that the redistricting
25 board has not met until this -- this late date. I mean

1 in the past those expenditures were made after the
2 redistricting board was made, but I didn't see in the
3 minutes where there was any decisions on how those
4 expenditures was going to be made. So up to this point
5 I think that I have actually just kind of followed what
6 the traditional process has been.

7 GOVERNOR BEEBE: Well, I think the traditional
8 process is that we -- we've got to do it as a board, or
9 at least let you check and make sure that it's okay to
10 make the expenditures. But we'll -- we'll have to
11 ferret this out and figure out what needs to -- what
12 needs to occur going forward.

13 I mean I don't know what else to say about it, do
14 you, Mr. Attorney General? Have you got anything else
15 you want to say or, Mr. Secretary, anything else you
16 want to say about it?

17 MR. MARTIN: In addition to these things, I think
18 that one of the -- some of the things that we really
19 need to actually move forward with is establishing a
20 sort of a time line for performance of duties of the
21 redistricting board, and I think we also probably need
22 to move forward in starting to schedule and organize
23 how we actually have -- open this process up for public
24 comment --

25 GOVERNOR BEEBE: I agree.

1 MR. MARTIN: -- and some meetings around the state
2 so that we can actually involve the public in their
3 local communities --

4 GOVERNOR BEEBE: Sure.

5 MR. MARTIN: -- in the process.

6 GOVERNOR BEEBE: Mr. Attorney General?

7 MR. McDANIEL: Well, I think that certainly having
8 public input is going to be critical, ensuring not just
9 the appearancy -- the appearance of transparency but
10 actual transparency in our process is very important.
11 And I think before we can do that, we have to establish
12 some -- some clear protocols and guidelines for the
13 expenditure of funds.

14 I am not using the word inappropriate all,
15 Mr. Secretary. That -- I thank you for the work that
16 you have done heretofore on getting us moving down the
17 road. But the only discussion between the board
18 members about expenditure of moneys that I recall was
19 before the end of the year --

20 GOVERNOR BEEBE: Yeah.

21 MR. McDANIEL: -- when Mr. Daniels asked for our
22 consent to purchase computer software, which we said,
23 of course. We need computer software.

24 As you know, that computer software, we thought,
25 was going to be compatible for all board members. And

1 your staff has worked diligently, I have no criticisms
2 of your staff, but for the last three months only
3 one-third of the commission has actually had a computer
4 that -- that functioned. And they have tried to get
5 our computers up and running. Again, I don't offer any
6 criticism at all, I extend my appreciation for the
7 amount of work that they have done. Even the
8 manufacturer has tried to figure out how to make the
9 computers at the Attorney General's Office talk to the
10 computers at the Secretary of State's Office, which
11 apparently they are on two different servers and there
12 is a geographical distance, because as most people
13 don't realize my office is not in the capitol, and the
14 time lag makes it to where the darn thing doesn't work.
15 And so as of last week, I had to spend \$19,000 out of
16 my budget to buy a computer system just to turn it on.

17 And so members, of course, are very interested in
18 this process. I was not in the general assembly during
19 a -- none of us were in the -- well, he was.

20 GOVERNOR BEEBE: Yes, I was.

21 MR. McDANIEL: He was. I meant me and the
22 Secretary. You were around when the earth was cool.

23 GOVERNOR BEEBE: That's correct.

24 MR. McDANIEL: But we were not there, but
25 obviously members are talking to it us a lot, and I

1 have not been able to respond to some of the inquiries
2 and questions and even suggestions that they have had
3 from your office about the potential maps and ideas,
4 because I couldn't make the computers turn on. And so
5 we had to do that, and so I just think that before we
6 can be really effective, we have to get a process down
7 for how our money is going to be spent, how do we
8 account for the moneys that have already been spent and
9 what responsibilities will we bestow upon an executive
10 director, and then after that, or -- or an election
11 coordinator or whatever you want to call this person
12 and then after that, I think that setting up a swift
13 time line for public comment and all that thing, all of
14 that will be appropriate. But I think we have to do a
15 little housekeeping before we can effectively do that.

16 GOVERNOR BEEBE: Well, I think that the first
17 thing we've got to do is hire that, what did you call
18 him, redistricting coordinator?

19 MR. MARTIN: Yes, sir.

20 GOVERNOR BEEBE: Hire the redistricting
21 coordinator and give that redistricting coordinator the
22 rough outline or time line of how quickly we want them
23 to respond. I would suggest that we have something
24 done within three weeks, have another meeting within
25 three weeks and ask that coordinator to report back

1 with a proposed time line for us to either reject or
2 accept or modify or amend or alter in whatever way we
3 see appropriate, and then try to address these issues,
4 these technological issues about the sharing of the
5 computer information. I don't think our office has the
6 same problem that the Attorney General's Office has,
7 because the proximity of our offices negates the
8 technical problem that exists with having the Attorney
9 General's Office that far away, in terms of the
10 computer compatibility and speed with which that
11 information travels. But I think, I mean I know you're
12 busy, I'm busy, he's busy, I'm busy with a session that
13 inevitably takes up an inordinate amount of time that
14 would otherwise be available after the session is over,
15 but that doesn't negate the fact that we need to get on
16 with it and get going. And I think the coordinator
17 needs to immediately lay out a protocol plan for our
18 approval or disapproval or modification and we meet
19 back here in three weeks.

20 MR. MARTIN: I think that what the Governor --
21 what Governor Beebe is suggesting I think is a good
22 course of action. One of the things that I had not
23 thought about was the proximity of the Attorney
24 General's Office to the core down here. But so one of
25 the things I want to make sure that everybody

1 understands is that the Governor's Office and the
2 Attorney General have private secure offices that they
3 can actually use --

4 GOVERNOR BEEBE: Yeah.

5 MR. MARTIN: -- in the Victory Building at the
6 redistricting center that's there at the Victory
7 Building and that also gives you access to the plotter
8 and what not so that you can actually print out, have
9 people in with meetings, staff, and what not and the
10 locks can be changed at y'all's discretion so that
11 y'all can keep those particular offices secure for your
12 purposes. So we can make that available for the
13 Attorney General to actually have a very specific
14 office within the core of what's going on so that he --
15 you don't continue to suffer some of these problems.

16 MR. McDANIEL: Thank you.

17 Y'all have been very gracious, I don't have any
18 complaints about your staff in that manner. I
19 appreciate very much the work that they have done.

20 GOVERNOR BEEBE: You see how good everybody is
21 working together?

22 MR. MARTIN: (Nodding head up and down.)

23 MR. McDANIEL: (Nodding head up and down.)

24 GOVERNOR BEEBE: All right. What else do we need
25 to do this morning?

1 MR. McDANIEL: Will your staff take on the
2 responsibility of reaching out to Mr. Woodson?

3 GOVERNOR BEEBE: Yes. Do we have a budget on or
4 parameters on what to pay this person?

5 MR. LOUTHIAN: No, sir. That would be
6 something -- no, sir. That will be set up in the
7 supplement position or in the paperwork.

8 GOVERNOR BEEBE: Yeah. We'll check with OPM and
9 see if we can't get some guidelines as to what this
10 kind of job normally pays and what -- what position
11 would be most appropriate in the pay scale of things,
12 and then offer this -- offer the job. But if he
13 doesn't take it, then we need to have an immediate
14 other meeting with thoughts, names, and suggestions for
15 alternatives, so if it's all right, we'll -- we'll try
16 to schedule a meeting three weeks from today.

17 What is three weeks from today? Does anybody
18 happen to know off the -- does anybody have their
19 calendar?

20 MR. McDANIEL: Yeah, I've got one here.

21 AUDIENCE MEMBER: 6th.

22 GOVERNOR BEEBE: 6th?

23 Is there any reason, does anybody know any reason
24 off the top of their head by any of the three staffs
25 why one of the principals couldn't be here on the

1 6th?

2 All right. Subject to you all checking your
3 calendars and making sure you didn't have a commitment
4 or you didn't have a commitment or I didn't have a
5 commitment somewhere else, we'll tentatively set an
6 8:30, same time, same place, assuming the Senate lets
7 us have the room on April 6th, but I think they will
8 hopefully be gone by then and so there won't be a
9 problem, if not we'll make arrangements elsewhere.

10 If -- if the proposed person to be the coordinator
11 rejects the job, then we'll call a special meeting and
12 give plenty of notice to the press, or at least
13 emergency notice to the press, and come back with more
14 thoughts, ideas, or names for a coordinator so that we
15 can get on with the process.

16 And if it's all right, I understood that it was at
17 least some sort of agreement here that we're going to
18 ask the coordinator, assuming he accepts the job, to
19 come up with protocols and agendas for our
20 consideration at the next meeting.

21 Right?

22 MR. McDANIEL: And, of course, analysis of
23 expenditures heretofore and what we do about them.

24 GOVERNOR BEEBE: And an analysis of these
25 expenditures and what we do about it.

1 Okay? What else?

2 MR. McDANIEL: Move to adjourn.

3 GOVERNOR BEEBE: Motion to adjourn. Is there a
4 second?

5 MR. MARTIN: Second.

6 GOVERNOR BEEBE: Okay. We are adjourned.

7 (WHEREUPON, at 8:50 a.m., the above-entitled
8 proceedings were concluded.)

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CERTIFICATE

STATE OF ARKANSAS)

COUNTY OF PULASKI)

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the meeting of the Board of Apportionment, held March 16, 2011, was taken by me in Stenotype and was reduced to computer-generated typewritten form by me or under my direction and supervision and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all

1 parties to the action.

2 SIGNED AND SWORN this _____ day of

3 _____.

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6 SUSAN B. WHITSON, CCR, #158

7 NOTARY PUBLIC IN AND FOR

8 PULASKI COUNTY, ARKANSAS

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10 My Commission Expires: June 4, 2012.

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