

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting June 29, 2010

A meeting of the Legislative Audit Advisory Council was held on Tuesday, June 29, 2010, in Senate Committee Room E of the State Capitol.

CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 2:15 p.m. A quorum was present with the following members in attendance:

Members Present

Senator Nick Gautreaux
Senator Edwin Murray, Chairman
Senator John Smith
Representative Noble Ellington, Vice Chairman
Representative Charles Kleckley
Representative Anthony Ligi
Representative Cedric Richmond

Members Absent

Senator Ben Nevers
Senator Willie Mount
Representative Cameron Herry

OIL SPILL ISSUES

Senator Murray explained that after Katrina & Rita, the legislative auditor's office assisted the local governments with FEMA documents and should be able to help many local governments that do not have the resources to deal with the British Petroleum (BP) issue. He asked the auditor to help the local governments to not commit to things or spend dollars they are not supposed to spend. Senator Murray said the auditor will visit the coastal parishes to actually meet with local governments to make sure they get the resources from the auditor's office.

Mr. Daryl Purpera, Legislative Auditor, told the Legislative Audit Advisory Council (Council) that they met with BP officials and the Attorney General's (AG) office and what they saw in the beginning was not a clear process for which the local government would go about recovering their funds. They met to establish a documentary process that each local government can use, standardized forms to calculate costs of various things they may run into structured similar to FEMA documents, because all the local governments are accustomed to that and it would be a simple manner for them. So far they have prepared the detailed forms to calculate the different types of costs, lost revenues, those types of costs that they may have. They also looked at the Oil Pollution Act to see what types of removal, and recovery costs are involved in that. They are waiting on input from BP at this point to see whether the process is acceptable for them, so that it would be good for all local governments to submit in this manner. Also the forms his office is generating is designed in such a way to accumulate the data that would be needed if BP does not pay a local claim then the local governments have the option and the necessary information to appeal to the National Pollution Funding Center which has certain requirements. They are also considering developing some frequently asked questions on the LLA website so the local governments can go to that one place and see the type of questions people are asking and receive guidance.

Mr. Purpera said as Senator Murray mentioned, his office is contacting the parish attorneys and working through those attorneys and Emergency Operations Center's (EOC) to put together meetings in each one of the affected parishes and hopefully to gather not just the parish governments but other local governments and have a presentation that will be a combination between the auditor's office describing the documentation they need to be accumulating, Mr. Purpera stated that Jenifer Schaye, Legislative Auditor's General Counsel, would speak on bid law and how that still plays a part of this. The local government budget act explains that the funds they are receiving must be budgeted before they can be spent, and thirdly we asked that the Attorney General's office also attend to explain to the local governments the Oil Pollution Act.

Mr. Purpera said the state government claims for removal are being generated through the Department of Public Safety (DPS), and their process is that the state government agency incurs a cost and submits the documentation to DPS, and DPS then submits it to the funding center and recovers the cost and funnels it back. DPS asked the auditor's office to basically perform a continuous audit on those

documents as they are coming through their system. The benefit there is that the documentation will be in a proper format when it goes to the National Pollution Funding Center, and it will be less claims that would be rejected or have additional waiting times. The Office of Coastal Protection and Restoration has also asked his office to work with them on the building of the berms (man-made ridges of sand designed to protect the coastline from oil intrusion), so he currently has staff reviewing any documentation that is coming from the contractor Shaw to ensure it is adequate for the payments that are being made to Shaw.

Mr. Purpera mentioned that the Attorney General's office has in addition asked that his office participate with him in the potential litigation against any parties, and the purpose would be that the auditors office has experienced financial people - CPA's, MBA's - that can be of benefit to him to ultimately calculate any costs.

Senator Murray asked if the dollars they were discussing was the \$20 million. Ms. Schaye said no, this is separate. Senator Murray asked if there was a timetable on when they expected BP to get back with him on the developing forms. Mr. Purpera said this Wednesday. Senator Murray suggested to the auditor's office to let the Council members know when the meetings with the local government and parish leaders are scheduled so they could attend as well.

Representative Ellington asked where they could go for funding if the funds were not there. John Morehead, Director of Recovery Assistance Division, explained the process is that the local governments file their claim with BP and if BP denies the claim or fails to play that claim within 90 days, the government has an appeal right. That appeal right is to appeal to the National Funding Center which is basically the Coast Guard agency that manages all of these dollars. Representative Ellington asked if that is the \$20 billion dollar fund. Mr. Morehead said the \$20 billion is actually set up with a private claims processor that will handle that. Ms. Schaye said that the President appointed Mr. Feinberg to administer the \$20 billion and as she understands it, the representative has set aside \$5 billion per year and collateralized the rest and that is for the individual claims and small business claims. Ms. Schaye said what the auditor is discussing is lost revenue, like tax dollars, extra money spent for fire and police, past the recovery effort. The whole way government has changed because businesses have changed - how to recover sales tax, loss of millage dollars and these meetings are to include school board officials, assessors, sheriffs, elected police chiefs.

Representative Ellington asked regarding the \$20 billion, if the \$5 billion per year was for Louisiana, Mississippi, Alabama. Ms. Schaye said yes, over the entire gulf coast and that she had only read that it will be set up as \$5 billion per year and that will then be increased every year by \$5 billion, but it is collateralized so that she assumes that if they used up all \$5 billion, they will put another \$5 billion in. Ms. Schaye said this is how they appreciate it to be administered, but the whole structure is still being worked on by the United States Justice Department and BP. She said that what they are discussing is what is already required of BP under the federal legislation. Ms. Schaye said as they appreciate it if they fill out this documentation, there should be no question that they would get those moneys from BP because we strictly followed in this documentation that the National Oil Pollution Act says is required for these people to be restored to their other state if you would. Senator Murray said the effort is to make sure that the locals get reimbursed for expenses. Mr. Purpera said a lot of their concern is to make sure the locals are gathering the data now, rather than on the back end to try to collect the data.

Senator Smith stated that Mr. Purpera had not mentioned the \$100 million fund, and asked if that would be monitored or audited by his office, or if solely in work force development. Mr. Morehead said they are really not involved in that except to only know it is there, like the \$20 billion, it is \$100 million set aside for oil platform workers. Senator Smith asked how would they know if it was really received or if not. Mr. Purpera said he would certainly look into it. Senator Murray said if the auditor could look into it and email to the members what he finds out.

APPROVAL OF MINUTES

Copies of the minutes for the meeting of March 10, 2010, were previously emailed to Council members for review. A motion was made by Senator Smith that the minutes for March 10, 2010, be approved and with no objections, the motion passed.

EXTENSION REQUESTS

Ms. Joy Irwin, Director of Advisory Services with LLA, reviewed the extension lists with the Council members. The first list was the 90 days or less extension approvals, and they recommend approval for all of these extension requests. Representative Ellington moved to approve the extension requests, and with no objections, the motion passed.

Ms. Irwin discussed the next list and explained that the policy of the committee has been to ask representatives of the governments, or nonprofits / quasi-publics to be present at the Council meetings to explain why they have not been able to give their audit reports to the auditor and because of the demands of the session and our inability to meet, the entities have not been asked to appear. Ms. Irwin

said she would provide to the Council the reasons they have given us and the information that they know about the specific governments. Senator Murray told the Council members that he asked the staff to speak with all of these individuals and give a report on those who were cooperative and those who had not been.

Ms. Irwin said regarding the extension requests over 90 days, and the Housing Authority of Leesville and the Louisiana Sheriff's Association, they are recommending approval of those extension requests. These were not administratively approved by the Chairman of the LAAC because they came in since the last time Mr. Purpera spoke with Senator Murray. The rest of the list have been administratively approved by the Chairman and now require full confirmation.

Representative Richmond asked if any entities under the second category had amended their requested extensions for later than the 30th. Ms. Irwin said no. Representative Richmond asked if they believe that they will receive it before the 30th. Ms. Irwin said she does not have any way of knowing that, and they have spoken to the entities and they give us a date and believe it to be a reasonable date, and that is what they must go by. Mr. Purpera mentioned that the policy in the past has been that they normally allow a 15 day period, so if the extension is until June 30th, the entity will not be put on the late list until July 15th to allow for processing and mailing time. So as long as the audits are received by July 15th, they will not have any funds withheld.

Ms. Irwin said she is in contact with both the City of Bastrop and Town of Jonesboro at least weekly to try to find out the status of their reports. The auditor for the Town of Jonesboro told LLA that she has done the exit conference with the government, which means that they met to discuss the contents of the report and she is following up and documenting that exit conference and should have that report to us in the next couple of days. Regarding the City of Bastrop, they have had a lot of difficulty with their control system, with their records, getting information to their auditor. They say they are working diligently, and we have been to Bastrop in the last couple of years to help them with their controls.

Representative Richmond asked what newly set up agency means regarding the El Camino and Families Helping Families and where Region 7 is located. Ms. Irwin explained newly set up agencies, sometimes they receive public funds and we have no way of knowing that they received those public funds because it may have come from the local government and the local government did not tell us that they gave the public funds to the nonprofit, so we may not know about it until late in the audit process. When you see newly set up agency is that we received information about these agencies. Their reports have been received. Representative Ellington moved for approval of over 90 day extension requests and with no objections those were approved.

Ms. Irwin said the next list is the greater than 90 days Act 36 Emergency Extension List, the Livingston Parish Sheriff. She stated that Livingston Parish was very much affected by Hurricane Gustav and they are requesting an additional extension. Representative Ellington moved for approval of this request and with no objections, approval granted.

EXECUTIVE SESSION

Senator Nick Gautreaux made the motion to go into Executive Session at 2:35 p.m. Senator Gautreaux moved to come out of Executive Session at 2:49 p.m.

LEGISLATIVE AUDITOR SALARY

Senator Murray said regarding the Legislative Auditor's salary, he proposed a resolution: It is hereby resolved that Legislative Auditor Daryl Purpera shall receive annual compensation of \$171,893. It is further resolved that the performance of the Legislative Auditor shall be evaluated by the Legislative Audit Advisory Council annually on or before April 6th of each year.

Representative Ellington moved for adoption of the resolution, and with no objections the resolution was adopted.

UPDATE ON KATRINA COTTAGES PROGRESS

Patrick Goldsmith, Director of Performance Audit Division, stated that at the last meeting, the Council asked that the Louisiana Recovery Authority (LRA) to start providing monthly reports to comply with Representative Abramson's request. In August 2009, he sent letters to Cypress Realty Partners (Cypress) and LRA asking for certain information to be provided monthly to the Council and to the auditor's office. Since that last meeting, they have begun to report monthly, and three different documents were provided in the folders: summary of information for June; information provided by LRA; and the information provided by Cypress. The summary shows on page 2 the information requested of Cypress by Representative Abramson to provide monthly which goes through the number of homes completed and ready for occupancy. As of this date there were 179 out of roughly 360-470 that they

plan to build. There were 145 at that time under construction and as far as the timeline for completion, please see page 7, Exhibit 2 gives a good summary of the different site, there is a total of 11 sites reported. Three of the sites have all of the cottages complete, and the rest of the eight sites – one has 12 completed, but the rest are not completed at this time. The last column is the end construction date showing between September – October of this year. Page 3 shows the information requested by Representative Abramson from LRA. The first question was whether the environmental approvals are completed, and the summary states that all are complete except for the New Orleans infill PRC. Also one question is whether cooperative endeavors are complete, which all are complete according to this report by the LRA except the same site, the New Orleans infill PRC which is not completed. Mr. Goldsmith continued that the Council asked about the occupancy plans, and on page 3 shows what LRA has provided how they have taken in applicants, and how they have whittled down to the numbers that they would put in, and shows 23 are occupied. He commented that there have been some changes since this report was sent out.

Ms. Robin Keegan and Mr. Wil Jacobs were present from LRA. Senator Murray asked why there was a hold up in New Orleans. Ms. Keegan clarified that there are 73 occupied: Baton Rouge has 13 occupied; Lake Charles has 14; and Jackson Barracks has 46 occupied. She said they just had a site visit of Westwego and Fisher with FEMA, the Deputy Secretary for Recovery was in town with the Alternative Housing Pilot Program, to do a walk through of those units and both Fisher and Westwego are at the final stages of construction. She said they have a pipeline of families ready to move into them and working with Entergy to have the energy turned on to do the finishing construction so those units can be occupied starting in July.

Ms. Keegan said they have been working on cooperative endeavor agreements with their partners in New Orleans, so Preservation Resource Center, NORA, as well as NHS and the other partners have selected their lots. Cypress Realty has done a walk through of almost all of the lots to make sure that we have a determination so construction can start this month. Senator Murray asked again the problem in New Orleans, and why the construction has not started, stating that every time the Council met, the dates are backed up even further. He said they were promised that the cottages were to be finished sometime the end of last year or start of this year. He asked for the problem that has caused this emergency housing that was supposed to be ready after Katrina.

Wil Jacobs said the first issue was environmental, but they got through that, and are now in the process of permitting and figuring out models for each of the lots. Senator Murray asked how he can still be in the process of figuring out how it will look like. Ms. Keegan said it is about selecting based on the size of the lots, selecting the appropriate unit because as they went through the environmental review process with FEMA, the lots had to change because some lots were deemed historical and could not build on it. So they had to change out the lot which changed the effects on the lots in terms of sizing. They have the models and know how big they are, but just need to make sure that they fit on those particular lots and size them correctly.

Senator Gautreaux asked how many homes were produced by St. Martinville, because the last time LRA reported contracts for 80-90 homes. Mr. Jacobs said they produced about 25 at Westwego, and only two were not produced at Westwego. Ms. Keegan said they are just waiting for energy connection to complete Westwego. Senator Gautreaux asked what was the most efficient method used in the way designed and built quickly. Mr. Jacobs acknowledged modulars are built quicker than site built. Senator Gautreaux asked why it was so complicated to figure out the homes size and based on lot size. Ms. Keegan said that part is not complicated, FEMA has just finished the environmental reviews and if they removed a lot, then LRA had to select a new lot which then had to go under another environment review from FEMA. So that is the reality of what they have been working with FEMA for the past months and years. Ms. Keegan continued that once the lot is approved, then Cypress and their team verifies the lot size, and size of the home and start moving either to do construction or moving the modular.

Senator Gautreaux asked the maximum number of homes according to the system built. Mr. Jacobs said the max is 200, and have built roughly 65 or so. Senator Gautreaux asked the total number of completed homes so far. Mr. Jacobs said 179 homes are complete. Senator Gautreaux said roughly 30%, and asked if that was an efficient way, why not use more system built. Mr. Jacobs said there is a limited number of modular units, and at the most 200, and some of these sites were best suited for stick built. Mr. Jacobs said the grant is a stick built grant, and that was the reason FEMA would not allow the whole grant to be converted to a modular build. Senator Gautreaux questioned if more efficient, and allowed to build 200 modular homes, why not maximize that to get them built quickly. Mr. Jacobs said they started site built before receiving the approval to build modular homes.

Representative Kleckley asked the number of cottages projected to build. Mr. Jacobs said as many as 470 homes, and have 179 built now, and 73 are occupied. Representative Kleckley asked in the best case scenario, when they expect to have the 470 complete. Mr. Jacobs said November 2010 is the target. Representative Kleckley asked for expected complete occupation date. Mr. Jacobs said hoping by the end of the year and for those being completed later, will be occupied sooner because from

now until the time the units are complete, they are identifying households able to move into the units. Representative Kleckley asked if Mr. Jacobs felt comfortable saying that by the end of the year he expects to have all 470 occupied.

Ms. Keegan said they have a pipeline of families doing a case management protocol through their partners. Representative Kleckley asked where these people had been living since Katrina & Rita. Ms. Keegan said various places and could get a case management report that can show that answer – either living outside of the state, renting or living in other communities. Many have been living in their communities and been renting and choosing to move into these homes. Representative Kleckley asked of the 73 that are occupied, how many of those have come back from out of state. Ms. Keegan said she would get that number for him. Representative Kleckley asked that when it is complete in December of this year, and recalled hearing in previous discussions that the cottages would be complete in September or December of 2009. He wanted to see when the homes are fully occupied, where the folks came from and if they were living with family or out of state. Ms. Keegan said they can start putting that in the report. Representative Kleckley said that would be good information and look forward in December having all 470 units complete. Senator Murray asked if they really believe to have all completed in December. Ms. Keegan said yes, the environmental are all clear. Senator Murray asked if that was the same certainty that they had last year. Ms. Keegan said no, they did not have the environmental done and could not build on a clear lot.

Senator Smith asked of the 34 cottages completed for the Lake Charles area if that was called the Community of Fields. Mr. Jacobs said it is a Community of the Fields subdivision, off Sixth Avenue. Senator Smith asked on the scattered sites if only six of them were on hold. Mr. Jacobs said that situation where most of the infill lots in Lake Charles are built maybe a foot off the ground at grade. There were six lots that required significant elevation on this block in Lake Charles-about four feet. There were issues with the neighbors' acceptance of those housing units in the neighborhood because they would be elevated and the rest of the neighborhood would not be, and they did not like the way these units would fit into the community. So those lots were on hold until it was decided if they could make the project work in that neighborhood. They finally resolved with the help of the neighbors and the councilmen to re-plot the block, turned the units to face a different location, still elevated the units, and put lattice around it, and put a fence behind the units and made it a project that the neighborhood could accept, so that project is now moving forward. Mr. Jacobs said that it was no longer on hold, because it was resolved in the last few weeks. Senator Smith asked if they had the occupancy rate of the 34 ready turned over to LRA. Ms. Keegan said for Lake Charles, 14 are occupied and 16 are scheduled for occupancy.

Representative Richmond stated that of the 179 built, 73 are occupied. He asked if the ones with November 30th construction end date actually started their construction on June 1st. Mr. Jacobs said that December date was a contingency, and expect those lots to be constructed in roughly 4- 4 ½ months. The November date was allowing cushion for weather and some non-starts. Representative Richmond commented that they are about 1 ½ months behind on construction start date, but still think it can be finished by the end of the year. He said it is better to have a realistic date and understand you do not control the environmental. The bottom line is what has been learned from all of this, asking if the environmental do not work.

Mr. Jacobs said the environmental rules that they have to live up to do not necessarily fit the reality of what they have to do in an old city. Getting environmental approved in Lake Charles was much more quickly feasible to do than in New Orleans, because dealing with some of oldest neighborhoods in New Orleans. Senator Murray said he did want them to pretend that the delay was only on the environmental side. He asked if this was supposed to be emergency housing for an event that occurred on August 29, 2005. He asked what they learned about building emergency housing.

Mr. Jacobs said this program was not an immediate housing solution - this was an intermediate to long term solution. Senator Murray said this did not start out this way – it was supposed to be emergency housing, and after some years it was changed to long term. Mr. Jacobs said the original proposal that this program was based on was never an immediate program. Ms. Keegan said FEMA set up the Alternative Housing Pilot Program and that Senator Murray was absolutely correct, to look at alternative models of emergency housing. The State of Louisiana, as did our partners in other states, submitted six applications for a total of the entire budget, which was around \$470 million of that grant. There were six different models with this type to create the neighborhood type models. There were other models that were emergency, like Mississippi did by getting Katrina cottages from a modular provider and dropping them on lots.

Mr. Jacobs said Louisiana was only awarded the \$75 million grant, whereas Mississippi received \$400 million to do their model. He pointed out that FEMA picked this model for them to develop, which is the disconnect, and had they received the remainder of the grant, could have had the houses done. Senator Murray said he could guarantee that if Congress thought when they sent this money down before, they thought people would be in the houses living, not still building them today. He said the take

away is what learned and hope they have some idea how to do this without taking four years. The environmental piece of this was not the only thing that delayed the process.

Mr. Jacobs said he would not pick this project right after a storm, because it has too many features. Senator Murray said building a regular subdivision does not take this long. Mr. Jacobs said if you were using federal funds it would. Senator Murray said people use federal funds to do many subdivisions, and apartment complexes, and people have been living in them 2-3 years already.

Representative Richmond suggested they should learn from this to communicate to Congress the best way to use funds in the future because at the end of the day this is federal money. Ms. Keegan said her office is working on that and will share with the Council when the draft is complete of a recovery protocol specifically around housing to pass on to Congress. She said they participated in the National Disaster Recovery Framework, their federal partners to make sure that it was very clear that if Louisiana is ever hit with a catastrophic event again, those environmental processes need to be done globally upfront as the first step in recovery. The type of housing needs to be tiered to the actual impact of the storms but it should never take this long to build anything.

Representative Richmond asked who handled the environmentals. Ms. Keegan said this is the problem – FEMA does some, HUD does some, and they need to get together and do one. Representative Richmond asked when this process is over if they could expect a document that has an outline of the things including coordinated environmental assessments to make this a better program.

Mr. Jacobs said there were several environmental assessments going on, but he could point to a particular point that made this process longer than it should have been. There is the letter of the rule that you follow to get environments done, the contractor that was in charge of the environmentals performed them by the letter of the rule, which takes a very long time. When that contract was up, FEMA's staff took over directly and did the types of communications that they would have to do with the SHIPO and got the same project that had taken close to a year to progress, got it wrapped up in several months. It really was communicating exactly what needed to be done, rather than go and inspect and dig on every lot. Senator Murray asked who chose the contractor. Mr. Jacobs said it was a FEMA engaged contractor since responsible for the environmentals.

Representative Ellington asked if even though they were building in New Orleans or Lake Charles, FEMA was telling them if it was environmentally correct to build there, and not the city. Ms. Keegan said it depends on which program, so HUD actually has the state clear the environmentals, and FEMA in this particular project because it was a pilot project they took on the environmental responsibility for good or bad. Representative Ellington pointed out that the city had no input, but if he were to build a house, who would tell him if it is environmentally correct. Ms. Keegan said the city. Representative Ellington asked if FEMA forced LRA became involved in the program, it was anticipated that the states would be responsible for the environmentals and paying the cost for the environmentals. They actually did us a favor budget wise by allowing FEMA to take over environmentals and paying for it. Representative Ellington said he did not believe that to be true because in five years it did not do any good. If FEMA would have left it to the city and the state the houses would have been built three years ago.

Senator Murray said he knew that the City of New Orleans and locally governing structures caused a lot of delays, even though Mr. Jacobs may not like to say it. Senator Gautreaux asked how long the environmentals are good for. Ms. Keegan said they are good unless you choose to do something else with them. Senator Gautreaux asked if property had been identified in case of another emergency, and if they need to do these before hand. Mr. Jacobs said they do expire because there were situations where HUD Environmental Approvals (EA) expired because for the Algiers site, HUD had already done an environmental before the storm. That was probably in 2005, but because of the storm, they felt significant time had passed that another environmental needed to be done. Senator Gautreaux asked once finished with the pilot program, if the LRA will start looking for property to have clearance on in case of another storm, since environmentals have been the largest problem. Ms. Keegan said they will put that on the list.

Mr. Jacobs said in addition to the environmentals, the identification of the actual site should be done before. Senator Gautreaux said if you need your congressman or our delegation to do something legislatively, to plan ahead and not have the same problem. He asked if they were ready to address that system built homes were quicker, more efficient and energy efficient, and people living in them probably 60 days quicker. Ms. Keegan said it was a great model. Senator Gautreaux said we need a report back on the pilot program, but may not politically want to report what the truth is. Ms. Keegan said we asked to make the modulars part of the program and it was a good model. Senator Gautreaux said they will want to know what worked and get pre-clearance on environmentals on sites.

Mr. Jacobs said one issue with preplanning is we found out early on when we tried to build on sites that had previously been trailer sites that are public land, to transfer state property to a program like this is really a difficult proposition and would have taken a very long time, and that was why we did not

do it. We started down the road and figured out it took a lot of lifting, and it is the reason that we could not build in Plaquemines.

Senator Murray asked Ms. Keegan to explain about the LRA Board going away tomorrow, and how this should proceed going forward. Ms. Keegan said the legislation in our statute will expire on June 30th and the board will go away. Two years ago Governor Jindal merged the LRA staff with the Office of Community Development (OCD) staff and we have been operating as one unit for the past two years. Ms. Keegan said when she stepped into Paul Rainwater's shoes, she also took over the Executive Director of OCD and that will be her role. Basically July 1st will look very much like June 30th, we have the same work team and staff directed in the same sense of urgency. Representative Ellington asked rather than being under the board, would it be under you and the Governor. Ms. Keegan said we have been under the Division of Administration since Governor Jindal took over, so we will be under the direction of the Governor and the Division of Administration.

Senator Murray reminded her to continue sending the monthly updates and the auditor's staff will get the information to the Council, and make sure to include the information the Representative Kleckley requested. Ms. Keegan said she wanted to put a tour together once Westwego and Fischer were occupied, including Lake Charles and Baton Rouge to see people in homes. Mr. Goldsmith said the next update will be this week, which will reflect the updates discussed at the meeting.

2010 LEGISLATION

Senator Murray said that Mr. Purpera would bring them up to date on the 2010 legislation that requires additional work by his office. Mr. Purpera stated that three things impacted HB1. First in Section 17B, last year there was language regarding the granting of extensions, and that language did not agree with Title 39:72.1, and so we had to go before the Joint Legislative Committee on the Budget (JLCB) for them to interpret that language. That language was made to be exactly what is in Title 39:72.1, so the process currently used for the extensions is exactly what is in HB1, so there should not be an issue there.

Mr. Purpera said the second thing is Section 18B of HB1, which required in the past the non-governments (NGO's), or quasi publics that receive funding through a transferring agency, to submit a budget to the Legislative Auditor. The language was added this year that basically says that the entity that is receiving the funds will have to submit a budget to the transferring agency and the legislative auditor, and adds the words "for approval". What I submit to you is that what the language calls for is an approval process by the auditor and the transferring agency, and what I would ask is that the Council to consider this as a proposal. Mr. Purpera read the specific language, "No funds appropriated in this Act shall be transferred to a public or quasi-public agency or entity which is not a budget unit of the state unless the intended recipient of those funds submits, for approval, a comprehensive budget to the legislative auditor and the transferring agency showing all anticipate uses of the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives for the use of such funds, including measures of performance."

Mr. Purpera said he proposed that they interpret this as a joint effort between the legislative auditor's office and each one of the transferring agencies, so for example, if the Department of Social Services is going to be transferring funds from HB1 to a quasi public then there would be a process whereby the Legislative Auditor's office will inform each one of these transferring agencies of their responsibility to design and implement a control process, a process to receive these budgets, review the budgets and approve the budgets and that the legislative auditor's office would then evaluate that set of controls, evaluate those processes and procedures. Also as we conduct our periodic audits that we would then test them to ensure that they are in fact following that control process. Mr. Purpera presented to the Council basically eight points the LLA will communicate to the potential transferring agencies their responsibilities for the design and operation of adequate procedures to collect, review and approve budgets, and performance criteria.

Mr. Purpera said secondly, the Legislative Auditor will evaluate the policies, procedures, practices, and internal controls over the budget review and approval process to ensure that each agency is performing adequate procedures. Thirdly, each receiving agency will submit its budget request to the transferring agency for their explicit approval. Fourth, the transferring agency will submit a copy of the budgets and documentation indicating their approval to the Legislative Auditor. Fifth, LLA will post these budgets on its website available to the public. Sixth, the LLA will ensure that each receiving agency is audited in accordance with R.S. 24:513, so we are going to continue to do what we are doing today to ensure the funds are being audited. Seventh, as part of LLA periodic audits of each transferring agency, LLA will review a sample of the budget agreements that were submitted to ensure that the agency is following their policies, practices, procedures and maintained appropriate internal controls. Eighth, the LLA will provide a report to all agencies and the legislature on the results of these audits once a year to let the Council know if it is working or not.

Senator Murray allowed Representative Ligi to discuss first since it was his language. Representative Ligi asked Mr. Purpera if he felt that what he was proposing will enable us to be sure money that is appropriated or given by an agency to a nongovernmental agency. Mr. Purpera said maybe not the first year, but over time what will happen is there will be a good process, and the auditor will be auditing that process to be sure it is working. Mr. Purpera said what has happened in the past is there has been no approval process from the auditor's perspective of the budget. This gives us the opportunity as it is in the language today to have somewhat of an approval process. I think it would be impractical for the auditor to see every one of these budgets, review the budgets and get them back approved to the entities in a timely fashion so that the funds that are needed by the organizations could go to them in a timely fashion. Mr. Purpera said this process will allow us over time to get that in place.

Representative Ligi said it lends itself to making sure that money is going to these entities and actually going to accomplish a purpose as opposed to it being short an amount that will not be able to accomplish their purpose. Mr. Purpera said what we are going to be looking for in their procedures is to ensure that they are reviewing the budgets, making sure that the budgets have clear deliverables and clear goals, and time periods in which those things will be accomplished, so that on the back end when the entity goes back to review what has happened, that they have something to hold on to. Representative Ligi said that was the main purpose that we talked about when we originally spoke about was being to provide a result of deliverable as you call it. Representative Ligi asked if he felt comfortable the criteria would lend itself that way. Mr. Purpera agreed.

Representative Ellington asked Mr. Purpera if the funds appropriated in the ancillary bill or any other acts and not necessarily appropriated in HB1, would be held accountable with the appropriations of HB1 which reads that "no funds appropriated in this act". Ms. Schaye said that is true, but possibly Representative Lorusso's bill that says that anyone who gets local, state or federal dollars from \$1 forward will be under the audit law. That is not the same as Representative Ligi's language of approving the budget, but it does bring them under the audit law, so the auditor will have some supervision of those nonprofits which we never had before. Senator Murray said that is \$1 to \$24,999, because \$25,000 and over they were subject to the audit law, but I think the point Representative Ellington is making is that the process outlined for the Ligi amendment would not apply to those not funded through HB1. Ms. Schaye said it would not.

Mr. Purpera said maybe not specifically but if the agencies have a process to carry out these for HB1, certainly what the auditors are always promoting through our audits is that they have good internal controls, so what I would recommend to them is they use the same process. Representative Ellington said he would too, but that is a recommendation, not a law, and there is a difference. Ms. Schaye said with that other law, there is going to do something different too, because it will bring them under the auditor's authority at least for audits, actually sworn financial statements for \$1 - \$25,000. Ms. Schaye said so taking those two things together, you probably have a lot more control and oversight than you had previously.

Mr. Purpera said he was presenting this to the Council to get their guidance that this is an acceptable practice. Senator Murray suggested the council take this home, and take a look through it because he would imagine they will have to get JLCB again, same as they did last year to see what this language means and try to get something in place. Senator Murray said he thinks they will need to have a process in place because the way it is written it requires the auditor's office to make the approval, and he commented the auditor does not have the staff and people to do that, which is the reason he suggested going to JLCB.

Representative Ligi asked for example, if Department of Social Services (DSS) were to contract with an outside agency, be it a nonprofit or whatever that would come on the list, it would apply to that agency, the party to whom we contracted. Representative Ligi said one of the concerns during appropriations was that the money going to nonprofits which may serve a very good purpose, but obviously there are some that might not be as good of a purpose, and he believes that is what can be found out by seeing the budget, and making sure they are able to accomplish what they have been contracted to accomplish. So it applies to those situations where we have appropriated money in HB1 but do not necessarily follow that money always down to the stopping point and this gives us some kind of assurance that we know that money is being used for a functional purpose. Representative Ligi told the chairman that his suggestion is a good one.

Representative Richmond said he has a general question if this was in the preamble of the appropriations bill. Ms. Schaye said Section 18B(1). Representative Richmond said he thought the line item veto was only for budgetary units, and asked if it was possible to veto in the preamble. He thought there was a specific case that the whole purpose of the line item veto was to balance the budget and dealt with spending. Ms. Schaye said she could do some research on that. Senator Murray asked that she get that to them as soon as she could. Representative Richmond said as they are discussing Representative Ligi's amendment, he also asked how they may be able to figure out a workable way to include it in other appropriation bills.

Mr. Purpera said the next item is Section 18D which we understand was vetoed by the Governor. The language was that, "No agency contained within this Act that has had two consecutive unsatisfactory audits shall receive any appropriations from the State General Fund (Direct), including any funds provided pursuant to the Minimum Foundation Program, unless such appropriation is approved by two-thirds vote of the Legislative Audit Advisory Council." Senator Murray said on that language which was put in, he had told the Council that the author came to him and said there was no definition for unsatisfactory in the audit law, and that the Council would have to do something with this if the language survived. He considered coming up with some definition that they could bring to Joint Budget. The Governor has chosen to veto this language. He said he had not spoken with Senator Morrell, who offered the amendment.

Representative Richmond said he spoke with Senator Morrell and part of the problem about this, for example, the Recovery School District (RSD) in New Orleans which for the last two years has had relatively unsatisfactory audits. They receive a lot of money and have cash flow problems, and last year during the Council's meeting when they discussed their ability to borrow money, the answer was no. At a previous meeting, the school board stated that they loaned RSD money because it is understood they are having very significant financial problems in terms of operating revenue. Representative Richmond stated they should watch RSD, because in one bill this year they were given half of insurance proceeds on some buildings and that money went to operating revenue and not buildings. He said at some point people are going to look to the Council if anything happens to the RSD, and they will say that for the last two years they have come before this body with problems with their audits, and not necessarily cooperating and we did not do anything about it. He said he believed the Council needs to have the ability to do something about it and right now does not.

Senator Murray said this Council does have the authority to do something about, but we have not used it since being a member. The council can recommend withholding of funding for different state agencies if we find that they are not cooperative on their audits. But the insurance proceeds you were referencing were not included in a bill, that was a negotiation to affect another bill that was going through the process, but I do agree with you. Senator Murray explained the circumstances whereby the Orleans Parish School District received insurance proceeds for damages done to the school buildings from Katrina. The RSD said they wanted half of those dollars so they could use for operational dollars, but that was insurance proceeds that should have gone to help do something with buildings – repair existing ones or build new buildings. I do not know how you use those one time dollars, but at least on the local level the RSD will be in a real fix for using these one time dollars, and not sure if using to pay expenditures that are from the current fiscal year or for the next fiscal year. I do not know what they plan to do with it, but it is for operational usage rather than capital use.

Representative Richmond said for those entities that have had questionable audits for a period of two years or more, we probably need to at least see a list of those entities so that we know that we should keep any eye on them. He said possibly bring them before the council at some point to see how they are doing so that we have done our necessary due diligence to make sure everything is progressing, especially if they are going to require another audit extension. He did not know if RSD had applied for an extension or not, but the council should know when those types of things come up.

Senator Murray said he discussed with the auditor when they discovered that the language had been vetoed, about trying to find a way to really have some enforcement, when people have the same findings because he shared with me that it affects his staff when they have the findings and the agencies do not do anything to correct them. Our council should do something along the lines. Mr. Purpera said Arizona does have a statute similar to this and we plan to research this as we go forward. Senator Murray asked Mr. Purpera to bring that back to the Council in a future meeting. Mr. Purpera said it is not uncommon for agencies to have repeat findings, but when you see repeat findings for three, four and five years, and I have read findings that say for the tenth consecutive year, and it begins to diminish the value of the audit, and the services that are being provided, so we would like to see those findings addressed by the agencies.

Mr. Purpera reviewed House Bill 699 which relates to Energy Efficiency contracts and requires the auditors to coordinate with the Division of Administration to develop the description of information to be included as part of a performance audit of energy efficiency contracts and it also requires that the we post a schedule on our website by February 1st of each year showing which projects we plan to do. We do not see a problem with doing this. However, if energy efficiency contracts are entered into after February 1st, that plan will have to be altered.

Mr. Purpera continued that HB 981 pertains to cooperative endeavor agreements for economic development purposes and basically what it requires is that the quasi-public agencies which are not state budget units so the comprehensive budget to the agency and the legislative auditor showing the uses of the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives, including measures of performance. We will take these budgets and use them, we are already under law required to do three performance audits within the economic development realm. So we will take this information to assist us in these projects.

Mr. Purpera continued that HB1171 provides that the auditor within six months after a postsecondary education institution enters into a performance agreement with the Board of Regents, an institution will provide the information the LLA requests to conduct a detailed study of the performance of postsecondary education in Louisiana. He stated that he was bringing this before the Council to get an interpretation, or maybe some assistance in understanding the last section of the law which requires that the laws be effective in the event that funds are appropriated to effect these provisions.

Senator Murray stated that he had added the language, and also on the House Appropriations Committee when they were going through this bill, and the discussion came about the auditors office coming in to conduct this study and what they really want is a performance audit done for all of higher education and it is a continuing thing. He told the committee that if they added this work, then should also provide the money to the auditor's office because it seems like an awful lot to be done without providing additional funds to perform the work.

Mr. Purpera said as the bill was going through the session, we saw the bill as requiring a one time audit, and a fiscal note was prepared based on that. As the bill came to a different light, we saw it as ongoing in the future. The first year our estimate was about 3,000 man hours for this project, and subsequent years would be about 1,000 man hours. Senator Murray said if we need to talk with the leadership to see exactly where it needs to go, but he believed it will pull the auditor away from other tasks, but hopes to discuss it more.

Mr. Purpera said regarding HB 1488, in the past a quasi-public entity was any entity that received public assistance of \$25,000 or greater. This bill brings it down to \$1, and so it gives us audit authority and requires these entities to report to us that they receive between \$1 and \$24,999. It is not a big burden on those agencies, if they only receive \$10,000, all they have to do is submit a sworn statement to the Legislative Auditor saying how much they received and what they did with the money.

Senator Murray suggested that Mr. Purpera send out something to each member of the legislature because a lot of members who get appropriations for entities for sometimes as little as \$2,000 or \$3,000. By sending it to the members, we can encourage them to get the word out to the agencies in their districts. Representative Richmond asked if the entity that transfers the fund could also include it in the cooperative endeavor agreement or something to let them know that they are on notice that they have to do this. The entities will probably do it, but they just must be told it is a requirement. Senator Murray said we are suggesting that those things go out for contractual review but I am noticing in these bills there are a lot of people who receive a small amount of dollars. He said the entities just need to know. Also if you could follow up if the department could put something into their cooperative endeavor agreements or something when they send the check to them to tell them attestation is required.

Mr. Purpera said they already have a process in place for those entities receiving greater than this, so this should not be a burden on them. Ms. Schaye said she agrees telling the legislators would help because it says dollars in local or state assistance, and will help get the word to the city leaders.

Mr. Purpera said the next legislation is HCR83. My office will provide input, recommendations, and advice to the House and Senate Governmental Affairs Committees in their study of the possible strategies, methods, and policies to discourage the mishandling, misuse, and misappropriation of public funds and procedures to recover public funds which have been mishandled, misused, or misappropriated. Senator Murray said that was Representative Hardy's resolution, which had this thing developed because he thinks that we ought to look for ways to discourage people from spending money the wrong way, and I think we do this already. So I am not sure how active and maybe he will contact your office to see how much he really wants you to do, and then let us know. Mr. Purpera said we have already begun work on putting together something that we can use.

Mr. Purpera said that SB584 put the Legislative Auditor as a member of the advisory council to the new Louisiana Statewide Education Facilities Authority. We do not see an issue with that.

Mr. Purpera stated that SCR83 urges and requests the Senate and House Committees on Governmental Affairs to study and make recommendations relative to the feasibility, desirability, and practicality of state agencies adopting "lean principles". Lean principles are basically dealing with improving efficiencies, eliminating waste and abuse, and conserving public funds. My office will provide input, recommendation and advice.

Senate Resolution 88 urges and requests the LLA to conduct a compliance audit and a performance audit of the District Attorney's Office in the Sixteenth Judicial District (JDC). During the session there were several pieces of legislation dealing with the 16th JDC, and when the Legislative Auditor was asked to do fiscal notes, we complied with those requests. Mr. Purpera said he needs guidance from the Council on when it comes to doing this work, there is limited purposes of which I can extend out to a Judicial District and one of them is R.S. 24:513A(4)(f). What I mean by that, the 16th JDC already receives an annual audit. Through my office we approve the auditor and receive an annual audit.

Now I can go into an entity to do additional work when I have egregious control deficiencies, as per the law. I can go in when there is an allegation of irregularities, there are various reasons that I can go in. The one that fits best fits in this situation is R.S. 24:513A(4)(f) which basically states when the auditor and the Audit Advisory Council determine it in the best interest of the state.

Senator Murray asked the Auditor to look into that and send him something or report back to the Council on how much time you think that will take, so we can make a decision whether or not to do it. Senator Gautreaux asked if Mr. Purpera had already received information that would require you to review certain things already found. Mr. Purpera said that he reviewed the previous audit reports that were done by the private independent auditor and there were no egregious control deficiencies, no noncompliance with the law discussed in these audit reports. During our work with the fiscal notes, we did not come across anything that gave us any indication of egregious control deficiencies.

Senator Gautreaux asked if Mr. Purpera has received any documentation from anybody within his possession or anybody within his office that shows there was some type of problem. Mr. Purpera said I do not believe that I have received any documentation that fits these criteria. Mr. Purpera said during the fiscal note issues we received information about the 16th JDC, and one of the bills was to split the district, and there were questions asked about travel. Senator Gautreaux asked when they did the travel if it was all normal. Mr. Purpera said to the best of my knowledge it was all normal. Senator Murray said you keep saying that you reviewed things but nothing that reaches the level required by that particular statute to go in. Senator Murray said you see the audits every year that comes in. Mr. Purpera said we are not trying to avoid going in, but I want to make sure that if we do this, that it is accordance with the law.

Senator Gautreaux said another entity, which I do not know if we can talk about this other entity because you are still auditing them, but they also turned in their reports and were perfect and fine until one of my constituents handed you information, then you went in and found everything you need to know. Mr. Purpera said what I think I need to do from here is to speak with the author of this legislation and see if there is anything around those means. Ms. Schaye asked if the Council wanted him to report back. Senator Murray said yes.

Representative Richmond asked if this would interfere with the audit of LHSAA. Senator Murray said the Auditor would look into it and report back how much time it will take, and we will make a decision on whether we suggest this conditional audit, as we do for all such requests.

Mr. Purpera said the last bill is House Bill 1488 which deals with the Horsemen's Benevolent Protection Association and affiliates - there are several organizations that are specified in that legislation. Basically it provides that these entities submit an audit to the Legislative Auditor, and it also as in the High School Athletic Association specific legislation, it says that this Council can order the Legislative Auditor to do an audit. In other words, this entity provides an audit to me using an auditor approved by the legislative auditor, but this Council can also order an audit of the entity.

Mr. Purpera said there are a lot of other legislation that is typical each year as new organizations are formed which requires us to receive audits and puts them under our audit authority.

NEXT MEETING DATE

Senator Murray said he would like to pick a date that is regular to know when it is, and I will have the staff to call you to check on this. But I was thinking if we met on the afternoons before Joint Budget when a lot of members are required to be here. It is normally the third Friday of every month, for a normal meeting date. Senator Murray said it will be difficult next month because so many conferences and traveling, but we will try to have a meeting next month, but going further I would like to have a regular date to lock into, so everyone will know about it. Representative Ellington suggested they meet the afternoon before, and if it does not work, to change it.

OTHER BUSINESS

Senator Murray asked Mr. Purpera if the LHSAA audit is proceeding smoothly and getting the cooperation he needs. Mr. Purpera said yes, he is receiving cooperation from the High School Athletic Association. Senator Murray said the members would like to know the projected date to be complete and when the report can be issued.

Dan Daigle, Compliance Audit Director, said his staff is in the process of writing the draft report at the field work level, so it goes through a management review, plus Daryl and legal. It is still about four weeks out. Mr. Daigle said we will have the report ready to present to the agency, then complete the process from there. Senator Murray said then they review it, and issue a response, and after that we can get it.

Representative Ligi asked Mr. Purpera were he stands on the Jefferson Parish Contract Audit. Senator Murray commented only if he can talk about it. Mr. Daigle said that report is also in the process

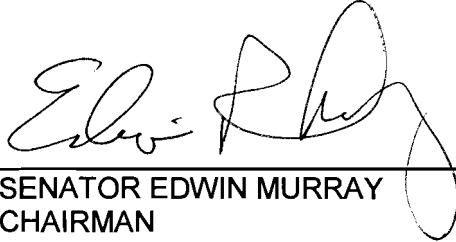
of writing those findings already, so they will have an audit report coming out. That audit might even be called a legacy audit because it will stretch out beyond the one report, and continue to do more work.

Mr. Purpera said at the last meeting Representative Connick spoke to the Council about our auditing of Crescent City Connection Division (CCCD), and they are continuing to do work on that. Specifically to those insurance policies and the bridge, and also the use of funds CCD funds, for non-CCCD purposes. Mr. Daigle said they are about two to three weeks out in writing that report.

ADJOURNMENT

There being no further business, Senator Smith made the motion to adjourn. Senator Murray adjourned the meeting at 4:05 p.m.

APPROVED BY:



SENATOR EDWIN MURRAY
CHAIRMAN



DARYL G. PURPERA
SECRETARY

9-17-10

DATE