

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting November 21, 2013

A meeting of the Legislative Audit Advisory Council (Council) was held on Thursday, November 21, 2013, in House Committee Room 6 of the State Capitol.

CALL TO ORDER AND ROLL CALL

Representative Greene called the meeting to order at 12:40 p.m. and a quorum was present with the following members in attendance:

Members Present

Representative Hunter V. Greene, Chairman
Senator Edwin R. Murray, Vice Chairman
Senator Robert Adley
Senator John R. Smith
Senator Mike Walsworth
Representative Cameron Henry
Representative Dalton Honore
Representative Clay Schexnayder

Members Absent

Senator Ben W. Nevers
Representative Ledricka J. Thierry

APPROVAL OF MINUTES

Senator Murray made a motion to approve the minutes for the September 19, 2013, meeting and with no objection, the motion was approved.

EXTENSION REQUESTS

Mr. Allen Brown, Assistant Legislative Auditor for Local Government Audit Services, presented the nonemergency extension requests for 90 days or less from Cenla Community Action, Inc. and the Town of Decembre. Representative Greene moved to approve the two extension requests, and with no objection, the motion was approved.

Mr. Brown presented the nonemergency extension requests for greater than 90 days which included Madison Parish Hospital Service District and the Outreach Community Development Corporation DBA J.S. Clark Leadership Academy. Senator Murray moved to approve the two extensions greater than 90 days, and with no objection, the motion was adopted.

UPDATE ON MADISON PARISH HOSPITAL SERVICE DISTRICT

Legislative Auditor Daryl Purpera provided background information on the Madison Parish Hospital Service District (the District) and asked Mr. Scott Barrilleaux, Chief Executive Officer, to update the council on their financial situation. Mr. Brown explained that the District's 12/31/11 audit was a disclaimer because the CPA could not apply sufficient procedures in order to reach an opinion. The 12/31/12 report is also a disclaimer with a substantial number of findings. Mr. Barrilleaux started with the District in November 2012. Both the independent CPA performing the audit and the accounting firm have seen improvement and progress. The District does not have a Chief Financial Officer or a business officer and short one accounting position, and must work to fill all those positions. Mr. Brown provided further information on their financial situation and payroll problems.

Mr. Barrilleaux said they expect electronic payroll deposits to begin with a new company the next day. Their income statement appears very good, but the problem is cash flow. They received approval from the Bond Commission for a \$1 million loan, and only drew half of that amount due to the expected Upper Payment Limit (UPL) money to arrive the first of December and then quarterly payments of \$1.2 million. They will receive ad valorem taxes in January, so after that time they should be alright. He shared some of their struggles with finding qualified employees.

CITY OF NEW ORLEANS – NOPD CRIME DATA – INVESTIGATIVE AUDIT

Mr. Brown explained that Senate Resolution 121 of the 2013 Regular Session requested that the Louisiana Legislative Auditor (LLA) review certain crime data and statistics for the City of New Orleans and make a report to the Senate Committee on Judiciary B. The crime statistics are reported by the New Orleans

Police Department (NOPD). The Louisiana Commission on Law Enforcement (LCLE) collects, reviews and reports crime statistics for the State of Louisiana and reports those numbers to the FBI Uniformed Crime Reporting (UCR) Program. The LLA's report issued October 23, 2013, used a risk based approach and focused on Part 1 UCR offenses which are major offenses including criminal homicide, forcible rape, aggravated assault, burglary, etc. Mr. Kevin Kelley, Investigative Manager, presented an overview of the investigative audit.

Mr. Ronal Serpas, Superintendent of the NOPD, said with the LLA's assistance they found areas to refine the inaccurate ability to get 100% of all crime reported. The auditors gave the NOPD some helpful ideas which many were implemented and they will continue to make crime reporting as accurate as possible.

Senator Murray asked if NOPD personnel will correctly handle the reporting now. Mr. Serpas answered that his team is trained by the FBI and the LCLE to be uniform crime reporting experts. The LLA auditors are very good at finding where programs can be tighter and those examples in the report will be used. Representative Greene expressed appreciation to Mr. Serpas for working with the LLA toward the same goal and willing to accept their recommendations. Senator Murray asked if this audit has been presented before Senate Judiciary B Committee to which Mr. Serpas replied no.

ST. TAMMANY PARISH CORONER'S OFFICE – INVESTIGATIVE AUDIT

Mr. Brown explained that this audit was initiated after the LLA received allegations related to the use of public funds by the St. Tammany Parish Coroner's Office (the Office). During the audit work, the U.S. Attorney for the Eastern District subpoenaed the Office's workpapers. Approximately one week prior to the public release of the audit, the U.S. Attorney announced a federal grand jury indictment of Coroner Peter Galvan on a federal criminal conspiracy charge. Dr. Galvan has since resigned, pled guilty and will be sentenced in January. The Louisiana Attorney General's Office (AG) is also actively pursuing charges based on the audit report. Mr. Kelley presented a summary of the eight different findings in the investigative audit.

Mr. Kelley pointed out that besides Dr. Galvan's resignation, three other employees mentioned in the report have also resigned from the Office. Senator Adley asked if Dr. Galvan was in jail currently. Mr. Kelley responded that he was free pending sentencing in January.

Ms. Pat Brister, St. Tammany Parish (the Parish) President, explained that Dr. Galvan is out on bail currently. She expressed appreciation to the legislators that passed Act 181 which allowed the Parish to regain oversight of the Office's funds and now the Parish currently controls the budget and finances. Representative Greene asked if Dr. Galvan continues to have any signatory authority on bank accounts. Ms. Brister responded that Dr. Galvan does not have signature authority. The Office has an interim coroner appointed until the election in April 2014 results in a permanent coroner. Ms. Brister explained the extent of control that the Parish has over the Office.

Representative Greene commented there may be more legislation in the next session regarding this issue. Representative Henry asked if Act 181 covered the necessary controls and if debit cards have been put away. Ms. Brister said the Parish has control over all funds except for what was budgeted for the current year as outlined in Act 181. She explained that the control over the Office was taken from the Parish in 2007, but now fully returned. They discussed the litigation issues about retirement funds and the misused \$650,000 found in the audit, but unsure of the total amount misused during the 13 years of Dr. Galvan's term as coroner.

MEDICAID PARTICIPANT FEES PAID FOR DECEASED INDIVIDUALS IN THE LOUISIANA BEHAVIORAL HEALTH PARTNERSHIP AND BAYOU HEALTH PROGRAMS – DEPARTMENT OF HEALTH AND HOSPITALS (DHH) – PERFORMANCE AUDIT

Ms. Nicole Edmonson, Director of Performance Audit Services (PAS), presented the report issued November 4, 2013. She explained that this project was not a traditional performance audit, but conducted by a new unit within PAS called the Data Analytics Unit (Unit). The purpose of this Unit is to identify indicators of fraud, waste and abuse within state government and identify the policies that agencies need to strengthen to prevent loss of funds or to gain funds entitled to. The LLA created this Unit to be proactive in identifying issues through data analysis. Because the scope of this audit is more focused and restricted than traditional performance audits, PAS anticipates less time needed to conduct the audit and can address higher risk areas in state government which adds more value to the State of Louisiana as a whole.

Mr. Michael Boutte, Performance Audit Manager, provided some back ground on how DHH began implementing the Louisiana Behavioral Health Partnership and the Bayou Health Programs in 2012. He then outlined the findings and recommendations from the report. He pointed out that no individual person received any payments and the managed care organizations in Magellan Health Services did not bill DHH for the deceased individuals, but DHH pays the organizations the per member per month fees based on their own eligibility determinations. Based on the LLA's analysis, DHH does not have a sufficient process in place for identifying deceased Medicaid participants in a timely manner and two recommendations given to DHH were agreed to and believe they can recover the overpayments identified in this report. Mr. Boutte said they have provided to DHH a list of those payments and the supporting data for the \$1.85 million. By working collaboratively with DHH on this project, they were able to identify this issue 17 months into the program as

opposed to several years down the road, which allows DHH the opportunity to fix the problem now and prevent additional dollars being spent.

Senator Adley complemented the Unit and asked what led them to look at this issue. Ms. Edmonson explained that they are in many agencies and able to combine data from various agencies so see the need for proactive addressing of issues. The Council questioned the process of how money is paid to the managed care organizations, and how DHH determines the amount sent to them based on enrollments in the various programs.

Ms. Kathy Kleibert, DHH Secretary, thanked the auditors for identifying this problem in a fairly new program which certainly helps correct the processes early. The participant paid fees were not tied to any fraudulent activity by the health care providers, individuals or health plans. This is simply the result of database errors that are largely at the federal level. The payments made on behalf of confirmed deceased individuals have already been removed, and the full amount will be recouped in February through the quarterly reconciliation process. DHH has completed a comprehensive review of all the cases cited in the audit and determined which members were actually deceased and those who were actually alive, and corrected the discrepancies in the databases.

Secretary Kleibert explained that some people who are deceased still had active social security pay status, and DHH had to wait for the Social Security Administration (SSA) to update the status. The SSA actually determines the eligibility of participants, and many of their records were incorrect. DHH has notified SSA of those found to be deceased but shown to be alive. Federal audits report that 1.3 million individuals were left out of the federal social security death master file even when their deaths were reported to the SSA. The death master file included 130 people who officially died before they were born, meaning that their deceased dates were prior to their birth dates. After discovering the major inaccuracies of the SSA database, DHH has dramatically improved their process by strengthening their link to the state's vital records registry which will serve as the final source for when a member passes away. Only recently has there been an online database to cross match the files and confirm deaths. DHH now has a daily update of deceased individuals in the vital records registry. DHH is also cross matching quarterly the Medicaid eligible with the Department of Vital Records registry. Secretary Kleibert said they may still have some management fees issued on someone deceased, but the quarterly reconciliation process will catch those fees paid for individuals not receiving service, and DHH will recoup those funds. She provided details on what funds have been recouped and when expect to receive more.

Representative Greene asked how the SSA receives notice of a person's death. Secretary Kleibert responded that the family members and funeral homes notify the SSA, but SSA was backlogged on updating their records. They discussed the process of how SSA is notified of deceased individuals. Secretary Kleibert said DHH is now receiving a list of deceased individuals from vital records and cross checking the SSA database, which they were not doing previously. Representative Greene said he believes it should be a state agency such as the Department of Vital Records' responsibility and not a survivor's family member to call SSA.

Secretary Kleibert explained how managed care works with a set amount per member per month paid for every Medicaid eligible individual enrolled in that particular health plan, and not based on services provided because no services may be provided that month. The health plan is at risk and has to manage that individual to keep it under the per member/per month costs.

Senator Adley asked if there are any penalties to the State for the mistake in overpaying. Secretary Kleibert responded no, because DHH can recoup the funds, and not fraudulent activities. Senator Adley asked if the managed care organizations are no longer billing for actual services provided, and if this is the most efficient and effective method. Secretary Kleibert explained that the fees are based on actuarially sound rates. Senator Adley asked what happens if the organizations do not spend all the money on health care and create a huge profit. Secretary Kleibert answered there are safeguards in place because the organizations must spend 85%. She explained the differences between shared savings plans and the at-risk plans, and the fixed management fees paid. Secretary Kleibert said the remaining over payments would be withheld from the payments to Magellan and Bayou Health in February 2014, and of the amount paid, 65% is federal money.

Secretary Kleibert said DHH's new process includes their checking daily and notifying SSA of deaths. DHH has an auto selection process based on who SSA shows as eligible for Medicaid, however, if someone does not select a plan, they are automatically assigned to a plan. She said they strongly urge people to select their plans, but some do not choose on their own. Secretary Kleibert expressed appreciation for the report by the LLA which helps improve their process.

Representative Greene asked for the location of Department of Vital Records and where the satellite offices are located. Secretary Kleibert said by statute the Department of Vital Records is domiciled in New Orleans and they have satellite offices and kiosks across the state, and would provide that list to the Council. They discussed the lack of a satellite office in Baton Rouge, and the need for quicker and easier access to certified copies of birth certificates. Secretary Kleibert explained that they had major streamlining of those services because of budget reductions a few years ago, but still faster and easier now with online access.

Representative Greene said between the \$2 million incorrectly paid as well as the time to correct the process and recoup the funds, it is still taxpayer dollars unwisely spent. Secretary Kliebert accepted that it was a significant amount of money and realized the time and money spent to recoup those funds, and appreciated the report showing DHH how to improve their process because ultimately DHH's responsibility to make sure their eligibility rolls are correct every month.

LOUISIANA TAX COMMISSION – RESIDENTIAL PROPERTY TAX ASSESSMENT PERFORMANCE AUDIT

Ms. Nicole Edmonson, Director of Performance Audit Services, covered the information requested by the Council members at the September 19, 2013, meeting. On October 17, 2013, Louisiana Tax Commission (LTC) submitted a revised response to the audit report stating they agreed with all the audit recommendations and outlined how LTC would address all the issues identified in the report. It also included a comparison of funding and staffing of tax commission offices in other states as requested by Senator Murray.

Mr. Pete Peters, Chairman of LTC, complimented Mr. Purpera and his very capable staff for their professional approach during the audit process. LTC is committed to achieving fair, honest, uniform and accurate ad valorem assessments throughout the State. Senator Adley asked about the controversy regarding the new statute from the last session to clarify property taxes for veterans and disabled people. Mr. Peters said the controversy is resolved and the local assessors are doing their best to ensure that the returning veterans and disabled veterans are getting their entitled benefits.

Senator Walsworth said he appreciated the revised response because the LLA was not asking too much and glad that both are on the same page now. Mr. Peters stated that LTC is making every effort to address all the issues and have a better system moving forward.

Ms. Kay Katz, LTC member, said the Commission is a sound place where citizens and businesses address their concerns. The Commission is doing a good job and will do better with the improvements suggested and appreciate all the Council's input.

Representative Greene made the motion to enter into Executive Session, and with no objection, the motion passed.

PERSONNEL MATTER – ANNUAL EVALUATION OF AUDITOR – EXECUTIVE SESSION

Representative Greene made the motion to return to the regular meeting of the Legislative Audit Advisory Council, and Senator Murray seconded the motion, and with no objections the meeting came out of Executive Session. Representative Greene made a motion that the Council set the Legislative Auditor's annual salary at \$178,774, and with no objections, the motion was adopted to set the new salary.

UPDATE ON TOWNS OF JONESBORO, GIBSLAND AND RICHWOOD

Mr. Purpera provided an update on the Town of Jonesboro's (Jonesboro) financial situation. The Fiscal Administrator (FA) is working daily and reducing staff and making tremendous headways on improving their accounting records and expect for the first time in five years to be auditable. The LLA removed Jonesboro from the noncompliance list so they now receive state funds and repairs are being made in Jonesboro. Mr. Brown said the mayor of Jonesboro was sentenced to 11 years with six years suspended, and was fined \$3,000, and ordered to make restitution to Jonesboro of \$51,792. The mayor is in jail and has not currently filed an appeal.

Senator Walsworth asked if the FA was paid from the LLA's budget. Mr. Purpera answered that Jonesboro had sufficient funds to pay their FA, but in the Town of Gibsland (Gibsland) and the Town of Richwood (Richwood), they do not have the funds to pay for a fiscal administrator. He said a FA has been appointed by the courts for Gibsland, and already working there. The FA may not want to stay when they determine there are insufficient funds to pay them. Mr. Purpera said he has spoken with some legislators about legislation in the next session creating a revolving loan fund to compensate FAs for a short period of time but the responsibility is still on the entities to pay the cost. Another alternative would be that his office enters into a cooperative endeavor agreement with the town because it is in the best interest of the state to get Richwood and Gibsland into an auditable state. It is his responsibility to see that towns are audited. Senator Walsworth asked to speak with Mr. Purpera further about this issue.

Representative Honore' asked if the auditor has any input on choosing the FA. Mr. Purpera explained that the Fiscal Review Committee (Committee) comprised of himself, the Attorney General (AG) and the State Treasurer, decides if the situation meets the legal requirements to appoint a FA, and must unanimously vote to do so. Traditionally, Mr. Purpera's office seeks out someone to do the work, and he recommends that person to the Committee, and then the AG will file with the court asking to appoint the recommended person.

Mr. Brown explained the issues that David Greer, Fiscal Administrator for Gibsland, has encountered since going to Gibsland on November 20, 2013. The IRS has swept every account and all the monies including bond reserve accounts a few days before. The IRS has given \$17,000 back based on the condition that Gibsland write a check back to the IRS for \$6,300 to pay current taxes. He provided their current cash

position and accounts payable status as determined by Mr. Greer. The town's accounting system cannot be posted to or even opened. The good news is that the total due to the IRS for payroll taxes has been reduced from \$91,000 to \$22,000. The FA has to determine how to make the town viable, and how they can pay their bills including his own salary. A few weeks prior, the IRS called all the Gibsland council members and told them that they are personally liable for the town's tax debts.

Mr. Purpera pointed out that Gibsland has been unable to pass a budget for several years because of differences between the mayor and council. Now the FA can set the budget and moving forward. Because of loss in population and revenue, he is not sure if Gibsland is viable.

Representative Greene asked if the new fiscal administrator law provides for a FA to step in if they cannot pass a budget or does it have to be past that stage. Mr. Purpera said the law requires that the entity is not paying its bonded debt, and expenditures are not being paid. Representative Greene asked about the City of Port Allen's situation and Mr. Purpera said the law provides that they can spend up to 50% of their previous year's budget when the current year's budget has not been adopted.

Mr. Purpera said that Richwood was also approved by the the Committee to have a FA appointed, and the court hearing is scheduled the following day. Richwood's Council is planning to oppose the appointment of a FA. Mr. Brown said Richwood has been notified by the IRS of a possibility of levying their accounts. The IRS wants \$80,000 and has already gathered personal information from the mayor, council members and the fiscal officer assumedly because they will be held personally responsible for the debt. Mr. Brown explained their large payables due and greater scale problems than Gibsland.

Mr. Purpera explained that Jonald Walker, CPA, has agreed to be the FA for Richwood. Senator Walsworth asked if Richwood hired an audit firm. Mr. Purpera responded that because it was beyond the limit of the law for them to hire an auditor, he decided that his staff would perform their audit. Senator Walsworth asked if an entity can legally refuse to hire an auditor. Mr. Purpera stated if an entity does not provide an audit within six months of year end, they are placed on the noncompliance list and it can be construed as malfeasance in office as seen in Jonesboro.

Senator Walsworth asked if Richwood is receiving any state dollars. Mr. Purpera explained that an entity on the noncompliance list cannot receive any state dollars except vendor payments. Mr. Brown stated that \$87,000 was available in Parish Transportation Act funds but being withheld. Mr. Purpera explained that he will remove the entity from the noncompliance list when the FA is working and the town leadership is cooperating with the FA.

ADJOURNMENT

Representative Greene made the motion to adjourn, which was seconded by Senator Murray and with no objections, the meeting adjourned at 2:53 p.m.

APPROVED BY:



REPRESENTATIVE HUNTER GREENE
CHAIRMAN



DARYL G. PURPERA
SECRETARY

12/19/13

DATE