

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting November 18, 2010

A meeting of the Legislative Audit Advisory Council was held on Thursday, November 18, 2010, in Senate Committee Room F of the State Capitol.

CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 1:10 p.m. A quorum was present with the following members in attendance:

Members Present

Senator Nick Gautreaux
Senator Edwin Murray, Chairman
Senator Willie Mount
Senator John Smith
Representative Cameron Henry
Representative Charles Kleckley
Representative Anthony Ligi

Members Absent

Senator Ben Nevers
Representative Noble Ellington, Vice Chairman
Representative Cedric Richmond

APPROVAL OF MINUTES

Senator Mount moved to approve the minutes of October 21, 2010 meeting, and with no objections, the motion carried.

EXTENSION REQUESTS

Ms. Joy Irwin, Director of Advisory Services for Louisiana Legislative Auditor (LLA), pointed out the Nonemergency Extension Requests for 90 Days or Less. Senator Gautreaux moved to approve the extension requests and with no objections so moved. Ms. Irwin told the council that DeSoto High School Alumni Association and the Louisiana Artists Guild turned in their audits the day before, as well as the three noted as turned in their audits already.

Lakeview Waterworks District of Caddo Parish

Ms. Irwin said that Ms. Mary Morris is no longer working for the waterworks district. Ms. Linda Brown, Office Manager, told Ms. Irwin that they have a new acting Chairman Mr. Lonzo Stewart who would probably not be attending. She said no word was received from their auditor Mr. Weatherford.

Livingston Parish Sheriff

Eric Pittman, representing Livingston Parish Sheriff Willie Graves, discussed the reasons for the extension requests including the Hurricane Gustav and health of their previous auditor, Mr. George Delaune. In May 2010 they received notice that Mr. Delaune was no longer authorized to perform audits by the LLA, and then had to cancel that audit. David Dean, CPA, Auditor said he had problems scheduling meeting with the previous auditor to get the documents from him. Senator Gautreaux moved to grant extension to 12/31/10 and the motion moved.

Northeast Delta Resource Conservation & Development Area, Inc.

Donna Remides, Executive Director, said they are in the final stage of finalizing their IRS financial statements. Nonprofit organization with state and federal funding and getting documents from other non-profit entities that they work with is difficult. Senator Gautreaux moved to approve the extension request.

Red River Parish Fire Protection District

Mary James, Board Chairman, said they are 100% volunteer staff. David Creswell, accountant for the district, explained the CPA has been ill and unable to complete the annual review, but by the end of November expects to have it completed. Senator Gautreaux moved to approve the extension request and it was approved.

Southwest Louisiana AIDS Council

Paul Montelbano, Director of Finance and Operations said he was not aware of their reporting requirements until received the letter dated October 20th from LLA, and called the auditor's office and was told he must provide a single audit. His CPA expected to have completed by December 30, 2010. Senator Mount moved to grant the extension request until 1/20/2011 because he has followed all procedures properly, and with not objections it passed.

Southwest Louisiana Homeless Coalition Inc.

Ms. Irwin said she does not know of any attendee. She said the entity has a general ledger but not many other records and relocating their office and hiring a new Executive Director (ED). She said some of the board members had taken over the operations until a new ED can be hired. Senator Mount asked for a list of board members, and pointed out concern that they had turned in their reports late for the past 5 years. Ms. Irwin said it is a nonprofit without the financial expertise and not keeping track of public funds as should. Senator Murray said if no one appears, the extension request will not be granted.

Town of Oil City

Ms. Irwin mentioned that the auditor for several of the entities has serious health concerns and has been working with the auditor to get the reports in. Mayor Chip Dickey said their auditor Mr. Weatherford had been sick. He said his city also took over a water system that had lost most of their board after the new ethics law went into effect, and for the first time in about 50 years must do an audit. They also have a problem getting the documents from the previous auditor because of previous board members refusing to complete their full disclosure documents.

Senator Murray asked Ms. Irwin to assist in getting the documents from the previous auditor if he would want to continue performing audits in the state. Ms. Irwin said she would get with the Mayor regarding this issue. Mayor Dickey stated that since the current auditor does not have the documents to perform the audit on the water system to allow more time to have the audit complete. Senator Murray suggested they allow until December 31st to turn in their audit, and asked Ms. Irwin to assist them in getting the documents. Senator Smith moved to grant the extension until December 31, 2010, and motion passed.

Trinity Christian Community

Mr. Earl Williams, Controller, stated that the audit has progressed but has additional fieldwork to be done and expects to be completed by December 15, 2010. Senator Gautreaux moved to grant the extension and it was approved. Senator Murray asked Mr. Williams to be sure the report is turned in.

Webster Parish Fire Protection District No. 8 – Cotton Valley

Adam Hurley, Special Operations Chief, stated that the auditor wanted a 90 day extension to do a Title 34 audit. They had engaged an unapproved CPA, and in the process of getting the documents from the previous auditor to the new CPA and had a payment issue. He said the audit performed was turned down by the state so their attorneys are working it out. Senator Murray questioned about the auditor and why not approved for the engagement. Ms. Irwin said the auditor engaged by the district was not on the list of approved CPAs posted on the LLA website, so the report was not accepted. She said she was not aware of a payment issue, but would assist them in getting that rectified. Senator Smith moved to grant the extension to January 31, 2011, and with no objections, the motion passed. Senator Murray asked that the auditors work together and get the records needed.

Senator Mount called the Southwest Louisiana Homeless Coalition and was unable to reach anyone to provide information, but has a list of the board members and will get a name to Ms. Irwin that would be responsible to return her call. Senator Murray said the entities that did not send a representative will not receive an extension and be place on the non-compliance list. Ms. Irwin asked if they acknowledged the extensions for other entities that reports were received already and Senator Murray said yes.

Grand Isle Volunteer Fire Company No. 1

Mr. Aubrey Chaisson, President, explained the issues resulting in the location moves after Hurricane Gustav, termination of the office manager, and that he became an incident commander moving from pillar to post. He said then the Legislative Auditor came in to audit the books and took the paperwork and then brought some back, and the paperwork has been shuffled back and forth.

Paul Rivera, CPA, said that when he started the work in April the office manager was just being replaced, the office was a mess and just recently moved. Then the BP office spill caused most of the problems. He said due to allegations or complaints on July 6th the LLA came in, so he backed off to let the LLA have the last three years' of documents and the audit was still going on. He was given the paperwork in late October to start the audit for 2009, but there were more questions by the LLA compliance division about 2008-2009 so Mr. Chaisson had to get the documents back. He said

hopefully in another 30 days, to have the audits complete, but cannot audit what he does not have. Mr. Rivera said because the LLA is asking for the records back, he hopes to have it all complete by December 31st.

Mr. Chaisson said the LLA compliance staff showed up on a day when they were just moving into their new fire station after Hurricane Katrina carrying the documents in filing cabinets and boxes, and it has been a mess. Senator Murray asked about the compliance audit.

Kevin Kelley, Compliance Manager for LLA, said they started in July and expect to have the final report in about 30 days. Senator Murray asked when the Grand Isle Volunteer Fire Company could get their documents back. Mr. Rivera said they have all of the documents now, but the LLA are asking for additional information, and Mr. Chaisson will search for the information out of the boxes back from Mr. Rivera. Mr. Chaisson said he had the documents back for about a week, but has to go to some vendors and not sure if he can complete by the 29th what is needed. Senator Murray asked how long the LLA needed to keep the documents. Mr. Kelley said they only need copies, and never took any records and they always stayed there, and the fire district had access to the documents at all times, and never knew that it was holding up Mr. Rivera from doing his work, and to his knowledge never stood in the way.

Senator Murray said in that case, Mr. Rivera has all of the documents needed. Mr. Rivera said to let Mr. Chaisson get the information needed for Mr. Kelley, and then he will get the documents back. Representative Ligi made the motion to approve the extension request to January 31, 2011, and the motion passed. Senator Murray asked that they do not delay in providing the documents to Mr. Kelley.

Jefferson Ambulance Service District No. 2 d/b/a Grand Isle Volunteer Emergency Services:

Mr. Rivera said that it is basically the same entity and same office. Their offices were moved three times in the past 6 months, and in a mess, but should be able to have the audit complete by December 31st. Representative Ligi moved to grant the extension to December 31st and with no objections the motion passed.

Senator Murray pointed out the list of non-compliant entities in the folders who cannot receive state funds until they comply with the audit law. Representative Kleckley asked about the agency type. Ms. Irwin said it is data field used in their office to designate municipality, Marshall's office, water district, parishes, not-for-profit agencies, etc. She said the audit law outlines based on the amount of revenues received will determine what level of audit is required. Representative Kleckley asked if they were all non-compliant. Ms. Irwin said the list is prepared daily, and if a report is received they are removed from the list. Ms. Irwin explained to Representative Kleckley about the Hospital in Merryville and why on the list.

LOUISIANA HIGH SCHOOL ATHLETICS ASSOCIATION

Senator Murray asked Mr. Henderson to come forward because supposed to be an update on the recouping on the funds from Mr. Henry. He said that the LHSAA Board met and determined a course of action. Senator Murray said the LHSAA asked to be removed from the agenda, but he was informed that the LHSAA instigated litigation against the state and the auditor's office essentially alleging they are not required to submit to audits. Senator Murray said he thought it was past that issue of whether required to be audited, and asked Mr. Henderson to share what being done to get the funds back from Mr. Henry.

Kenny Henderson, Executive Director of the LHSAA said at the Board meeting, the Executive Committee formed a subcommittee to study all of their options regarding the audit and the findings, and one thing holding them up is that the IRS audit was still ongoing. Mr. Henderson said the IRS audit began in June 2007 and is still ongoing. Senator Murray asked if that audit dealt with the alleged misspending by Mr. Henry. Mr. Henderson said it was the same, just different years and the IRS claims taxes were not paid on some funds. Senator Murray asked if the LHSAA believed the funds spent by Mr. Henry to be appropriate. Mr. Henderson said that is still up for debate.

Senator Murray said it should not matter what the IRS says, if the association feels the money spend inappropriately, they should try to recoup the funds. Mr. Henderson said the issue is if the IRS determines we owe money, then we will need to recoup more funds, and the IRS does not distinguish between Mr. Henry and the Association. Mr. Henderson said the IRS did not distinguish between expenses as legitimate or not, but believe taxes are owed on about \$600,000 because deemed as income.

Mr. Henderson said before the board meeting they had decided to file the lawsuit, and they are looking for a summary judgment to declare once and for all if they are a private nonprofit organization. Senator Murray said he was advised by the LLA about the litigation and asked if similar

to prior litigations and no one from the association mentioned the lawsuit when asking to be excused from the meeting.

Jenifer Schaye, General Counsel, said this is a broader issue and mentioned that no one from the state has been served yet with the lawsuit. She stated that the lawsuit is suing Mr. Purpera, Louisiana Legislative Auditor, the BESE board, and implicitly the Louisiana Legislature and this Council. She said the issues involve not only the authority of the auditor to audit, but certain statutes under Title 17 that the BESE board's regulation of high school athletics in the state is unconstitutional. It also questions several statutes in Title 17, of who is allowed and qualified to participate in the sports, and whether LHSAA is quasi public entity and subject to audit. The suit for declaratory judgment is generally handled by summary judgment and the Attorney General will be defending the constitutionality of about five Title 17 statutes and audit law RS 24:513 and subparts of law. Ms. Schaye said there was a preliminary meeting with the chief lawyers for the Senate and House, the Attorney General's office, Ms. Mary Quaid, and the attorney for BESE board so that they have coordinated an appropriate statewide united response.

Senator Murray asked Mr. Henderson about the statutes being contested if it included the one just passed regarding homeschoolers allowed to play. Mr. Henderson said that was one, but it was not about homeschoolers. Senator Gautreaux asked if they would amend their petition to exclude the LHSAA from the state retirement system so if they wanted to be private it would lend credence to their request. Mr. Henderson said it had not been discussed but he would take that under advisement.

Senator Murray said the declaratory judgment requested to state LHSAA is private and not under state law, yet at the same time not challenging to be put into the state retirement system. Mr. Henderson said others fall under the same situation, and when the association asked to be removed from the retirement in 2004 they were denied, and was not released. Mr. Henderson said when he was hired as Executive director, he came from a school system and part of the school retirement system and asked if he could be left out of the state retirement system, but that was denied. Senator Gautreaux asked if the board would give a resolution to be removed from the state retirement system and he would be happy to carry the bill up to repeal it.

Senator Murray thanked Mr. Henderson for appearing and asked if he could inform the LLA with respect to the IRS issue and what the association plans to do regarding from Mr. Henry's expenditures.

OIL SPILL UPDATE

Mr. Purpera informed the council members that their questions from the previous meeting were answered and provided in their packets, as well as the spreadsheets had also been updated. Mr. John Morehead, Director of Recovery Assistance Services, reviewed the parish data showing the ten most affected parishes' claims filed with British Petroleum (BP), and current status of payments received. He reviewed the documents included in their folders which reflected the advances from BP, liquidation of advances, claims filed with BP, and payment received from BP for the following parishes: Cameron Parish, Iberia Parish, Jefferson Parish, Orleans Parish, Plaquemines Parish, St. Bernard Parish, St. Mary Parish, St. Tammany Parish, Terrebonne Parish, and Vermillion Parish. Mr. Morehead offered to provide this document updated at each LAAC meeting.

Mr. Morehead reviewed the funding received by the state as outlined in the document provided to the council regarding the Department of Culture, Recreation and Tourism (CRT) funding distributed to the seven recipients. He stressed that the funds had not been received by the state from BP.

Senator Murray asked about the Louisiana Educational Television Authority (LETA) supposed to be split between LPB and other public television stations in the southeast part of the state and would like to know why the money has not been given out, and when it would be released. Mr. Morehead said he would check on that. Mark Brady, Deputy Commission of Administration, said he followed up on that for Representative Ligi from the last meeting, and he confirmed it should happen as per the breakdown, but had not confirmed that it has been done yet. Senator Murray asked why the money has not been given to the LETA yet, because he met with WYES in New Orleans the previous week and they had not received any money yet, and curious as to why the money was not moving.

Mr. Morehead began to review the funding to the Department of Health and Hospitals (DHH) and how they have sent money to six different service providers to assist them, receiving \$8.2 million. Senator Murray questioned about the money split between DHH and the Catholic Charities. Mr. Morehead said that as the oil spill was happening the Catholic Charities through VOAD and the state were both requesting funding from BP to cover the services and BP made the decision to combine it into one claim, and then VOAD and the state had to split the money as per their requests.

Mr. Theriot, representing the Attorney General's Office, said they are beginning to meet to discuss the use of Web EOC and that BP had declined the use of it. He said now that the parishes are in a recovery mode, he was starting to meet with the financial representatives of the parishes and are willing to participate in collecting the data. As long as a common methodology used and same for the local parishes and states to collect information, it could be used. He stated that GOHSEP is working on Web EOC to collect the data to better put together a claim for lost revenue and further costs.

Senator Murray stated that Mr. Nungessor commented that while claims were paid quickly early on, now not so fast anymore. Mr. Theriot said up until a week ago that they submitted claims up to \$4 million and since Jefferson Parish is the largest parish and slow to get just the direct costs paid, it is so much harder for the smaller parishes to collect. For example, public schools are seeing increases because children are taken out of private schools.

Mr. Brady said as they roll out Web EOC as a data collection and just began to get the pdf documents from BP the day before, they can then compare what is being collected from the parishes. He said Web EOC can also be used for communication to unify and controlled methodology and create templates to use. He said they will encourage all parishes to use it.

Representative Henry asked regarding duplication of documents input in the BP system and also into the Web EOC system. Mr. Brady said they wanted to use Web EOC as the intake function for BP, but they turned it down, and wanted all the information into their own systems. Mr. Brady said he is encouraging and making as easy as possible for going forward to use the EOC system.

Mr. Theriot said before Web EOC did not have an end result, but that has changed because need to see the direct and indirect costs needed to be recovered by the state and local governments. This collection of data will help them in substantiating their claims.

Representative Henry asked if the administration would help in convincing them to enter all the data in Web EOC. Mr. Theriot said some are encouraged to enter data to benefit the state and themselves so no inconsistencies, and better purpose when all unified. Mr. Theriot said some cannot pursue certain areas of cost until know the effects due to the event, and provide the attorneys with the best information. Mr. Theriot said they are preparing a template to provide guidance to them as they receive information from and speak with them, then expand the discussion to include more.

LOUISIANA DISTRICT ATTORNEY ASSOCIATION

Senator Murray asked Pete Adams to come because of local entities expressing displeasure for their local District Attorneys (DA) for accepting the Legislative Auditor's report as a basis for initiating prosecution of public officials for misappropriation of funds, etc. He asked Mr. Adams to explain the process of how and when the Attorney General is able to step in.

Mr. Pete Adams, Executive Director for the Louisiana District Attorney's Association, referred to the provided summary of District Attorney's authority provided by Ms. Schaye of the LLA. He said it give a good overview, but expressed caution on the interpretation of Article 61 and 62 are from the Code of Criminal Procedures enacted prior to the 1974 Constitution. Those Articles are facially unconstitutional and ineffective, but not repealed yet, and confusing when read the Constitution. It implies that the DA is the chief prosecutor and in charge of every criminal prosecution within his jurisdiction. Mr. Adams said Articles 61 & 62 seem to hint otherwise that the AG supervises and has control over DA's. Senator Murray asked why they have not been repealed. Mr. Adams said they had not tried, but did not feel necessary to spend chips on it, but it would be a good idea to get rid of that.

Mr. Adams said because the DA is the officer in charge of every criminal prosecution within his jurisdiction, there are instances whereby the DA has grounds to recuse himself or can be recused by a third party. Those are set forth in the Article 4. Senator Murray asked under what circumstances can the AG step in if the local DA does not recuse himself. Mr. Adams said when there are grounds to recuse the DA, any third party can recuse him on those legitimate grounds for recusal, done by a pretrial motion. He said most of the time the recusal is done voluntarily by the DA. There is also in addition to recusal, a process by which the DA can intervene in a case and the AG can supersede the DA. Those are only done as per the Constitution by cause - such as sufficient showing that the DA either has a conflict of interest or for some nefarious reason not pursuing a legitimate cause or is doing something illegal by not pursuing the case.

Senator Murray asked if the AG must file a motion in the District Court and the judge decides that, like any other judgment, which has been done since twice since 1974 Constitution, once in Plaquemines Parish and once in East Baton Rouge Parish.

Mr. Adams said commonly the DA can recuse himself and the judge will either appoint another lawyer as the prosecuting counsel, or more likely, the DA will contact the AG office and arrange for the judge to appoint the AG to take over the case. Senator Murray said that visitors at the last meeting were frustrated because the DA would not recuse himself. He asked in general why findings in audit reports do not proceed in prosecution.

Mr. Adams said the DA Association provides training for the LLA's office on how to go from audit to prosecution, and the legal principles that are at play that preserve a prosecution. He said an audit is received by the DA may suggest some finding of wrong doing, but must have serious proof of a crime is significant and a hard burden to reach. Mr. Adams said that DA's do not typically investigate crimes, but occasionally they will use the Grand Jury to do further investigation on a report received from a legitimate law enforcement agency, but explained the DA's are not an investigatory body, but rely on law enforcement reports, state police, sheriffs, auditors. He said very few DA's have sufficient investigatory staff to do that. Mr. Adams said that DA's will not act absent a report that is sufficient to show probable cause of a crime committed. He said that in this case there was not such a report in the DA's possession at the time of the hearing.

Mr. Purpera said the audits on the Town of Jonesboro had been done by the independent CPA firms with disclaimers, and the Advisory Services have gone twice and provided advice. But at the request of the council, a compliance audit has begun in the Town of Jonesboro. Mr. Adams said the DA will not act unless there is legal evidence of probable cause of a crime committed.

ACTUARIAL UPDATE ON STATE RETIREMENT SYSTEMS – CONTRIBUTION REQUIREMENTS

Patrick Goldsmith, Director of Performance and Actuarial Services, said that retirement costs are becoming more significant to the state and contributions are rising, so just to provide some information that will be significant for the upcoming session.

Paul Richmond, Manager of Actuarial Services for LLA, said the material provided in their packets shown the four state retirement systems. He expounded on these four main points:

1. Contributions as a percentage of pay are large;
2. These contribution percentages are significantly larger than what they were the previous year;
3. Contribution percentages will be even larger next year;
4. Contributions percentages will continue to increase over the next 10 years to 35% to 40% of pay. The primary reason for the increase is the schedule of payments necessary to amortize the UAL. These payments, which currently do not even pay for interest on the outstanding debt, are scheduled to increase over the next ten years.

Senator Murray asked how Louisiana ranks in percentage paid. Mr. Richmond said the percentage levels are not unusual for state to state, and in comparisons the State of Louisiana ranks about 40th out of the 50 states in terms of its funding percentages. Mr. Richmond said the retirement systems in Louisiana are not in financial stress, but it warrants caution.

RECOVERY SCHOOL DISTRICT

Senator Murray said Board of Elementary and Secondary Education (BESE) will make a decision with respect to governance in the Recovery School District (RSD) and what to do with them. He requested an update on their progress on correcting findings from previous audits.

Paul Pendas, Assistant Legislative Auditor for Audit Services, reviewed the summary of work objectives for RSD as provided in the council's packets. Mr. Pendas discussed the objectives including reviewing their controls over financial processes at RSD, compliance with current state and Federal laws, and whether recording financial transactions accurately for the state's CAFR. This work is expected to be finished in mid December.

Mr. Pendas said they have expanded their objectives to look at other issues including how the RSD transfers and operates schools under its authority; how the schools are performing academically, and how they monitor charter schools, as well as the status of the Master Plan. He said this work should be completed by February 2011.

The LLA expanded their work further to review construction expenses and expenses, as well as to test whether RSD's requests processed through GOHSEP are supported as allowable expenses by FEMA regulations. The construction review will continue throughout the construction process. He said they will review how the subs are chosen, and how procuring as part of their normal review of costs. Mr. Pendas highlighted RSD's progress on several findings from the previous year. He pointed out that because of the lack of capitol and delay in receiving reimbursements, they cannot pay the vendors as timely as should.

He said that 50% of the RSD schools in Louisiana are Type 5 Charter Schools, and 80% in New Orleans are Type 5, and will check if they have effective procedures dealing with the charter schools that have not met their financial, academic and legal contractual requirements. Finally they will review the development of the Master Plan and how it progresses. He said they will also review how the project manager is ensuring the schools are build to code and many other issues including cost effectiveness. Senator Murray asked Mr. Pendas to add information regarding the number of local contractors opposed to out of state contractors on the construction side.

Mr. Pendas told the council that years ago there was no central source for tracking the audits on Charter Schools, so the LLA created the report provided and posted it on the website. Senator Murray asked the process for Charter School audits, and Mr. Pendas confirmed it is done through regular process with an approved CPA through LLA.

JEFFERSON PARISH COUNCIL AUDIT

Mr. Dan Daigle, Director of Compliance Audit, reviewed the compliance audit on the Jefferson Parish Council issued on October 6, 2010, which was included in their packets. He briefly reviewed the findings in the audit which included: issues regarding several parish attorney's office employees; a medical insurance consultant hired by the parish; and the cooperative endeavor agreement entered into by the parish. An executive summary of the audit was provided for the parish which provided the summary of the audit.

Senator Murray asked if any of the employees were still employed, and Mr. Daigle said they had all been terminated. Mr. Daigle said they are still currently conducting an audit on Jefferson Parish which will be completed in approximately 60 days, and has plans to return to look at other not-for-profits or entities that are receiving the grant funds.

OTHER BUSINESS

Mr. Purpera asked Ms. Schaye to provide an update to the council on matters of litigation. Ms. Schaye said the Fifth Circuit's five judge panel heard the insurance litigation which is still ongoing from when the Insurance Commissioner appealed the decision of the district court in regard to the auditor's unfettered access to the records. On October 27th it was argued, and awaiting a decision from the five judge panel on that.

Ms. Schaye said a civil litigation case where Camsoft, a company associated with the traffic cameras is suing other technology companies that had the traffic cameras. Camsoft, the plaintiff in the suit, wanted to get the LLA's audit workpapers and audit documentation on the New Orleans compliance audit with regard to procurement practices. Ms. Schaye said the LLA was not a defendant in the matter, and moved the Federal Court to quash that subpoena on the grounds that it was unduly burdensome and that the LLA records were not relevant to that civil litigation. She said they won that the day before, which is important because of continuous questions from state agencies and local bodies in regards to the confidentiality of the auditor's records. She is pleased with the federal judge's ruling, but it can be appealed from the magistrate's decision to the district judge.

Representative Kleckley asked for information on the insurance litigation. Ms. Schaye said it is the lawsuit arose from the 2007 audit when the Insurance Commissioner did not want the auditor to have unfettered access to the Department of Insurance's records, and asked the court for an injunction that the Auditor not release the department's 2007 audit. The district court ruled in LLA's favor, and the Insurance Commissioner appealed that decision to the First Circuit Court of Appeals, and it was initially heard by a three judge panel, which was split. So then the three initial judges and two more heard it on October 27th, and do not have a timetable on when to expect a response.

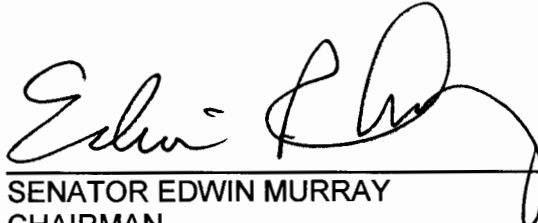
Representative Kleckley asked what happens if the panel rules in favor of the Department of Insurance. Ms. Schaye said then the Auditor would have to decide whether to appeal to the Supreme Court. Representative Kleckley asked if they do not appeal, will it limit the Auditor's ability to audit. Ms. Schaye said it depends on how the opinion is written and limitations outlined because some legal issues can be decided on a very limited basis or it can be broad. Representative Kleckley asked how much has been spent for legal expenses. Ms. Schaye said approximately \$100,000 for outside counsel, and the Department of Insurance also retained outside counsel but not sure of their cost. Ms. Schaye said that the Insurance Commissioner agreed for the Department of Insurance to settle the matter and to pay for the time and expense of the audit, which was about \$400,000, and that payment was made and is done. Representative Kleckley asked if the Commissioner had told the council previously that if the courts ruled against him, he would drop the issue. Ms. Schaye said she thought he did. Mr. Purpera commented that since the lower courts decision, Commissioner Donelon has been very cooperative and provided information as requested. Representative Kleckley requested when the ruling is made on the Department of Insurance to email all of the council members and if it is decided against LLA there could have some ramifications. Senator Murray said

that when some litigation takes place the auditor keeps him informed, and asks him to update the council when necessary.

ADJOURNMENT

There being no further business, Senator Gautreaux made the motion to adjourn. Senator Murray adjourned the meeting at 3:10 p.m.

APPROVED BY:



SENATOR EDWIN MURRAY
CHAIRMAN



DARYL G. PURPERA
SECRETARY

7-25-11

DATE