

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting June 20, 2011

A meeting of the Legislative Audit Advisory Council was held on Monday, June 20, 2011 in Senate Committee Room E of the State Capitol.

CALL TO ORDER AND ROLL CALL

Senator Murray called the meeting to order at 8:04 a.m. A quorum was present with the following members in attendance:

Members Present

Senator Edwin Murray, Chairman
Senator Ben Nevers
Senator Karen Carter Peterson
Senator Willie Mount
Representative Noble Ellington, Vice Chairman
Representative Anthony Ligi
Representative Ledricka Thierry

Members Absent

Senator John Smith
Representative Cameron Henry
Representative Charles Kleckley

TOWN OF WASHINGTON

Daryl Purpera, Legislative Auditor, gave a brief overview of the issues regarding the Town of Washington relative to Louisiana Revised Statute 32:226 revised in 2009. This law provides that if a law enforcement district not covered by Home Rule Charter has an interstate highway, that any traffic citations that are issued on the interstate highway for less than 10 miles per hour over the posted speed limit, these funds, fines and fees resulting from these traffic tickets must be submitted to the State Treasurer's office.

Mr. Purpera stated that based on a self-reporting survey by his office there were 37 municipalities that fell within that jurisdiction that were not Home Rule Charters. He said five were issuing tickets for less than five miles per hour, and two of those had provided money to the State Treasurer. Additionally, seventeen sheriffs fell into that same jurisdiction, and two had issued tickets and had not forwarded any funds to the Treasurer's office. As his office surveyed the municipalities, his staff informed them all of their responsibilities under the law and also informed the CPA community performing audits of municipalities and sheriffs of their responsibility in reporting.

The Town of Washington's audit report was issued by their auditor in May, which included a finding stating that the town had collected \$222,000 that fell under this law, but had not submitted the funds to the State Treasurer's office in accordance with the law. Mr. Purpera stated that Mayor Joseph Pitre does not agree with the law, and does not believe they must submit these funds to the Treasurer's office. Mr. Purpera said that currently the Treasurer's office only has about \$5,800 collected in its fund, so that indicates that many municipalities and sheriffs are not following the law.

Representative Ellington asked if the Town of Washington was the only one with the audit report showing these issues. Mr. Purpera said they have begun looking to confirm any other audits, but this was the only entity that came to his office's attention due to the amount of money involved (\$222,130 cited in the 6/30/10 audit).

Mike Battle, LLA Advisory Services Manager, stated that the other municipalities that had not turned in funds to the Treasurer included the Town of Grand Coteau and the Town of Vinton. Senator Murray asked for the amount outstanding from these entities. Mr. Battle said he could gather that information. Mr. Purpera said his office would do a study of the audit reports and continue to inform the auditors of their responsibilities. Senator Murray asked where the funds go. Mr. Battle stated it goes into the Louisiana Highway Safety Fund.

Mayor Joseph Pitre for the Town of Washington stated he is serving his third term of office and asked Mr. Purpera how his town was chosen to have three auditors sent. Senator Murray said that the audit report showed the issue and that the other entities will be investigated too. Mayor Pitre said that a particular legislator asked the auditor to investigate specifically the Town of Washington opposed to the other towns involved and wanted that to be part of the record.

Senator Murray asked that Mayor Pitre send him a letter with that question and he would try to get an answer for him, because the Legislative Auditor is independent and not certain that he can even answer that question. Senator Murray had asked for the other towns or parishes included, and said it would not stop with the Town of Washington.

Mayor Pitre said prior to when the law was passed, the Town of Washington approached the District Attorney's (DA) office and the Sheriff's department asking about participating in a state program called LACE. He said practically every municipality is participating in this program, and the money from the traffic citations is submitted to the Acadiana Crime Lab, the St. Angelo's Law Enforcement, the Treasurer CMIS, and St. Landry Crime Stopper, and of course, the Town of Washington.

Mayor Pitre said he was surprised when a legislator requested a meeting to discuss not writing citations that were less than 80 miles per hour, and he refused to meet because he believed it to be politics, and not legislation. He then called Governor Blanco requesting clearance and guidance. He also called Will Faulkner with the Department of Transportation because he wanted to know if he was in compliance and abiding by the law, because no one had approached the chief of police indicating that anything done was illegal or writing citations that were not proper. At that particular time, because he refused to participate in the backroom meeting and fix the speed limit, he was told that a law would be passed in order to make the Town of Washington comply. Mayor Pitre said that led him to believe that everyone else was complying because he was feeling the pressure to tell police officers how to enforce the law. He considered that to be malfeasance and not proper, which was the reason that he did not participate in that meeting.

Mayor Pitre said the law was passed in Louisiana indicating or circumventing the actual 70 miles per hour speed limit. He explained that if the speed limit was 70 miles per hour, they went to certain lengths to pass another law to prevent certain people from enforcing that particular law, He said the bill passed both the House and Senate, and not implying that all legislators are crooked, but he understands with the number of bills reviewed in a legislative session it is sometimes impossible to keep up with negotiations, and of course we have a tendency to vote our trust in our fellow brothers or sisters, and he does not have a problem with that. However, when that law actually circumvents the very nature of what we do, he takes a very deep interest in the fact that we would treat it differently in small towns. Mayor Pitre said that they had surveyed 100 Mayors within 3 days who all agreed that this particular law was not proper or was not fair. Of course, it was still signed by the present administration and supposedly became law. He said he was extremely surprised after the law was passed and documented, and he was ordered to pay as a municipality certain funds that the Legislative Auditor's office then sent out three auditors and asked him how the LACE program worked. He said he thought that due diligence should have done before the law was even passed to find out that there were other agencies involved and which state agency took precedence over the others, but none of that ever occurred. Now in retrospect the Louisiana House and Senate can pass any law that the Governor would like to sign, but that does not necessarily mean it is a good law or that it is fair. Mayor Pitre asked the committee to look at these circumstances because he said law can be passed, and he knows it is law, but due to the extenuating circumstances he would seriously urge the committee to look at all the circumstances involved and determine rather or not this is the type of precedence they would like to set in the state of Louisiana and the type of message to send out to our voting public and our citizens.

Senator Murray said he is reading the statute and trying to get to the problem with the statute, and asked if it is because it redirects money from paying local officers. Mayor Pitre said it takes law enforcement people off of the street -that is the biggest issue, in terms of police officers. Senator Murray asked if he cannot keep the money. Mayor Pitre said because we do not keep the money and obviously, do not have people to enforce the law. In the State of Louisiana, he said small towns are surviving to a great degree on fine money - that is not a big secret, the question is rather or not we are properly enforcing the law.

Senator Murray asked if he and the other Mayors that fall under this law now had met to try to change or repeal the law. Mayor Pitre said they did have a meeting prior to the vote and also faxed a copy of the petition and demands to the Governor before he signed it, and to no avail.

Senator Murray asked what they had done since the law went into effect in July 2010. Mayor Pitre said a few Mayors met, and had conversations on the phone, and the law to a degree is directed toward certain towns and people. He said because the funds were disbursed in other areas, the administration did not issue any kind of documentation as to how this was going to be implemented. He said they were told to send the money and nothing else was done. He said if he is participating in a LACE program and thus required to submit the money to other agencies, what should he do but take money from his general fund, so he can remain a part of LACE and also satisfy their state law. Mayor Pitre said he thought it to be illegal to give away taxpayers money.

Senator Murray asked if the LACE program was under a statute or cooperative endeavor agreement that specifies where the money is to go. Mayor Pitre said the money is disbursed to the

agencies that he named. Senator Murray asked if that is pursuant to an agreement between the agencies. Mayor Pitre said it an agreement from the District Attorney's office, St. Andrew Parish, Mr. Earl Taylor and the Sheriff's Department. Mayor Pitre said this was how he was told to administrate the program prior to participating in the LACE program. He said since that time, he has submitted those funds religiously to these agencies.

Senator Murray asked if of the \$220,000 referenced by the auditor, had those dollars been sent. Mayor Pitre said some has been sent to respective agencies, and there was no allowance in the law that would allow for any administrative fees as well. He commented on how he was supposed to enforce the law and not be able to recoup any expenses for running an automobile, insurance, gasoline or administrative fees. He mentioned also the contribution for further purchases of vehicles, or other allowances, as well as the cost for the tickets to write the citations. In his opinion, the purpose of this was to actually stop small towns from enforcing the law, and that was the conclusion that he arrived at, based on the circumstances that exist today.

Representative Ellington questioned what the LACE agreement with the DA's office and others was based upon. Mayor Pitre presented a document that reflected the collection and distribution of funds in the LACE program, and said there is a percent from each citation submitted. Mayor Pitre said they pay it on every ticket, even if the citation is for over 10 miles per hour. Representative Ellington asked if the Mayor was submitting the money due to the state, does he still feel that the agreement would require him to submit to LACE.

Mayor Pitre said yes, that is how the program works, and that is why he said there is a conflict. He asked how can you exempt one agency from not submitting the money, and another agency from submitting. He said that is self objectory in my opinion, because he has worked with budgets long enough to know that if he sends this money to one agency, in order duplicate the same money elsewhere, then it has to come from somewhere such as taxpayers.

Representative Ellington pointed out that he had submitted the money to the other entities, but not submitted to the state. Mayor Pitre said yes, that is correct. Representative Ellington said one is an agreement, and the other is the law, and asked why Mayor Pitre feels like he does not have to follow the law.

Mayor Pitre stated he was first following the law which required enforcing the 70 mile per hour speed limit. Representative Ellington said whether the law is good or bad is not a determination to be made that day, but it is the law. The law does not stop him from writing tickets at any speed. It is what the law says has to be done with the fine that is pretty plain and simple.

Mayor Pitre said he is running a business and cannot afford to do a job and not receive any revenue for it. Mayor Pitre said you are either saying do not enforce the law, do selective law enforcement, or enforce the law and it will not cost you anything to do it, one or the other. Representative Ellington said we are saying enforce the law. Mayor Pitre said you want me to enforce the law, and want my vehicles. Representative Ellington said there are some issues that are unintended consequences when we pass laws, which need to be looked at. He told the Mayor that he made his point very well, but that the council cannot tell him not to follow the law.

Mayor Pitre asked them to tell his officers that they do not have to enforce the law without being reprimanded and that he can use taxpayers' money to cover government mistakes, and not be subjected to malfeasance in order to satisfy this lien. Mayor Pitre said he must answer to his constituents and if he has to increase his services just to cover expenses, he does not believe the law intended for one particular set of people to be subjected to a different set of ideas and rules than another set of people.

Senator Murray asked what LACE stands for. Mayor Pitre said it is an acronym but did not remember everything it stood for, but it is program that is administered by the District Attorney's office and the Sheriff's Departments for practically every municipality in small towns and larger cities that have interstates.

Mr. Purpera said it stands for Local Agency Compensated Enforcement, and the program is designed to put off duty officers back on the streets

Senator Murray asked if specifically for traffic or law enforcement in general. Mr. Purpera responded law enforcement, but the funds are intended to put individuals back on duty through that cooperative endeavor, not to raise revenue for the towns. Senator Murray said the Mayor makes the point that the statute as it is worded tells him to send all the money to the state, and does not leave any money to pay for writing the tickets and the cars. Senator Murray said they would not take any action today, but hopes that the Mayor would have a letter from the local district attorney or city attorney, stating that he has been following what the DA says, and that will be helpful for the council to know that.

Mayor Pitre said that is the only way anyone can participate, by having clearance and abide by their rules and regulations. He said the units used are dedicated to LACE, and do not function in any other capacity for the town or any city, but used specifically for LACE. Mayor Pitre said all the money that the officers make is straight overtime because it is off duty.

Representative Thierry asked Mayor Pitre if every time they write a ticket all of the money is turned into the LACE department. Senator Murray pointed out the sheet provided by the Mayor with the breakdown of funds. Representative Thierry asked if the only compensation the officers receive would be the overtime pay for the time worked. Mayor Pitre said they receive overtime for any time above their normal schedule. Representative Thierry asked if the town benefits at all.

Mayor Pitre said not on those citations, but only those that would be 10 miles over. He said they did not write citations during that period that were less than 77 miles per hour, which were seven miles over the speed limit. He also pointed out that since that time the Town of Washington has passed a Home Rule Charter, and he receives phone calls every day from people all over the state who want information on how to pass the Home Rule Charter. He said the Lawrason Act is an old act, but any time we have people that are fighting to maintain their town and integrity and have to jump over these hurdles because state government is making it difficult for them to keep their doors open, it is a problem that needs to be addressed.

Senator Murray said most of them would agree because the feds are pushing costs down to the state, and we have begun to do the same thing on local governments as well. He said our predicament is that there is a statute on the books, and we cannot tell you to not follow it.

Mayor Pitre said we are no longer subject to that statute because we do have a Home Rule Charter, but the issue is the fines and the money during that window of time. Senator Murray stated that at least a portion of those funds have been paid out to these respective agencies according to the document. Mayor Pitre said the money has been submitted to the penny.

Representative Ellington asked where the court costs of \$49,000 goes. Mayor Pitre said he does not know the formula that the clerk used, but they use a formula to arrive at that number and those are estimated numbers. Some of the numbers, such as the insurance is prorated based on the number of vehicles versus the LACE programs during that window, but could not say for certain those numbers are exactly correct because he did not know what the formula is for computing court costs.

Representative Ellington asked if that was in district court. Mayor Pitre said that is the Mayor's Court. Representative Ellington asked if \$49,000 went to the Mayor's Court. Mayor Pitre said he would assume what the associated expenses are within the \$222,000 that was estimated was due to state, but could find out what the formula is and forward it to him. Mayor Pitre said he would not want to say something that he could not repeat or substantiate or would be ashamed of later. He said he would like to ask the people who actually did the calculations and forward a letter or a formula that they used to arrive at those numbers. Representative Ellington asked if the money actually came back to the town in the form of charges in the Mayor's court. Mayor Pitre said that is correct.

Senator Murray asked the Mayor to get something from the DA or the city attorney outlining his advice for the council because once again they cannot tell the Mayor to not follow a statute on the books. Senator Murray suggested he speak with the Mayor's local delegation, and get this list of other agencies or entities around the state that may fall in the same category, and then they may be inclined to do something different, but would have to be during next session.

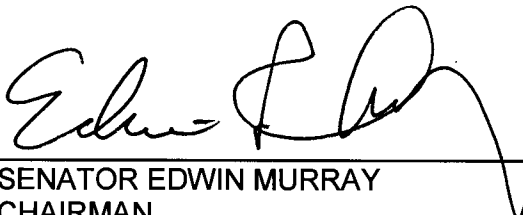
Mr. Purpera said the Mayor did ask this question of the Attorney General in 2009, and the Attorney General issued an opinion stating that the Town is subject to this law. Senator Murray asked that he send the opinion to the council, and assuming there would many other towns that the council may need to have a meeting just on this issue to see what needs to happen. Mayor Pitre said when that matter was submitted to the Attorney General none of the associated expenses or the circumstances were presented, so in all fairness to Mr. Caldwell, he would not hold him accountable 100% to that ruling because he did not have all of the information necessary to make an informed decision.

Senator Murray said until the next meeting, if the Mayor has some information to send to the council, and speak with these respective agencies to determine that if this law stays in effect, how it impacts their ability to operate since it appears that important entities receive some of this money. He said he would not like to interrupt the agencies that receive some of these dollars, especially when it could have a large impact across the state.

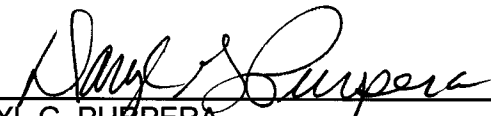
ADJOURNMENT

Representative Ellington made the motion to adjourn, and with no objections, Senator Murray adjourned the meeting at 8:40 a.m.

APPROVED BY:



SENATOR EDWIN MURRAY
CHAIRMAN



DARYL G. PURPERA
SECRETARY

7-25-11

DATE