

# LEGISLATIVE AUDIT ADVISORY COUNCIL

## Minutes of Meeting June 18, 2020 House Committee Room 1 State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Representative Barry Ivey called the Legislative Audit Advisory Council (Council) meeting to order at 9:00 a.m. Ms. Liz Martin called the roll confirming quorum was present.

**Members Present:** Representative Barry Ivey Chairman  
Senator Jay Luneau, Vice Chairman  
Senator Louie Bernard  
Senator Jimmy Harris  
Senator Beth Mizell  
Representative Aimee A. Freeman  
Representative Stephanie Hilferty  
Representative Rodney Schamerhorn

**Members Absent:** Senator Fred Mills  
Representative Edmond Jordan

**Also Present:** Daryl G. Purpera, CPA, CFE, Louisiana Legislative Auditor (LLA)

### Election of Chairman and Vice Chairman

Senator Luneau offered the motion to elect Representative Ivey as chairman of the council and with no objection, the motion was approved. Senator Bernard nominated Senator Luneau to be vice chairman of the council and Representative Ivey seconded the nomination and by unanimous vote the chairman and vice chairman were elected.

### Discussion of Organizational Matters

Mr. Purpera provided a brief overview of the Legislative Auditor's office and services provided as well as background on his experience and election to the position of Legislative Auditor.

Senator Luneau asked what process should be followed when the members and other legislators receive or learn of allegations or fraud. Mr. Purpera responded that any legislator can call him or send a written request which will start the process and we will do our best to respond to you. We receive calls every day. In your local governments you will hear many things and come across problems or individuals who need help. My office tries to respond to each and everyone one of those allegations received as best we can.

Senator Luneau pointed out that the Council has been looking at the financial difficulties of small municipalities for the last several years. He asked Mr. Purpera to explain to the members what we do in that regard and how we first look into it to see what's going on and what we do to help.

Mr. Purpera explained that many of the local governments are struggling. The CPAs perform audits that are geared to looking at the financial statements of an entity but not really looking closely at their controls or their sustainability. We began doing what we call agreed upon procedures (AUPs) about two years ago. We asked the CPAs to go beyond the normal audit and to look at very high risk areas that can cause an entity trouble such as credit cards because anybody can use them at Walmart and buy personal things. The CPAs also review the entity's budgeting practices and other things that they are specifically requested to look at closely.

Also about five to six years ago, we begin tracking local governments using what I call our "early warning system". We look at all their financial data and about 30 different metrics on those entities to determine if they are going to have problems in their future and trying to catch it before it ever happens. Approximately a year ago we compiled a list of roughly 15 - 18 entities that we call "fiscally distressed entities" that are in the worst condition. We could probably list 50 entities but those 15-18 are the ones that really need a lot of attention right now.

Senator Luneau commented that the Council members will probably find that to be a difficult issue to work with. He encouraged the members when they receive calls about local governments to speak with the chairman or himself so they can get with the auditor's office. He said if the members have questions or someone requesting an audit to call the auditor's office because they are very responsive. He commented that when you call the auditor, they will get back with you. He also encouraged the members to utilize the auditor's office because as a Council member they learn lots of things that may not have otherwise known about.

Mr. Ivey said his favorite agency in government and in the state is the legislative auditor's office because of the critical role they play. They are the watchdog and accountability system that our state has to ensure that state and local government is held accountable per the laws. I have always had a tremendous amount of respect and admiration for the effort Mr. Purpera and his staff puts in day in and day out to do what is arguably a thankless job. No one says thank you to the auditor for putting them through the ringer every year.

Mr. Purpera explained that every audit is prepared by a CPA and made public. We do not do anything in secret. Those reports are issued on Wednesdays traditionally and sometimes in November and December we issue twice a week. We email to you and your offices a list of all the reports that are going to go public on Monday. So if you desire to have one of those reports between that Wednesday and Monday, just let us know.

Senator Bernard said it is a great vision to be able to say that anybody can call into your office and report something and you look into it. He asked how the LLA sorts through the allegations and finds out if a legitimate concern or whether somebody is just trying to make trouble. Mr. Purpera responded that his office is a fact finding agency. When we receive calls and letters, we evaluate it based upon our knowledge and try to determine whether or not we believe it has some degree of credibility. We follow up with phone calls to get more information, because a lot of times we find that citizens may mean absolutely well but they may not know the whole picture. Sometimes we can explain the reason the entity had to do it a certain way because the law calls for it. For example, an entity might not have taken three bids in a particular situation because the law does not require them to. I certainly do not have the staff to look into every allegation. But every entity has a reporting responsibility, so we will forward those issues, allegations or concerns to the CPA to look into them during the course of the audit when determined to not rise to the level of the LLA investigating it. The CPA will look into it during their work at whatever time period that may be, so it may not happen next week but several months from now when they do an audit. But eventually we hope to handle each allegation or concern and we never treat anyone like they do not matter.

Mr. Purpera said that his office strives to be accurate and fair. There is never a report issued out of my office that we have not met with the agency – often over and over again – and we give them an opportunity to respond. How the entity wants their response to be included in the report, we include it and do not hide it because it should never be a one sided report. We want all perspectives to be addressed and our report to be accurate. If the agency can show us that we are wrong, we will change the report. That is the reason those initial drafts of the report are confidential drafts. There have been a couple occasions over the years where somebody took the confidential draft and gave it to the press. We try to not let that happen because maybe we did not get the whole story in that first draft and we want only the truth.

Mr. Purpera explained his office's interaction with the Council traditionally and they are certainly welcome to make any changes. In the past, the Council asked his office to prepare an agenda including some issued high priority reports from the last three to six months. At the meeting we briefly explain the report and then the agency will attend the meeting to explain their side. The objective is to get the agency to correct the problems and encourage them to do it right in the future. It is not a punitive issue. It's about building proper infrastructure in government and doing it right.

Chairman Ivey commented it is awareness and then accountability. When there is an issue and we need legal means to force compliance we can do so. Mr. Purpera noted that a couple of times a year his office will try to get records and encounter roadblocks from the agencies. The chairman and vice chairman have the authority to subpoena those records when we need them and hopefully without having to go to court although we often end up in court but prefer not to.

Mr. Purpera continued to the next topic of audit extensions. The audit law requires all of those 4,000 reports to be submitted to the LLA within six months of their fiscal year end. The majority of the entities submit on time but there is always 100-200 that cannot make that happen because of various issues. We are expecting an onslaught of extension requests due to the COVID-19 pandemic and we understand that. There are two situations by law for extensions. First is when there is a governor declared emergency or disaster. In those situations my office can give a 90 day extension without coming to you. This Council can give an additional 90 days if you desire. My authority to give the first 90 day extension does require ratification by the Council at the next scheduled meeting.

We determine if the entity was really impacted by the emergency. We also look at an entity's history to see if they have been consistently late in the past five years and requested extensions frequently. We consider if they engaged someone to do their audit in

accordance with the law. All those types of concerns are reviewed prior to granting the first 90 day extension. If the entity requests an additional extension, we will bring the list of entities and reason for extension before the Council. The Council has the authority to grant them an additional 90 days. If the Council is not meeting consistently, then I will ask the chairman for his approval in the interim. This is the process we have been following and handling administratively. Chairman Ivey commented that he predicts LAAC will have frequent meetings.

Mr. Purpera explained when entities request extensions not because of a declared disaster but because of other situations such as the CPA doing the work has had a death in their family or staff, or records were burned in a fire, or even flooded. There are many situations that come up and we give the entity a careful evaluation. I can grant the first 90 day extension and the Council must approve an additional 90 day extension. So for almost every meeting we will provide four reports for consideration. Two possible lists of entities that have been granted 90 days or less extensions requiring the Council's ratification. We may possibly have two additional lists of entities requesting greater than 90 day extensions for your consideration. The Council can decide if you would like representatives from those entities to attend the meeting in person. In the past some entities were requested to come before the Council to explain the reason for the extension request but other times the situation was obvious and therefore did not require the entity to be represented in person.

Mr. Purpera pointed out another responsibility of the Council is to review LLA's budget and can remember doing that once. It is supposed to happen but the timing of the Council meetings is off from the legislative sessions where we must submit our budget. But I am supposed to bring my budget to you each year.

Mr. Purpera introduced his general counsel, Ms. Jenifer Schaye, who would share more of the legal responsibilities of this Council. My other key staff is Tom Cole, my first assistant legislative auditor who was confirmed by the Senate several years ago and kind of head over everything but his key focus is on all local government auditing. My other key staff is Nicole Edmonson, assistant legislative auditor over all state operations. Representative Freeman said she looked forward to working with the LLA and very interested in meeting the staff and understanding how we can help move some of these studies forward.

Ms. Schaye said she is honored and privileged to be the general counsel for the legislative auditor. I have been doing that for about 20 1/2 years. It is not my first job but it has been my best job and love what I do. I love the fact that the auditor is able to bring transparency and accountability to government with you all. I think there is no mistake that the 1973 constitution set it up so that the auditor would be independent, but have an advisory committee where the issues of state government could be brought forth to the legislature. Mr. Purpera is the legislative auditor, so the legislature is our primary customer, if you would. And I think Senator Bernard's question was excellent. We realized that as the custodian of such an awesome responsibility, we have to evaluate and make sure that this aspect of state government auditing is not misused. Your role is overview to make sure that there is transparency and accountability. We will bring various audits to you and ask you to review them so that you can recommend our office to go further on an audit after it is done. That may also inspire you to request additional audits. You can make sure that we are not in a "gotcha" mode but that people are treated with respect and we can change government.

Ms. Schaye commented that Senator Mizell would agree that we have seen great things happen in the fiscal review process and putting a small town into fiscal review. I think local officials and the constituents of the town can work with us to make sure that government works. Our office gives training around the state through our *Center for Local Government Excellence*. Whenever you call us and if you do not get a call back within 48 hours then I suggest you call 911. I cannot stand it when people call me and say that she is the fourth person they have called and nobody will answer. I tell them right away that I am not the attorney general but I do advise auditors and they are generally calling about audit issues. It might be an audit issue that emanated from an open meeting or a public records request, or not understanding fiscal review or having just a misunderstanding or a gripe against some public official. And so we try to help them. We refer them to the AG or to various applicable laws.

It is our responsibility and I think it's an extension of your responsibility that we provide about 40 topics and we call them FAQs. The issues include open meetings, fiscal review, public records, public bid and more. We try to answer the questions that you would have here, and in that way, we are helping people. We welcome your participation in receiving the audits and talking with the auditees and provide feedback. Your responsibilities also include helping us when we cannot get records or other such issues. The reason getting records is so important is if the auditors do not have all of the records that they need then the audit lacks completeness and the facts cannot be provided in a reasonable manner. So our office will come to the Council for that subpoena authority. As a standing committee of the legislature you have subpoena authority to bring people before you and to put them under oath and to ask them various questions. That is not an every month occurrence, but it does happen. We try also, as Daryl said, generally in the office and specifically with the legal group is to be responsive to you. If you have particular issues that you want briefed for audit advisory, I'm very happy to do that.

Chairman Ivey asked Ms. Schaye to explain about confidential reports that are not a final report yet, as well as expound on situations and examples of when the Council would need to go into executive session. Ms. Schaye explained that rarely can audit

work papers be discussed even in executive session because it may contain PII and PHI information such as social security numbers and people's tax returns or anything that is not a public record. Those documents and information cannot be shared by the auditor, even with you as a committee. However I think it is permissible for the auditor to speak in general about some issues before the report is issued but we have to be extraordinarily careful about the rights of the individual. We are extremely careful about those audit work papers.

Chairman Ivey said he was more interested in getting updates along the process of an ongoing investigation that is not ready to be public. We will have the ability to become more informed in the investigative process and how things are proceeding. Ms. Schaye answered that as long as discussion does not go into the audit work papers the Council probably would not have to do that in executive session.

Senator Luneau referred to Mr. Purpera's earlier comments about an early release audit being released to the press. He asked for more details regarding the protocol of keeping early release audits confidential until publicly released. Ms. Schaye explained that when the audit is in the draft form, we considered that to be part of the audit work papers, but it's unfair to not let the auditee see it. So we hand it to the auditee. Although I should say this, the auditors will say we do not audit by ambush. So the auditee knows the entire time that the auditor is there and what is being looked at. But at some point there is going to be an exit and the auditee will have the draft audit before the exit conference. They will talk about the audit and what their response will be. We ask if we have any mistakes because people do make mistakes and sometimes people hear things differently and they change it. So when the auditee has the audit, we tell them that it is a draft and that it can change. In our hands this is not a public record. Sometimes the auditee says that they do not want it and know what they need to respond to and will respond. Sometimes the auditee keeps the draft report. That is what Senator Luneau is referring to. At times, maybe not the head of the agency, but somebody in the agency took that draft audit and gave it to the press. That causes a problem for everybody, because we are not ready to end that audit. We are still listening to what management has to say. If the press calls us, we generally say that we are not going to comment on that audit because it is still in draft format. The reporter might ask about a specific part of the report but we refer them back to whoever gave them the audit because we will not discuss the audit until it is issued publicly.

Senator Luneau commented that is important to know because sometimes these audits bleed over into the criminal realm and they have to be investigated by district attorneys or the attorney general or whomever. So that is important to remember as well.

Ms. Schaye further explained that the auditor is the fact finder. The auditor may say in the audit report that it *appears* to have been a public bid violation. Sometimes we have been criticized for that and people say we should say it in the report because we know they did it. Well we don't. We say that we know all the facts and it is prosecutorial discretion as to whether that person is going to be prosecuted or not. So we try to keep in our lane, if you would. We look forward to talking with you all and to helping you in any way that we can.

### **Approval of Minutes**

Senator Luneau made a motion to approve the minutes for the December 12, 2019 meeting and with no objection, the motion was approved.

Mr. Purpera pointed out the LLA's Annual Report and Key Audit Issues that is a summary of all of the most important work done the previous year. Many legislators carry the reports with them during the budget cycle. The report is also available on LLA's website.

Chairman Ivey noted that he has become informed of a lot of interesting information by reading audit reports and recommended the other members read over audits too.

### **Other Business**

No other business was discussed.

### **Adjournment**

Senator Luneau offered the motion to adjourn and with no objection, the meeting adjourned at 9:45 a.m.

### **Approved by LAAC on August 17, 2020**

The video recording of this meeting is available in House Broadcast Archives:

[https://house.louisiana.gov/H\\_Video/VideoArchivePlayer?v=house/2020/jun/0618\\_20\\_LegisAudit](https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2020/jun/0618_20_LegisAudit)