

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting Monday, November 15, 2021 House Committee Room 5 State Capitol Building

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

Chairman Ivey called the Legislative Audit Advisory Council (Council) meeting to order at 1:15 p.m. Ms. Liz Martin called the roll confirming that a quorum was present.

Members Present: Representative Barry Ivey, Chairman
Senator Jay Luneau, Vice Chairman
Senator Louie Bernard
Senator Gerald Boudreaux, proxy for Senator Fred Mills
Senator Jimmy Harris
Senator Beth Mizell
Representative Aimee Adatto Freeman
Representative Stephanie Hilferty
Representative Edmond Jordan
Representative Rodney Schamerhorn

Members Absent: Senator Fred Mills

Also Present: Representative Barbara Reich Freiberg
Michael J. "Mike" Waguespack, Louisiana Legislative Auditor (LLA)

Approval of Minutes

(Video Archive Time 01:28)

Senator Luneau offered a motion to approve the minutes of the July 12, 2021 meeting and, with no opposition, the motion was approved.

Impact of Unfunded Accrued Liability (UAL) Payments on Public Education Funding in Louisiana – Performance Audit Issued October 13, 2021

(Video Archive Time 01:48)

Mr. Edward P. Seyler, Economist, and Ms. Courtney M. Stevenson, Senior Auditor, presented an overview of the performance audit using a power point presentation (Attachment A) and referred to pages and appendices of the full report.

Discussion included how payments are made to pay off the UAL and the statutory and other reasons that charter schools may choose to not participate in the Teachers' Retirement System of Louisiana (TRSL) or Louisiana School Employees' Retirement System (LSERS).

Senator Luneau noted that charter schools are allowed to not participate in the typical state retirement systems but participate in other forms of retirement allowing them to be eligible for Social Security. Public schools are paying more than non-participating charter schools do in retirement costs; however all charter schools still receive the same MFP funds per student. Mr. Seyler explained that non-participating schools also have to pay 6.2% into Social Security. Senator Luneau commented that it did not seem to be fair for

public school teachers for various reasons. He commented that he relies on the LLA for recommendations of what kind of laws need to be passed to be fair for the teachers and to pay off the UAL.

Council members asked questions that were beyond the report's scope, prompting TRSL's actuary, Ms. Shelley Johnson, and TRSL's Executive Director, Ms. Katherine Whitney, to provide a response. Ms. Johnson provided a brief overview of the complex UAL and IUAL history and impact of legislation and significant reform measures passed since 1988. Chairman Ivey thanked Ms. Johnson for the history and noted the previous legislators' negligence prior to 1988 to handle the IUAL.

Representative Edmonds questioned how other states handle charter schools' retirement options and funding. Ms. Stevenson responded that the audit did not compare how other states are dealing with this issue and offered to do some research on that question.

Representative Ivey asked if TRSL saw a significant drop in participation after Hurricane Katrina when charter schools became the only kind of schools in Orleans Parish. Ms. Whitney responded that there was a drop in membership and an increase in retirement, which led to a higher percentage of payments for IUAL and UAL being spread over the participating schools. Representative Ivey suggested TRSL make a trend analysis of the past 20 years to see how the membership and cost has shifted due to population changes. Ms. Whitney noted that their membership has steadily increased since Hurricane Katrina.

Senator Luneau commented that the audit function is important because it not only looks for wrongdoing but also shows impacts of following statutes and the need to revisit statutes to make it fair for all schools. Further discussion continued regarding the State of Louisiana's constitutional and statutory requirement to fund the normal cost of the state retirement systems which is a fully guaranteed benefit to the retirees of the systems.

Extension Requests

(Video Archive Time 01:20:42)

Ms. Diane Allison, Director of Local Government Services, presented four extension lists (Attachment B):

- ✚ Emergency Extension Requests - Greater Than 90 Days (198 entities)
- ✚ Emergency Extension Requests - Less Than 90 Days (28 entities)
- ✚ Non-Emergency Extension Requests - Less Than 90 Days (4 entities)
- ✚ Non-Emergency Extension Requests - Greater Than 90 Days (3 entities)

Ms. Allison briefly provided an overview of the reasons extensions were requested including hurricanes Ida, Laura and Delta, ice storms and COVID.

Senator Luneau commented on the large number of Emergency Extension Requests – Greater than 90 Days. Ms. Allison noted the impact was on agencies as well as their auditors but that. Overall, the number of extension requests is decreasing Mr. Waguespack confirmed that he is more closely scrutinizing the extension request approvals.

Senator Luneau moved to approved the Emergency Extension Requests – Greater than 90 Days and, with no objection, the motion was approved. Senator Bernard moved to approve the Emergency Extension Requests – Less than 90 Days and, with no objection, the motion was approved.

Chairman Ivey asked that additional information that Mr. Waguespack or Ms. Allison deemed significant be provided to committee members. Chairman Ivey moved to approve the Non-Emergency Extension Requests – Less than 90 Days and, with no objection, the motion was approved. Representative Ivey moved

to approve the Non-Emergency Extension Requests – Greater than 90 Days and, with no objection, the motion was approved.

Village of Powhatan

(Video Archive Time 01:30:05)

Mr. Waguespack shared that the Village of Powhatan was brought before the Fiscal Review Committee, which voted to be place it under fiscal administration. The Attorney General’s office is handling the court filings and, once approved, a fiscal administrator will be appointed. The Village has water and sewerage issues as well as inadequate and incomplete records. Senator Bernard expressed appreciation for all the work and efforts to help the Village.

Center for Local Government Excellence Virtual Event October 20-21, 2022

(Video Archive Time 01:32:30)

Mr. Waguespack explained this educational seminar for local governments had been offered in the past but suspended due to COVID. This event was offered virtually to over 780 people on day one and over 670 returned on day two. Attendees were from 358 different agencies in 63 parishes and the training offered 12 hours of continuing professional education. He wants his office to be considered as a trusted advisor and to establish relationships with agencies where they feel comfortable reaching out to his staff. He hopes to provide this training annually or semiannually and possibly have a designated educational staff person to handle this program as well as travel into the field.

Report on Audit Compliance for Dryades Young Men's Christian Association (YMCA) and Orleans Parish Charter School - James M. Singleton Charter School

(Video Archive Time 01:36:20)

Mr. Waguespack provided some background history and concerns regarding approximately \$1 million unaccounted for according to the Orleans Parish School Board (OPSB). By law agencies have to notify his office as well as the local district attorney of any misappropriations. The Dryades YMCA is the parent organization of the James M. Singleton Charter School (charter school) which receives the state funding but there have been transfers of funds between the two entities. The auditor for the YMCA said they are engaged to perform the audit but the auditee has not submitted any records yet for the fiscal year that ended in June 2020. . The YMCA’s Interim Chief Executive Officer, Dr. Samuel Odom, was unable to attend the meeting and sent a letter to the Council requesting an additional extension until March 31, 2022 for their 2020 audit report which was due on December 31, 2020.

Mr. Waguespack felt it was important to bring to the Council’s attention the concern about the missing funds and the delay on YMCA’s audit because The YMCA would go on the Noncompliance List on January 1, 2022 which would stop state funding and impact almost 300 students.

Dr. Henderson Lewis, Jr., OPSB Superintendent, testified that each time his staff has reached out to the YMCA regarding the over \$1 million unaccounted for, he could never get an answer and was stalled by YMCA management. Dr. Lewis stated that OPSB has been to court and mediation over the past year to subpoena records and finally received documents. As the superintendent of OPSB he expects the charter school management organizations to comply with the contracts and properly educate the students using the public dollars. But OPSB is very concerned and alarmed about the lack of transparency and accountability by the YMCA and charter school.

Dr. Lewis said that he will make recommendations at Thursday night’s school board meeting regarding school contract renewals. He explained the various options for when a charter school is not renewed and

the contract would expire at the end of a school year. He responded to Representative Freeman's questions about the teachers' and students' protection and placement throughout this situation.

Further questions were raised including Representative Schamerhorn asking the letter grade for the charter school. Dr. Lewis responded that the school's last letter grade was an "F" but due to COVID, they are awaiting the Board of Elementary and Secondary Education's (BESE) decision about grades for the previous school year.

Mr. Waguespack shared his discussions and lack of assurances from the auditors regarding receiving the documentation from the YMCA and charter school which hinders their ability to complete the audits.

Chairman Ivey made the motion to not approve the extension requested by Dr. Samuel Odom to March 31, 2022 because he is not inclined to believe information will be forthcoming. Mr. Waguespack said currently the audit is due by December 31, 2021, and he plans to put the charter school on the Noncompliance List on January 1, 2022.

Representative Hilferty asked how the minimum foundation program (MFP) funding is provided to the schools. Mr. Lewis responded that the funds are given monthly to the charter schools. Dr. Lewis provided various situations when charter schools were surrendered right after the new year began, etc. and the multitude of options to make sure each student is taken care of.

Chairman Ivey said if the YMCA will actively engage and provide documentation to the auditors, he is willing to approve an extension but being placed on the Noncompliance List is a strong motivator to get the audits completed. Senator Luneau offered a substitute motion to approve a shorter extension and see if there was any progress by the December meeting. Mr. Waguespack noted that the charter school just became engaged with an auditor. Chairman Ivey and Vice Chairman Luneau withdrew their motions and said the Council would expect an update at the December meeting.

Public Comment

Chairman Ivey asked for public comments and none were offered.

Chairman Ivey explained to the Council that the rules to add an agenda item requires unanimous consensus of the members and proceeded to provide background and reasons for his offering a motion to add agenda item "Request Performance Audit on Sexual Harassment Training Compliance in Higher Education" and, with no objections, the motion was approved.

Request Performance Audit on Sexual Harassment Training Compliance in Higher Education

(Video Archive Time 02:06:12)

Representative Freeman explained that the genesis of this request came from the work done in the Senate Select Committee on Women and Children (Select Committee). She referred to a 2018 performance audit on executive branch agencies which included the four university systems which led to some new legislation in 2018 (*Sexual Harassment Policies & Practices in Executive Branch Agencies* issued on April 17, 2018). Based on hearings in 2020, the legislators learned that some universities were not in compliance with the law. Her request is for the Legislative Auditor's office to conduct a performance audit of the sexual harassment policies, procedures and practices of higher education and the Department of Justice to evaluate these policies and procedures. Representative Freeman received calls at her office that not just universities but also agencies are not following the law and women are unable to speak out. She would like to see if

training is really happening in the way legislators expect it to be done and need to know what is working and not working before any new legislation could be introduced.

Further discussion continued regarding whether performance audits can be done of the executive branch. Mr. Roger Harris, Legislative Auditor's Executive Counsel, verified that LLA has the authority to conduct audits of any entity where public dollars are spent.

Chairman Ivey noted that failures have occurred and any deficiencies in following the law needs to be corrected, necessary improvements in policies need to be made, and we need to learn from the past.

Senator Mizell said she was in the Select Committee meeting that morning and reinforced the intent for the performance audit by Representative Freeman. The State Board of Regents and every university that testified in the Select Committee repeatedly stated that accountability is incredibly important so this requested performance audit would be a huge step toward having the accountability measured. She asked that the policies being reviewed include assault as well as harassment.

Chairman Ivey restated the full request, "We request the Legislative Auditor to conduct a performance audit of the sexual harassment policies, procedures and practices of the public institutions of higher education and the Department of Justice, and to evaluate those policies, procedures and practices and to report on both the compliance of those policies, procedures and practices with state and federal law and the compliance of the actual practices and actions of officials and employees of those entities with the policies and the law concerning sexual harassment." He said that violations of that would include sexual assault in addition to sexual harassment since assault goes beyond harassment.

Mr. Waguespack requested the approved request be given to his office and he may have to look into allocation of some costs to agencies for budgetary purposes. Chairman Ivey asked if this could be done prior to the next legislative session. Mr. Waguespack said he would have to check with his performance staff and possibly deliver after session begins because the performance staff is currently working on three or four other performance audits to complete before the session. Chairman Ivey suggested providing the performance audit in levels depending on what is found initially after starting the audit.

Representative Freiburg commented that if Representative Freeman had heard the testimonies in the Select Committee meeting that morning, she would know that the universities have very diligently implemented the statutory requirements and asked that universities not be prioritized in the request. Chairman Ivey said that universities are the primary focus due to previous history.

Mr. Waguespack suggested more details and specifics to narrow the scope and what timeline to review. Senator Luneau commented that the concept is good but would be very costly and suggested waiting until the next meeting after further discussion. Senator Mizell noted that some training for universities' staff is not required until December 31, 2021. She commented that the performance audit on human trafficking by Emily Dixon and Julie Floyd played an enormous role in showing where improvements could be made. She believes the same is possible by a performance audit on gaps and challenges in sexual assault and harassment policies.

Chairman Ivey suggested the members discuss and engage in a formal letter of request before the next meeting. Representative Freeman said she will check with the other members and refine the request.

Other Business

(Video Archive Time 02:27:24)

Mr. Waguespack introduced LLA's new actuary Kenneth "Kenny" Herbold. Mr. Waguespack stated that the Florida firm will still be involved but that it makes more sense to have an in-house actuary to be available for committee meetings and assist legislators.

Adjournment

(Video Archive Time 01:31:50)

Senator Luneau offered a motion to adjourn and, with no objection, the meeting was adjourned at 3:50 p.m.

Minutes Approved: Minutes Approved at the Legislative Audit Advisory Council meeting on March 9, 2022

The video recording of this meeting is available in [House Broadcast Archives](https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2021/nov/1115_21_LegisAudit):
https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2021/nov/1115_21_LegisAudit