

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting January 9, 2008

A meeting of the Legislative Audit Advisory Council was held on Wednesday, January 9, 2008, in the John Hainkel Room of the State Capitol Building in Baton Rouge, Louisiana.

CALL TO ORDER AND ROLL CALL

Senator Ed Murray called the meeting to order at 9:50 a.m. A quorum was present with the following members in attendance:

Members Present

Senator Robert Barham
Senator Willie Mount
Senator Ed Murray, Chairman
Senator Ben Nevers
Representative Tank Powell
Representative Cedric Richmond, Vice Chairman
Representative Warren Triche

Members Absent

Representative Rick Farrar
Representative Taylor Townsend

APPROVAL OF MINUTES

Copies of the minutes for the meeting of December 18, 2007, were previously mailed to Council members for review. Representative Triche had one correction to make in testimony he gave at the December 18 meeting. He said in the discussion regarding an investigation of the Office of Motor Vehicles, the minutes reflect that the agency had lost four people to retirement. The minutes should read that the agency lost two people to retirement. A motion was made by Senator Mount that the minutes for December 18, 2007, be approved with the correction made by Representative Triche. The motion passed without objection.

CONFLICTS OF INTEREST DISCUSSION

Senator Murray said Council members had some questions at the last meeting about conflicts of interest with respect to law firms. At the request of the Council's invitation to address this matter, Mr. Charles Plattsmier, Chief Disciplinary Counsel for the Louisiana Attorney Disciplinary Board, was present to give the Council an overview of the conflicts process. The Disciplinary Board is the agency created by the Louisiana Supreme Court that oversees and regulates the practice of law.

Mr. Plattsmier said the two basic concepts of conflicts of interest is that when one enters into a relationship in the representation of a client, clients have a right to expect that the lawyer will be loyal to their interests and will protect those interests and that the lawyer will respect their confidentiality. Before a lawyer agrees to enter into representation of a client, it is incumbent upon a lawyer to engage in a conflicts check to consider the people who the lawyer now represents and who they may have represented in the past in order to determine whether the lawyer is permitted to accept the new representation. The Rules of Professional Conduct govern those sorts of analytical processes and there are a number of rules that deal with conflicts. In general, a lawyer who currently represents a client cannot accept the representation of a new client if the interests of the new client would be adverse to the interests of the client he already represents, which are referred to as concurrent conflicts. Some conflicts are non-waivable; however, some conflicts may be waivable. The test is in Rule 1.7. If a lawyer determines that he has a conflict of interest, the next step is for the lawyer to determine if he reasonably believes that he will be able to provide competent and diligent representation to each client. This test is not a subjective test, but rather an objective test. The second part of the test is that the representation cannot be prohibited by law. Third, the representation cannot involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation. Last, if a lawyer believes the situation to be a waivable conflict of interest, he must sit down with each client and explain the conflict. The lawyer must have informed consent. In Louisiana, the waiver must be, at a minimum, confirmed in writing.

Mr. Plattsmier said Rule 1.8 speaks to specific types of conflicts. He said it is probably not a good idea for lawyers to enter into business transactions with the people they represent because the obvious potential for a conflict between them exists. If lawyers do enter into business transactions, the transaction must be fair. There must be full disclosure and the client must have the opportunity to seek out independent counsel to determine if the transaction is in the client's best interest. The client must give informed consent in writing. A lawyer cannot write themselves into a will as an heir or legatee for someone's will that the lawyer is drafting. A lawyer is prohibited from obtaining literary rights from their client to write their story for profit at a later date. There are an additional series of rules dealing with financial assistance to clients. Conflicts can arise when someone other than the client is paying the lawyer's bill.

In addition to concurrent clients creating issues, Mr. Plattsmier said a lawyer may have represented someone in the past and, in the course of that representation, obtained information that is confidential and, if disclosed or used by the lawyer against that client in the future, could be harmful. Finally, there is the imputed disqualification rule, which means if one member of a firm has a conflict, then every member of the firm has a conflict. Some states allow what is referred to as the screening process, but Louisiana, by and large, has rejected the screening process. They take the one lawyer in the firm that has the conflict and, in theory, screen them away from that potential representation so that they are not there and available to taint the representation of the remaining members of the firm. Louisiana has chosen not to do that in the private practice of law. The loyalty and fidelity obligations of a Louisiana lawyer are paramount and there is a premium placed on confidentiality and loyalty. However, the American Bar Association, in its recommendations, recognizes that lawyers who engage in governmental service are often presented with unique sets of difficulties and problems. Governmental entities often call upon people with expertise that may not be readily available in the practice of law at large. When conflicts of interest exist within a firm, screening is permitted. One member of a law firm, who might otherwise be conflicted out, can be permitted to be screened from subsequent representation by other members of the firm. This can occur only when all parties, including the governmental entity involved, have been told completely about the conflict and have been given the opportunity to consider all the facts. If the governmental entity chooses to waive the conflict of interest, it must be done in writing. Absent that, the Rules of Professional Conduct would prohibit that sort of employment.

Senator Murray asked if the rules require that there be a signed contract between the parties that spell out the terms and fee structure. Mr. Plattsmier said, generally speaking, Louisiana has the rule that only when a lawyer takes on the representation of a client involving a contingency fee contract, must the contract be in writing and signed by the client. In all other instances, Louisiana does not require that the agreement with the client be in writing and signed, subject to a statute that would otherwise apply.

Senator Nevers asked if there are penalties for someone who violates the conflict of interest rules and if there is any way to recoup dollars involved. Mr. Plattsmier said the area of involvement of the Disciplinary Counsel's Office is the affectation of a lawyer's license. The Office cannot award damages to people. The Office does not represent complainants, but rather the preservation and proper regulation of the practice of law in the state. If the Office determines that a conflict of interest was engaged in knowingly or intentionally, the lawyer can expect severe discipline, either suspension of their license or perhaps disbarment. Depending upon whether the lawyer gained financially from an arrangement, the Louisiana Supreme Court has the authority to order restitution. If a client has been harmed by a conflict of interest through the payment of fees that they should not have paid or from damages that might have occurred, this might be a civil matter best addressed in a civil proceeding for damages. Senator Nevers asked if there is a prescription period concerning conflicts of interest issues. Mr. Plattsmier said there is no prescriptive period for disciplinary action to be taken against a lawyer unless it can be demonstrated that the lawyer engaged purely in negligent conduct with little or no harm that occurred more than 10 years ago. He said he would have to defer on a prescriptive period for bringing a claim for damages. Louisiana follows the one-year prescriptive period rule in general.

Senator Murray asked if the Council or the Legislative Auditor can make a complaint to the Office of Disciplinary Counsel if conflicts of interest are discovered in order to protect the interests of the state. Mr. Plattsmier said the Office will receive complaints from any individual or body. The complaint must in writing and signed by the individual submitting the information. Under Supreme Court Rule 19, complaints are confidential at the investigative stage. The investigation will be conducted in a confidential fashion, protecting the identity of the lawyers that are the subject of the investigation, until enough facts and information are uncovered that would indicate that a violation of a rule has occurred. If so, formal charging documents must be filed if public discipline is indicated. Then and only then does the matter become public. Mr. Plattsmier said his office can also initiate their own investigations when information comes to their attention that gives rise to the belief that a violation of the rules has occurred.

HB 1 AND 2 EXTENSION REQUESTS

Ms. Joy Irwin, Director of Advisory Services for the Legislative Auditor's Office, said there are 31 agencies requesting an extension for their audits under HB 1 and 2 for the first time. She said there is also one agency that had requested an extension under Act 36 and is now asking for an additional extension under HB 1 and 2. She further said the Legislative Auditor's Office is recommending approval of all of these extension requests.

A motion was made by Senator Mount that the Council approve the extension requests listed on Item 3 of the handout, as recommended by the Legislative Auditor's Office. The motion passed without objection.

ORLEANS PUBLIC DEFENDERS

Mr. Daryl Purpera, First Assistant Legislative Auditor, said he spoke with Ms. Christine Lehmann of the Orleans Public Defenders Office a couple of days ago and she informed him that she would not be at the meeting today because she was one week away from her due date and did not want to leave the proximity of her doctor in New Orleans. She did not offer to send anyone to the meeting in her place. Ms. Lehmann did indicate that she would be happy to appear at a later meeting. Mr. Purpera said he sent a letter to Ms. Lehmann on December 27, 2007, in an effort to obtain information that the Council requested at the last meeting. Ms. Lehmann responded to that letter, but she did not provide all of the information that was requested. A second letter was sent to her on January 4, 2008, which she replied to on January 7, 2008. Mr. Purpera said all four letters were in the packets under Item 4.

Mr. Purpera explained that the information provided by Ms. Lehmann indicated that the salary range for staff attorneys is \$40,000 to \$80,000. The range for paralegals is \$34,000 to \$38,000, and the range for investigators is \$30,000 to \$34,000. Ms. Lehmann hired nine individuals on August 1, 2007, as paralegals but at a salary of \$40,000. On October 8, 2007, Ms. Lehmann reduced those salaries to the upper level of the paralegal range, which is \$38,000. For each pay period, the nine individuals received \$369.16 in addition to what they should have been paid as a paralegal. Mr. Purpera said he asked Ms. Lehmann in his second letter what the office plans to do to recoup those funds. Ms. Lehmann indicated in her letter that she is not planning to take any action to recoup funds. She indicated she does not feel that the office took any action that they should not have taken. However, the office has reduced the salaries of the nine individuals to \$38,000.

Representative Richmond said he would like to know how many attorneys the Orleans Public Defenders Office needs and is it incumbent upon the office to recoup those monies or can the office make that decision on their own authority. Mr. Purpera said Ms. Lehmann indicated that she has no legal authority to request the reimbursement because those individuals entered into an employment contract in good faith. Mr. Steve Theriot, Legislative Auditor, said he would assume that Ms. Lehmann may have unilaterally changed the employee contracts by changing their salaries from \$40,000 to \$38,000. Representative Richmond suggested that the Legislative Auditor obtain a copy of those employee contracts. He also asked for a copy of the office's latest audit and the status of the current audit.

Senator Mount asked if Ms. Lehmann made the decision, unilaterally, to offer a salary that is an attorney salary to an individual who is not, in fact, an attorney. Mr. Theriot said the office has the flexibility to set the salary ranges; however, there would be a finding that the office is not abiding by their established policy.

Senator Murray asked that the Legislative Auditor's Office contact Ms. Lehmann and inform her that the Council expects a representative from the Public Defenders Office to be present at the next meeting to answer questions and that the Chairman of the Board be invited also. Mr. Theriot said his office will do some background research to determine how the policies were set forth and adopted and how many attorneys and paralegals the office has employed. Senator Mount asked that the information be provided to the members prior to the next meeting for review. Senator Nevers said he would like to know whether the nine individuals who have not passed the bar are representing people in court without the proper supervision.

REQUEST FOR INVESTIGATION

Representative Triche said he has received phone calls regarding the possible misappropriation of funds that were allocated to the Louisiana Coalition Against Domestic Violence in the form of grants. This agency received grants, either directly or indirectly, from the Office of Women's Policy amounting to \$1.6 million and \$250,000. The agency is now defunct as of Monday. He said it is his understanding that the records have all been moved from their

primary location and a severance pay package has been given to all employees that amounted to one month's salary for each year that they worked. The agency is now trying to cancel all of the contracts that they had or were supposed to get with the money that was provided to them from the Legislature. All of the 64 domestic abuse programs throughout the state were supposed to receive \$25,000 each, funneled through one of these two programs.

A motion was made by Representative Triche that the Council authorize the Legislative Auditor to conduct an investigation as soon as possible into the Office of Women's Policy and the Louisiana Coalition Against Domestic Violence. The motion passed without objection.

LOUISIANA CITIZENS PROPERTY INSURANCE CORPORATION

Mr. Theriot said there were questions from Council members at the last meeting concerning the status of the financial statements. He said Citizens is working on those financial statements and they hope to have those completed within the next three to six months. There is an RFP to engage a CPA firm to conduct an audit of Citizens. The Council had asked Mr. John Wortman, CEO of Citizens, to come to this meeting to give a brief overview concerning the financial statements and any exposure that Citizens may have with regard to claims.

Mr. Wortman gave a brief history of the Fair and Coastal Plans, the creation of Citizens Property Insurance Corporation in 2003, and the difficulties regarding the computer system from inception through the present time. He said all of the operations of Citizens were outsourced to PIAL. Citizens had no employees and the board was commingled with the PIAL Board. In the spring of 2007, a decision was made to begin to separate PIAL from Citizens and to hire employees for Citizens. Mr. Wortman said he was the first employee at Citizens and was hired April 23, 2007. He said his focus has been to assess the situation at Citizens, try to determine what was there and what should be there, and try to implement plans to bring the company to where it should be, while trying to work with the industry to depopulate Citizens and move as much business out as they possibly can. The number one focus has been on operations to make sure that policies and claims are processed efficiently for the citizens of Louisiana whose business is placed with Citizens. Citizens is current in terms of operations. Policies are issued on a current basis. Agents throughout the state quote the products through their website. Pricing is established by statute that basically says Citizens is the highest of the regular market plus ten percent or actuarially sound rates, whichever is the highest, except for eleven parishes where the ten percent rule was removed during the last legislative session. Citizens handles claims promptly today. There are still some Rita and Katrina claims outstanding. There were about 80,000 Rita and Katrina claims and there are about 4,000 open claims today. Today, there are about 165,000 policies in force. The annual premium is about \$300 million. There are total insured values in excess of \$25 billion.

Mr. Wortman said the computer system still does not work well today. A decision has been made to eliminate the current system and build a new system. Citizens went through a very detailed evaluation process and is in the process of preparing an RFP for a new system. Citizens had not done audited financials since 2004. A plan was developed in May to do audited financials. The policy management system and the general ledger system data was flawed between the two systems and the reconciliation process between these systems had not been done in two years. Citizens identified about 200 issues that needed to be addressed and began the process of addressing those. The process to aggregate data properly out of the policy management system to feed the general ledger system was implemented and Citizens used a third party, Bostick and Crawford, to help build a data mart to warehouse the information out of the policy management system and to aggregate it in the right manner. The data mart is complete today for 2005 and 2006 and they are in the process of implementing the 2007 feed. Bank statements had not been reconciled for two years. The reconciliation proved to be harder than they thought and became more of a forensic accounting exercise. For example, money would be collected in November of 2006 for premiums. The money was deposited into the bank account, but the bank deposit slip was put in a drawer and not entered into the system for six months. Another problem was 60,000 manual checks that were written after the storm. Many of those were listed as void in the system, but were cashed by the bank. Each individual check had to be examined to determine what should have been done. Reconciliations are complete for 2005 and 2006 should be complete within the next 30 to 45 days. Citizens is in the process of trying to hire an outside audit firm to conclude the financials as Citizens completes the data mart and the reconciliation process. An audit meeting was held about three weeks ago and there were four interested audit firms. The RFP went out last week and Citizens hopes to engage a firm to finalize 2005, 2006 and 2007.

Mr. Wortman said the process began in late fall to separate Citizens and PIAL and move people that were doing work for Citizens from PIAL as Citizens employees. One of the key issues remaining involves systems. The hardware housed both the PIAL and Citizens software, so they are in the process of separating the server room, management, and the physical location. Another key issue is benefits and that separation is taking place at this time. The Legislature changed the board makeup of Citizens during the last session in terms of the appointment process by the Governor. No change has been made in the board at this time. Mr. Wortman said he wrote to the Governor after the bill was passed encouraging her to make those appointments as quickly as possible; however, those appointments have not been made today. Louisiana statutes say that unless a board member of an organization is suspended or impeached, the board member remains in place until their successor is appointed. Mr. Wortman said he is continuing to evaluate human resource needs. He said he has hired a Chief Information Officer, Dan Laffey; a Chief Financial Officer, Mark Brockelman on a temporary basis; and an operations person that has significant insurance experience.

Mr. Wortman said Citizens buys reinsurance in accordance with the statutes, which states that reinsurance is used to help protect against an emergency assessment. Today, there are financial resources to take care of a \$850 million storm before having to revert to an emergency assessment. Citizens buys ninety percent of \$400 million reinsurance, excess of a \$100 million retention from the reinsurance market. The effective date is June 1, so that will expire on June 1, 2008. Citizens uses Guy Carpenter, a reinsurance broker. A decision has been made by the board to do an RFP for a reinsurance broker for the coming year. Citizens is in the process of preparing that RFP and it should be out within the next three weeks. Citizens is also working on the RFP for the service providers. Their contracts were effective October 1, 2005, and expire October 1, 2008. An analysis was done of the work flow to make sure that when the RFP is done for the renewal, the RFP clearly defines who is going to do what and what the expectations are. That RFP should be out during the month of February in order to make a decision prior to the 2008 storm season. The expiration date of the contracts for the three service providers will be changed so that they do not all expire on the same date. A systems RFP is also being prepared. Citizens did an internal and external evaluation of the policy management system and determined that the system is not fixable. Citizens plans to buy an off the shelf system that will cost a lot less than the LPMS system. From 2002 until 2006, about \$15 million was spent with outside firms building the LPMS system.

Mr. Wortman said Citizens is also working on the private versus public issue. Citizens has been determined to be both, so a final determination needs to be made in that regard. Currently, the Legislative Auditor has said that Citizens is a state agency and the Attorney General said that Citizens is a non-profit public corporation, but is not a department or agency. Mr. Wortman said there is no question that Citizens is public and that they must abide by the public meetings law. The most important issue is whether Citizens is a state agency. Mr. Theriot added that the Attorney General's opinion says that Citizens is an instrumentality of the state. Senator Murray said he feels that Citizens is public and that the Legislature can fix the language in the statutes during the upcoming session to fix that issue. Mr. Wortman said after the Legislative Auditor expressed his opinion that Citizens was a state agency, Citizens formally requested an opinion from the Attorney General as to which elements of the public law apply to Citizens. That opinion was requested in early September and Citizens recently heard that because of a suit that is going on regarding PIAL and the agency versus non-agency issue, the Attorney General has declined to give an opinion until the suit is settled in the courts.

Senator Murray asked if the employees of Citizens are covered under a private insurance plan. Mr. Wortman said the employees are under a private medical plan and a private retirement plan. The salary grade ranges of the employees are separate from the state because they have not been deemed to be state employees. Mr. Theriot said he does not disagree with the fact that, under normal circumstances, individuals sitting on boards can conduct business of behalf of the board until they are replaced. However, in this case, the statute was completely changed. The old statute that governed Citizens is no longer in existence. Mr. Theriot said he is not sure where that leaves the board as far as the actions being taken by the previously constituted board. Senator Murray asked what was the effective date of the new law. Mr. Theriot said he believes the law went into effect on August 15, 2007. Senator Murray said the new board makeup had specific requirements for some members. Some members on the current board do not meet those requirements. Mr. Wortman said there is a requirement that a member from the CPA Association and a member from the Bankers Association be members. The associations are to submit two names to the Governor and the Governor then makes the final decision. Senator Murray asked Mr. Wortman if the Governor has given any reason why she has not appointed the new board members. Mr. Wortman replied no.

Senator Murray asked Mr. Wortman what the dollar amount of outstanding claims is. Mr. Wortman said Citizens is in the process of getting an outside actuarial reserve number at this time, but the case reserves for Katrina is a little over \$100 million and the case reserves for Rita is about \$20 million. This does not include incurred but not reported or development numbers that will be actuarially calculated. He said Citizens should have an updated number from the outside actuaries within the next 30 to 45 days. Senator Murray asked about the dollar amount in claims, other than those for Katrina and Rita. Mr. Wortman said the reserves for other outstanding claims are about \$40 million.

Senator Murray asked for clarification of the separation of the computer system between Citizens and PIAL. Mr. Wortman said PIAL has software needs also for their business, so that software needs to be separated from the hardware. Senator Murray asked if PIAL paid Citizens money for using the system. Mr. Wortman said the system is actually PIAL's, so Citizens paid PIAL to use the system and costs were allocated based on actual use. He said Citizens paid for the policy management system but not for the system that PIAL uses for their business. He further said the hardware is housed in Metairie and they are in the process of working with the state to use the third party facility in Baton Rouge that is out of harm's way. Senator Nevers asked who owns the hardware. Mr. Wortman said that PIAL owned the hardware but Citizens paid for it, so Citizens is doing an asset transfer and will own the hardware. He explained that an outside firm was hired to go in and re-sticker every piece of equipment. A list was compiled of the assets and a determination was made regarding who paid for those assets. Citizens is in the process of transferring the assets that Citizens paid for. Senator Nevers asked who determined how much Citizens paid for the hardware. Mr. Wortman said, historically, the amount was determined by PIAL and the bill was sent to Citizens and Citizens paid it. Today, there is a formal process where the CFO for Citizens signs onto every piece of allocation in terms of the payments. Mr. Wortman added that Citizens will have to spend about \$3 or \$4 million in additional expenses for hardware for the new system.

Senator Murray asked if someone is now signing off on expense accounts for people taking trips and the like. Mr. Wortman said they now have an expense policy in place and no Citizens money is spent without he or the CFO looking at the expense and approving the expense. He said, for some of the hunting and fishing trips, he has sent a bill to PIAL for repayment of those expenses and PIAL has paid Citizens back. Senator Murray asked if there is anything regarding Citizens' operations or the current statute that needs to be changed during the upcoming legislative session. Mr. Wortman said one issue is that Citizens does not have the ability to pre-fund a loss like Florida has. Citizens had to shut down for a couple of months after Katrina because there was no money. Citizens had to raise some money before they could reopen and pay claims. Mr. Wortman said he is working with the Insurance Department in coming up with some potential legislation for the session. Senator Murray asked Mr. Wortman if, in his opinion, the new board makeup will work. Mr. Wortman said he is comfortable with the new board makeup criteria. They just need to get the new board in place.

Senator Murray asked Mr. Theriot to give the Council an update on the status of the litigation for access to the documents at the Department of Insurance. Mr. Theriot said his General Counsel, the judge, and the attorney for the Department of Insurance spoke on the phone a few days ago. There was a filing that included the Legislature that was done late and the judge wanted to have all parties involved together at one time rather than piecemeal the discussions taking place. Butch Speer and Jerry Guillot have a number of days in which to respond to the litigation and they are working on that. The judge will then schedule a hearing on the issues of the case. Mr. Theriot said the Commissioner of Insurance, in an attempt to fulfill a request for documents, provided his office with about 25,000 emails that the Commissioner's staff chose to provide them with, using the characteristics that they deemed acceptable. He said his office still does not know what items may be missing according to the criteria they used to provide the information, which is not acceptable by the auditing standards. He further said there are a number of emails that his auditors had viewed at the department that was not included in those 25,000 emails. Mr. Theriot said the Commissioner has testified previously that the insurance standards were that all of the emails are confidential. The National Association of Insurance Commissioners had indicated to his auditors that this was not the case. Also, in interviewing some members of the Citizens board, one member has refused to talk to the auditors and has engaged counsel. This individual will not even discuss his duties as a board member of Citizens. Senator Murray said the board member is Jeff Albright who has been before the Council previously and testified under oath. He requested that Mr. Albright be requested to appear at the meeting for further questioning under the continuing subpoena that was issued to him previously. Mr. Theriot said, in the telephone conference with the judge and attorneys, he learned that State Farm, Farm Bureau, and two other associations were going to file an amicus along with the Department of Insurance in the case against the Legislative Auditor in trying to procure the records. He also said that the Attorney General represents his office in the case with PIAL and he had a concern regarding the attorney from the Attorney

General's Office who was assigned to the Commissioner of Insurance and who signed the suit against the Legislative Auditor. The attorney, Ms. Benoit, had indicated to the Council that she had gone up the ladder to the Attorney General and was cleared in this action. Mr. Theriot said that was not the case. He said he felt it was a conflict of interest for the Attorney General to represent the Legislative Auditor in one case and against his office, through Ms. Benoit, in another case. He further said Ms. Benoit has since removed herself from the case.

Mr. Theriot said the Department of Insurance solicited rates from all of the major insurance carriers on behalf of Citizens so they could set their rates. He said he does not know where those rates came from and how valid they are. Those rates have not been audited and will probably be an issue in the near future. The rates need to be audited since they were used to set the rates for Citizens. The department also used its actuaries to make determinations for the Rating Commission. It needs to be determined if the information provided is authentic and accurate.

Senator Mount asked Mr. Theriot if he has documentation from the National Association of Insurance Commissioners that the standards do not say that emails are confidential. Mr. Theriot said his auditors talked with the association originally, but the communication has been shut off since then. The auditors had verbal conversations with the association; they have nothing in writing. Messages have been left with the association, but they will not return phone calls. Senator Mount suggested that Senator Murray, as Chairman of the Council, write a letter to the association concerning this issue since the association will not respond to the Legislative Auditor. Senator Murray said he would be glad to issue a letter to the association. He said it is baffling why there is such opposition to getting information for the audit. Senator Nevers said it appears the insurance industry is trying to keep the Legislative Auditor from knowing the information that is necessary to perform an audit of the Department of Insurance to ensure the citizens of the State of Louisiana that the department's house is in order. He said the insurance companies are dictating to the Legislature that they do not have the right to the information needed to protect the citizens of the state and he feels it is like the insurance companies are slapping this Legislature and the people of the state in the face. He further said the Legislature should have a right to those records to be used prudently to protect the interests of the people in this state.

Senator Murray said he feels the statutes are pretty clear already that the Legislative Auditor has the right to the records and he has failed to find any prohibition in the insurance law that says the Legislative Auditor cannot see them. He suggested the statutes be changed during the upcoming session to say that the Legislative Auditor has the authority to look at the records at the Department of Insurance in case there is an adverse ruling to the Legislative Auditor by the court. Mr. Theriot added that one of the attorneys for the Department of Insurance sent out an email to all employees several years ago informing them not to expect privacy in relation to the emails they are sending out on their public computers, as a part of the office policy.

OTHER BUSINESS

Outgoing Members

Senator Murray said this is the last meeting of the current Council and thanked those members who will no longer be on the Council for their service throughout the years. He gave the floor to Representative Tank Powell, Representative Warren Triche, and Senator Robert Barham for parting comments.

Energy Efficiency Contracts

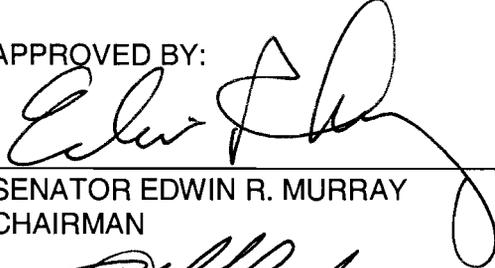
Senator Mount asked for an update on the energy efficiency contracts matter. Mr. Theriot said his office had a meeting with those entities that had energy efficiency contracts and advised them that they need to take action to look at their contracts to determine whether they are in compliance with the statute and, if not, to seek a remedy by filing some sort of litigation in a group or individually. The entities need to seek representation from the experts who can give them some guidance on whether the stipulated savings were met or not met. The Police Jury Association has called wanting staff from the Legislative Auditor's to make a presentation regarding this issue. Mr. Theriot said he has also spoken to independent CPAs to make them aware that they need to review energy efficiency contracts during the course of their audits. Letters have been sent to all entities that might be affected by these contracts explaining the facts relating to energy efficiency contracts and stipulated savings issues.

Recovery School District

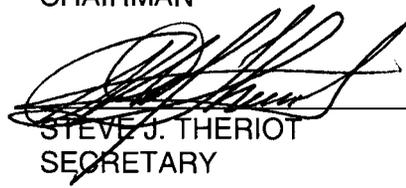
Senator Murray said he is concerned about some issues relating to the Recovery School District and suggested that within the next month or so the Council could discuss those issues. Mr. Theriot said he has had meetings with the Orleans Parish School Board, the Recovery School District, and Superintendent Pastorek relating to issues with the Recovery School District taking over other districts in the future. Those issues would include keeping track of the expenditures and insurability. Currently, the state is insuring properties of the Recovery School District that are not state properties. The Recovery School District has usufruct of those properties, but not necessarily ownership of those properties. Mr. Theriot said the Attorney General had previously rendered an opinion that the state could insure those properties, but as the numbers of properties increase, the state is assuming more responsibility in insuring these non-state assets.

ADJOURNMENT

There being no further business to discuss, a motion was made by Senator Barham that the meeting adjourn at 12:15 p.m. The motion passed without objection.

APPROVED BY:


SENATOR EDWIN R. MURRAY
CHAIRMAN



STEVE J. THERIOT
SECRETARY

March 20, 2008
DATE