

**State of Illinois
LEGISLATIVE AUDIT COMMISSION**

**Meeting Minutes – May 6, 2014
Springfield, Illinois**

MEMBERS PRESENT:

Senators:	Barickman	Representatives:	Brauer
	Brady		Crespo
	Manar		Mautino
	Mulroe		Reis
	Oberweis		Rita
			Sandack

MEMBERS ABSENT:

Senator: Martinez

Staff Present: Cullen, Dunne and Stricklin

Participants: Illinois Power Agency – Anthony Star, Director. Independent Auditor – Paul Pelletier of Borschnack Pelletier & Co.
Department of Revenue – Brian Hamer, Director. Independent Auditors -- Amy Sherwood and Gary Neubauer of Sikich.
Department of Veterans' Affairs – Erica J. Borggren, Director.
Office of the Auditor General – William G. Holland, Becky Patton, Bruce Bullard, Courtney Dzierwa, Kathy Lovejoy, Paul Usherwood and others.

The meeting convened at 9:30 a.m. with Representative Mautino in the chair.

Representative Mautino thanked Representative Sandy Pihos for her years of service on the Audit Commission, adding she was a tremendous member and had been very effective.

Representative Mautino then welcomed Representative David Reis, newly appointed to the Commission.

ILLINOIS POWER AGENCY

The Commission considered Review No. 4419, covering the auditors' report of the Illinois Power Agency for the period ended June 30, 2012. Anthony Star, Director, joined the meeting accompanied by Sanjay Patel, Chief Operating Officer, Brian Granahan, Chief Legal Counsel, and Charles "Chuck" Kudia, Chief Financial

Officer. Also participating were Bruce Bullard and Kathy Lovejoy of the Auditor General's Office, and Paul Pelletier of Borschnack Pelletier & Co.

Mr. Bullard highlighted five of the 17 findings, 11 repeated, from the financial audit and compliance examination as follows:

- The financial statements contained inaccuracies, which would have resulted in a material misstatement if not corrected.
- The Agency lacked controls to properly record receivables and ensure the accuracy of Alternative Compliance Payments remitted by Alternative Retail Electric Supplier.
- Funds improperly held in accounts outside the State Treasury.
- Planning Procurement Bureau not yet established.
- The Agency had not adopted formal rules regarding the administration of contracts, established procedures for recovery of costs for a facility, or implemented accounting rules.

In response to a question, Mr. Bullard stated that issues developed that took awhile to work through, but the Agency had been cooperative with the auditors.

By way of an opening statement, Mr. Star stated that the Agency finally has the resources in place to effectively manage the work of the Agency with the hiring of a chief operating officer, a licensed CPA, and the procurement and planning bureau chief. He stated that the Agency completed two rule makings and is soon scheduled to complete a third. He also reported that the Agency has a greatly improved financial reporting structure which enhances accuracy and transparency. Funds are no longer held outside the State Treasury. Mr. Star stated that there has been an unprecedented move of customers to alternative suppliers through municipal aggregation, and the Agency conducted an energy procurement for ComEd and Ameren.

In response to questions from Representative Crespo, Mr. Star stated that the Agency is not funded through GRF and the Agency has no sunset date. The value of the Agency is to ensure that adequate energy is available at reasonable, affordable and stable prices for customers who return to the utility, and the administration of renewable energy resources. In response to a question from Senator Oberweis, Mr. Star explained that the Agency was created in 2007 in response to some controversies over procurements the utilities ran to buy electricity for their residential and small business customers and the ensuing rates.

In response to questions from Representative Brauer, Mr. Star stated that renewable energy procurements here are based on specific mandates in the law about the percentage of wind, solar, and small scale generation. It is a market based solution where we determine what is needed and ask people to bid on the price. In Europe, they predetermine a price for renewable energy and agree to pay it.

In response to a question from Representative Mautino, Mr. Star stated that statutory clarification is needed to expend money from the Renewable Energy Resource

Fund and that the Agency has provided some technical advice on the wording that need to be changed to accomplish the desired outcome.

There being no further questions, upon a motion made by Senator Barickman, seconded by Representative Reis and carried, the Commission accepted the audit report summarized in Review No. 4419.

At this point, Representative Mautino yielded the floor to Senator Barickman for the purposes of a motion.

Senator Barickman offered the following two motions, seconded by Senator Brady:

Move that the Commission authorize the co-chairs of the Commission to jointly summon and compel the attendance and examination of witnesses and production of documents, and to jointly issue subpoenas for the production of documents and attendance of witnesses that are necessary for the Commission to fulfill its statutory responsibility to review the audit of the Illinois Violence Prevention Authority's Neighborhood Recovery Initiative (NRI) which was released in February 2014 and is pending before the Commission; and

Move for the creation of a special subcommittee of the Commission comprised of four members of the Commission to draft any such subpoenas and by majority approve such subpoenas prior to their submission to the co-chairs of the Commission for their joint signature and issuance. Each co-chair of the Commission shall appoint one Commission member of the co-chair's political party from the Senate and one Commission member of the co-chair's political party from the House of Representatives.

The reasons Senator Barickman gave for the Commission's needing to exercise its subpoena authority was due to significant gaps in information about the administration of NRI. The result of the fact-finding may lead to needed changes in the law. Representative Sandack opined that the Commission's subpoena authority is not restricted by House or Senate rule. Representative Mautino stated that he is seeking information from House and Senate counsels regarding the effect, if any, of House and Senate rules on the Commission. He also mentioned that there was a great deal of information gathered by the auditors which they used in writing the report that no one from the Democrat or Republican staff has looked at. Mr. Holland noted that some documents do not exist; however, anyone can look through the workpapers at the Auditor General's office as multiple individuals from law enforcement and media agencies have done. Representative Mautino also mentioned that the Audit Commission is not adequately staffed to conduct an investigation. Representative Crespo asked why there was not a similar outcry when colleges lose inventory or children dying in foster care. He opined that this matter may more properly reside with the U.S. Attorney's Office, the State's Attorney, and the Inspector General who are also investigating. Senator Manar asked if we had any reason to suspect that the director of

the Criminal Justice Information Authority, the Agency currently administering NRI would be uncooperative before the Audit Commission. Senator Barickman stated that he suspected Mr. Cutrone was not involved in the decisions that created NRI. Senator Barickman agreed with Senator Manar's statement that it was not his intention for any action that came from the motions to impede or interfere with any criminal investigations conducted by law enforcement. Representative Brauer defined the Audit Commission's objective as more fact-finding and less investigatory.

In response to a question from Representative Reis, Senator Barickman agreed that issuing any subpoenas would require a bi-partisan effort with three of the four sub-committee members voting for the subpoenas. Representative Mautino stated that the Commission has the power to act without the motion as it has before and that agencies by law must comply with the requests of the Auditor General. The Auditor General added that his Office does not have problems getting cooperation except one time in dealing with the City of Chicago, and the City prevailed before the Supreme Court. Representative Sandack stated that the Commission should use subpoena power as a method of fixing waste, fraud and abuse. He added that if State's Attorney Alvarez' office, the U.S. Attorney, and the Department of Justice asked the Commission to step down, we would. Mr. Holland stated that not getting cooperation from agencies is truly rare. Ultimately, the auditors got what they needed. Similarly, the auditors worked with the Violence Prevention Authority, the Criminal Justice Information Authority and other agencies and got what existed. Representative Brauer stated that the Commission's purpose in using the subpoena was to compel people who have left State government to appear and testify. Representative Crespo wondered about the value of our involvement when the issue at hand was being investigated by three other bodies that have more power and more tools than the Commission. Senator Brady opined that it is the Legislature's job to determine what the law should be and to do so in a more expeditious manner.

There being no further discussion, by agreement with the members, Representative Mautino stated the two separate motions would be combined into one roll call. The roll call resulted in 10 voting yes and one voting no, and the motions were adopted.

DEPARTMENT OF REVENUE

The Commission then considered Review No. 4418, covering the auditors' report of the Department of Revenue for the two years ended June 30, 2012. Brian Hamer, Director, joined the meeting accompanied by Ryan McCoy, Chief Internal Auditor. Also participating were Bruce Bullard and Paul Usherwood of the Auditor General's office, and Amy Sherwood and Gary Neubauer of Sikich.

Mr. Bullard highlighted four of the 21 findings, 19 repeated, from the financial audit and compliance examination as follows:

- The Department's year-end financial reporting contained inaccuracies.
- The Department had a significant level of taxpayer information to be processed and finalized.
- The Department had not implemented sufficient physical safeguards to control access to areas containing taxpayer files.
- The Department had inadequate security controls over the GenTax system and data.

By way of opening remarks, Director Hamer stated that in the two years covered by the audit, the Department administered 70 different taxes, deposited \$71 billion in taxes into 76 separate funds and processed 18 million tax documents and administered the most successful tax amnesty program in State history. He also stated that lack of resources had a significant impact on the Department's ability to perform certain tasks and led to increased levels of unprocessed returns, delays in conducting reviews of data entry vendors, and failure to perform certain internal audits. He added that despite the complex accounting environment and the lack of a modern statewide accounting system, on the rare occasion that a material issue is identified, it is corrected, and the 2012 financial statements were submitted correctly to the Comptroller. In the matter of allocation of sales and use taxes, they continue to allocate based on prior experience and true up as additional information is obtained. He stated that the implementation of GenTax has dramatically improved the Department's ability to administer and enforce the State's tax laws. The Department continues to review its processes and controls to make improvements and avoid mistakes.

In response to questions from Representative Crespo, Director Hamer stated that each accountant has a supervisor and then a manager. When mistakes are identified, employees are counseled to ensure that those mistakes are not made again. The mistakes are corrected, and if there are material mistakes, adjustments are made to the financial statements. The financial statements are very complex and mistakes are inevitable. The Department has hired an outside accounting firm to help review the financial statements. Employees are evaluated timely, for the most part, because it's important to hold employees accountable for their work.

In response to other questions from Representative Crespo, Director Hamer stated that the Capital Development Board is responsible for funding security initiative with respect to significant changes to facilities. He stated that what is needed is a more sophisticated statewide accounting system that does not rely on manual processes and working off spreadsheets.

In response to questions from Representative Brauer, Director Hamer stated he has been Director of Revenue for 11 years. Mr. Bullard stated that the reduction in findings from 37 to 21 is a result of the hard work done by the Department in taking corrective action. In response to a question from Representative Brauer, Mr. Holland stated that there are reports that the administration believes a statewide accounting system can be purchased for \$100 million and has awarded a request for information contract. However, Mr. Holland believes the cost will significantly exceed \$100 million.

He stated that the cost for California was more than \$700 million and Illinois has more than 900 funds, more than any other state, which is a complicating factor, and legislation to reduce the number of funds has gone nowhere.

In response to other questions from Representative Brauer, Mr. Hamer stated that the current security guard staff, comprised of people employed by the State, will remain and the Department intends no layoffs. However, to bolster security, the Department is contemplating an additional layer of security involving armed guards hired from an outside firm. Mr. Hamer stated that there will be no additional security that comes to Department facilities unless the Department is confident that they meet the high standards for security. He added that there are aspects of security that current staff cannot provide.

In response to additional questions from Representative Brauer, Director Hamer stated that the Department has 500 fewer employees than it did in 2003. The Director stated that the reason for the decrease in employees is reduced agency budgets and the efficient use of technology. Mr. Bullard confirmed that the staffing level is lower at DOR, but could not comment on whether the auditors were seeing red flags today as a result of fewer staff. Director Hamer stated that SB 2612 would allow the Department to hire 75 new auditors, and every dollar spent on enforcement generates \$8 in revenue.

In response to questions from Representative Mautino, Director Hamer stated that DOR has identified many additional tools to secure both data and facilities such as reconfiguring guard stations and turn-styles to secure private space from public spaces; consolidating all DOR functions on one floor and relocating other agencies; securing the floor from open stairways and freight elevators; additional cameras, security guards; new tools to guard against breaches in the computer system, a new information security policy that involves multiple areas of protection, and clean desk policies.

In response to a final question from Representative Mautino about additional funds going to the local government distributive fund from the income tax increase, Mr. Hamer stated that the income tax legislation passed in 2011 addresses the subject matter in one way while the revenue sharing act addresses the matter in another way. The additional \$700 million to the local government distributive fund would likely come out of GRF funds.

There being no further questions, upon a motion made by Representative Rita, seconded by Representative Crespo and carried, the Commission accepted the audit report summarized in Review No. 4418.

DEPARTMENT OF VETERANS' AFFAIRS

The Commission then considered Review No. 4420, covering the auditors' report of the Department of Veterans' Affairs for the two years ended June 30, 2012.

Erica J. Borggren, Director, joined the meeting accompanied by Jay Wagner, Chief Internal Auditor, Deborah Miller, Chief Fiscal Officer, and Tony Kolbeck, Legislative Liaison. Also participating were Bruce Bullard and Courtney Dzierwa of the Auditor General's office.

Mr. Bullard highlighted five of the 22 findings, 18 repeated, from the financial audit and compliance examination as follows:

- The Department failed to document compliance with policies governing the application process at the Prince Home in Manteno.
- The Prince Home improperly used the Members' Benefit Fund to subsidize operations.
- The Department reported inaccurate direct patient care statistics to the General Assembly.
- The Department failed to enforce compliance with requirements in its grant agreements.
- The Department inaccurately reported the activities of its field services offices staffed by Veterans' Service Officers.

By way of opening remarks, Director Borggren reported that among the 22 findings, the four new findings are fully corrected. The majority of the 18 repeat findings concern recordkeeping and reporting rather than quality of services to veterans. The Department has fully implemented corrective action for 10 of the 18 findings, but due to timing, five are likely to repeat in the next audit. The Department has taken significant action on the remaining eight findings, but they are not fully implemented due to the manual processes in fiscal and HR operations.

In response to questions from Representative Crespo, Director Borggren stated the Department has taken much action regarding grantees that have filed full reports including moving the position of manager of the Vets' cash program to Springfield to allow for an additional layer of oversight. The Department will not award a grant unless the grant recipient can update or provide reports that show previous reports have been submitted.

In response to another question from Representative Crespo, the Director stated that fewer than 3% or less of employee evaluations are out of date.

In response to questions from Representative Brauer, Mr. Bullard stated that the Department was cooperative in the audit effort. The Director stated that the Department has been working with ISAC to alleviate the problem of college and universities having to foot the bill for veterans' tuition waivers. If our State's administrative rules can be changed, then the Department can request an exemption from rules so that the Department can be the payer of last resort and the scholarship program can be eligible for federal funding.

In response to a question from Representative Mautino, Director Borggren stated that the lump sum appropriation made the funding for the Prince Home look

lower, but costs were paid from the lump sum appropriation. On the reduction in the \$100 individual one-time entitlements to veterans, veterans have used the one-time grant and are not reapplying.

There being no further questions, upon a motion made by Representative Reis, seconded by Representative Crespo and carried, the Commission accepted the audit report summarized in Review No. 4420.

CONSENT CALENDAR

The Commission considered audits that do not appear to require the attendance of agency officials. All of the audits are for the audit period ending in 2013 unless otherwise noted. Upon a motion made by Representative Reis, seconded by Representative Rita and carried, the audit reports listed below were accepted.

Agency

Educational Labor Relations Board (2012)

Guardianship and Advocacy Commission

Illinois Literacy Foundation

Office of Executive Inspector General for Agencies of the Illinois Governor

Office of Lieutenant Governor

Regional Office of Education –

Adams and Pike Counties, No. 1

Boone and Winnebago Counties, No. 4

Christian and Montgomery Counties, No. 10

Clark, Coles, Cumberland, Douglas, Edgar, Moultrie and Shelby Counties, No. 11

Hancock and McDonough Counties, No. 26

Monroe and Randolph Counties, No. 45

Intermediate Service Center No. 1, North Cook

Intermediate Service Center No. 4, South Cook

OTHER ITEMS

Receipt of the following item was acknowledged:

D. Emergency Purchase report for the third quarter of FY14 ending March 31, 2014.

NEXT MEETING

The next meeting of the Legislative Audit Commission will be Tuesday, May 13, 2014.

ADJOURNMENT

There being no further business to come before the Commission, upon a motion properly made by Representative Reis, seconded by Representative Rita and carried, the meeting adjourned at 12:05 p.m.