

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting Thursday, December 15, 2022 John J. Hainkel Room State Capitol Building

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

Chairman Luneau called the Legislative Audit Advisory Council (Council) meeting to order at 3:10 p.m. Ms. Tanya Phillips called the roll confirming that a quorum was present.

Members Present: Senator Jay Luneau, Chairman
Senator Beth Mizell
Senator Jimmy Harris
Senator Louie Bernard
Representative Barry Ivey, Vice Chairman
Representative Edmond Jordan
Representative Aimee Adatto Freeman
Representative Rodney Schamerhorn
Representative Barbara Freiberg, Proxy for
Representative Stephanie Hilferty

Members Absent: Senator Fred Mills

Also Present: Michael J. "Mike" Waguespack
Louisiana Legislative Auditor (LLA)

Approval of Minutes

(Video Archive Time 00:54)

Representative Ivey offered a motion to approve the minutes of the October 27, 2022 meeting and, with no opposition, the motion was approved.

(Video Archive Time 01:34)

Louisiana Legislative Auditor (LLA) LLA's Performance Audit division Manager Gina Brown and Senior Auditor Irina Hampton presented a report on the Sufficiency of the Transportation Trust Fund in Meeting the State's Transportation Needs (TTF). This is a different audit than LLA normally does because it provides past information but actually gives projections to 2032 and the impact of electric and more fuel efficient vehicles as they become more prevalent on our roads.

Irina Hampton began the presentation stating that TTF was established in 1990 and provides for the cost associated with construction maintenance of roads and bridges in the state. TTF includes revenues for motor fuels taxes, federal funds and miscellaneous fees and fines. Motor fuels taxes of \$0.16 per gallon are deposited

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into TTF Regular and motor fuels taxes of \$0.04 per gallon into the TIMED account which stands for the Transportation Infrastructure Model of Economic Development. In addition, Louisiana Constitution also requires that funds are deposited into the TTF. Any new motor fuel taxes must be deposited in the construction sub fund. In Fiscal Year 2021, construction sub fund received about \$619.8 million which mainly came from non-recurring revenues from the Corona virus state fiscal recovery fund.

LLA found that TTF is not sufficient to meet the state's transportation needs because of several reasons. One reason is that the motor fuel taxes have not been increased since 1990. Thirty-three states have increased their gas tax between 2013 and 2021. Louisiana has one of the longest-standing gasoline tax rates in the nation and has the eighth-lowest gas tax rate in the United States as of January 2022. Another reason is because motor fuel taxes are not indexed for inflation. If the motor fuel tax had been indexed to the National Highway Construction Cost Index (NHCCI) since 1990, the tax would be at \$0.49 per gallon in 2021 instead of \$0.20. The third reason is that we are still paying for our old construction projects. The \$0.04 of the motor fuel tax dedicated to the 16 TIMED projects is not sufficient to cover the TIMED debt. Over \$1.05 billion TTF-Regular is projected to be used for TIMED debt during fiscal years 2015-2045. This means TIMED is taking away from other TTF purposes. The fourth reason is that vehicles are now more fuel efficient so less is collected per vehicle miles traveled. The fifth reason is that the Constitution allows the use of 20% of the TTF revenues for ports, Parish Transportation Fund and Statewide Flood-Control Program instead of construction backlog. The sixth reason is that TTF funds were appropriated to the Parish Transportation Fund (PTF) in excess of the required minimum. From 2015-2021, a total of \$105.8 million TTF Regular Funds were transferred to PTF for the maintenance, construction, and repair of municipal roads instead of roads in the state highway program. These funds could have been used toward addressing the state transportation backlog of \$14.87 billion. The seventh reason is that TTF revenues were used in fiscal year 2016 to eliminate a projected state budget deficit to a 5% cap. However, the Legislature transferred approximately \$34 million in excess of the 5% cap. The above reasons are important because Louisiana has a \$14.87 billion backlog in unmet transportation needs.

In 2021 Congress passed the Infrastructure Investment and Jobs Act (IIJA) funding. Louisiana could receive approximately \$5.9 billion in formula funding over five years. However, only one billion of this funding will be new funding. The remaining \$4.9 billion is the continuation of the previous years' funding and is not new funding. Formula funding means that Louisiana has to provide state matching funds to be eligible to receive the federal funds.

What are other states doing to diversify their funding mechanisms for their transportation needs? Texas is using a portion of oil and gas production revenues and state's general sales and use tax to be used for non-tolled transportation projects. Florida is using a portion of the documentary stamp tax revenue. Georgia uses revenues generated from the hotel and motel tax and Colorado uses fees on transportation network companies like Uber and Lyft as well as retail delivery fees on services like Door Dash and Uber Eats. As of October 2021, 30

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states have enacted laws requiring a special registration fee on electric and hybrid vehicles.

LLA's Gina Brown explains how higher fuel efficient and electric vehicles will impact the future of TTF collections. She explains that there are four types of vehicles she will discuss -- the Internal Combustion Engine vehicle (ICEV) are the typical gasoline vehicles. The Hybrid Electric Vehicle (HEV) is the Prius, the Plug-in Hybrid Electric Vehicle (PHEV) is the Chevrolet Volts so they use gas, battery and plug-in, and the Battery Electric vehicle (BEV) are the Tesla's. There are three types of technology that these use -- you have the gasoline, you have the electric motor and traction battery pack so the hybrid and gasoline and you have the external electric charging. Overall there are about two trends in vehicle technologies that are likely to have a significant impact on motor fuel tax revenues. Higher fuel efficiency and the external electric charging. These types of vehicles are going to be using the roads but buying less gas which is how Louisiana funds the maintenance on the roads. Over the past five years, we received OMV data and we were able to identify the types of vehicles registered in the state. Over the past five years there was a 700% increase in the plug-in electric vehicles. There was about a 17% increase on the HEV so all of them are increasing at a substantial rate.

LLA projects that by 2032, because of the increase in the popularity of these type of vehicles and fuel efficiency of your typical gasoline vehicles, less gas will continue to be used at an increasing rate. If electric vehicles, hybrid electrics, plug-in electrics and fully electrics account for 30% of new vehicles sold in Louisiana by 2032, we estimate that higher fuel efficiency and external charging will result in about \$564 million less in motor fuel tax revenues over 10 years.

Act 578 of the 2022 Regular Legislative Session imposed a fee on electric vehicles and hybrid vehicles to be collected by the Louisiana Department of Revenue. 70% of these fees will go into the TTF Construction and 30% will go into the Parish Transportation Fund. The Act becomes effective January 1, 2023.

The projection of the impact of Act 578 shows that with fees at the current rate, LLA projects the state could still lose approximately \$322 million through 2032 instead of the \$564 million projected before the Act passed. It should be noted that this is going to be self-reported to the Department of Revenue on the citizens' income tax. This collection assumes every one will report it and voluntarily pay it to the Department of Revenue. There is no plan to match that with OMV data to make sure everybody is reporting. This projection assumes 100% compliance.

LLA provided recommendations on what can be done to enhance the impact of Act 578. First, the state could index Act 578 fees for inflation and provide for additional mechanisms to address losses in the taxes due to higher fuel efficiency. There were a number of fees in the legislation that we suggest increase. The battery electric vehicles will require \$110 fee. LLA recommends that increase to \$112. Senator Luneau asked what the difference in collections would be. Ms. Brown advised that that information was on page 24 of the power point presentation. The hybrid electric vehicles and plug-in electric is a \$60 fee. LLA recommends

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increasing the hybrid electric to \$66 a year and the plug-in hybrid electrics to \$96 a year. Again, this just offsets the losses previously mentioned. For the typical gasoline vehicles getting more miles per gallon, we recommend a \$10 a year fee.

Senator Luneau asked what percentage of people accurately report on these types of things. Ms. Brown compared it to the self-reporting on Amazon. Senator Luneau replied that didn't work out too good. Ms. Brown states she thinks there are mechanisms that could be put in place because OMV does collect the VIN numbers for all registered cars in Louisiana and using that number you can identify the type of car, battery and technology the car uses so it would help if there could be some type of information sharing between the two agencies to make sure everybody that should have paid the fee did pay the fee.

Representative Jordan states he thinks we need to do something to offset TTF. We are incentivizing people to get electric vehicles so we can be compliant with ozone issues and there is some benefit to having these vehicles. Is there a way to do a holistic approach. You are trying to desensitize people from doing the right thing. If you are saving \$2 million in compliance from the EPA standpoint but costing \$1 million in roads. Is there a way we can get the data to figure that out? Senator Luneau concurs - can we get the data that can help us make policy decisions? Ms. Brown replied that we would have to ask DEQ if they quantify any of those statistics of the emissions that cars have and what they are costing the state. Ms. Hampton stated DEQ collects data from five parishes every time you get an inspection they collect emission, miles traveled, etc. so this data is available but because the Legislature chose to fund our TTF through motor fuel tax right now we are looking for ways to make it equitable for everyone to pay for the roads if you are using it. Representative Jordan replied when we talk about the purely electric vehicles but the hybrids I disagree because they do use gas. We are not saying you have to pay more for a Honda Civic than you do for a Ram truck. Senator Luneau stated that's why the fee on the hybrid is less than total electrics because they do use some level of gasoline. It's a balancing act and when we make policy decisions we have to look at accurate information. \$14 billion shortfall we have problems that we have to seriously address. Representative Ivey stated we know how complicated the subject is and appreciate LLA's efforts and Representative Freiburg's efforts on how do we better provide equity for the costs of wear and tear on the roads. There has got to be direct correlation of the vehicle weight and wear and tear on the highways. He asked if LLA has seen any models that use a gross vehicle weight as a component of the cost? Ms. Brown answered yes, other states are looking at that. The electric vehicle is heavier than internal combustion and what we saw is vehicle frame has to be heavier because they have to hold on to the heavier battery. The hybrid electric vehicle which uses both plug in and gas that is the most heavy. Other states, when they implement the fees on electric vehicles, it is implemented by weight. Exhibit F of the LLA report shows states such as Missouri and Oklahoma have different fees based on how much the vehicle weighs. This data includes both electric and hybrid vehicles. Representative Ivey asked why we are using the Department of Revenue to collect the fees and why isn't OMV handling that? Representative Freiburg stated OMV said they could not collect it,

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they had no way of identifying vehicles. Department of Revenue stepped in and said they would collect it.

Legislative Auditor Mike Waguespack stated that the reality is many people are going to forget or not even know they have to report this. There needs to be a process. We received the VIN data from OMV. Senator Luneau stated they can track through inspection stickers. Representative Freiburg replied that only gets done every other year so it's not an annual thing to track. Mr. Waguespack thinks registration is the way to do it. If a person gets an inspection every other year then they have to pay two years on the registration. Ms. Brown stated after legislation passed, LLA worked with OMV and identified the types of vehicles using VIN numbers and went over the methodology with OMV and showed them how LLA was able to calculate those types. So they should know now. Representative Ivey responded by saying he is not so concerned about certain things about a vehicle but he thinks trying to come up with the least common denominator only as it pertains to the transportation highways. He thinks the focus should be on how each vehicle affects highways and how we can come up with a mechanism to be fair on that.

Senator Luneau applauded LLA stating they understand some of the concerns being voiced here today and that we will be discussing in years to come. We need your guidance and the audits give us an idea of what to look at. It's nice to have LLA present the facts. Ms. Brown advised that LLA is working closely with the Electric Vehicle Task Force and presented this exact report to them in October and they gave us a list of questions including the weight of the vehicles. LLA is working with them and will provide them with additional information to hopefully help with their decision-making.

LLA included matters for Legislative consideration. Those are as follows:

1. To account for the decrease in purchasing power, the legislature may wish to consider raising Louisiana's gas tax and/or indexing it to certain economic conditions, such as inflation, changes in population, changes in fuel efficiency standards, etc. This would be similar to how most other southern states are setting gas tax rates.
2. The legislature may wish to consider identifying other sources of revenue to pay down the TIMED debt service instead of TTF-Regular funds, which are used to fund the state's transportation needs.
3. The legislature may wish to consider excluding the aviation fuels tax when calculating the 20% of TTF funds allowed for appropriations to ports, the PTF, the Statewide Flood-Control Program.
4. The legislature may wish to consider limiting appropriations to the PTF to what is minimally required by the Louisiana Constitution and direct these funds to the state transportation system backlog.

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5. The legislature may wish to consider what types of revenue losses are intended to be offset by the Act 578 road usage fee and clarifying which types of vehicles should be required to pay the fee.
6. The legislature may wish to consider adjusting the state motor fuel tax rate to account for motor fuel tax losses caused by increased fuel efficiency for internal combustion engine vehicles, hybrid electric vehicles, and plug-in hybrid electric vehicles.
7. The legislature may wish to consider diversifying state revenue sources for transportation needs beyond gas taxes and vehicle-related fees.

(Video Archive Time 35:40)

Legislative Auditor Mike Waguespack presented the extension lists. We have 29 extension requests from 27 agencies. The emergency extension requests 90 days or less are primarily due to Hurricane Ida. LLA recommended the committee approve. Representative Ivey moved to grant the extensions and, with no opposition, the motion was approved.

Mr. Waguespack then presented the emergency extension requests greater than 90 days. This is mainly due to Hurricanes Laura and Ida. LLA recommended the committee approve. Senator Bernard moved to grant the extensions and, with no opposition, the motion was approved.

Mr. Waguespack then presented non-emergency extension requests 90 days or less. Representative Jordan asked about the West Baton Rouge Parish Sheriff's office. Mr. Waguespack explained that there was a misappropriation at the Sheriff's office and LLA is investigating that matter. As a result of the investigation, the Sheriff's office asked for an extension. LLA recommended the committee approve. Representative Ivey moved to grant the extensions and, with no opposition, the motion was approved.

Next was non-emergency extension requests greater than 90 days. Again the reasons are mainly turnover, lengthy illness, first time reporting and CPA firm working through backlog. LLA recommended the committee approve. Senator Mizell moved to grant the extensions and, with no opposition, the motion was approved.

Mr. Waguespack showed that we retroactively received a report from Caldwell Parish Policy Jury but they had requested an extension so we do need to have a motion to grant the extension. LLA recommended the committee approve. Representative Ivey moved to grant the extension and, with no opposition, the motion was approved.

Mr. Waguespack advised that we have three agencies that were denied extensions because they did not qualify for various reasons. LLA asked those agencies to attend the meeting and advised that he did not think a representative was there for

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the Housing Authority of Slidell. Senator Luneau asked if there was anyone in attendance for the Housing Authority of Slidell. There was no response. Mr. Waguespack stated that he was contacted by Barbara Goodson regarding the Town of Roseland. The Mayor of Roseland was in attendance at the meeting. LLA received the FYE 2020 audit from the CPA and it is LLA's understanding the CPA for 2020 was ill and having health issues. LLA referred the Town of Roseland to another CPA firm who is willing to take on the task to get the FYE 2021 audit report done and they will start in January. They should be able to get that report done in 90 days. LLA would like to get the Town of Roseland approved for the extension to get them off the non-compliance list. It is LLA's understanding that there is CDBG money they are trying to access to take care of water, sewer and infrastructure issues. In an effort to help the public health issue, LLA recommended approval. Senator Mizell moved to grant the extensions and, with no opposition, the motion was approved.

Mr. Waguespack then advised that CPA, Tim Matte and the CEO of St. Martin, Iberia and Lafayette Community Action Agency, Inc. - SMILE was in attendance. They provided Mr. Waguespack with reasons for the delay in filing their audit report and there has also been allegations so it has slowed down the process. They advised Mr. Waguespack it would be the end of the January before they finished. LLA feels confident they are going to get it done. LLA recommended the committee approve. Senator Luneau moved to grant the extensions and, with no opposition, the motion was approved.

Public Comment

No public comment.

Other Business

Adjournment

Representative Ivey offered a motion to adjourn and, with no opposition, the meeting was adjourned at 3:52 p.m.

Minutes Approved: Minutes Approved at the Legislative Audit Advisory Council meeting on March 29, 2023.

The video recording of this meeting is available at:

https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2022/10/102722LAAC