

Joint Legislative Audit and Review Committee (JLARC)



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SENATORS

Nick Harper
 Jeanne Kohl-Welles
 Sharon Nelson
 Janéa Holmquist Newbry
 Linda Evans Parlette, *Secretary*
 Cheryl Pflug
 Craig Pridemore, *Chair*
 Joseph Zarelli

REPRESENTATIVES

Gary Alexander, *Vice Chair*
 Cathy Dahlquist
 Kathy Haigh, *Assistant Secretary*
 Troy Kelley
 Mark Miloscia
 Ed Orcutt
 Derek Stanford
 Hans Zeiger

September 21, 2011

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JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REGULAR COMMITTEE MEETING MINUTES

COMMITTEE BUSINESS

- Senator Pridemore, JLARC Chair, called the meeting to order at 10:00 a.m.
- Legislative Auditor Keenan Konopaski introduced new JLARC staff member Tracey Elmore.
- Legislative Auditor Keenan Konopaski presented on overview of the Legislative Auditor's Annual Report for 2011, which highlights the results JLARC produces for the Legislature. This year's edition of the report is web-enabled, allowing links to JLARC's work. Senator Pridemore acknowledged that this year's report is taking good advantage of technology and is also less expensive.
- Senator Pridemore asked if there were any corrections, additions, or objections to the July 20, 2011, meeting minutes. Seeing none, he noted the meeting minutes were approved as submitted.
- Senator Pridemore announced the cancellation of JLARC's meeting in October.

REPORTS, PRESENTATIONS, DISCUSSIONS

Manufacturing Innovation Sunset Review – Preliminary Report

Elisabeth Donner from the JLARC staff presented the preliminary report for the Manufacturing Innovation Sunset Review. The Washington Manufacturing Innovation and Modernization Extension Service (MIMES) Program was created in 2008 to increase the availability of innovation and modernization services to Washington manufacturers. The Sunset statutes direct that, absent specific action by the Legislature, the MIMES Program will cease to exist on June 30, 2012. These statutes require JLARC to review the activities of the Program. Because no manufacturers are using the MIMES Program, JLARC's sunset analysis recommends that the Legislature allow the Program to expire.

Representative Haigh asked about the extent of outreach efforts to businesses about the program. JLARC staff indicated that we did discuss this question with Commerce and with the state's one qualified service provider. Staff reported that Commerce's expenditures for the rural manufacturers export outreach program included information

about this program and that the service provider's discussions with businesses also included information about the MIMES program.

Senator Parlette asked for more detail on the expenditures for the rural manufacturer export outreach program. Staff indicated the Department of Commerce might be able to provide more detail.

Representative Miloscia asked if the study discussions considered what changes could be made to make the MIMES program work more effectively. Staff responded that discussions did not address that topic.

Representative Dahlquist asked about the program's expenditures. Senator Pridemore invited representatives from the Department of Commerce to come before the Committee and respond to these questions (Nick Demerice, Government Affairs Director; and Karen Larkin, Assistant Director for Local Government and Infrastructure).

Commerce staff explained that the export program was a legislative proviso to Impact Washington (the one qualified service provider), so Impact Washington could provide additional information on how that appropriation was spent. He added that Impact Washington does spend a lot of time with Washington manufacturers to provide them with various improvement options, and that the MIMES program was one of the tools that it made manufacturers aware of. Commerce staff said they believe the program was marketed fairly well, given the scope of the program.

With regard to Representative Miloscia's question, Commerce staff noted that the original bill for the program included tax rebates for the manufacturers. He added that many manufacturers have better access to funds through other options rather than going to the state for a voucher and paying that back with five percent interest. Commerce staff explained that there were some initial expenses to setting up the program, for example, establishing the program criteria to use. She indicated that the majority of administrative expenditures were in 2009. She added that there were a few applications early in the program but that, in the end, the applicants did not qualify for the program.

Puget Sound Partnership – Preliminary Report

John Woolley and Eric Thomas from the JLARC staff presented the preliminary report for the Puget Sound Partnership study. The 2007 Legislature directed JLARC to conduct two performance audits of the Partnership, the first in 2011 and the second in 2016. This first audit focuses on the accountability directives of the Legislature, as well as other key statutory requirements. JLARC found that the accountability mechanisms directed in statute were largely not in place in the 2008 Action Agenda, but that current work underway in revising the Action Agenda appears to be more in line with guidance in statute. This report also describes other key work that remains after the 2012 Action Agenda is delivered. The report offers three recommendations for the Partnership to enhance accountability and communication of restoration strategies, barriers, and progress.

Representative Miloscia asked if the root cause of the study findings is the agency's quality management system. Staff noted that the statute is very deliberate in establishing accountability mechanisms, and that the study finds these accountability mechanisms are not yet in place.

Senator Parlette asked staff to provide the Committee with additional information on agency and Puget Sound expenditures over the last four years. Staff responded that we would assemble that information. Senator Pridemore added that this information would be valuable for the Legislature as a whole as it enters a challenging budget session.

Senator Zarelli commented that this report shows we really do not know what actions the Partnership has taken and what impact those actions have had. Staff added the one caveat that there is a lot of activity going on right now that may be addressing those problems but that we cannot be definitive about that because it is work in progress.

Representative Orcutt asked if the funding the Partnership has received was original funding or if the funding had been existing appropriations transferred from other agencies, such as Ecology. Staff clarified that, as a state agency, the Partnership receives about \$15 million per biennium, while total expenditures for Puget Sound restoration are in the hundreds of millions of dollars, including federal, state, and local spending. Staff explained that part of the purpose of the Partnership is to provide direction on where those funds should be spent.

Senator Nelson referenced the monitoring approach used in the Chesapeake Bay cleanup. She asked if the similar monitoring approach the Partnership says it plans to take will show which agency has to take an action, what is required in permitting and regulatory authority to achieve that action, and what related actions have to be undertaken in order to reach the stated goal.

Senator Pridemore indicated that might be a more appropriate question for Puget Sound Partnership staff. He invited Partnership staff to come before the Committee to answer questions (Marc Daily, Deputy Director, and Michael Grayum, Public Affairs Director). Partnership staff indicated that they understand and agree with many of the findings in the JLARC report. They said that the 2008 Action Agenda was created about a year after the Partnership was established and acknowledged that it had a number of shortcomings. They added that they are working hard to address these shortcomings in the 2012 Action Agenda update.

Senator Pridemore noted that a number of legislators had concerns about creating a new agency to do what a number of agencies were already doing and that many provisions in the bill were included to avoid duplication of effort. He asked if the agency encountered obstacles or whether the agency did not see compliance as a priority at the time. Partnership staff answered that, in the effort to cut across silos and work with so many different jurisdictions, including federal and local ones, the first action agenda did not progress as far as the statute envisioned. In terms of barriers, Partnership staff spoke of the difficulties with trying to establish the “partner” program, concluding it was not the best tool for the intended purpose of providing fiscal incentives.

With regard to the eelgrass benchmark, Senator Nelson asked if the Partnership has reached agreement with its sister agencies about what roles they will play, what regulatory authority they will need, and how they will handle permitting. She noted that the predecessor agencies such as the Puget Sound Action Team have been studying this issue for 30 years. She asked if there will now be a set of near-term actions and long-term actions that will actually restore eelgrass. Partnership staff noted there would be. Partnership staff reported that a lot of progress has been made since the 2008 Action Agenda and for the 2012 update. He highlighted the importance of there now being regional goals for the agencies, and he indicated that this will allow the right agencies to be on point to have the right resources and to do the right restoration and protection in the right places to advance the regional recovery goals. Partnership staff indicated that they are taking all the best practices from other national estuary efforts implement a statutorily required adaptive management system.

Senator Zarelli asked why hasn't the Partnership taken action to address the problems in the JLARC report? He asked what has been accomplished from the 2008 plan in the ensuing the four years. He emphasized the importance of taking action rather than telling the Legislature the agency has a plan to take action. Partnership staff reported that they are looking forward to providing their formal response to the audit because it has not been a case where there has been no action. Staff said an action they are working on right now is development of a performance accountability system based on the Chesapeake Bay model that accounts for all of the projects, the

money involved, the milestones, the measurements of success, and progress on all of the near-term actions. He indicated that the RFP for development will be going out within the next couple of weeks and that the first phase will be beta-tested in December 2011. Partnership staff reported that they are working on all the issues raised in the report.

Representative Haigh asked if the Partnership has the authority that it needs and whether the agency has looked closely at the legislation to see if any changes need to be made. Partnership staff noted that the agency does not have regulatory authority, that it was set up to be a collaborative and coordinating entity. He explained that they did not feel there needed to be a change in the law to give them more authority.

Representative Alexander asked if staff from the Puget Sound Water Quality Authority were brought forward on to the Partnership. Partnership staff indicated that was the case. Representative Alexander remembered that the Water Quality Authority had acknowledged the problem of a lack of benchmarks years earlier, and that an earlier JLARC study on the Authority had raised many of the same issues being raised here. He commented that it seems like the establishment of benchmarks and performance measures would have been one of the first steps taken by the new agency. He asked if the agency had not gone back to these earlier reviews and noticed those earlier findings on the lack of benchmarks. Partnership staff indicated this was a fair observation. He explained that when the current executive director took over in January 2011, he and the leadership council agreed that setting targets was a priority. Staff reported that, since January, the agency has established 20 indicators and 16 specific recovery targets.

Representative Miloscia commented that the heart of the matter is that the agency has not implemented a quality management system. He asked if there is a date certain in the future when the agency will have in place a quality management system. Partnership staff responded that they will have the first phase of that in place this December. Staff added that they will be seeking recognition under something like Baldrige, but that there was no date certain for that.

Representative Orcutt asked JLARC staff if the 2016 date for the second JLARC study should be moved to 2014 if the Partnership intends to address these deficiencies in its 2012. Legislative Auditor Keenan Konopaski noted that the Legislature may want to first consider how the Partnership has addressed the required Action Agenda elements and the additional statutory requirements before modifying dates. Senator Pridemore added that he hopes the agency can provide better information when it comes to making budget requests in the upcoming session.

State Risk Management Practices in Washington – Proposed Final Report

Senator Pridemore explained that the Committee heard this report at its July 20, 2011 meeting, and that, due to a lack of a quorum at that meeting, action was held over for today's meeting.

Representative Alexander made a motion to approve for distribution State Risk Management Practices in Washington proposed final report. Motion was seconded and carried unanimously.

Workplace Safety and Health Programs – Proposed Scope and Objectives

Elisabeth Donner from the JLARC staff presented the proposed scope and objectives for the Workplace Safety and Health Programs study. The 2011-13 Operating Budget directed JLARC to review the state's workplace safety and health activities. Within the Department of Labor and Industries, the study will focus on the Division of Occupational Safety and Health's (DOSH) safety and health inspection process, consultations, and compliance

assistance opportunities for businesses. The study will describe the activities conducted by DOSH and identify the strategies used in Washington to reduce workplace injuries and illnesses. The study will also compare Washington’s injury and illness rates to rates in other states and to the federal program.

Senator Pridemore reminded the Committee of its I-900 Subcommittee meeting at 1:30 p.m.

With no further business before the Committee, the Chair adjourned the meeting.

ATTENDANCE

JLARC Members Present: Senators Sharon Nelson, Linda Evans Parlette, Craig Pridemore, and Joseph Zarelli; Representatives Gary Alexander, Cathy Dahlquist, Kathy Haigh, Mark Miloscia, Ed Orcutt, and Derek Stanford.

JLARC Staff Present: Keenan Konopaski, Legislative Auditor; John Woolley, Deputy Legislative Auditor, Linda Byers, Elisabeth Donner, Tracey Elmore, Lisa Hennessy, Suzanne Kelly, Curt Rogers, and Eric Thomas.

ADJOURNMENT

The meeting was adjourned at 11:15 a.m.

CHAIR

VICE CHAIR