

Joint Legislative Audit and Review Committee (JLARC)



E-mail: barbara.neff@leg.wa.gov
 Web site: www.jlarc.leg.wa.gov

LEGISLATIVE AUDITOR

Keenan Konopaski
 1300 Quince St SE
 PO Box 40910
 Olympia, WA 98504-0910

Phone: 360-786-5171
 FAX: 360-786-5180
 TDD: 1-800-635-9993

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

June 20, 2012

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REGULAR COMMITTEE MEETING MINUTES

1

COMMITTEE BUSINESS

- Senator Pridemore, JLARC Chair, called the meeting to order at 10:00 a.m.
- Senator Pridemore noted that, absent a quorum, action on the May meeting minutes would be postponed until the next Committee meeting.
- Legislative Auditor Keenan Konopaski and JLARC staff Elisabeth Donner provided the Committee with the 6th annual report on the status of implementation of State Auditor I-900 recommendations to the Legislature. They explained that the annual report provides summary statistics on the status of recommendations for the five performance audit reports with recommendations to the Legislature released by the State Auditor's Office in Calendar Year 2011, as well implementation status for 11 previously unresolved recommendations from reports dating back four years.

REPORTS, PRESENTATIONS, DISCUSSIONS

Involuntary Treatment Judicial Costs: Actual Cost Data Not Available; Estimates Suggest Wide Range in Average Case Costs — Proposed Final Report. John Bowden, Tracey Elmore, and Eric Thomas from the JLARC staff presented the proposed final report for this study. In 2011, the Legislature provided a process, effective July 1, 2012, for counties to be reimbursed for judicial services costs associated with involuntary mental health civil commitments. The intent of the legislation (SSB 5531) is to “prevent the burden of these costs from falling disproportionately on the counties or regional support networks where the commitments are most likely to occur.” In the bill, JLARC was directed to assess the actual direct costs counties incur when providing judicial services associated with involuntary commitments, analyze cost differences among counties, and investigate methods for and identify factors associated with the periodic updating of judicial costs. JLARC found that actual cost data is not available and that estimates suggest a wide range in average case costs. JLARC provides two recommendations for improving the expenditure and case data, and offers potential alternatives for establishing and updating reimbursement rates.

Representative Miloscia asked about the reliability of the county expenditure estimates and if efforts were made to validate the county data. Staff answered that the reliability of the county data varied from county to county, with some able to give much more detailed information than others. Staff briefly reviewed the efforts made to check the expenditure and case data, including comparing the data collected by other methods to the results of a time-and-effort survey of the counties conducted by JLARC.

Senator Pridemore asked if the counties used the same methodology to make their estimates or if the methodologies varied. Staff responded that the methodologies varied, adding that what the counties had been tracking was based on their particular needs. Senator Pridemore asked if all counties had the same key roles as cost centers, and staff indicated that all counties had the same four key roles.

Representative Miloscia observed that the legislation required the counties to provide actual cost data and only one did so. He noted that the recommendation in the study is for DSHS to come up with a plan to get the actual county cost data and asked if there are “carrots or sticks” to help ensure that the state gets the actual data. Staff reminded the Committee that there had not been any requirement in the past for the counties to collect this data, so there should not have been an expectation that they would have the historical information unless it was for their own purposes. Staff noted that the JLARC report offers some alternative approaches so that the counties would not need to collect actual expenditure data. In terms of carrots and sticks, staff observed that the most likely pathway would be through DSHS contracts with the RSNs.

Legislative Auditor Keenan Konopaski asked for a reminder about the rate counties will receive under the current version of the law if they are not tracking costs. Staff explained that, for the counties that hold fewer than 20 ITA cases per year, those counties will receive 80 percent of the rate of the median county among the 13 counties with individual rates.

Senator Pridemore asked if it is a permissive authority to bill across the RSNs. Staff indicated yes, it is. Senator Pridemore asked which RSNs are currently providing some reimbursement to counties for ITA costs. Staff responded that King RSN provides reimbursement to King County, Greater Columbia RSN provides some reimbursement to Yakima County on a per hearing basis, and North Sound RSN has some arrangements with the counties in that RSN.

Senator Pridemore invited representatives from the state agencies to come before the Committee if they wished to comment on the report. Jeff Hall, Administrator for the Administrative Office of the Courts, came before the Committee. He apologized that he did not respond to JLARC’s request for a technical review of the draft report, and due to that he felt the JLARC report had slightly misstated the AOC role in monitoring data quality. He indicated that the definition of a case for judicial purposes is different from the definition of a case in the ITA statute. He reported that the data available on a statewide basis is entered by the county clerks to meet their legal requirements, which means it is a system designed to process and track cases rather than costs. He added that AOC is happy to work with the county clerks to see if there is a way to make use of the data that the clerks enter to see if they can get to a consistent identification of the ITA cases as defined in statute. He stated he believes it is a bit of a mischaracterization to state that AOC should have the role of auditing the case data.

The AOC Administrator also commented that there is a simple, practical reason why the counties have not been collecting the actual cost data. He indicated that, in his time as a county court administrator, he would not have had cause to put a stopwatch on the length of ITA hearings or to track whether the hearings were for people from in the county versus out of the county. He said that there would have been no business reason for the county to do that and that, for smaller counties, they may consider whether it was worth the cost of collecting the information in order to get this money back. He concluded by saying there are some things that could be done in statute to make this ITA law more reasonable to implement.

Representative Dahlquist commented that private law firms keep close records on how much time is spent on each case and that taxpayers may want to know how much time we are spending on ITA cases for accountability. She added that it is important to remember who is paying for this.

Senator Pridemore noted the lack of a quorum and commented that the vote for distribution of the report would be deferred to the next JLARC meeting.

Workplace Safety & Health Program: Activities Are Responsive and Preventative, Using Data-Driven Approaches — Proposed Final Report. Elisabeth Donner from the JLARC staff presented the proposed final report for this study. JLARC reviewed the state's workplace safety and health activities at the Department of Labor and Industries (L&I), Division of Occupational Safety and Health (DOSH). The report concludes DOSH complies with federal and state law, and it allocates resources for data-driven prevention activities. Further, research shows a reduction in claims after DOSH activities, and cautions policy makers about comparing injury and illness rates across states. The report does not make recommendations. The report includes comments from L&I on their program, including options the Department believes could further reduce workplace injury and illness claims.

Senator Pridemore invited staff from the Department of Labor & Industries to come before the Committee if they wished to make comments. L&I staff indicated that they were present if any Committee members had questions. There were no questions from the Committee.

Senator Pridemore noted the lack of a quorum and commented that the vote for distribution of the report would be deferred to the next JLARC meeting. **Workers' Compensation Claims Management: Evaluation Design — Briefing.** Stephanie Hoffman from the JLARC staff presented the briefing for this study. The 2011 Legislature directed this audit in Engrossed House Bill 2123, which enacts a number of major reforms to the state's workers' compensation system. JLARC is conducting this audit in two phases. The first phase focuses on developing methods and cost estimates for evaluating the claims management process administered by the Department of Labor and Industries, and a review of the processes used by self-insured employers. JLARC staff will then evaluate a number of elements of the claims management system in the second phase, to be completed by June 2015. The methods used to address the study elements will depend upon future resources available to JLARC.

Representative Dahlquist asked if the future JLARC study will be looking at the cost-effectiveness of the self-insured employers and the State Fund. Staff answered that JLARC has been asked to look at that and that we are currently trying to learn what kind of data is available to us from the self-insured employers.

Representative Miloscia asked if the study would include any benchmarking with claims management systems in other states. Staff answered that we will be doing comparisons with other states and that we are currently in the process of identifying some states with similar structures to ours.

Representative Dahlquist asked if the comparison to other states would include states that do not have a monopoly on the claims management system. Staff responded that yes, the comparison would include such other states.

Senator Pridemore invited the Director of the Department of Labor & Industries to comment on both the Workplace Safety and Workers' Compensation reports. Judy Schurke, Director of Labor & Industries, came before the Committee. She was joined by Vickie Kennedy, Special Assistant to the Director.

Senator Kohl-Welles noted that the Department included a letter in the Workplace Safety report indicating the Department has ideas for further reducing workplace injuries and illnesses. The Senator asked if the Director would like to make any comments on their letter. The Director said how pleased the agency is with the findings of the Workplace Safety report. She noted the DOSH program has its challenges, including staffing levels and finding the people with the appropriate skill levels and expertise. She indicated that she was not prepared at this time to provide details on the agency comments in the report. Legislative Auditor Keenan Konopaski directed Committee members to the page number in the full report where the agency's comments begin (page 19).

Representative Kelley asked if L&I staff had any comments on the workers' compensation claims management study at this very early stage in the process. The Director commented that JLARC has selected an excellent consultant to help scope the project. She said that the study is a large and complex undertaking and that it will be a challenge to find other systems that allow easy benchmarking. She added that this is not to say that Washington cannot be benchmarked to other states, both monopolistic states and those with private markets. L&I staff went on to say that areas where the study can be narrowed may emerge as JLARC's staff and consultant gather information for this methodology phase of the study.

The Director also noted the agency appreciates JLARC's involvement in the workers' compensation study, noting how valuable a previous JLARC audit and follow-up was to them, allowing the agency to make vast improvements in the system.

Representative Dahlquist asked if the JLARC study would be looking across industry sectors. JLARC staff indicated yes, noting that the retrospective rating plan covers multiple industries and that the study will review how that program is operated in Washington. L&I staff added that the study may get into some industry analysis as part of making state comparisons because the risks in Washington are much higher than in other states. Legislative Auditor Keenan Konopaski observed that, in the Workplace Safety study, it proved difficult to do cross-state comparisons in a way that normalized for states' varying industry and policy conditions; he indicated we would make our best efforts to do so in this study.

Senator Pridemore reminded Committee members of the I-900 public hearing at 1:30 that afternoon. Senator Pridemore also reminded members there would be a July JLARC meeting, which will primarily be focused on hearing the results of this year's tax preference reports.

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

ATTENDANCE

JLARC Members Present: Senators Jeanne Kohl-Welles and Craig Pridemore; Representatives Cathy Dahlquist, Troy Kelley, and Mark Miloscia.

JLARC Staff Present: Keenan Konopaski, Legislative Auditor; John Woolley, Deputy Legislative Auditor, Valerie Whitener, Legislative Audit Coordinator, Curt Rogers, John Bowden, Linda Byers, Elisabeth Donner, Tracey Elmore, Peter Heineccius, Stephanie Hoffman, Eric Thomas, Lisa Hennessy, and Suzanne Kelly.

ADJOURNMENT

The meeting was adjourned at 10:50 a.m.

CHAIR

VICE CHAIR