



6.6.14

# Commentary

The Public Affairs Research Council of Louisiana

## The 2014 Legislative Session

PAR reviews the poor fiscal practices and worthy accomplishments of the spring lawmaking period

What a difference \$1 billion can make.

The 2014 legislative session ended with a state budget balanced conveniently with contrived and borrowed revenue and the further depletion of trust fund resources. The budget allows spending increases for some government programs while also initiating some potentially beneficial streamlining measures. As PAR recommended, the Legislature made the right move by refusing to balance the operating budget with an expensive loan from the New Orleans convention center fund and declining to launder one-time money through the state's Coastal Restoration and Protection Fund.

Several other developments corresponded with PAR recommendations. Important progress was made with a cost-saving improvement to the state retirement systems' method of providing cost-of-living adjustments, minor forward steps were taken in campaign finance reporting, a nearly disastrous ethics bill was avoided and the Tulane Legislative Scholarship program will be broadened to include more qualified applicants.

### The artificially balanced state budget

General appropriations for fiscal year 2015 are \$24.6 billion, about 3% less than the current-year budget.<sup>1</sup> The new budget represents a decrease in federal revenue and an increase in state general fund spending.

The cost of running government has had its ups and downs. The administration has decreased the number of state employees, privatized certain government functions and sought consolidation of operations and information technology systems. The Charity hospital privatization has yet to prove that the change has saved money statewide. In the next year the administration is expected to pursue a new round of cost-saving or revenue-generating measures recommended by private consultants. Meanwhile, many of the state's ongoing costs have increased, such as pay raises for state employees, money for local schools, expanded health care programs, a new higher education funding program and state employee retirement expenses.

Through a nearly \$1 billion combination<sup>2</sup> of trust fund depletion, a tax amnesty program, a debt defeasance maneuver, a lawsuit settlement and fund sweeps, the Legislature and the administration managed to find enough revenue to sustain the state's spending plan for the fiscal year that begins July 1. The great majority of that money will be unavailable for the fiscal year 2016 budget-balancing act next spring.

Although there are sure to be fresh windfalls and sources of one-time money next year, there are likely to be new expenses lurking also. The overall gap for fiscal year 2016, considering the various pluses and minuses that will occur, is not yet known. What we do know is that the state is not following sound fiscal practices with respect to balancing ongoing revenue with ongoing expenses. In particular, the state has formed a habit of creating one-time money to plug budget holes. One-time money can occur for many justifiable reasons, such as when the state gets a lawsuit settlement. But when the government manufactures those opportunities by borrowing from the future and for no other purpose except to raise money for the operating budget, their use does long-term damage to the state fiscal outlook.

## Fair and affordable COLAs

During the 2014 session, the Legislature made changes in the way cost-of-living adjustments (COLAs) are granted for retirees of the four major state retirement systems. Act 399 (House Bill 1225) by Rep. Joel Robideaux and Sen. Elbert Guillory sets conditions on how and when COLAs will be given over time. This change offers a more consistent and fiscally sound approach to COLAs. It addresses the legitimate needs of retirees, who this coming year will receive their first cost-of-living increase since 2009. It also provides a responsible financing mechanism that is better geared to the realities of the deeply indebted retirement systems.

The new COLA method under Act 399 will be more sustainable, more favorable for taxpayers and less of a contributing factor to the unfunded accrued liability (UAL) of each system. This reform is not as advantageous as PAR's long-standing recommendation to replace the Experience Accounts with a prefunded system that collects money during the working life of the employee to pay for future COLAs. But the Robideaux-Guillory reform, which was endorsed by the governor, is a significant step forward and may be the biggest long-term cost-saving measure of the session. PAR played an education role and was asked to testify on the policy change. A PAR review of Act 399 and a separate analysis of the state's Experience Account system can be found among the list of Commentaries on our web site.

## Campaign finance records

The Legislature passed bills to affect the way politicians report expenditures from their campaign accounts. The bills partially follow PAR policy recommendations. PAR also has participated regularly in discussions with a special committee to examine campaign finance and other reporting.

In Louisiana, state law has long said that campaign funds may be expended for "any lawful purpose" and for campaigns of other candidates and ballot propositions. Such funds shall not be used "for any personal use unrelated to a political campaign, the holding of a public office or party position", but this standard is low. In practice and in light of recent Louisiana court rulings, the standard has, to an unacceptable degree, left questions of proper use up to the individual candidate or office holder. Also, it appears the Louisiana 1<sup>st</sup> Circuit Court of Appeals has told us that if a campaign expenditure is lawful, is at least in some basic way to help a constituent and applies to the holding of office or a campaign, then the expenditure is permitted.

While this law remains in place, three improvements have occurred:

- House Bill 1079 by Reps. Tim Burns and Gregory Miller instructs candidates and office holders to provide "a description of the purpose as it relates to the expenditure" for each expense on their campaign disclosure forms. Current state law already requires candidates to report the purpose of campaign fund expenditures. Usually, the great majority of items reported by a candidate are

obvious and typical campaign costs. Yet, too often, reports provide information that is unclear or inadequate and the Board of Ethics' oversight and rules have been less aggressive than they could be under the law. Burns' bill, which was carried in the Senate by Sen. Jody Amedee, should be an improvement. This law for clearer disclosure could allow voters to understand more easily the real use of the expenditure and might serve as a deterrent to questionable spending.

-House Bill 695 by Burns lets the Board of Ethics staff request clarification or additional information from a candidate or political committee regarding information disclosed or perhaps left off of a report. Prior to this bill, ethics administration officials believed that if they had a question about a campaign filer's expenditure report, the only mechanism was to refer the matter to a formal investigation. Although PAR did not share this view, PAR suggested a policy change to make clear that the ethics administration may ask for clarifications. HB 695 makes sure this practice is clearly authorized.

-The Board of Ethics is drafting guidelines for expenditure reporting, including examples of what would be considered adequate and inadequate descriptions of expenditure purposes. PAR has urged this type of assistance, which is offered similarly by regulators for other states and federal elections.

In combination, these three changes above should improve candidate compliance and ethics administration oversight. PAR made other recommendations that, if implemented, would make stronger improvements.

It should be noted that in the larger national picture of campaign donations, the courts are defining the future of electoral money, with possibly fewer or seemingly no restrictions. In Louisiana, we are likely to see aggressive strategies and unprecedented sums of money applied directly and indirectly to political campaigns in the 2015 gubernatorial and legislative elections. Appropriate disclosure can and should remain a priority and will be good for all involved.

## **New gift law**

State ethics law prohibits elected officials and government employees from accepting gifts for the performance of their duties. They also cannot receive gifts from those they regulate or those seeking a contract with their agency. This law has tended to encourage a positive culture in which gifts for favors are seen as an inappropriate currency in government operations. House Bill 500 in its original form would have allowed multiple gifts up to \$75 and created a lower ethical standard. The Board of Ethics erred badly in recommending this legislation. PAR raised concerns about the damage this would inflict. Fortunately, at the urging of bill author Rep. Johnny Berthelot, the Legislature responded quickly and reduced the bill to a more narrow purpose of allowing public school students to give minor gifts to teachers. Thanks to Rep. Berthelot for promptly recognizing the problem with the bill that was drafted for him. His work with the governor's office and other lawmakers soon fixed it.

## **Tulane scholarships**

No bills passed to modify the Tulane Legislative Scholarship program. But public concerns about this legislative privilege and efforts by Sen. Dan Claitor drew attention to the problems and helped lead to significant changes in the program's administration by Tulane University. For example, the pool of Louisiana applicants is now likely to grow by several hundred students per year and become less exclusive. PAR provided models, analysis and commentary that complemented the Tulane University initiatives.

## Flood authority nominations

The independent nominating process for the southeastern flood authority boards remained intact despite repeated attempts to turn that process over to the governor. The historic post-Katrina reform that created the New Orleans regional levee boards included an independent nominating committee. PAR has a seat on the nominating committee and wishes to uphold the transparency and integrity of the nominating process. PAR has helped educate the public about this issue.

## Office of Group Benefits

The Office of Group Benefits fund has been deeply tapped to sustain rising costs and to compensate for rates that have been insufficient to maintain a strong balance in the account. The rates are charged to the government and to employees. Under the current method, the rates are set by the administration, which has considerable discretion. If abused, the rate-setting system can become a method to temporarily boost the state budget. A more objective and fiscally responsible way of establishing rates would be to turn the rate-setting authority over to an actuarial committee. This rate-setting job will become even more important if OGB undergoes the significant reforms begin proposed by the administration's private consultants.

## Shedding light on tax exemptions

Senate Bill 543 by Sen. Jack Donahue requires expenditure forecasts for certain tax incentives and exemption programs. The bill contains no caps or restrictions but could provide better information to inform policymakers and the public about the fiscal impact of these programs.

## Revisiting Act 419

Last year's initiative sponsored by the Fiscal Hawks – Act 419 – was intended to provide better accountability about statutory dedications and self-generated revenue. Some unintended consequences, such as serving to raise the state debt cap, have recently come into focus. Policymakers should discuss tweaks to the law and be prepared to make constructive adjustments next year.

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### Endnotes

<sup>1</sup>The \$24.6 billion figure represents the general appropriations bill. The state has additional annual expenditures, such as funding for the legislative and judicial branches, for supplemental appropriations and for construction projects.

<sup>2</sup>Various methods and assumptions can be used to figure the amount of revenue used for the fiscal year 2015 budget that will not be available for the fiscal year 2016 budget. The Legislative Fiscal Office and the House Fiscal Division had been using figures in the range of \$900 million to almost \$1 billion. Some lawmakers have predicted that the funding gap next year could be much greater than \$1 billion. Among the revenue sources or offsets plowed into the state operating budget for fiscal year 2015 are the tax amnesty program (\$262 million), debt defeasance (\$210 million), trust fund depletions (approximately \$260 million), a pharmaceutical lawsuit settlement (\$120 million) and various fund sweeps, excess revenue and one-time funds. This list may not be exhaustive.

**See PAR's Commentaries and analysis of 2014 session issues under "Publications" on our website**

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