

MEMORANDUM

TO: LCIR Members
FROM: Rip Colvin
RE: Minutes for the LCIR Meeting July 18, 2006 in Tallahassee, Florida
DATE: July 26, 2006

Senator Dennis Jones, Chair of the Legislative Committee on Intergovernmental Relations (LCIR), called the meeting to order at 10:00 a.m. A quorum was present. The attendance of the Committee members was as follows:

PRESENT

Senator Jones
Representative Hasner (via teleconference)
Senator Lynn (via teleconference)
Representative Taylor (via teleconference)
Commissioner Bullard
Mr. Greer
Commissioner Palmer
Ms. Tinker
Commissioner Welch

ABSENT

Senator Constantine
Senator Klein
Secretary Cohen
Representative Williams

Opening Comments

Senator Dennis Jones welcomed the members to the meeting. He stated that Representative Hasner, Senator Lynn and Representative Taylor will participate via teleconference.

Minutes from March 13

The minutes of the March 13, 2006 LCIR meeting were approved unanimously.

2006 Annual Legislative Summary

Cris Martinez, LCIR Staff Attorney, gave a presentation highlighting some of the bills contained in the LCIR's Annual Legislative Summary. She explained that the bills contained in the summary were bills that LCIR staff had tracked during session due to the fact that they would impact local governments in some manner.

Regarding local bills, Ms. Martinez stated that during this legislative session, 122 local bills were filed. Of these bills, 49 bills (or 40 percent) passed both houses and 73 bills (or 60 percent) failed. Ms. Martinez added that since 1991, LCIR staff reviewed municipal incorporation proposals at the request of House Local Government Council staff. The purpose of the LCIR's review is to determine whether the municipal incorporation proposals meets the state standards contained in Ch. 165, F.S., and addresses the elements required for incorporation feasibility studies. Consequently, the following local bills for municipal incorporation were reviewed by LCIR this legislative session: H 759, creating the City of Ruskin in Hillsborough County; H 951, creating the Town of Loxahatchee Groves in Palm Beach County; H 993, creating the City of Southport in Bay County; and H 1297, creating the Town of Grant-Valkaria in Brevard County.

Lastly, Ms. Martinez informed the Committee that prior to and during the legislative session the LCIR is available to conduct FAXNET surveys of the state's local governmental entities to assess the potential impact of proposed legislation or to identify and assess issues related to different topics that may warrant legislative action. This session, the LCIR conducted several Faxnet surveys on topics including Deferred Compensation Plans; Regulation on the Consumption of Alcoholic Beverages; Local Government Fees Imposed on Pawn Broking Transactions; Local Ordinances Directed at Sexual Predators or Offenders; and Local Government Affordable Housing Policies.

Update on Dock and Marina Permitting

Chuck Hungerford, LCIR Senior Legislative Analyst, provided the Committee with an update on the Marina and Dock Permitting 2006-07 Interim Project. Mr. Hungerford identified the six major issues for the project, the methodology proposed for addressing them, and briefly noted their current research status. In addition, he noted that more than one-half of the case studies planned for the project are completed. Information from these case studies will be used to qualify concerns with permit reviews from the perspectives of contractors and permit reviewers. The case studies will also assist in the development of a survey which will be sent to marine contractors and consultants.

One preliminary finding suggests an underlying problem with the Department of Environmental Protection's (DEP) personnel turnover rates is associated with numerous permitting application difficulties reported by marine contractors.

Mr. Hungerford anticipates a draft report to be available later this fall and will include draft legislation for the Committee's review and consideration. He informed the Committee that representatives from DEP, the U.S. Army Corps of Engineers, and the Southwest Florida Water Management District were present and available to answer questions.

Senator Jones noted the importance of this project to the Pinellas County local economy and opened the floor for questions and comments. Commissioner Lou Ann Palmer commented that the City of Sarasota officials are very supportive of the project; that marine contractors in Sarasota County report difficulty in navigating the state permitting system; and that it would be useful to streamline notification procedures when a proposed dock is exempt from permitting.

Review of Federal Funding to Florida in Fiscal Year 2004 – Draft Report

Steven O'Cain, LCIR Senior Legislative Analyst, summarized the findings and policy options of the staff's draft report, Review of Federal Funding to Florida in Fiscal Year 2004. Mr. O'Cain noted that the LCIR report summarizes federal financial assistance to Florida using fiscal data from two separate U.S. Census Bureau reports: the Consolidated Federal Funds Report, December 2005; and the Federal Aid to States report, January 2006. Mr. O'Cain stated that the purpose of the LCIR report is to illustrate the magnitude of federal financial assistance and how continuing actions of the federal government have important fiscal implications for Florida's state and local governments.

Mr. O'Cain stated that Part One of the LCIR report summarizes federal direct expenditures to Florida. As categorized in the U.S. Census Bureau's report, federal direct expenditures are grouped into five categories: 1) direct payments for retirement and disability; 2) direct payments other than for retirement and disability; 3) grants; 4) procurement contracts; and 5) salaries and wages. According to the LCIR staff's analysis of the federal data, federal direct expenditures to Florida in fiscal year 2004 totaled \$122 billion or \$7,014 per capita. In terms of total funding received, Florida ranked 4th among all states. On a per capita basis, Florida ranked 29th overall.

Mr. O’Cain stated that Part Two of the LCIR report provides an overview of federal direct expenditures to Florida counties, as geographic areas rather than units of local government. He noted that the economic impact of federal spending varies significantly from one county area to another, and that future changes in the receipt of federal funding are likely to affect areas of the state quite differently.

Federal financial assistance to Florida’s state and local governments comes primarily in the form of grants. Mr. O’Cain stated that Part Three of the LCIR report provides an overview of federal grant expenditures by agency to Florida’s state and local governments. According to the LCIR staff’s analysis of the federal data, federal grant expenditures to Florida in fiscal year 2004 totaled \$18.2 billion or \$1,045 per capita. In terms of total grant funding, Florida ranked 4th among all states. On a per capita basis, Florida ranked 47th overall.

For the past several years, the LCIR staff has conducted annual reviews of federal funding to Florida using data published by the U.S. Census Bureau. Mr. O’Cain stated that between 1996 and 2004 total grant expenditures to Florida increased 117 percent, or 15 percent on average annually. In terms of total grant expenditures to states, Florida’s ranking improved from 7th in 1996 to 4th in 2004. Florida’s per capita grant expenditures improved, slightly from 48th in 1996 to 47th in 2004.

Mr. O’Cain stated that Part Four of the LCIR report illustrates how Florida’s per capita federal grant expenditures by agency compare to the national per capita expenditure as well as those of the other states. Between 1996 and 2004, Florida’s per capita expenditure, in the aggregate, has ranged from 70 to 78 percent. In other words, Florida’s per capita grants expenditure has been approximately three-quarters of the national average.

In closing, Mr. O’Cain stated that had Florida’s per capita grant expenditure in 2004 equaled the national average, then the state would have received \$5.4 billion in additional grant funding. Although Mr. O’Cain noted that the LCIR staff was not suggesting that Florida could realize such a significant increase in federal grant funding, he did suggest that funding improvements could be made and that the report offers a number of recommendations to potentially increase Florida’s receipt of federal grant funding.

Report Recommendations

Mr. O’Cain noted that a number of recommendations are offered in the report to potentially increase Florida’s receipt of federal grants. These include:

- Coordinate with state agency personnel to generate more in-depth analyses of federal grant receipts by specific program.
- Develop a comprehensive strategy to evaluate the cost-benefit issues associated with continued participation or pursuit of federal grant funding.
- Identify federal and state policy changes needed to enhance Florida’s access to federal funding streams.
- Form coalitions with similarly-situated states to pursue changes in outdated or inequitable federal funding formulas.
- Work with Congress to implement changes to federal funding formulas determined to be outdated or inequitable.
- Promote the consolidation of federal funding streams to simplify access to federal funding.
- Make the processes of amending the state budget and obtaining spending authority easier.
- Increase the availability of state matching funds.
- Increase training provided at the state level for accessing federal grant funding.

- Increase communication and coordination on federal issues among state agencies, the Governor's Office, the Florida Washington Office, the Legislature, and the Congressional Delegation.

Members' Questions and Discussions

Mr. Greer asked if the LCIR report addressed the issue of federal taxes paid by Floridians versus the amount of federal funding received by the state. Mr. O'Cain answered that the report does not address that particular issue. Senator Jones asked staff to research the question and provide Mr. Greer with an answer.

FOLLOW-UP: Subsequent to the July 18th meeting, Mr. O'Cain researched the question and obtained a report prepared by the Tax Foundation, a Washington, D.C.-based nonprofit, nonpartisan research and public education organization that monitors tax and fiscal activities at all levels of government. The Tax Foundation's Special Report No. 139, entitled Federal Tax Burdens and Expenditures by State, March 2006, provides that based on its research, that Florida's ratio of federal spending per dollar of federal taxes in fiscal year 2004 was \$1.02. In other words, for every tax dollar the federal government took in from the citizens of Florida in 2004, \$1.02 in federal spending went back into the state. The Tax Foundation report is available online via the following link: <http://www.taxfoundation.org/files/sr139.pdf>.

Senator Lynn asked if the LCIR would be addressing the issue of flexibility in the use of federal funds. Mr. O'Cain answered that the flexibility issue, as it pertains to a particular grant program, could be addressed by letters sent to the Congressional Delegation.

Ms. Tinker inquired about the LCIR's contact with the Florida Washington Office. Although contact with that office in past years has been limited, Rip Colvin, LCIR Executive Director, stated that the LCIR staff recently met with the Florida Washington Office staff in Tallahassee. Mr. Colvin mentioned participation by both staffs in prior federal/state summits in Tallahassee and legislative visits to Washington, DC.

Final Actions

Chairman Jones thanked the Committee staff for the report, and the Committee voted to approve the draft report.

Survey of Florida Department of Environmental Protection's Federal Grants Program Participation.

Ms. Martinez presented the LCIR's survey of the Florida Department of Environmental Protection's (DEP) participation in federal grant programs and the resulting draft report and recommendations to the committee members. Ms. Martinez acknowledged that the LCIR undertook this survey in order to assist the Legislature in developing a comprehensive strategy to increase Florida's receipt of federal funds. The survey was designed to elicit state agency expertise regarding the federal programs in which the agency participates. DEP provided information on 51 different federal grants. The information was then reviewed by LCIR's federal consultant, Mr. Vic Miller. LCIR staff then contacted DEP staff about the programs and focused on formula grants.

Ms. Martinez explained that the formula grants review showed that no one formula factor consistently disadvantages Florida, rather a combination of factors disadvantage Florida's receipt of federal funds. These factors include: outdated population data; tourism impact; small state minimums and equal allocations; federally imposed caps; state share stagnation; and in-kind match issues.

Ms. Martinez highlighted the Report's recommendations, which include:

1. Forward the findings of this review to Florida's Congressional Delegation so that appropriate congressional action regarding environmental acts may be made to benefit Florida.
2. Identify and approach similarly situated states regarding formulating a coordinated strategy to accomplish changes in federal law to benefit the environment.
3. Reconsider the double-budget authority requirement at the state level especially as it applies to federal grant funds.
4. Research whether the current system of accounting for in-kind matches for federal programs is cost effective or whether a more centralized cost-allocation scheme would be more efficient.
5. DEP should consider whether to approach the Governor to write letters to pertinent federal agencies to further DEP's goals in specific programs, such as in the case of Florida's Offshore Beach Quality Sand Research Cooperative Agreement Project.

Commissioner Bullard asked whether persons that reside in Florida for a few months were considered as tourists referring to the impact that tourists have on Florida's environment. Ms. Martinez responded that she would verify whether seasonal residents were counted in Florida's tourism counts. Senator Lynn agreed that this was a very important point that needed to be clarified. She explained that the perception is that tourists are those persons that come to Florida for a vacation, rather than partial year residents which impact our state just as much as seasonal visitors. The committee agreed that this point should be made in the report. Commissioner Palmer then moved to approve the report pending technical changes made by the staff. Without objection the report was approved.

FOLLOW-UP: LCIR staff contacted the Research Department of Visit Florida, the official tourism marketing corporation for the State of Florida, which performs tourism counts for the state. LCIR staff was informed that although tourism counts do not include seasonal residents (visitors which stay longer than 1 month), it is possible to count these types of visitors in order to assess their impact on Florida's environment.

Presentation of the Auditor General's Performance Audit of the Local Government Financial Reporting System, Report Number 2006-186

Senator Jones introduced Jim Dwyer, Audit Manager with the Office of the Auditor General, to present the Auditor General's Performance Audit of the Local Government Financial Reporting System (Report Number 2006-186). Mr. Dwyer began by stating that the law requires the Auditor General to conduct this performance audit at least once every two years to improve the accuracy, efficiency, and effectiveness of the local government financial reporting system.

Mr. Dwyer stated that in this audit, Community Redevelopment Agencies (CRAs) were selected as an audit topic based on findings within recent Auditor General audits of local governments. The objectives were to determine whether all CRAs complied with the audit requirements, and for a sample of CRAs, whether the Tax Increment Financing (TIF) payments by counties and municipalities were made in accordance with law; whether CRAs complied with the budget laws; and whether CRAs expended funds in compliance with their redevelopment plan and with the law. In addition, the Auditor General followed up on any outstanding items in the most recent performance audits.

CRA Recommendations

Finding 1 - Tax Increment Financing. Mr. Dwyer stated that the Auditor General recommended that local taxing authorities should ensure that the TIF payments are timely paid to the CRAs in accordance with law. In addition, the CRAs should assess and collect any penalties and interest imposed by law associated with the late payment of the TIF payments.

Finding 2 – General Disbursements. Mr. Dwyer stated that to ensure that redevelopment trust fund expenditures are in compliance with the CRA Plan and law, the Auditor General recommended that all expenditures should be properly authorized and adequately documented. In addition, the Auditor General recommended that the Orlando CRA should request reimbursement from the Orlando Downtown Development Board for the overpayment noted.

Finding 3 – Salary and Benefit Disbursements. Mr. Dwyer stated that the Auditor General recommended that actual time spent by employees on CRA activities should be supported by documentation, such as timesheets, and salaries and benefits paid from CRA funds should be commensurate with this documentation.

Finding 4 – Contributions to Nongovernmental Entities. Mr. Dwyer stated that the Auditor General recommended that contributions of CRA funds to private, nonprofit organizations should be made in accordance with a formal agreement that clearly identifies and demonstrates a clear public purpose which benefits the CRA. Additionally, the Auditor General recommended that CRAs should exercise sufficient control over the disbursement of funds through timely review of the uses of those funds.

Finding 5 – Budget Adoption. Mr. Dwyer stated that the Auditor General recommended that CRAs adopt their budget by resolution as required by law.

Finding 6 – Budget Overexpenditures. Mr. Dwyer stated that the Auditor General recommended that CRAs should ensure that budgets are adopted for all expenditures and that actual expenditures do not exceed budgeted expenditures for any given fiscal year.

Finding 7 – Audit Compliance. Mr. Dwyer stated that the Auditor General recommended that CRAs should provide for annual audits of the redevelopment trust fund in accordance with law. When such audits are included in the primary government’s audit, they should include all of the information required by the law and copies of the audit reports should be provided to each taxing authority.

Finding 8 – Report of Activities. Mr. Dwyer stated that the Auditor General recommended that CRAs should ensure that a report of activities is filed as required by s. 163.356(3)(c), F.S. Mr. Dwyer added that clarification could be made to the law to more fully describe what the Report of Activities should include and clarify that it is different from the audit report.

Follow-up Recommendations

Finding 9 – Electronic Filing of Annual Financial Reports. Mr. Dwyer stated given the increase in local governments filing electronically, DFS should continue its efforts to enhance the local government database and electronic filing system. Such efforts, at a minimum, should include a survey of all local governments that continue to file manually to determine what changes, if any, would be necessary for them to use the electronic filing system.

Mr. Colvin reminded the members that this system is utilized by the LCIR staff to serve as conduit of this information between DFS and the Legislature. He added that DFS staff indicated that this project is now a priority and will be working with LCIR staff as the project moves forward.

Senator Lynn asked if there was a penalty to the local government for failing to file financial reports. Mr. Dwyer responded that there are penalties, including withholding state revenues. DFS reports to the Joint Legislative Auditing Committee (JLAC) of those local governments that do not submit their annual financial reports. The JLAC can direct the Departments of Revenue and Financial Services to withhold disbursements to that local government. Senator Lynn asked if this has been done in the past. Mr. Dwyer responded that this has been done for both audit reports and annual financial reports. Senator Lynn asked if any of the local governments within her district have had disbursements withheld due to failing to file their financial reports. Mr. Dwyer responded that he did not have that information available.

FOLLOW-UP: Subsequent to the July 18th meeting, LCIR staff contacted the JLAC staff to determine how many local governments have had their funding withheld due to not filing their financial reports and were informed that within the past twelve years, only 2 local governments have had funds withheld and neither local government was in Senator Lynn's district.

Commissioner Bullard asked if it would be a fair assumption that there were a large number of CRAs not in compliance with the reporting requirements? Mr. Dwyer responded that it would be a fair assumption. Commissioner Bullard then asked if the changes made in legislation dealing with CRAs that became law during the most recent session addressed all of the problems noted within the audit concerning CRAs. Mr. Dwyer responded that it did not address all of the problems, including filing of audit reports and activity reports. Commissioner Bullard requested that the performance audit be sent to all CRAs with emphasis given to the types of problems found as an educational tool. Mr. Dwyer stated that the report has not been sent to all CRAs, but it could certainly be done.

Findings 10 and 11 – Reporting by Unaudited Local Governments and Significant Financial Trends Monitoring. Mr. Dwyer stated that the Auditor General recommended that the DFS should establish procedures to more timely identify local governments that are required to, but do not, file AFRs by April 30. The Auditor General also recommended that the required notification to the JLAC should be made in a more timely manner. To ensure that AFRs filed for unaudited local governments are complete and reasonably accurate, the Auditor General recommended that DFS should consider providing technical assistance to smaller local governments to assist them on proper completion of the AFR. Such technical assistance could include educational training sessions and more detailed instructions in the AFR package mailed to these local governments by DFS. Further, the Auditor General recommended that DFS should review AFRs received for reasonableness and, if necessary, request additional information from the local governments.

Finding 12 – Reporting of Noncompliant Special Districts. Mr. Dwyer stated that to improve the usefulness of the lists of noncompliant special districts provided to Department of Community Affairs (DCA) pursuant to law, the Auditor General recommended that Division of Bond Finance (DBF), within the State Board of Administration, should consider the information needs of DCA and modify the reported information, as appropriate. DBF should also ensure that all entities reported to DCA are, in fact, special districts as identified in the DCA's Official List of Special Districts.

Finding 13 - Review of Actuarial Reports and Impact Statements. Mr. Dwyer stated that the Department of Management Services should adopt written procedures for reviewing local government pension plans from acknowledging and recording receipt of an actuarial report or impact statement to

completion of the review, including “state acceptance.” Such procedures should be implemented to ensure that reviews by DMS are thoroughly documented and evidence all aspects of such reviews.

The Chair recognized Bob McKee, with the Florida Association of Counties. Mr. McKee stated that if the LCIR continues to look at CRA issues, enhancing the clarity and the accountability of the CRAs’ financial activities and the progress of the CRA in achieving their redevelopment plans would be important areas to examine.

Senator Lynn moved to have LCIR staff work with the Auditor General’s staff to implement legislative recommendations. The motion was adopted without objection.

2006-2007 LCIR Interim Projects

Mr. Colvin briefed the members on current interim projects. The DEP Survey project is complete. The Dock and Marina project is progressing. The school storage project, which will look at the costs associated with protection of and temporary storage of vital records, supplies and equipment contained in each school during a hurricane, is progressing. The Emergency Management, Preparedness, and Assistance Trust Fund review is also progressing. This project should be ready for consideration by the LCIR at its next meeting. Some work has been done on another project looking at Medicaid’s impact on rural counties. Another project that has been initiated focuses on the consolidation of the local option fuels, sales, and tourism related taxes. Work has not begun yet on the creation of a Handbook for Small Local Governments. Mr. Colvin then listed the LCIR’s annual publications and their status with regard to completion.

Moving on to items listed as those to be monitored by staff, Mr. Colvin pointed out that staff will be monitoring the “portability” study that is being conducted by the Department of Revenue and followed up on by the Office of Economic and Demographic Research. Members have expressed interest in affordable housing. At one point, it was anticipated that HB 1363, which passed in this most recent Session, could have “scrapped the cap” on the Sadowski Trust Fund monies that could be distributed, but that did not move forward.

Commissioner Palmer suggested that the Committee be more proactive legislatively. In particular, she urged the Committee to craft legislation supportive of affordable housing. Two other items Commissioner Palmer suggested the LCIR pursue included protecting statewide waters from fertilizer and pesticide. She mentioned that the Department of Environmental Protection sent a letter to the Sarasota Bay National Estuary Program regarding problems with pesticides and fertilizers. DEP was asking local governments to back off until the state came up with a program.

Another issue Commissioner Palmer wants the Committee to consider is insurance. She would at least like to have some discussion on the three items mentioned being added to our work program.

Mr. Colvin responded that the Committee sent a letter to the President and the Speaker expressing its support for eliminating the caps and for fully funding the Sadowski Trust Fund. Legislation to that effect was filed, but failed. Regarding the fertilizer and pesticide issue, staff will be happy to follow-up and get back with you on where DEP is on this issue. ??????????With regard to insurance, the very last bill of the legislative session this year dealt with insurance. There were some significant reforms implemented.

Senator Jones mentioned that the Florida Insurance Commissioner, Kevin McCarty, has made one or two presentations before Congress looking for federal assistance, perhaps for some form of catastrophic programs to help spread the risk. Senator Jones said he believed Mr. McCarty would be the point person bringing recommendations to the next legislative session.

Commissioner Welch stated that Pinellas County is allocating \$30 million from its general fund and creating its own local housing trust fund, because it cannot afford to wait any longer on the state to do something. He thanked the LCIR for supporting that effort. Insurance has become the new crisis in home ownership. Homeowners under the Save Our Homes cap are pretty much set in terms of property taxes. Pinellas County is reducing its millage by two tenths of a mill, which will equate to three percent so homeowners will have the same tax bill, but when you are talking about a \$200-300 increase in insurance monthly, that is driving folks out of their homes. He would like to see the Committee do whatever it can on this topic.

Senator Lynn made a motion to remove the study to Consolidate the Local Option Sales, Fuel, and Tourism Related Taxes, and the study of Medicaid Program's Impact on Rural Counties, saying these are very complicated issues and merit a lot of discussion before the Committee takes these issues on as interim projects. After brief discussion, Senator Lynn's motion adopted without objection.

Commissioner Palmer then moved to add the issue of fertilizer and pesticide restrictions regarding Florida waterways to the list of monitored items. The motion passed without objection.

Commissioner Bullard suggested adding to the monitor list Medicaid's impact on rural counties. This motion was adopted without objection.

Discussion ensued upon Commissioner Palmer's proposal to add the consolidation of local option taxes to the monitor list. Ms. Tinker pointed out that at this juncture, there is little activity to actually monitor. The consensus of the members was that consolidation of taxes was not appropriate for monitoring at this point in time, but may warrant being added to the monitor list in the future.

A motion to approve the list as amended was made and adopted without objection.

Update on Prepaid Dental Plan

Senator Jones introduced Sybil Richard, Assistant Deputy Secretary, Medicaid Operations at the Agency for Health Care Administration (AHCA).

Ms. Richard spoke on the prepaid dental plan (Plan) that AHCA has contracted with Atlantic Dental Incorporated (ADI) to operate in Miami-Dade County for Medicaid enrollees under the age of 21. The Plan was initially authorized by the Legislature in 2001 to improve access to dental care and it was not competitively bid. It was a pilot project operating in Miami-Dade County only. Although the Legislature has voted to either expand the program statewide or to other counties, no such expansion has yet occurred.

The original contract date was July 1, 2004 through June 30 of this year, but was extended until August 30, 2006. The extension was a result of having to set rates for provider reimbursement. The program serves about 207,000 Medicaid enrollees under the age of 21 in Miami-Dade County. All dental services are provided by ADI, which is paid a monthly capitation fee for each enrollee. ADI then pays participating dentists a capitated fee, or in some instances, pays the providers on a fee-for-service basis. ADI is responsible for all administrative services including network development and management, member services, utilization management, quality management, fraud detection, credentialing, and claims processing. The participating dentists are responsible for providing all of the dental services to the enrollees.

AHCA found several areas of concern regarding the performance of this contract and has put in place a Corrective Action Plan (CAP) to address those issues. The initial quarterly reports indicated that utilization was a little bit lower in the ADI program than it had been in the fee-for-service program. Part of the reason for that is the claims lag. For any services provided, providers have up to 12 months to submit their claim. Thus, when comparing data in the fee-for-service program, it is for the prior year. Also, AHCA is working on all its managed care contracts to improve the rate of providers reporting their utilization data. This encounter data reporting is something that should be addressed with the implementation of AHCA's new fiscal agent contract in 2008. Since the CAP, there has been improved provider reporting.

Ms. Richard told the Committee that AHCA contracted with the University of Florida to do an independent review of the prepaid dental plan. Dr. Betsy Shenkman, Director of the Institute for Child Health Policy at the University of Florida, was the lead investigator on the study.

Ms. Richard informed the Committee that as part of the study, providers were surveyed. Eighty of 250 providers (32 percent) responded to the survey. The majority of respondents were dissatisfied with the amount of paperwork required in reporting what occurred in the office, the claims and payment times, as well as reimbursement and the referral process. One of the recommendations from the report is that ADI readdress its capitation rates.

In looking at the claims and encounter analysis, it was found that the over and under reporting claims encounter data was not quantified. There appeared to be an issue with underutilization; however, the Agency could not quantify the degree of under reporting. ADI indicates under reporting occurs because the providers' fees are capitated and as a result they will not report the data. It appears that during the fee-for-service program, about 37 percent of enrollees saw a dentist, whereas 21 percent saw a dentist during the capitated period. This compares to the national average, which indicates an estimated 20 percent of children in Medicaid see a dentist annually.

Senator Lynn expressed concern about findings related to provider satisfaction. The rate of dissatisfaction was high, yet the contract is going to be renewed for two years. Dr. Shenkman responded, saying that the low response rate for providers was typical. Senator Lynn said she has a concern about making any decisions or coming to any conclusions based on the small number of survey respondents.

Ms. Richard replied that this study looked at patient satisfaction and then provider satisfaction. The results of the survey showed that the majority of recipients enrolled are satisfied with the program. As to the providers, the study showed they are dissatisfied with reimbursement, the reporting requirements, and with the ability to refer the patients to specialists. The CAP with ADI has looked at each of those issues and to some extent has addressed them. Additionally, there are recommendations in the report that speak to each of these issues.

Senator Lynn continued with her concerns that it will be difficult to get more dentists involved. Dr. Shenkman responded that in terms of getting dentists involved, the report starts with an overview talking about the problems that exist nationally in terms of pediatric dental care. There is a shortage of dentists in general; there is also a shortage of dentists who are willing to care for low income children and children who tend to have multiple problems, which is often the case in the Medicaid program.

Senator Jones asked, in light of there being probably a billion dollars in lost services because of Medicaid fraud, how the report addresses fraud. Ms. Richard said about 10 percent of Medicaid spending in general is fraudulent. She said that AHCA knew that there was some fraudulent billing in Miami-Dade County prior to the implementation of the program. That might account for what looks like a lower utilization rate.

One of the reasons why this program was implemented was to address fraud and abuse problems in the program and with the utilization management tools that are being used by ADI, AHCA believes it is getting at a lot of the fraud and abuse that may have been present in the program.

Senator Jones asked how ADI's utilization management procedures compared to managed care programs in other states. Ms. Richards said AHCA discussed ADI's utilization management procedures with them and found the procedures to be standard and that no barriers to care were identified in their procedures.

Senator Jones called on Dr. Thomas Ward to speak. Dr. Ward, a dentist in Miami-Dade County, addressed the Committee regarding the report; he spoke on his own behalf and not a group. He asked why, when dentistry is the smallest sliver in the Medicaid pie, AHCA would choose to conduct a pilot program on dental services to try to stop fraud and abuse. He also pointed out that the report mentioned an \$800,000 fraud case, which was in Broward County, not Miami-Dade County. Dr. Ward also expressed concerns about other aspects of the data contained in the report. He said the per patient, per member, per month payment under the fee-for-service plan was \$13.03. Under the Plan, it is \$7.92, which appears to be a great savings to the state. Yet, the state is still paying out the same amount of money, \$15.3 million, but providing fewer services. Dr. Ward said it is important to know how many of the enrollees' visits are unique visits, information which AHCA could not provide to him. Other concerns of his included the high rate of dental decay in poor children and the much lower rate of services. Dr. Ward felt that the report should have shown that during the months of May, June, and July of 2005, ADI gave \$30 per encounter to any dentist for turning in an encounter report, showing there was a huge incentive for turning in encounter information.

Joe Anne Hart, representing the Florida Dental Association (FDA), spoke next. She stated that under the fee-for-services plan, 37 percent of the kids received dental services or had one or more visits, compared with 22 percent of the children having one or more dental visits under the capitated plan. The report shows that access to care has declined. Ms. Hart pointed out that the FDA does not agree with Dr. Shenkman that there is a shortage of dentists. Rather, there is a maldistribution of dental providers; meaning that there may be more dentists in one area than another area for whatever reason. She also pointed out that the FDA does not support the continuation of this program, nor was it aware that the contract was being renewed for another 2 years. AHCA indicated that it is moving to a new fiscal agent (EDA) in 2008 that is supposed to enhance the ability of getting the encounter data. However, the new contract period would be over just as the new fiscal agent begins.

Ms. Hart expressed concern about dental patients having to use emergency rooms for care, thus burdening local governments. She raised the point that there was an attempt this session to expand this pilot program again to 12 other counties and that was fortunately not placed in the budget this year. She stated that there is a move to try to expand this type of program across the state and particularly to rural areas where it would be difficult to implement.

Ms. Richard responded to some points raised by Dr. Ward. As for fraud, she stated that AHCA recognizes that fraud and abuse is probably more rampant in South Florida and Miami-Dade County than anywhere else in the state. Regarding capitation, ADI provided information showing that 80 percent of its dental services are capitated and that 78 percent of dentists are reimbursed using a capitated rate. She clarified the fact that one figure is talking about dentists and one is talking about services. With regard to over or under reporting, AHCA has asked ADI to use the CAP to improve reporting and then to improve utilization in general. It is not impossible to get encounter data. It is just a difficult task to get providers to report encounter data. One of the reasons AHCA contracts with managed care plans is so that they can act as

agents of the state in managing the care of enrollees. She reiterated the difficulty of getting data in capitated contracts, and added that AHCA believes its claims are being properly paid.

Dr. Shenkman informed the Committee that the report did note that ADI made incentive payments. Ms. Richard said the last issue both Dr. Ward and Ms. Hart brought up was provider satisfaction. She said ADI has done an excellent job of recruiting providers to the program. Perhaps if more providers had responded to the study then there may have been a different result. Also, AHCA shared Dr. Ward's concerns and has made several recommendations for how ADI can improve its quarterly reporting to AHCA, so that there is a better understanding of the number of unique visits children make to their dentists.

Senator Jones asked if AHCA is recommending the expansion of the program to additional counties. Ms. Richard said that AHCA has not moved forward with its legislative recommendations for next year. Former Secretary Levine wanted to have the results of the report before the program was expanded statewide. AHCA is confident that this program is working, which is why it is moving forward with this second contract. Furthermore, another evaluation will be done. The Legislature has voted at least twice to expand the program statewide or at least to perform a pilot program in other areas of the state, but AHCA has not determined what it will do statewide yet. The contract with ADI in Miami-Dade will continue.

Senator Jones asked what AHCA's plans are for dental provider dissatisfaction. Ms. Richard said the CAP addresses the dissatisfaction with reporting requirements. Senator Jones asked Ms. Richard to share a copy of the CAP with staff. Ms. Richard then went into some detail about how ADI was going to seek to improve the claims processing procedure. They will consider the Governor's and the Secretary's initiatives to move towards health information technology and electronic health records. As for dissatisfaction with the reimbursement rates, that is a budget issue. Last year the Governor in his supplemental budget proposed an increase across the board for services provided to children. That can be addressed with funding from the Legislature if it is the Legislature's pleasure to add more funding to that line item. AHCA would be happy to put more money into the budget or into the contract for ADI to do that. The third area of dissatisfaction was access to specialists. ADI has already increased the number of specialists that are enrolled in the program.

Senator Lynn inquired whether providers were asked if they would continue with ADI. Ms. Richard said that was not a question on the survey, but said in the re-interview process, that question can be added. Senator Lynn continued that she is concerned that expansion, particularly with the information from this evaluation, may not reflect what could happen in a rural county.

Senator Jones responded that he is not sure they can expand without some kind of Legislative oversight and that he shares Senator Lynn's concerns.

Commissioner Palmer asked if the CAP would be part of the renewal contract. Ms. Richard said the CAP is already in place, and based on the results of the study, AHCA has additional recommendations. AHCA intends to integrate those recommendations into the contract. Commissioner Palmer asked if there are any penalties in the event the standards in the CAP are not met. Ms. Richard said the contract contains sanctions if any corrective action requirements are not met, including termination of the contract.

Commissioner Welch raised the subject of local government's burden regarding uncompensated care. Ms. Richard said the matter of people showing up in the emergency room is part of the Upper Payment Limit program. About half of ADI enrollees in Miami-Dade are also enrolled in other managed care programs, so to the extent they show up in emergency rooms, they are covered. AHCA also provides fee for service payments.

Commissioner Bullard asked what was expected of the Committee with regard to the report. Senator Jones said it would be his recommendation, unless there is an objection, that the Committee pass the report along to the incoming and outgoing President and Speaker. This is not an interim report; it is merely information for the Committee and requires no formal action.

Commissioner Bullard stressed that there should not be any impression that the Committee is endorsing the report. Senator Jones assured him that as the report is passed along, the interested parties will share their opinions very openly with the incoming President and the incoming Speaker. The Committee need not take a position. The report and the minutes of this meeting will be given to the incoming President and Speaker to address in the future with the appropriate committees.

Commissioner Welch asked if the extension of the current contract or the expansion to other areas require legislative action or is it administrative. Senator Jones said his opinion is that to expand to different areas of the state would require additional legislative authority, which AHCA does not have at the present time.

Commissioner Welch asked if AHCA can extend the current contract on its own. Ms. Richard said AHCA has authority in statute to operate this program, so AHCA does have authority to renew the contract. She said the extension was just to get AHCA from one contract year to another to address the rate setting issue. It was just a two month renewal and the new contract will begin on September 1 for two years and AHCA is statutorily authorized to do that.

Commissioner Palmer stressed that the Committee is not acting as an oversight committee. Senator Jones stated that this is one of the issues the Committee has been monitoring; the Committee is not making a recommendation, but has heard the status report and is passing it on.

Mr. Colvin reminded the members that the Committee was requested to look at this issue and perform a review. It was then brought to the Committee's attention that AHCA was entering into a contract for the program to be evaluated. As part of its evaluation contract, AHCA incorporated some of the suggestions offered by the members. Today's presentation is a follow-up to the Committee's direction to monitor this item.

The presentation was concluded and Senator Jones thanked everyone for their comments.

Overview of National and Florida Hurricane Conferences

Senator Jones recognized John Cherry, LCIR Analyst, to make a presentation regarding his attendance at the National and Governor's Hurricane Conferences. Mr. Cherry indicated that over the course of the past two years he has had the opportunity to attend the National Hurricane Conferences in New Orleans and Orlando and the Florida Governor's Hurricane Conferences in Tampa and Fort Lauderdale. He noted that the 2005 Atlantic hurricane season was the busiest ever. He went onto explain that in 2005 there were 28 total storms (Twenty-seven named tropical storms and one unnamed subtropical storm), which broke the record of 21 set back in 1933. Mr. Cherry indicated in 2005 there were 15 hurricanes, breaking the record of 12 set

back in 1969 and 7 were major hurricanes, 1 short of the record of 8 set back in 1950. Mr. Cherry added that it was the deadliest U.S. hurricane season since 1928 and the costliest U.S. hurricane season of record.

Mr. Cherry said that the 2005 hurricane season included four category 5 hurricanes observed in one season for the first time ever and that Wilma's minimum central pressure of 882 millibars was the lowest ever measured in an Atlantic hurricane. Other items of interest regarding the 2005 hurricane season include:

- Death toll near 1,400, including around 1,200 from Hurricane Katrina in the U.S. - the deadliest U.S. hurricane since the Palm Beach-Lake Okeechobee hurricane of 1928. Additionally, a large area of disturbed weather affecting Central America at the time of Hurricane Stan may have caused 1,000-2,000 deaths.
- Total damage to property estimated near \$104 billion - the costliest U.S. hurricane season of record. Hurricane Katrina caused estimated damage of \$75 billion, making it the costliest single hurricane in U.S. history.

Mr. Cherry then brought to the Committee's attention a newspaper article from July 9th in the Palm Beach Post which posed the question, "Could Tampa Bay be the next New Orleans?" Mr. Cherry indicated that the article cited issues such as the larger size of the area, population being almost double of that of New Orleans, the potential for greater property loss, and a population being more dependent on automobiles than in New Orleans. In addition, Mr. Cherry explained that the Tampa Bay area has one of the greatest concentrations of elderly persons in the nation, and most importantly, Tampa Bay is vulnerable due to its location because of its setting which is not unlike New Orleans.

Mr. Cherry explained that during the conferences experts detailed their predictions for the 2006 hurricane season. He indicated that the National Oceanic and Atmospheric Association is predicting an 80 percent chance of an above normal hurricane season with 13-16 named storms, 8-10 hurricanes, and 4-6 major hurricanes. Mr. Cherry explained that Dr. William Gray of Colorado State University whose predictions are commonly cited indicated that there will be 17 named storms, 6 hurricanes, and 5 intense hurricanes.

Mr. Cherry then went on to explain that in an effort to aid the citizens of Florida in preparing for these types of natural disaster events, the Florida Division of Emergency Management has launched the "Get a Plan!" campaign on their website. He displayed a slide to the Committee that detailed how families and businesses can input information online and receive a personalized plan on what they should do to prepare or evacuate in the event of a disaster.

Commissioner Welch pointed out there are some key differences between New Orleans and the Tampa Bay area including the fact that Tampa is not below sea level and not surrounded by levees. However, Mr. Welch pointed out that this area only has about one-half of the needed shelter space for a hurricane-related event and more shelter space is needed in Pinellas County and other counties as well.

Senator Lynn inquired about whether the Department of Homeland Security was working with transportation agencies regarding the widening of roads along evacuation routes. Ms. Tinker responded that the Legislature had appropriated \$29 million this year to update evacuation plans using the new LIDAR system. In addition, Ms. Tinker pointed out that the Legislature provided a new funding source for shelters and provided funding for generators in special needs shelters. Mr. Tinker then indicated she believed that Pinellas County is a priority for this type of funding.

Commissioner Palmer then indicated she had a question regarding Emergency Preparedness. Specifically she wanted information regarding FEMA reimbursement to local governments in cases where local governments have to borrow money because of the time it takes to get FEMA payments and FEMA does not repay the interest on those loans. Mr. Cherry then answered that letters had been sent to the Florida

Congressional Delegation by Representative Hasner last year requesting that this issue be addressed. Mr. Cherry indicated that he is not aware of any response, but he would check on it for her.

The Meeting adjourned at 2:15 p.m.