

MEMORANDUM

TO: LCIR Members

FROM: Rip Colvin

RE: Minutes for the LCIR Meeting June 12, 2007, in Tallahassee, Florida

DATE: December 10, 2007

Representative Faye Culp, Chair of the Legislative Committee on Intergovernmental Relations (LCIR), called the meeting to order at 8:35 a.m. A quorum was present. The attendance of the Committee members was as follows:

PRESENT

Representative Culp
Senator Hill
Ms. Cunningham
Representative Hooper
Ms. Layman
Senator Oelrich
Representative Planas
Councilman Polson
Ms. Saliba
Senator Siplin

ABSENT

Senator Diaz de la Portilla (excused)
Representative Waldman (excused)

Opening Comments

Representative Faye Culp, LCIR Chair, welcomed the members to the meeting. She noted that this would be our summer meeting and we would not meet again until the Fall, possibly after the Federal/State Summit tentatively scheduled for October.

Draft Minutes from March 12, 2007 LCIR Meeting

A motion was made to approve the minutes of the March 19, 2007, LCIR Meeting. There being no objection the minutes were approved.

2007 Regular Legislative Session Update

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 the LCIR staff had tracked during session due to the fact that they had an impact on local governments.

Ms. Martinez stated that of the 345 bills that had passed this session 122 were featured in the summary. She touched upon some of the key provisions in 13 bills, specifically, S 2052, concerning Environmental Protection; H 1375, regarding Affordable Housing; S 2836, amending the Florida Building Code; H 7203, amending the Growth Management Act; H 211, creating the Hurricane Preparedness Sales Tax Exemption; S 2482, the Department of Revenue's Tax Administration bill; S 506, creating the Tampa Bay Regional Transportation Authority; H 529, addressing Cable TV and Video Service Franchises; H 7057, clarifying Hurricane Damage Mitigation requirements; H 7167, concerning Municipal Incorporations; S 1060,

regarding Educational Facilities; H 985, an omnibus Transportation bill; and H 7123, creating the Energy Policy Governance Task Force.

Presentation of Draft Report on the Emergency Management, Preparedness, and Assistance Trust Fund

Carolyn Horwich, LCIR Staff Attorney, spoke on the Emergency Management, Preparedness, and Assistance Trust Fund, or EMPA. The project grew out of an earlier LCIR report, *Natural Disaster Preparedness, Response and Recovery*. That report suggested that collections going into the EMPA trust fund were not increasing at a rate commensurate with the state's population and housing increases. LCIR staff was directed to examine this apparent lack of trust fund growth.

Ms. Horwich said the establishment of the EMPA trust fund in 1993 was likely due to the effects of Hurricane Andrew and the "Storm of the Century" shortly thereafter, which caused significant damages to many areas throughout the state. The legislation imposed a \$2 surcharge on most residential insurance policies and a \$4 surcharge on commercial policies. Funds collected go into the trust fund and are then allocated to state agencies, local governments and non-profits through grant programs administered by the Department of Community Affairs, Division of Emergency Management (DEM).

It was pointed out that surcharge collections have remained rather steady over the years since the inception of the trust fund although the last 5 to 6 years the state has experienced an increase in population of about 2 million people and about 1 million additional housing units.

Ms. Horwich summarized hypotheses for this lack of commensurate growth offered by Dr Jim Zingale, Executive Director of the Florida Department of Revenue (DOR). The hypotheses included an out-of-state insurer insuring a Florida property; homeowners going without insurance; multiple units covered by a single policy; or, a change in status of the property, through destruction or rezoning.

As explained by Ms. Horwich, one of the difficulties in confirming or dispelling any of these theories is that information comes from the Office of Insurance Regulation (OIR), the Florida Surplus Lines Service Office (FSLSO), DOR (collecting the fee) and DEM (operating the grant programs). Information from these myriad sources comes from different sources and is not easily cross-walked.

Moving on to the results of a survey LCIR staff conducted of local government emergency managers, Ms. Horwich reported that few complaints regarding the grant program itself were reported. Some local governments, however, suggested that the competitive grant program be limited to local governments and offered a few other process related improvements. LCIR staff added that the legislature may want to require better data collection and should consider increasing the surcharge, which has been stable since 1993.

Senator Hill posed the question as to how many other surcharges are tacked onto a policy. Ms. Horwich responded she would get that answer to him.

Suzanne Adams from DCA then gave the committee more specific information about the grants. She stated that base grants go to every county for daily operations, whereas competitive grants go to any emergency management activity (i.e., equipment, planning, and retrofitting) the applicant wants.

Senator Oelrich expressed his doubt that an out-of-state insurer could cover a property in Florida without being licensed by the State. Ms. Horwich responded that she would provide him with more detail on that issue. She also explained that one policy can indeed cover multiple units and that zoning changes can remove a parcel from being subject to the EMPA surcharge. Using industry language, she said that insurers that are “authorized” to operate in Florida are under the jurisdiction of the FLSO and those “admitted” into the Florida market are regulated by OIR. Discussion regarding in-state versus out-of-state insurers continued later in the presentation.

Representative Hooper asked whether policies issued by Citizens are subject to the surcharge. Ms. Horwich responded that those policies are subject to the fee.

Councilman Polson inquired about the small number of grant recipients. Ms. Adams confirmed that DCA is looking at the award process from top to bottom, including caps on awards, but that the lack of funding is responsible for so few grant awards.

Senator Hill raised the possibility that since the Legislature is unlikely to increase the surcharge at this point that perhaps state agencies should be precluded from participating in the grant program and should get their funding through the appropriation process.

Senator Siplin asked Ms. Adams to provide him and the members with a list of awards for the last five years.

Senator Oelrich inquired whether the OIR should be given statutory authority to collect information on commercial policies; he was advised that they are pursuing said authority. He also offered the thought that maybe growth in Florida is leveling off, thus causing trust fund collections to level off correspondingly.

The final question came from Senator Hill when he asked whether the committee could find out if the EMPA fee is being collected on out of state policies. That information will be shared with the committee once confirmed.

The draft report was approved by the Committee.

Briefing on Recent Federal Activities in Washington, D.C.

Lydia Mount, LCIR Senior Analyst, gave a general overview and update on significant federal legislative developments. Mrs. Mount began by recapping LCIR’s federal directives which are driven by the Committee’s statutory mission. She expounded on:

- Plans for a federal/state summit, which based on congressional delegation feedback will likely take place in October on a Monday. The actual date cannot be determined until both Presiding Officers set the committee calendar. As an aside, Mrs. Mount commended the congressional delegation for giving much consideration to the list of priority issues identified by the Presiding Officers. During the 110th Congress, they have been especially proactive on a national catastrophic fund, Everglades Restoration, veterans, SCHIP funding, immigration, and port security issues.
- The Florida Congressional delegation’s meeting held May 24, 2007, focusing on Hurricane and Disaster Preparedness. In view of predictions for an especially active hurricane season, this briefing was very timely.
- Collaboration with state legislative staff.

- Collaboration with Congressional, Committee, and Federal legislative staff.
- The publishing and circulation of the Federal Focus Newsletters.

After commenting on the federal directives, Mrs. Mount briefly highlighted Congressional legislative developments on a national CAT fund [Six-Pack bills filed by U.S. Senators Bill Nelson and Mel Martinez] before moving on to discuss hurricane and disaster issues.

Under Hurricane and Disaster Preparedness, Mrs. Mount indicated that David Paulison, Director of FEMA, Craig Fugate, Director of Florida's Division of Emergency Management, Dr. Robert Atlas, Director of NOAA's Atlantic Oceanographic and Meteorological Laboratory, and Bill Proenza, Director of the National Hurricane Center, were all on the agenda for the congressional delegation's May 24th meeting. A copy of legislation introduced by U.S. Reps. Alcee Hastings, Ileana Ros-Lehtinen, and Debbie Wasserman Schultz, the *National Hurricane Research Initiative Act of 2007*, was provided. This measure seeks to address the lack of Federal investment in hurricane science and engineering. Mention of the *Improved Hurricane Tracking Forecasting Act of 2007* was also made. This bill, co-sponsored by Senators Nelson and Martinez, seeks to provide authorization for a new QuikSCAT satellite at a cost of \$375 million. Mrs. Mount explained that the old system, from which data is derived for more accurate and timely hurricane evacuations, must be replaced.

Mrs. Mount then provided an update on Everglades Restoration [passage of the *Water Resources and Development Act (WRDA)* by both chambers]. As mentioned in the LCIR's March meeting and reiterated by Mrs. Mount, among other things, WRDA legislation filed in the 110th Congress seeks to lessen the disparity in spending between Florida and the federal government by *authorizing* more than \$850 million for key projects, such as the Indian River Lagoon and the Picayune Strand, that are critical to Everglades Restoration. Upon conference reconciliation, the funds will then have to be *appropriated*. Assuming *appropriation* of these amounts, Mrs. Mount pointed out that this measure will represent the first federal progress on the Comprehensive Everglades Restoration Plan in seven years—as the state has appropriated \$2.7 billion, while less than \$400 million has been appropriated by Congress on this equally shared \$10.5 billion agreement.

Additional environmental and natural resource issues covered by Mrs. Mount were gasoline gouging and biofuel production. Co-sponsored by Senator Nelson, the *Ten-in-Ten Fuel Economy Act* and the *Petroleum Consumer Price Gouging Protection Act*—which provides protections to consumers during an energy emergency—will likely be merged into a broader energy bill currently taken up by the U.S. Senate. Mrs. Mount also mentioned that Senator Nelson introduced similar legislation that would expand these protections to any Presidential Declared Emergency. Given the United State's reliance on foreign oil, she further stated that the *Biofuels Innovation Program Act of 2007* was introduced in May by Sen. John Thune, R-S.D., to encourage farmers to grow energy crops to make cellulosic ethanol. The measure also makes provisions for the construction of biofuel facilities and seeks to amend the *Farm Security and Investment Act* to provide \$30,000 matching grants to interested communities.

Elements of the Farm Bill, which expires in September 2007, were then discussed with a particular emphasis on the importance of specialty crops to Florida. Recognition was given to Congressman Allen Boyd, Commissioner Charles Bronson, Florida Department of Agriculture and Consumer Services, and his Federal-State Administrator, Leslie Palmer, for their active involvement in helping to frame an improved Farm Bill. Mrs. Mount advised that Florida ranks second in the nation in the production of specialty crops—fruit, vegetable, and nursery—but that these crops received only \$200 million of the prior Farm Bill's \$73 billion authorization. To gain greater parity between specialty and program crops, Congressman Adam Putnam introduced the *Equitable Agriculture Today for A Healthy America Act*. The Subcommittee

on Horticulture and Organic Agriculture in the U.S. House has now approved provisions that will expand the specialty crop block grant program and double the amount of U.S. Department of Agriculture purchases of fruits and vegetables for use in school lunches and other feeding programs. The entire Farm Bill will be marked up on June 26 by the Agriculture Committee. The Chair directed the Committee's attention to the Farm Bill article in the April Special Edition of LCIR's *Federal Focus* newsletter and expressed appreciation to Kay Pelt, LCIR Staff Analyst, for her contribution.

Mrs. Mount concluded her comments by discussing activities in the U.S. Senate on immigration reform. A bipartisan measure supported by President Bush was pulled by Senator Harry Reid following three failed attempts to cut off debate. Provisions of the bill, including a pathway for legalization of approximately 12 million illegal foreign nationals, were highlighted. Indications are that Senator Reid will be willing to reschedule and resume debate on this issue if the number of amendments and debate may be definitively limited. Mrs. Mount indicated that there is a wide range of perspectives on this issue—as is evident by two different opinions expressed by LCIR Committee members. While Representative Planas expressed doubts that the federal government could apprehend and deport all of the foreign nationals that are currently in the U.S. and generally embraced the bipartisan measure, Senator Oelrich emphasized the need for stronger border control measures. The negotiated compromise and underlying legislation seeks to balance border control, security, and enforcement issues with solutions to bring those who are currently in the U.S. illegally out of the shadows. Revised temporary worker and immigrant visa family sponsorship provisions are also significant elements of this bill. Core negotiators, such as Sens. Kennedy and Kyl, are optimistic that this legislation may be revived. In making their case, supporters of this legislation have stressed that this is not amnesty—as those who would benefit from a new z visa would go to the end of the line, behind those who followed the rules, would be subject to fines, vigorous background checks, and merit-based application screenings.

Senator Siplin inquired about immigration reform provisions that would address what many consider to be disparate treatment by the U.S. government towards Haitians. He also expressed concerns about price gouging and transparency in gas prices (cash versus credit) and requested a gas tax breakdown by county. The Chair echoed the benefit of having the gas tax information provided by county, which Mr. Colvin indicated would be provided by staff. Senator Siplin was assured that staff would also look into the cash versus credit issue.

Senator Hill inquired about the status of a Memorandum of Understanding issue, that was raised at the Congressional Delegation Meeting in February, regarding the Transportation Worker Identification Credential (TWIC) Program requirements that are being imposed on states by the federal government. [TWIC is administered by the Transportation Security Administration.] Essentially, this program will enhance port security by checking the backgrounds of workers before they are given access to secure areas of vessels and maritime facilities. The final rule was posted on January 1, 2007. The rule will impact more than 750,000 port employees, longshoremen, mariners, truckers, etc., who require access to secure areas of ports and vessels. For the benefit of the entire Committee, Mrs. Mount indicated that Florida already has a credential program in place that may exceed federal guidelines in some respects. At issue is whether the federal government will allow Florida's worker identification credentials to satisfy federal requirements. Jane McElroy, Staff Director for the Senate Committee on Military Affairs and Domestic Security, confirmed the comments made by Mrs. Mount and shared an update from the Florida Office of Drug Control expressing the need for closure on this issue.

The Chair thanked Mrs. Mount for her report.

Motion to Extend the Meeting

Senator Siplin made a motion to extend the meeting at 9:58 p.m. in order to complete the next item on the

agenda. The motion was adopted without objection.

Discussion of LCIR Interim Projects

Rip Colvin, LCIR Executive Director, told the members that the committee would not be taking a vote on the interim projects at this time. The Interim Project List found behind Tab 5, reflects Projects as of now. He is currently working with the President and Speaker's Offices to finalize this list, in order to avoid duplication of effort with other Legislative Offices. After discussions with the Chair, Vice Chair, and Presiding Officers the list will be finalized and forwarded to each LCIR Member.

There being no further business, Senator Hill moved we rise.

The meeting adjourned at 10:05 a.m.