



Report to the Mississippi Legislature

FY 2019 Impact Report

FY 2019 PEER Reports

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FY 2019 PEER Report Impacts

Impact: Professional Engineers and Surveyors

A Review of the Board of Licensure for Professional Engineers and Surveyors (Report #621)

The review found that:

- The board met its statutory responsibilities for licensing and regulating the profession.
- The board lacked a set policy regarding when fines should be assessed and the amounts.
- The board also did not comply with state law regarding timely deposits of checks.
- The board office regularly closed before 5 pm. in violation of state law.
- The former and current Executive Directors granted the staff paid days of administrative leave outside of the reasons allowable in state law.
- The board did not use technology in the most efficient manner.
- The board was not current with licensing practices of other boards.

Implementation Actions

Following the release of the Committee's report and a six-month follow-up, the **Legislature** and the **Board of Licensure for Professional Engineers and Surveyors** reported the following actions:

Statutory:

- In the 2019 Regular Session, the Legislature passed House Bill 1288 to allow for biennial renewal of licenses. This action should alleviate burdens placed on staff during renewal periods and brings Mississippi into alignment with the majority of other states. The board plans to begin issuing biennial renewals in 2021.

Board-implemented:

- In December 2018, the board filed a reduction of leave for all staff in violation of state law regarding administrative leave.
- The board asserts that it is now in compliance with state law regarding timely deposits and regular office hours.
- The board has been collaborating with the Mississippi Department of Information Technology Services to maximize the use of its licensing system.
- The board contracted with Mississippi Interactive, LLC to develop a new, more user-friendly website.
- The board is now in alignment with other state engineering/surveying boards by voting to "decouple," which allows an applicant to take the licensing exam without the experience prerequisite.
- To alleviate the board's personnel conflicts, the board is requiring the Executive Director and staff to complete certain training and classes. Also, the board has asked the Executive Director to identify and implement staff events to improve trust and respect among staff, and provide updates to the board bi-monthly.

Impact: Public Utility Regulation

Public Utility Regulation: Mississippi and Other States' Structures (Report #622)

None of the states contiguous to Mississippi organize their public utility regulatory agencies as Mississippi does. Staff members involved in the regulation of utilities work in the same organization with the commissioners who carry out quasi- legislative and judicial functions.

Beyond the contiguous states, other models of regulation appear. Several bear similarities to the model of regulation in Mississippi in that, within them, certain functions are moved away from the state public service commission and placed under other agencies. The "other agency" may be a separate agency established specifically to carry out certain aspects of utility regulation or may be an agency of government with broad powers extending beyond utility regulation, e.g., Office of the Attorney General.

States take different approaches to the structure of regulatory bodies. Mississippi, like several states, chooses to place staff in separate entities. Although the states contiguous to Mississippi tend to use a more traditional structure of placing all regulatory activities in one agency, others do not. A review of literature shows that there is no "best practice" with respect to the structure of a public utility regulatory body. Although there are best practices for utility regulatory bodies, none address the issue of structure and assignment of duties to regulators.

In 2009, PEER reported on a general lack of best practices that could guide the structure and assignment of duties to utility regulators. The National Regulator Research Institute (NRRRI) has since developed some best practices. In 2017, the NRRRI completed an extensive review titled "Evaluation of Public Regulation Commission Staffing and Budget Allocation." The study focused on certain aspects of commission staffing. The report takes no position whether separation of combination of staffs into a single agency should be considered a best practice, and none of its best practices addressing the conditions necessary for a regulatory body to be effective at carrying out its mission are specifically directed toward a particular legal or organizational structure.

Implementation Actions

Senate Bill 2393, 2019 Regular Session, would have revised the powers and duties of the Public Utilities staff. This bill was introduced, but died in committee.

Impact: Local Special Tax Levies

A Review of Local Special Tax Levies (Report #623)

Although MISS. CODE ANN. Sections 19-3-40(3)(a) and 21-17-5(2)(a) (1972) prohibit county and municipal governing authorities from levying taxes of any kind or increasing the levy of any authorized tax unless specifically authorized by another state statute, a county or municipal governing authority wanting to utilize an additional funding source for tourism or other development may present a request to the Legislature for a bill providing specific authority for such taxation within its jurisdiction.

Commonly, special tax levy legislation will specify a stated purpose, tax jurisdiction, tax rate, and covered businesses and individuals; provide for administrative organization and oversight; and often assign a repealer date. In Mississippi these taxes have been levied for the following general purposes: 1) promotion of the locality; 2) tourism development; 3) recreation development; 4) fostering retirement communities; 6) local and/or regional infrastructure debt service for acquisition, repair, or upgrades; 7) business attraction in the form of industrial park or convention center construction; and 8) indebtedness of municipalities.

Since 1972, and as of July 1, 2018, 88 local tourism and economic development taxes are currently authorized by the Legislature, with 82 approved locally and in effect throughout the state. Entities conducting business in lodging, prepared food and beverage, and alcohol sales are subject to these taxes. In total, for federal fiscal year 2017 (October 1-September 30), special tax levies generated more than \$96 million.

Businesses subject to special tax levies remit these collections to the Department of Revenue (DOR) as part of their normal sales tax submissions, whereupon the DOR will process these filings and remit the proceeds, minus a 3% administrative processing fee, to the appropriate local governing authority. If required under the provisions of a special tax levy, these funds will be transferred to a designated administrative body (such as a board, partnership, or commission).

In review of the 82 local special tax levies being collected in the state as of July 1, 2018, PEER observed characteristics in structure and content that could impede a jurisdiction's success in meeting its objectives, including an inability to articulate the locality's specific goal and the amount of resources needed or repealer dates, as well as exact methods for making budget and expenditure projections and a lack of metrics to assess the effectiveness of these tax levies.

State law does not provide for procedures, nor do local governing authorities have a method, for determining whether all businesses are collecting and remitting the correct amount of special tax levy revenue to the DOR for distribution to the specified local governing authority. No specific procedures exist—at state or local levels—to ensure a local business's accurate collection and remittance of special tax levies to the DOR and distribution to the locality for its specified purposes.

The only state-level control in place to determine whether businesses are remitting the correct amount of tax revenues is the DOR's normal sales tax audit program; however, it audits only 3% of registered businesses statewide each year in normal sales tax audits, and, of these audits, approximately 85% generate a noncompliant result. This may indicate that local governing authorities are not receiving all funds that should be generated under the special tax levies.

Furthermore, each local tourism and economic development tax's authorizing legislation specifies broad areas for which expenditures may be used. Beyond these broad specifications, local governing authorities must establish internal controls to ensure proper expenditure of collected funds and audit of funds collected.

Impact: Procurement and Oversight of Medicaid's Transportation Contract

A Review of the Procurement and Oversight of the Division of Medicaid's Non-Emergency Transportation Brokerage Contract (Report #624)

Senate Bill 2836, 2018 Regular Session, requires the PEER Committee to conduct a performance evaluation of the Division of Medicaid's (DOM) non-emergency transportation (NET) program to evaluate the administration of the program and the provider of transportation services to individuals served under the program. A Medicaid non-emergency transportation program provides trips to and from scheduled Medicaid-enrolled provider appointments for eligible Medicaid beneficiaries. Mississippi currently uses the private brokerage service delivery model where states contract with a private company to connect riders with transportation providers. Since 2013, the DOM has contracted with Medical Transportation Management, Inc., (MTM) as its NET broker. The 2013 NET contract was for three years with two optional one-year extensions. Implementation of the contract terms were set to extend from July 1, 2014, to June 30, 2017.

Although a Medicaid beneficiary may be eligible to participate in the NET program, he or she may not choose to utilize the services. According to data provided by the Division of Medicaid, in May 2018, of the 126,522 total eligible Medicaid beneficiaries, 9,583 individuals utilized the NET program, while 116,939 beneficiaries met the eligibility requirements for the NET program but did not utilize services. Between January 2016 and June 2018, the non-emergency transportation program provided 1.8 million rides to Medicaid beneficiaries.

The DOM began a procurement for a new NET broker in May 2018 and changed the procurement process from request for proposal (RFP), used in 2013 and 2017, to invitation for bids (IFB). By using the IFB process to procure the NET broker contract, the DOM focused the 2018 procurement more heavily on cost considerations and decreased the cost cap of the NET program by 17% in comparison to the 2013 NET broker contract. The Public Procurement Review Board approved the 2018 non-emergency transportation contract on September 11, 2018, at a cost cap (a cost not to exceed) of \$96,776,053.76. The 2013 non-emergency transportation contract, excluding any amendments or extensions, was originally set at a cost not to exceed \$117,230,259, more than \$20 million higher than the cost cap of the 2018 contract. The 2018 NET contract uses a new utilization-based payment methodology to prevent including a payment for the same beneficiary twice in the same month. The DOM will track NET costs under the new utilization-based payment methodology by collecting records of each time a beneficiary has an encounter with the NET provider or other transportation service, in addition to conducting audits to reconcile data uploaded to Medical Transportation Management from NET providers.

The DOM outlines performance measures in each NET broker contract. These include beneficiary wait times, trip authorizations, NET driver requirements, and call center operations. For the 2018 NET broker contract, the DOM updated the contract to include the performance measures established within the 2013 NET contract and 21 new or updated performance measures and requirements. The DOM monitors performance data and documentation submitted in MTM's required monthly reports. Other oversight methods include conducting bimonthly management meetings with MTM staff, compliance investigations, and on-site audits and reviews.

The DOM receives reports from MTM on a monthly, quarterly, and annual basis containing data that outline how the MTM and NET providers performed against the performance standards outlined in the contract and monitors these data trends.

Implementation Actions

Following the release of the Committee's report, the **Division of Medicaid** chose to minimize costs by using IFB, to improve the quality and utilization of monthly reports to enhance service quality, and to increase contractor transparency with NET providers by requiring MTM to share reporting requirements and requiring MTM to provide NET providers the complaint and grievance policies.

Impact: One-time Census of Juvenile Detention Centers and County Jails

A One-Time Census of Populations in Mississippi Juvenile Detention Centers and County Jails (Report #625)

Section 7 of House Bill 387 of the 2018 Regular Session of the Mississippi Legislature requires PEER to conduct a one-time census of populations in juvenile detention centers and in county and municipal jails in Mississippi. The bill identifies the following nine data elements for collection:

1. number of individuals detained for a new offense or delinquent act;
2. number of individuals detained for pretrial;
3. number of offenders detained for a revocation of supervision;
4. average sentence length for new jail sentences by offense type;
5. average sentence length for offenders in jail for a probation revocation;
6. average sentence length for offenders in jail for a parole revocation;
7. percentage of sentences in each category offense type, including whether the offense was violent, property, drug, or public order. All drug offenses shall include the type of drug implicated in the offense, as well as the type of offense, such as possession, sale, or manufacture;
8. average length of stay by offense type; and
9. for individuals awaiting trial, the average length of stay from the time of their arrest to the time of indictment and from the time of indictment to trial.

The lack of a uniform reporting method or system for use by counties within the state inhibits the collection of data for analysis as required by H.B. 387. Without a centralized database, collection of the data prescribed in H.B. 387 is possible only by contacting each individual county sheriff's office. The limitations in the data prevent judicial officers from proper execution of duties as prescribed in Rule 8.5(c) of the Mississippi Rules of Criminal Procedure, which can result in unjust incarceration periods and a waste of state resources.

Because of the current limits of data collection and lack of uniform reporting as described in this report, PEER examined current jail census practices to evaluate an alternative method that could produce the data necessary for analysis in accordance with H.B. 387 and determined that the Administrative Office of Courts could provide an effective option for centralized collection of the necessary data. With proper collection, judicial officers would have the information as set out in Rule 8.5(c) needed to make determinations for release of individuals being held on misdemeanor charges who are not a threat to society and/or may not be able to make bail. This reduces the likelihood of extended incarceration periods and could provide substantial cost savings to the state.

Because juvenile detention centers only hold individuals who have committed a "delinquent act" by court order, this population cannot be analyzed in the same manner as adult detainee populations in county and municipal facilities. PEER surveyed each of the 15 juvenile detention centers within the state regarding the three data requests of H.B. 387 relevant to the juvenile population: the number of individuals being held, their race and gender, and length of detainment.

Implementation Actions

Following the release of the Committee's report, the **Legislature** introduced H.B. 1352, which was a criminal justice reform bill. The Senate amended H.B. 1352 to have required, among other things, a mechanism for an annual jail census. This Senate language, however, was not included in the adopted conference bill.

Impact: Jackson Convention and Visitors Bureau

A Review of the Jackson Convention and Visitors Bureau (Report #626)

House Bill 1637, 2018 Regular Session, authorized PEER to conduct “a review of the [Jackson Convention and Visitor’s Bureau (a.k.a. Visit Jackson)], which shall include, but not be limited to, accounting practices, office operations, administration, staffing, resource utilization and other best practices of facility management.”

PEER limited its review to those items specified in House Bill 1637. Particularly, concerns were raised about the timeliness of appointments to the Jackson Convention and Visitor’s Bureau (JCVB) Board of Directors; the proportion of the JCVB budget allocated to staffing costs; whether the JCVB is best utilizing its resources to promote tourism in Jackson; and whether the JCVB Board of Directors exercises adequate oversight over JCVB operations.

Section 14(1)(b) of H.B. 1637 provides that the PEER Committee may contract with a private contractor or contractors to conduct the review of the Jackson Convention and Visitors Bureau mandated by the bill. PEER developed and advertised a request for proposal (RFP) that included a scope of work to address the areas of JCVB’s operations included in H.B. 1637. In response to the RFP, PEER received written proposals from three consultants and determined Destination Services submitted the best proposal, which was also the lowest cost.

PEER concluded that:

- JCVB Board Member appointments have not been made in a timely manner.
- JCVB expenditures have increased at a faster pace than JCVB revenues, leading to deficit spending.
- JCVB’s strategic plan and marketing plan are not utilized.
- PEER could not determine through JCVB’s performance metrics how it utilizes data collected to steer operations in order to meet its objectives.
- JCVB allocates funding to legacy programs without determining if the funding could better be reallocated.
- Tourism-related stakeholders believe there are opportunities for the JCVB to improve its operations.

Implementation Actions

Following the release of the report there was a six-month follow-up. The **Jackson Convention and Visitor’s Bureau** reported the following:

The JCVB did not take immediate action on board appointments, as recommended, because House Bill 1706 (2019 Regular Session) restructured both the JCVB Board and the Jackson Convention Center Commission (JCCC). This bill required that both boards be reseated and eliminated the previous ability of board members to carry over. These new appointments are to occur within 90 days of July 1, 2019. Based on this, the PEER Committee authorized an additional JCVB follow-up to occur in the fall of 2019 to see if board appointments complied with the law.

The JCVB did develop five stakeholder advisory committees to enhance stakeholder engagement in the metro area as well as requiring quarterly updates on these activities. The JCVB also has updated its estimated economic impact formula to more accurately reflect the financial impact of its activities and events brought into Jackson. The JCVB made changes in its sales operations to better utilize its customer management software and invested resources into training for its sales team. Regarding staffing recommendations, the JCVB established monthly staff meetings, modified all job descriptions, and removed administrative responsibilities from non-administrative sales and marketing staff. The JCVB also is examining potential vendors and funding partners to conduct a Jackson Destination Masterplan, which includes a deliverable for a new JCVB five-year strategic plan.

Impact: Child Protection Services

A Review of the Mississippi Department of Child Protection Services for Fiscal Years 2017 and 2018 (Report #627)

The Olivia Y. lawsuit, filed on March 30, 2004, has influenced the way child protection services are delivered in the State of Mississippi. Plaintiffs in the lawsuit alleged that Mississippi's child welfare system failed to adequately protect and care for the state's abused and neglected children. On January 4, 2008, Mississippi settled the lawsuit by entering into a court-monitored settlement agreement to reform its child welfare system.

In response to a remedial order in the Olivia Y. lawsuit, the Mississippi Legislature passed S.B. 2179 during its 2016 Regular Session to create the Mississippi Department of Child Protection Services (MDCPS). The Governor signed the act, codified as MISS. CODE ANN. Section 43-26-1 (1972), into effect on May 13, 2016. As the result of unanticipated issues related to MDCPS's access to federal funds as a separate agency from the Mississippi Department of Human Services (MDHS), as well as identified efficiencies through administrative services that could be provided by MDHS staff, the Legislature amended the act during the 2018 Regular Session, to maintain MDCPS as a subagency independent of, though housed within MDHS. The Commissioner of MDCPS maintains operational control of MDCPS except for administrative services provided to the department by MDHS staff. MDCPS provides intake, child protection investigation, foster care, adoption, licensure, and in-home services to families and children at the local level through 84 county offices (Bolivar and Chickasaw each have two county offices) overseen by 14 Regional Directors. As of May 31, 2018, MDCPS had a total of 1,603 employees.

MISS. CODE ANN. Section 43-26-1 (7) (1972) requires PEER to review the programs of the MDCPS on an annual basis, beginning with FY 2017.

Due to recurring MDCPS revenue shortfalls in FY 2018, PEER has concerns regarding the accuracy of the department's funding data. According to MDCPS staff, total funding for MDCPS increased by \$5.5 million, from \$182.4 million in FY 2017 to \$187.9 million in FY 2018. In FY 2018, federal funds increased by \$20.6 million and state support special funds declined from \$13.4 million to zero.

PEER recommends:

- The State Auditor should conduct a forensic audit of MDCPS's revenues and expenditures for FY 2018 and FY 2019 to determine why revenue shortfalls occurred, how they can be prevented in the future, and how the accuracy of MDCPS revenue and expenditure data can be improved.
- The Legislature should consider adding language in MDHS's appropriation bill to require MDCPS to submit revenue and expenditure data on a monthly basis to LBO and PEER.
- MDCPS should estimate and identify expenditures and FTEs by accountability program.
- MDCPS should consider PEER's recommended budget programs and work with LBO and DFA to determine which budget programs to add to MDCPS's budget by FY 2021.

The Mississippi Department of Child Protection Services is not in compliance with the weighted caseload standards, supervisory standards, or percentage-compliant mandates set forth in the Olivia Y. Settlement Agreement. MDCPS's current caseload standards, which were adopted over 12 years ago, do not reflect current child welfare practice. The percentage-compliant mandate does not show the average caseload of a caseworker or the range of cases handled by caseworkers. Further, it is possible to meet the percentage-compliant mandate for 90% of the caseworkers by overloading the 10% of workers who can be out of compliance. A percentage-compliant mandate encourages inefficient and unequal distribution of labor.

Progress toward achieving reasonable workloads for all MDCPS caseworker staff and supervisors would be better measured by tracking average workloads and deviations from the average, instead of using a percentage-compliant mandate. MDCPS could achieve a more balanced workload among its caseworkers and supervisors by redistributing positions.

Recommendations:

- MDCPS should conduct a new workload study.
- MDCPS should confer with the Court Monitor and attorneys representing the plaintiffs in the Olivia Y. lawsuit to discuss replacing the percentage-compliant mandate.

MDCPS's annual turnover rate for caseworkers declined from 29% in FY 2017 to 21% in FY 2018. While the reported national average annual turnover rate for child welfare workers is 30%, the Annie E. Casey Foundation suggests that an optimal turnover rate is 12% or less. Using the Foundation's methodology, PEER estimated that MDCPS caseworker turnover costs could range from \$1.7 million (30% of exiting employee's annual salary) to \$11.9 million (200% of exiting employee's annual salary).

Due to a self-reported revenue shortfall, MDCPS eliminated their tuition reimbursement and Master's in Social Work (MSW) programs, as well as offering educational benchmarks and awarding increases in the career ladder for caseworkers. Additionally, MDCPS has limited hiring to essential personnel and the filling of critical positions as they become vacant.

Recommendations:

- MDCPS should maintain a current list of all licensed social workers in the agency.
- MDCPS should consult with the State Personnel Board to determine the minimum qualifications for caseworker supervisor positions, and then recommend to the Legislature the amendment of statute to reflect the new qualifications.
- MDCPS should calculate turnover by county and/or region.

Due to data quality issues and no outcome measures for MDCPS in the appropriation bills in FY 2017 and FY 2018, PEER focused on five benchmarks contained in *Building a Better Mississippi: The Statewide Strategic Plan for Performance and Budgetary Success* and three other outcome measures relevant to child protection services for which data were available.

Recommendation:

- MDCPS should develop and implement written procedures for code documentation, file retention, and data entry processes to improve the quality of its data.

Implementation Actions

As a result of PEER's 2018 review, MDCPS created a separate business area in the state's accounting system to better account for the its revenues and expenditures, which were previously comingled with the Mississippi Department of Human Services. In addition, MDCPS is in the process of creating twelve additional budget programs to better account for their use of resources.

Impact: Education Scholarship Accounts

A Statutory Review of Mississippi's Education Scholarship Account Program (Report #628)

In 2015, the Legislature passed “The Equal Opportunity for Students with Special Needs Act,” which directs the Mississippi Department of Education to implement an Education Scholarship Account (ESA) program to offer parents of special needs children financial assistance to place their children in a nonpublic school setting and receive other educational services. For FY 2016 through FY 2018, the budget for the ESA program was \$9 million. The Mississippi Department of Education disbursed \$4.8 million and expended \$309,939 for program administration. During FY 2018, 367 students participated in the ESA program and attended 96 nonpublic schools in Mississippi, Tennessee, and online.

As of June 2018, 197 students were on the education scholarship account waiting list. Because many of the ESA participants from the previous school year will continue to participate in the program, and the number of available education scholarships is limited, there are few available to new applicants. For the most recent lottery conducted in August 2018, the MDE reported having 47 education scholarships available to award.

The Legislature set an education scholarship account amount of \$6,500 in state law for school year 2015–2016 with adjustments based on the Mississippi Adequate Education Program (MAEP) base student cost. For the three other states administering ESA programs in FY 2018—Arizona, Florida, and Tennessee—the amount of the ESA is equal to or 90% of the per-pupil amount the school district or school would have received for the ESA student. In Arizona and Florida, the ESA amount includes additional funds to account for students' special needs. For FY 2018, the State of Mississippi, through the Mississippi Department of Education, disbursed approximately \$2 million to parents and educational service providers.

PEER recommended that:

- The Legislature should consider adjusting the ESA formula to align with MAEP, removing the lottery requirement and add further prioritization of those on the ESA waiting list, and consider allowing unused ESA funds to be reappropriated the following year.
- The Mississippi Department of Education should adopt comprehensive formal policies and procedures for the program to allow for more timely information regarding the status of ESAs.

The ESA program lacks the accountability structure needed to ensure that nonpublic schools enrolling ESA students meet statutory requirements and that students with disabilities are receiving the services they need. Also, MDE has not administered the ESA program as effectively as possible, has not prioritized students with active individualized education programs (IEPs) on its waiting list for an ESA, and PEER found two instances in which the MDE overpaid parents during a fiscal year.

PEER recommended that:

- The Legislature should consider directing the MDE to implement an accountability structure for the ESA program.
- The Legislature should consider establishing an appeals process for parents and educational service providers.
- The Legislature should consider imposing additional requirements for tutoring programs
- The Legislature should consider providing a means for offering more immediate access to ESA funds.
- The MDE should improve in several areas regarding its administration of the ESA program.

Implementation Actions

Several General Bills were introduced in the 2019 Regular Session that dealt with the Education Scholarship Account Program. These included H.B. 1072, H.B. 1113, S.B. 2675, and S.B. 2826. None were adopted by the Legislature.

Impact: Funding for Charter Schools

FY 2018 Annual Report: Analysis of Funding for Mississippi Charter Schools and the Charter School Authorizer Board (Report #629)

The Mississippi Charter School Authorizer Board (MCSAB) is the sole authorizing body for charter schools in the state and is responsible for oversight of the schools' operations. The MCSAB has not released an annual report since December 2016 because it is revising how it evaluates charter school performance. The board does not intend to release its 2017 annual report until 2019.

The MCSAB contracts with the National Association of Charter School Authorizers (NACSA) to manage the application process and provide independent recommendations of approval or denial for each charter school application. The MCSAB received nine applications for charter schools in its 2018 application cycle. Of those nine applications, the MCSAB (with assistance from the NACSA) approved two applications (for three schools) and denied seven applications. Ambition Prep was approved to open a K–8th grade school for the 2019–2020 school year. RePublic Schools, Inc., which already operates three charter schools in Mississippi, was approved to open two additional schools: Revive Prep, a K–8th grade school, and RePublic High School, the state's first charter high school, both with plans to open in the 2021–2022 school year. Although NACSA recommended that the MCSAB deny RePublic Schools' application for Revive Prep and RePublic High School, the MCSAB approved the application.

During the 2017–2018 school year, three charter schools (Midtown Public, Reimagine Prep, and Smilow Prep), all located within the boundaries of JPS, served 885 students. As of September 1, 2018, no students were on waiting lists for these charter schools.

In September 2017, the U.S. Department of Education awarded a five-year, \$15 million grant to the MCSAB to help expand the state's charter school sector. The MCSAB did not expend any grant funds in FY 2018 but did approve two contracts to assist with various services and activities associated with the grant.

Charter school funding continues to be a subject of ongoing state court litigation. In 2018 a judge upheld the constitutionality of the state law that established charter schools. The case is currently on appeal in the Mississippi Supreme Court by the Southern Poverty Law Center. In FY 2018 the Mississippi Department of Education distributed MAEP funding to charter schools at an amount of \$4,038 per pupil (before add-on program costs), which was the same amount provided to Jackson Public Schools (JPS), in accordance with statute. In addition, all three schools received a per-pupil amount of \$2,782 in local ad valorem funding from JPS in FY 2018. Statute does not require that local ad valorem support to charter schools be reconciled annually, as it does for MAEP. Therefore, the per-pupil local ad valorem contributions paid to charter schools each year are not consistent with the actual number of students in attendance at the charter schools for that year.

- The Legislature should consider amending MISS. CODE ANN. Sections 37-28-55(2) and (3) to require that local ad valorem contributions to charter schools be reconciled each year as MAEP payments are.
- The Legislature should, in order to make the pro rata distribution of local ad valorem funds equitable between the school districts and the charter schools, consider amending MISS. CODE ANN. §§ 37-28-55(2) and (3) to include the charter schools' average daily membership for month one of the current year in the denominator of the calculation.
- The Legislature should consider amending § 37-28-11(1) to replace the 3% authorizer fee with funding from available funds.
- The Legislature should, in order to ensure funding and accountability of appropriations for MCSAB operations, consider the following options:
 1. enact a separate appropriations bill, with total funds appropriated and PINs allocated, or
 2. provide a specific line item in the IHL appropriation for total board support and authorized PINs.
- The MCSAB should formally require all charter schools to adopt MDE's accounting manual for public schools.

Impact: Public Employees' Retirement System

2018 Update on Financial Soundness of the Public Employees' Retirement System (Report #630)

The Public Employees' Retirement System of Mississippi (PERS) is a defined benefits retirement plan for a majority of the employees (and/or their beneficiaries) of state agencies, counties, cities, colleges and universities, public school districts, and other participating political subdivisions. State law requires PEER to report annually to the Legislature on the financial soundness of PERS. In addition to the PERS plan, Mississippi's public retirement system consists of five other retirement plans (or programs) that provide retirement allowances and other benefits to segments of Mississippi public employees.

The system is under the administration of the 10-member PERS Board of Trustees, which has a primary responsibility of ensuring adequate funding of the plans it administers. One means of accomplishing this task is by setting contribution rates for employers participating in the plans. For assistance in setting these rates, the PERS Board receives actuarial reports annually and works with independent actuarial advisers to develop comprehensive models that are used to project the financial position of the various plans. Underperformance in any one area can cause additional stress on other components of the plan and can lead to underperformance of the plan as a whole.

According to the PERS investment consultants, the plan's investment performance for FY 2018 was a return on investments of 9.48%, which is above the current actuarial model's target investment return of 7.75%. This return placed the plan above the median return for its peer group (plans having greater than \$10 billion in assets) of 8.89%. Additionally, the PERS investment performance has exceeded its peer group median for each of the past three-, five-, and 10-year periods (ranking in the top 14% for each period). Over the past 10 years, the PERS investment return on assets averaged 7.45%. Historically, the PERS investment returns have averaged 6.28% over the past 20 years, 7.84% over the past 25 years, and 8.55% over the past 30 years.

PERS in June 2018 reported a funding ratio of 61.8%; an increase from 61.1% at end of FY 2017. Primarily due to the future increase in the employer contribution rate (effective July 1, 2019), the plan has a projected future funding ratio of 95.8% by 2047, which compares favorably to the assessment metrics in the plan's new funding policy.

The ratio of active members to retired members in the PERS plan decreased approximately 36% over the past 10 years. The declining ratio is attributable to a decrease in the number of active members and an increase in the number of retired members. This decrease results in funding future pension obligations over the payroll of fewer active members. However, the PERS active member to retired member ratio of 1.46:1 at the end of FY 2017 was above the average ratio for other pension plans across the nation. In June 2018, the PERS Board adopted a new funding policy with the following objective: *The objective in requiring employer and member contributions to PERS is to accumulate sufficient assets during a member's employment to fully finance the benefits a member will receive in retirement.*

To accomplish this objective, the board outlined several goals in the funding policy:

- Preserve the defined benefits structure for providing lifetime benefits to the PERS membership,
- Pursue contribution rate stability,
- Maintain an increasing trend in the funded ratio over the projection period with a target of being 100% funded, and
- Require clear reporting and risk analysis by the plan's actuary using a signal light approach.

Included in the new funding policy are three metrics to track the plan's progress in achieving the goals and objectives outlined by the PERS Board (funding ratio, cash flow as percentage of assets, and actuarially determined contribution) and a course of action should any of the metrics fall below certain thresholds. The new metrics will be evaluated through a "signal light" approach (green indicating goals and objectives achieved, yellow warning that future negative actions may lead to a failure in goals and objectives, and red suggesting the PERS Board must consider changes to employer contribution rate).

In consideration of results from an annually calculated actuarial valuation under the new funding policy the PERS board raised the employer contribution rate percentage to 17.40% of annual compensation, an increase of 1.65% (effective July 1, 2019). Under the prior measurement system, a rate increase would also have been needed.

Implementation Actions

Following the release of the report, the Public Employees' Retirement System of Mississippi maintains that it will continue to monitor the overall soundness of all of the retirement plans and work diligently in the best interest of the system.

Impact: FY 2018 Cost Per Inmate Day

Mississippi Department of Corrections' FY 2018 Cost Per Inmate Day (Report #631)

During its 1994 special session, the Legislature passed Senate Bill 2005 (now codified as MISS. CODE ANN. Section 47-5-1201 et seq. [1972]) to address short- and long-term bed capacity within the state's correctional system. The bill created the State Prison Emergency Construction and Management Board to expedite the contracting and construction of proposed public and private prison facilities authorized by the bill.

MISS. CODE ANN. Section 47-5-1211 (3) (a) (1972) states:

No contract for private incarceration shall be entered into unless the cost of the private operation, including the state's cost for monitoring the private operation, offers a cost savings of at least ten percent (10%) to the Department of Corrections for at least the same level and quality of service offered by the Department of Corrections.

The law also required that the state cost per inmate day be certified annually by a certified public accountant and that the certified cost be used as the basis for verifying the 10% savings required for private contractor costs. Historically, the Mississippi Department of Corrections (MDOC) has taken the cost of operation of similar units and adjusted them to recognize economies of scale to arrive at a cost of operation of a 500- or 1,000-bed facility.

During its 2012 Regular Session, the Legislature passed H.B. 440 (amending MISS. CODE ANN. Section 47-5-1211 [1972]), which requires the cost per inmate day calculation to occur every two years instead of annually and to require the development of a current cost-based model for the calculation. This report serves as the model for the basis of the cost per inmate day calculation.

The cost-based model was applied utilizing average MDOC costs, security requirements, and medical needs of MDOC's inmate population housed in state-operated facilities. The cost-based model provides MDOC management with the ability to determine MDOC's costs for any current or proposed privately operated prison, which can be used in the negotiation of private prison rates and achieve at least the 10% savings required by statute.

For FY 2018, MDOC's cost per inmate day for a model facility totaled \$53.72 based on the average costs, security requirements, and medical needs of MDOC's inmate population housed in state-operated facilities.

PEER believes MDOC should negotiate private prison contracts to yield savings significantly greater than the 10% required by law.

PEER cautions the reader that, as required by law, the cost figures presented in this report are derived from the actual costs to MDOC. State law also requires that private prisons represent at least a 10% savings to MDOC's costs for the same level and quality of services. It should be noted that cost savings offered by private prisons may exceed the 10% threshold. Therefore, when negotiating private prison payments, items borne solely by the state should be eliminated and due consideration given to reducing other costs in which the state bears additional or different costs than the costs incurred by private prisons.

Impact: Improving Outcomes of Juvenile Justice Programs at the Oakley Youth Development Center

Opportunities for Improving the Outcomes of Juvenile Justice Intervention Programs at the Oakley Youth Development Center (Issue Brief #2)

The primary objective of juvenile justice intervention programs is to provide rehabilitative and skill-building treatments designed to improve youth development outcomes and promote prosocial behavior thereby reducing recidivism and avoiding its associated cost.

Commitment of a youth offender to the Oakley Youth Development Center (OYDC), the state's only secure residential facility, is the most restrictive and highest cost of the disposition options available to Mississippi's youth court judges.

The majority of OYDC financial resources are expended on operational costs associated with providing for the wellbeing and safety of the youth offenders housed there. An estimated \$373,000 (representing 2.6% of total OYDC expenditures) was expended on juvenile justice intervention programs in FY 2017. Six of the 18 intervention programs offered at OYDC were supported by high quality research. These programs focused on non-core academic instruction (e.g., career technical educational) and cognitive behavior therapy for substance use disorders. When implemented with fidelity to program design, programs supported by high-quality research have the potential to result in cost savings to the state.

In FY 2017, OYDC expended an estimated \$113,332 (31%) on programs for which there is no known high-quality research showing their effectiveness in reducing recidivism or achieving other targeted outcomes for justice-involved youth.

Opportunity exists to improve the outcomes that OYDC is achieving by ensuring the limited resources that it currently expends on juvenile justice intervention programs are spent on programs supported by high-quality research.

What steps can OYDC take to improve the impact of juvenile justice intervention program dollars?

1. Move financial resources out of programs with no known high-quality research of their effectiveness into programs that high-quality research shows to be effective.
2. Ensure delivery of high-quality programs with fidelity to the critical elements of program design.
3. Manage the monetized benefits that will accrue to the state and society from a reduction in subsequent delinquent contact with the juvenile justice system and potential future involvement in the adult criminal justice system. It is more effective to faithfully execute a few high-quality programs than to execute many high-quality programs poorly.

Impact: Legislative Support

Legislative Assistance

PEER Committee rules state that PEER staff will provide assistance to any legislator or legislative committee upon request. During FY 2019, PEER staff completed 99 legislative assistance projects, ranging from simple information and data requests to more complex direct assistance on behalf of committees or subcommittees. The following list illustrates the types of assistance provided by PEER staff:

- Transportation and road information;
- Staff assistance on the adoption of a state lottery;
- Distribution of BP oil funds;
- PERS investment information; and
- School bonds and pupil expenditures.

Appointee Background Investigations

Since 1977, Senate committees have routinely requested PEER staff to conduct background investigations of appointees to assess each appointee's compliance with statutory qualifications and general fitness to hold office prior to their consideration for advice and consent of the Senate. During FY 2019, PEER staff completed 27 background investigations of gubernatorial and other appointees appointed to state boards or commissions. Some of the more notable background investigations included appointees to the following:

- Board of Education,
- Gaming Commission,
- State Personnel Board,
- Mississippi Home Corporation,
- Community College Board,
- Board of Mental Health, and
- Selected state agency executive directors.

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