

BOBBY JINDAL
GOVERNOR



PAUL W. RAINWATER
COMMISSIONER OF ADMINISTRATION

State of Louisiana
Division of Administration
Office of the Commissioner

May 15, 2012

Hon. John Kennedy
Treasurer
State of Louisiana
P.O. Box 44154
Baton Rouge, LA 70804

Dear Treasurer Kennedy:

I am in receipt of your letter regarding HB 1. We appreciate your input, but with all due respect, the numbers that you continue to use to support your case are not based in reality and the ideas you continue to advocate for will not work.

It's concerning that a State Treasurer would continue to use numbers he knows don't add up and simply pretend that nearly \$300 million more can be removed from the budget without dramatically impacting higher education and healthcare.

As I have done before with you, I will walk through the details about why your ideas are not practical, but before we get into the details of your plan, let's take a look at your management of the Department of Treasury.

Unclaimed Property Program Management

At the most recent meeting of the Joint Legislative Committee on the Budget (JLCB), you sought and received approval by the committee to enter into a settlement for a lawsuit alleging a long-standing failure by the Unclaimed Property program, under your direction, to disburse amounts of interest-bearing payments owed to Louisiana citizens.

In your testimony, you indicated that this lawsuit involves thousands of claims and has been pending for many years, even dating back to failures of the program when it was overseen by you at the Department of Revenue. While JLCB approved permission to enter into a settlement, you indicated that at some point you would have to return to the Legislature seeking a General Fund appropriation to fund the cost of the settlement. We have great concerns about the prospect of the taxpayers being on the hook for millions of dollars to pay for a mistake that resulted from the improper management of your program.

Treasury Department Staff Size and Budget

Post Office Box 94095 • Baton Rouge, Louisiana 70804-9095 • (225) 342-7000 • Fax (225) 342-1057
An Equal Opportunity Employer

While you have often attacked the amount of state government employees, it appears that your own department has contributed to the problem. Indeed, from FY 2005 to FY 2011, the employee headcount at the Treasury Department grew by 20.5 percent. Further, over the same time period, non-TO employees grew by a whopping 52.6 percent at your department. Note that these figures do not account for your first five years as Treasurer.

Between FY 2001 and FY 2012, the total budget for your department has grown from \$7.5 million to \$12.7 million, an increase of \$5.2 million, or 41 percent.

Treasury Department Contracts

The Treasury Department has 11 contracts totaling \$10 million. Interestingly, the Treasury Department has six separate consulting contracts with the same firm, each under \$50K, but with a cumulative total of about \$77,000. This is interesting because every contract under \$50,000 does not have to go through an RFP process and the Treasury Department has six separate contracts with the same firm totaling around \$77,000.

Additionally, while your letter says to eliminate “lower priority contract expenditures” in other departments, and as an example cites one to “teach people how to use Facebook,” you may be unaware that the Treasury department itself currently has a \$47,000 consulting contract with 3Lions Consultants to teach your staff how to do “expansion of social media including website, email marketing, and Facebook, YouTube, Twitter, Etc.”

Government Positions Reduced Under The Jindal Administration

From the start, the Jindal administration has dramatically reduced the number of executive branch positions funded in the budget. *And to the point that the size of the state government workforce is now at a historically low level.* The real figures from the Department of Civil Service covering the duration of the Jindal administration show that:

- The total “head count” of all employees in state government has fallen from **100,677 to 87,859**, a reduction of **12,818**, or **12.7 percent**.
- In terms of fulltime employees (or FTEs), the total has fallen from **93,554 to 78,470**, a reduction of **15,084**, or **16.1 percent**.
- And the “Annual Pay Rate” of all employees as recorded in Civil Service’s statewide employment report has fallen by **\$283 million**. And for appropriated agencies of government, which are those actually governed by Legislative action on the budget, the “Annual Pay Rate” has fallen by **\$589 million**.
- According to Civil Service historical data, even before the new position reductions proposed in the FY 13 Executive Budget, both the total number of state government employees and the number of fulltime employees in state government are already *at their lowest levels in more than 20 years*.
- Through budgetary action since the beginning of the Jindal administration, the total number of Executive Branch fulltime appropriated positions (T.O.) has been reduced by 9,881. Further reductions of 6,371 in FY 13 would bring the total to 16,252 positions reduced since the beginning of the Jindal administration.
- These position reductions have produced significant recurring savings – without them, **the state budget would be more than \$1 billion higher**.

- Departments have also streamlined management through reorganizations, with DCFS eliminating entire management layers, DOTD eliminating an entire departmental section along with an Assistant Secretary executive position, and LSP, GOHSEP, and OJJ consolidating and downsizing back-office functions such as human resources, information technology, and finance for the three agencies.

Additionally, you started calling for a 15,000 position reduction back when there were more than 100,000 state employees. Now there are less than 88,000 state employees. Additionally, eliminating positions based solely on “turnover rate,” as you have called for, is just not responsible management. While the overall state average turnover rate may be around 15 percent, it’s because for some agencies it’s close to zero, while for veterans homes and prisons, or other challenging positions providing direct care, it can be over 50 percent. In your plan, it would be mainly those positions that will be eliminated.

Contracts Reduced Under The Jindal Administration

Based on the Annual Reports issued by the Office of Contractual Review, between FY 08 and FY 11, the number of contracts approved by OCR per year fell from **7,295 to 5,467**, a reduction of 1,828 contracts, or **25 percent**. More importantly, in terms of dollar value of contracts approved per year under the Jindal administration, between FY 08 and FY 11, the amount fell from **\$4.7 billion to \$3.3 billion**, a reduction of **\$1.4 billion, or 30 percent**.

In your letter, you advocate for an across-the-board 5 percent reduction (or 10 percent, depending on the day) in the total dollar amount of contracts, but without realizing that such savings can only be achieved by cutting into the largest state contracts, which include tens of millions of dollars in hurricane recovery and coastal restoration projects; over \$2 billion in Medical Vendor contracts with DHH that pay providers like doctors for the provision of Medicaid benefits; another “consulting” contract, at \$840 million, for OGB’s HMO plan to provide physician and hospital benefits to OGB plan participants; and OGB’s pharmacy management benefit program, which provides prescription medicines for state employees and retirees (\$825 million).

You cannot get to the 10 percent or even the 5 percent goal without cutting these larger contracts. Even if all contracts under \$50,000 were eliminated it would only reduce the total contract amount by less than 1 percent.

Similarly, cutting all the small contracts mentioned from your department would achieve only 1 percent in savings from the total \$10 million in consulting contracts held by the Treasury department. You could only achieve those savings by renegotiating your contracts with JP Morgan Chase, UBS, and the Bank of New York.

Collections Proposal

Three years ago, you proposed: “Use centralized collection, automated notices and tax refund offsets to collect the \$1.5 billion in accounts receivable owed the state, 58 percent of which is 180 days past due. Annual savings: \$200 million.” Today you proposed the same approach,

claiming it would produce savings of \$50 million. The savings somehow dropped by \$150 million and seems to be another case of simply pulling numbers out of the air.

Our administration has actually led the way pursuing a reformed process that improves tracking of current and long-term debts, and by proposing legislation to centralize debt collection for the state at the Department of Revenue, to pursue debts on behalf of executive branch agencies, and which could have saved up to \$62 million in annual revenue for the state. Unfortunately, the Legislature did not pass the legislation.

It's important to note, however, that almost 90 percent of receivables deemed "uncollectable" are health care-related, made up particularly of poor and elderly Medicaid recipients and Medicaid providers who serve them, and more than 50 percent of health care receivables are passed through from the state to the federal government – meaning that even improvements to debt collection would not translate into hundreds of millions of dollars in state General Fund savings.

Finally, if you have specific information on state contractors and vendors who are delinquent on their taxes, please provide us with the details so that the Department of Revenue can take appropriate enforcement measures.

LaHIPP Proposal

Three years ago you also wrote: "Implement Louisiana law (LRS 22:1065, LaHIPP) that allows the state to purchase private insurance for low-income citizens when it is cheaper than Medicaid. Annual savings: \$100 million." Today you recycled the same idea, but said it would save \$50 million. Which is it?

- The Department of Health and Hospitals already released the "DHH Third Party Liability (TPL) Notification of Newborn Children" form to allow hospitals to report potentially Medicaid-eligible births.
- The Department actively pursues those individuals for the broader Louisiana Health Insurance Premium Payment (LaHIPP) program. Enrollment has increased 35 percent since March 2010.
- Currently, all cases are analyzed individually for cost effectiveness, but DHH is reviewing the Affordable Care Act to determine whether it will allow more Medicaid-eligible families to qualify for LaHIPP.
- Despite aggressive promotional efforts over the years, this program's target population makes it impossible to achieve the referenced \$100 million (or the revised \$50 million) in savings; only about 10 percent of that amount is achievable based on population eligibility estimates. These savings are already included in our budget.

Charity Hospital

Last year, you wrote: "Have the Legislative Auditor audit per-patient costs, employees per occupied bed and medical supplies procurement and management at Louisiana's Charity Hospitals, and implement the recommendations. A similar 2009 audit by Alvarez & Marsal of Big Charity in New Orleans found \$72 million of annual savings. Annual savings for the other 9 hospitals: \$100 million." Today, you wrote almost the identical proposal and said it will save \$25 million. Which is it?

But, as you are surely aware, Dr. Fred Cerise wrote you a detailed response when you first proposed this idea, outlining why this recommendation is baseless.

Juvenile Justice Proposal

In FY 10, the Office of Juvenile Justice (OJJ) reported the annual cost per youth in secure care as approximately \$100k – not the \$115k you claim in your letter. In any case, according to OJJ, every state includes or excludes varying components of its operating costs in calculating the cost per youth. OJJ attempts to provide clear cost by attributing all reasonable costs of service for each of the secure care facilities and then dividing by capacity. The department indicated that this is not how costs are calculated universally. Therefore, the costs associated with the treatment of youth in Louisiana's juvenile justice system may not be comparable to the costs in other states. Some factors to be taken into consideration:

1. Act 1225 of 2003 RLS requires the Office of Juvenile Justice to adhere to a therapeutic model of treatment instead of the correctional model. The department implemented a therapeutic model similar to that developed by Missouri. It is much more labor intensive than a traditional corrections model (meaning more staff for a lower ratio to youth).
2. Over 46 percent of OJJ youth are considered seriously mentally ill which requires specialized medicines and services.

According to the department, if the risk management cost, utilities, medication and mental health costs were backed out of Louisiana's cost per year, then the OJJ annual cost per youth of \$79k is comparable to other states' reported costs. These items are commonly left out of annual cost per youth in many other regions.

Also, there was a performance audit issued by the Louisiana Legislative Auditor on December 29, 2010 which listed the annual cost per youth as \$54,722. The auditor calculated the cost per day by taking 'the total expenditures for the facility' and dividing it by 365 days and then by "all the offenders that enter the secure care system."

Finally, the department contends that reducing costs to the southern average would entail changing the legislation, undoing the reform efforts to date, moving back toward the corrections model, and risking intervention by the U.S. Department of Justice.

Medicaid Preferred Pharmaceutical Drug List

Three years ago you wrote: "Reform the state Medicaid Preferred Pharmaceutical Drug List to include the most effective drugs at the lowest price for each illness. Annual savings: **\$100 million.**" Today you make the same suggestion and say it will save \$50 million. Which is it?

- The Medicaid Pharmacy Benefits Management (PBM) Program already implemented a prior authorization program with a Preferred Drug List in 2002. Louisiana was the second state in the nation to implement such a preferred drug list.
- Further, for fiscal year 2010, Medicaid received a total of \$332 million in supplemental rebates, \$280 million of which is mandated by federal law for participation in Medicaid. But

Louisiana went a step further by negotiating additional rebates in the amount of \$42 million. In total, rebates equal about 37 percent of pharmacy expenditures. Thanks for the idea, but we were already doing it before you brought it up.

Contracts For Maintenance Of State-Owned Computer Hardware and Software

In reality, in many cases software maintenance must ultimately be provided by the original developer because of the proprietary nature of the code. Like software maintenance, some hardware maintenance may only be warranted by the original equipment manufacturer due to proprietary technical support requirements.

In 2006, a significant analysis was performed regarding options for "per-call" hardware maintenance as compared to OEM maintenance. As a result, agencies have already long been using all alternatives and the most cost-effective option for their needs.

Statutory Dedications and Tax Increases

During times of budget cuts, higher education and healthcare are especially vulnerable because so much of our budget is restrained by statutory dedications. These statutory dedications carry a hefty balance from year to year.

You argue that we should eliminate statutory dedications so that these funds would be available to mitigate cuts to higher education and healthcare. In our budget, we accomplish this goal by sweeping the excess balances from many of these statutory dedications and using those funds to mitigate cuts to higher education and healthcare.

The House rejected our use of these dollars resulting in substantial cuts to higher education and healthcare.

Your request to eliminate certain tax exemptions, tax exclusions, tax rebates, and tax credits appears to be setting the groundwork to increase government revenues by raising taxes. Louisiana's economy continues to outperform the national and southern economies due to our strong business climate we fostered over the last four and a half years. Understanding that you have a history of arguing for higher tax rates, please explain why raising taxes is a good thing for the people of Louisiana.

In closing, your magical recipe for solving Louisiana's budget situation is a list of illusory savings and a call for higher taxes. That is not responsible or conservative. The people of Louisiana deserve better. Your time would be more productively spent by presenting solutions for reducing the explosive growth of personnel and expenses enjoyed by the Treasury Department during your tenure as Treasurer.

Regards,



Paul Rainwater
Commission of Administration