

# HARBOR POLICE RETIREMENT SYSTEM



PERFORMANCE AUDIT  
ISSUED FEBRUARY 1, 2012

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LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

February 1, 2012

The Honorable John A. Alario, Jr.,  
President of the Senate  
The Honorable Charles E. "Chuck" Kleckley,  
Speaker of the House of Representatives

Dear Senator Alario and Representative Kleckley:

This report provides the results of our performance audit on the Harbor Police Retirement System.

The report contains our findings, conclusions, and recommendations. Appendix A contains the Harbor Police Retirement System Board of Trustees' response and Appendix B contains the Port of New Orleans' response to this report. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of the Harbor Police Retirement System and the Port of New Orleans for their assistance during this audit.

Sincerely,

Daryl G. Purpera, CPA, CFE  
Legislative Auditor

DGP/dl

HPRS 2012



**Harbor Police Retirement System**

February 2012

Audit Control # 40100012

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**Executive Summary**

This report provides the results of our performance audit of the Harbor Police Retirement System (HPRS). We conducted this audit in response to a request by the Port of New Orleans (Port) Board of Commissioners (Dock Board). Our audit focused on providing the Port and HPRS with recommendations regarding revisions or alterations to the current system. Primarily, we focused on the management practices of HPRS and the administration of HPRS funds. Our audit scope covered January 1, 2008 through August 15, 2010. In addition, we reviewed benefit calculation errors from August 1, 1971 through November 9, 2010. The audit objectives and results of our work are as follows:

**Objective 1: Has the HPRS Board effectively and efficiently administered HPRS?**

**Results:** The HPRS Board has not effectively and efficiently administered HPRS or been able to ensure the system is properly operated. We have identified the following issues with the administration of HPRS:

- The HPRS Board does not have comprehensive policies or procedures in place to ensure that HPRS is operated properly or consistently.
- The HPRS Board is not following all statutory requirements relevant to the oversight and structure of HPRS.
- State law does not explicitly define the role of the Port as system sponsor of HPRS.

**Objective 2: Is HPRS sufficiently funded to pay all retirement obligations?**

**Results:** HPRS is not sufficiently funded to pay all retirement obligations. Based on a 2010 valuation report prepared by Louisiana Legislative Auditor's (LLA) actuarial staff using their assumptions, HPRS was 55.6% funded. It is estimated that without making changes to the retirement system, it will become bankrupt between 2020 and 2030. We identified the following issues:

- The HPRS Board did not ensure that complete and accurate member data was maintained to value HPRS liability as accurately as possible.

- Although the statutory employer contribution cap was recently raised to 20%, to maintain actuarial solvency the Port must pay the actuarially required contribution each year. LLA actuarial staff estimated this contribution to be 94.7% for fiscal year 2011.

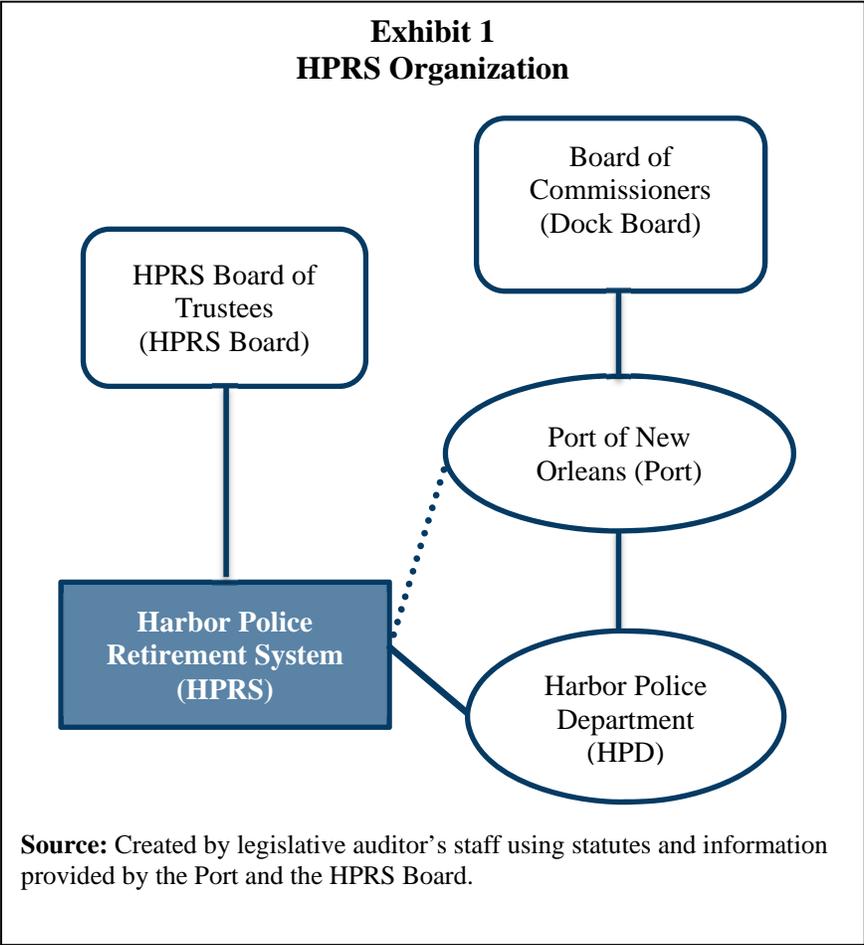
**Objective 3: What options are available to the Port for providing retirement benefits to the Harbor Police Department in the future?**

**Results:** Based on a valuation issued by LLA actuarial staff, the Port has three options to fund its promised retirement benefits in the future. These three options include:

1. The Port continues to maintain HPRS as a separate retirement system, but the HPRS Board makes necessary improvements to the system's administration.
2. The Port requests a merger with LASERS' Hazardous Duty Plan.
3. The Port liquidates HPRS assets.

## Background

The Harbor Police Retirement System (HPRS) provides retirement benefits for the commissioned police officers<sup>1</sup> of the Harbor Police Department (HPD). HPD is within the Port of New Orleans (Port) and patrols the areas within its jurisdiction. The HPRS Board of Trustees<sup>2</sup> (HPRS Board) is responsible for the proper operation of HPRS and is comprised of employees of both the HPD and the Port, retirees of the HPD, and two outside individuals. The Port is the “sponsor” of HPRS and therefore holds fiduciary and financial responsibility for the system, including funding members’ retirement benefits. HPRS does not have any employees; six contractors and eight HPRS trustees perform all administrative tasks for the system. Exhibit 1 shows the relationship between entities related to HPRS.



<sup>1</sup> Until 2004, all HPD employees were eligible for HPRS. From 2004 to present, only commissioned police officers were eligible for HPRS.  
<sup>2</sup> See Appendix C for further information on the composition of the HPRS Board.

As of October 2010, HPRS was composed of 36 active employee members; 36 retirees, survivors, and beneficiaries; and three members participating in the Deferred Retirement Option Program (DROP) for a total of 75 members. As of November 2010, 64 retirees have received benefits from HPRS. As of July 1, 2011, HPRS is funded by employee contributions of 9%, and employer contributions that cannot, by law, exceed 20% from the Dock Board.<sup>3</sup> The Dock Board is the governing body of the Port responsible for appointing and paying HPD officers. See Appendix C for additional background on HPRS.

**HPRS Financial Overview.** At fiscal year-end 2010, HPRS had \$9,863,871 in net assets available for pension benefits. Since fiscal year 2009, HPRS's plan net assets have decreased by \$3,433,581. During fiscal years 2009 and 2010, the HPRS Board paid its contractors to administer HPRS a total of \$302,848. Exhibit 2 summarizes the amount spent on each contract.

<b>Exhibit 2</b>				
<b>Total Paid for HPRS Administration</b>				
<b>Fiscal Years 2009 and 2010</b>				
<b>Contractor</b>	<b>Service</b>	<b>2009</b>	<b>2010</b>	<b>Total</b>
1. Argent Trust Company	Banking service	\$2,500	\$25	\$2,525
2. Consulting Services Group, LLC	Investment consultant	27,261	28,175	55,436
3. Zenith Administrators, Inc.	System administrator	45,662	36,271	81,933
4. R. Randall Roche	Consulting legal services	10,500	3,000	13,500
5. Conefry & Company, LLC	Actuary services	29,743	24,375	54,118
6. Glenda Williams*	Former system administrator	9,000	N/A	9,000
7. Postlethwaite & Netterville*	CPA firm	23,950	11,000	34,950
8. Aletheia Research and Management, Inc.	Money manager	8,954	1,866	10,820
9. Orleans Capital Management Corporation	Money manager	9,183	10,674	19,857
10. WCM Investment Management	Money manager	10,781	9,928	20,710
<b>Total Paid for Administration</b>		<b>\$177,533</b>	<b>\$125,315</b>	<b>\$302,848</b>
*No longer active contract.				
<b>Note:</b> Additional investment management fees that are deducted from investments and paid to money managers are not included as these fees are not invoiced to HPRS.				
The calculations in this exhibit are based on rounded numbers.				
<b>Source:</b> Prepared by legislative auditor's staff using invoices and bank statements provided by the HPRS Board.				

<sup>3</sup> R.S. 11:3690(A)(1) and R.S. 11:3690(B)(3) provide the required employer and employee contributions. Before July 1, 2011, employee contributions were 7% and employer contributions could not exceed 13%.

## Objective 1: Has the HPRS Board efficiently and effectively administered HPRS?

The HPRS Board has not efficiently and effectively administered HPRS. In particular, HPRS's current oversight and structure does not ensure that the system is properly operated, as described in the findings below.

### **The HPRS Board has not adopted comprehensive policies and procedures to ensure the proper operation of HPRS.**

According to statute, the HPRS Board is required to establish procedures for the operation of HPRS.<sup>4</sup> Currently, the HPRS Board has only adopted an investment policy and a travel policy. While these two policies are necessary to facilitate aspects of HPRS's operations, the HPRS Board does not have policies that provide a comprehensive framework for the operations of HPRS. The seven areas of administrative weakness where the HPRS Board is lacking policies include:

1. Benefit calculations and payments
2. Member eligibility determinations
3. Contracting
4. Trustee training requirements
5. Code of ethics
6. Succession planning
7. Monitoring of compliance with policies

**Benefit Calculations.** As of November 2010, the HPRS Board has identified 75 types of errors that affected member benefit calculations. Formal policies governing benefit calculations would make such errors less likely to occur. These errors trace back to 1971; however, the HPRS Board did not discover these errors until 2007. Of the 64 HPRS members that have received benefits, 63 (98%) of the members have at least one error affecting their benefit calculation.

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<sup>4</sup> R.S. 11:3688(A)(7) states that the HPRS Board shall, from time to time, establish rules and regulations for the administration of its funds and the transaction of its business.

Examples of the errors include prior service credit given to members who were not eligible, reduced benefits incorrectly calculated for members who used the early retirement option, and the incorrect 36 months of a retiree's salary used to calculate his retirement benefit. As of July 1, 2011, the benefit errors audit conducted by the system's certified public accountant (CPA) is complete and retirees are now receiving the correct monthly benefit payment. As of November 2011, the HPRS Board has waived collection of \$211,000 of overpayments to current and former members.<sup>5</sup> The HPRS Board will pay \$94,000 in underpayments to current members and \$30,000 to survivors of deceased members. The total impact of these adjustments on HPRS liability is approximately \$335,000.

After the completion of the system's benefit errors audit, the HPRS Board had one of its contractors make the corrections to the data. However, as discussed in Objective 2 on page 11, LLA actuarial staff found additional errors with HPRS data while conducting their actuarial valuation. The system administrator had corrected the errors, but the HPRS Board did not ensure that the causes of the errors were corrected so that future errors would not occur.

**Member Eligibility.** Currently, there is no formal process in place to determine and review HPRS member eligibility when the HPD hires a new officer. Specifically, there are no written policies in place for the HPRS Board or administrator to follow to ensure that the eligibility determination and review process for HPRS complies with statutory membership requirements.<sup>6</sup>

Because of the lack of a formal process for determining member eligibility, two (one retiree and one active) of the 75 (2.7%) current HPRS members are ineligible because they did not meet the HPRS age requirements when hired.<sup>7</sup> In both of these cases, the member's ineligibility was discovered 15 or more years from the date of hire.

One ineligible member has been paid over \$140,000 as of November 30, 2010. The other ineligible member is still contributing to the system and if he retired at the earliest eligible date, he would be entitled to an estimated monthly benefit of over \$1,900.<sup>8</sup> Act 399 of the 2011 Regular Legislative Session created exceptions in the law to make these two members eligible for benefits. In 2011, the HPRS Board passed a resolution to begin reviewing new hires prior to HPRS enrollment to help ensure all future members are eligible.

**Contracting.** Because HPRS has no employees, the HPRS Board must contract for services to operate HPRS.<sup>9</sup> However, the HPRS Board does not have a formal process in place for selecting and monitoring its contracts for performance or total payments. Because the HPRS Board has no formal process, it may have entered into contracts that were unnecessary or not in the best interest of HPRS. The HPRS Board also does not have a way to determine if its contractors are meeting the deliverables in the contracts. As a result, the HPRS Board might pay contractors who are not performing required contractual duties.

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<sup>5</sup> Act 399 of the 2011 Regular Session gave the HPRS Board discretion to waive collection of overpayments.

<sup>6</sup> R.S. 11:3683

<sup>7</sup> The HPRS Board identified one of the ineligible members and we identified the other ineligible member during our fieldwork.

<sup>8</sup> Based on a fiscal year 2010 employee benefit statement, as calculated by the HPRS actuary.

<sup>9</sup> R.S. 11:3688(A)(10)

During our review, we examined the HPRS contracts for basic terms and provisions. We found that none of the seven contracts we examined included the basic contract provisions recommended by the Louisiana Office of Contractual Review (OCR) and the National State Auditors Association (NSAA) listed in Exhibit 3. Although HPRS is not required to include these provisions in its contracts, adopting best practices as recommended by OCR and NSAA would help ensure the best interests of system resources and members.

<b>Exhibit 3</b>			
<b>Basic Provisions Included/Excluded in HPRS Contracts*</b>			
<b>Fiscal Years 2009 through 2010</b>			
<b>Provision</b>	<b>Importance of Provision</b>	<b>Number and Percent of Seven Contracts That Include Provision</b>	
		<b>Number</b>	<b>Percent</b>
1. Contract monitoring plan	Necessary to ensure proper execution of contract terms	0	0.0%
2. Contract termination guidelines	Necessary to ensure proper contract termination	5	71%
3. External audit and inspection guidelines	Necessary to monitor contract	1	14%
4. Performance standards and/or penalty stipulations	Necessary to ensure contract performance	0	0%
5. Maximum to be paid for goods or services under contract	Necessary to monitor whether the contract has been overpaid	3	43%
6. Scope of work with specific measurable deliverables	Stipulates work to be performed	6	86%
7. All appropriate signatures, approvals, acknowledgements, or witnesses	Necessary for binding legal document	7	100%
8. Description of payment methods and schedules	Necessary to ensure accurate and timely payments	7	100%
<p>*We did not review the 3 investment manager fee agreements because these are only agreements regarding fee calculations, not agreements to provide services.  <b>Source:</b> Prepared by legislative auditor’s staff using contracts provided by HPRS and best practices recommended by OCR and NSAA.</p>			

Unless all critical contract provisions are included, the HPRS Board cannot ensure that it effectively monitors contract deliverables and payments. For example, the HPRS Board’s former administrator, a contract employee, was responsible for a number of the administrative benefit errors by failing to update member information. However, because no monitoring of this contractor was performed, the HPRS Board was not aware of these errors and still paid the contractor. Also, because four out of the seven (57%) contracts did not contain a maximum annual amount, the HPRS Board could have overpaid for contracted services (see Exhibit 2 for total amounts paid to contractors).

**Trustee Training and Experience Requirements.** The only experience requirement in the HPRS statutes applies to one trustee and requires that this trustee be “experienced in investing money.” The HPRS Board is compliant with this law, but has not adopted formal policies that stipulate training requirements for all trustees. The HPRS Board encourages its trustees to adhere to the training requirements that apply to state and statewide retirement systems<sup>10</sup>; however, the HPRS Board only suggests this and does not require it. Act 399 of the 2011 Regular Session, effective July 1, 2011, added HPRS to the list of retirement systems whose board members are required to comply with the training requirements in R.S. 11:185.

**Other Areas.** The Government Finance Officers Association (GFOA) recommends both a governance manual and policies for a retirement system’s governing board, which is the HPRS Board. The governance manual should include an outline of the system’s authority; an outline of the roles and responsibilities of trustees and administrator; and all board adopted policies, statutes, regulations, and other relevant documents.

GFOA recommends that these policies include a code of ethics and succession planning to ensure continuity of governance when transitioning leadership. In addition, procedures for monitoring whether the HPRS Board’s policies are being fulfilled should be included.

**Recommendation 1:** The HPRS Board should adopt comprehensive policies and procedures that provide a framework for managing and operating HPRS. The policies should address, but not be limited to, benefit calculations, membership eligibility, contracting, trustee training, ethics, succession planning, and monitoring.

**Summary of HPRS Board’s Response:** The HPRS Board agrees with this recommendation. It will create a manual to cover all of the stipulated policies and procedures discussed in this section to include monitoring whether its policies are being fulfilled.

**Recommendation 2:** The HPRS Board should ensure that all contracts contain the necessary provisions to protect the best interests of the HPRS Board and all HPRS members.

**Summary of HPRS Board’s Response:** The HPRS Board agrees with this recommendation. It will review all current contracts to ensure the best interest of the HPRS Board and members of the system are protected. In addition, the HPRS legal consultant will review all current and future contracts to ensure efficiency and re-design all contracts to be in compliance with the Louisiana Office of Contractual Review.

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<sup>10</sup> R.S. 11:185 outlines the training requirements for the trustees of the four state and nine statewide retirement systems.

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## **The HPRS Board is not following all statutory requirements relevant to the oversight and structure of HPRS.**

The HPRS Board is charged with the management, general administration, proper operation, and implementation of all statutory provisions for HPRS. However, the HPRS Board is not complying with all statutory requirements. Specifically:

- The HPRS Board has not established a medical board, which is responsible for arranging all medical evaluations for members who are applying for disability retirement and performing periodic medical evaluations for retirees with disabilities [R.S. 11:3688(C)].<sup>11</sup>
- The HPRS Board is not maintaining or using the four required funds, which include the Annuity Savings Fund, Annuity Reserve Fund, Pension Accumulation Fund, and Expense Fund (R.S. 11:3690).<sup>12</sup>
- The Secretary of the HPRS Board does not certify all expense vouchers and pension payrolls [R.S. 11:3689(B)].
- The HPRS Board has not elected a chairman from its members. Rather, the HPD chief has served as chairman, without being elected, since he was hired and became a trustee in 1995 [R.S. 11:3688(A)(8)].
- The HPRS Board is not paying interest on refunds of accumulated contributions [R.S. 11:3682(1)].<sup>13</sup>

As a result of not meeting these requirements, the HPRS Board cannot ensure the proper operation and oversight of HPRS. For example, HPRS may continue to pay disability benefits to members who are no longer eligible because there is no medical board to periodically review the status of the retirees.

**Recommendation 3:** The HPRS Board should comply with all statutory requirements including, but not limited to, establishing a medical board, maintaining all required funds, having the Secretary certify expense vouchers and pension payrolls, and paying interest on refunds of accumulated contributions. If the HPRS Board believes the statute or provision is inconsequential to the proper operation of the system, it should seek legislative relief.

**Summary of HPRS Board's Response:** The HPRS Board agrees with this recommendation. It will seek legislative relief, however, to clarify the assertion that interest is required on the return of accumulated contributions. The HPRS Board and the Board's legal consultant believe the statute is vague and does not direct the HPRS Board to pay such interest.

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<sup>11</sup> This requirement has been amended by Act 399 of the 2011 Regular Session to require only a medical advisor, effective July 1, 2011.

<sup>12</sup> This requirement has been removed from the HPRS statutes with Act 399 of the 2011 Regular Session, effective July 1, 2011.

<sup>13</sup> Based on an LLA legal opinion, HPRS is required to pay interest on refunds of accumulated contributions.

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**State law does not explicitly define the role of the Port as system sponsor of HPRS.**

The Port does not have specific guidance as to how it is to administer HPRS because the Port's role as system sponsor is not explicitly defined in statute. As system sponsor with fiduciary and financial responsibility, such guidance is necessary. However, the Port has also not adopted any policies to define its role in oversight. Because state law lacks specific guidance and no policies are in place, Port officials do not have a framework outlining their role in HPRS.

**Recommendation 4:** The Port should request the legislature to explicitly define its role as HPRS sponsor. Once the Port receives specific guidance from the legislature, the Port should draft a governance manual that outlines its statutory responsibilities regarding HPRS.

**Summary of Port's Response:** The Port agrees with this recommendation. See Appendix B for full response.

**Recommendation 5:** Once the Port's responsibilities as HPRS sponsor are explicitly defined in law, the Port should adopt formal policies fully outlining its role in the operations of HPRS.

**Summary of Port's Response:** The Port agrees with this recommendation. See Appendix B for full response.

**Matter for Legislative Consideration:** The legislature may wish to consider working with the Port to provide specific guidance on the Port's responsibilities regarding HPRS.

Because of additional actuarial fieldwork necessary after we completed Objective 1, the HPRS Board was able to begin implementing our recommendations. In addition, Act 399 of the 2011 Regular Session made many changes to the retirement system's statutes.<sup>14</sup> For a more complete account of what changes the HPRS Board has made, see Appendix A for its formal response.

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<sup>14</sup> References to statutes in the report have been updated to reflect the changes made in the 2011 Regular Legislative Session.

## Objective 2: Is HPRS sufficiently funded to pay all retirement obligations?

HPRS is not sufficiently funded to pay all retirement obligations, as described in the findings below. Based on a 2010 valuation report prepared by LLA's actuarial staff using their assumptions, HPRS was 55.6% funded. It is estimated that the retirement system will become bankrupt between 2020 and 2030, if conditions remain the same.

### **The HPRS Board did not ensure that complete and accurate member data was maintained to value HPRS liability as accurately as possible.**

Five parties/entities maintain HPRS member data in varying degrees: The CPA firm who conducted the benefit errors audit discussed on page 6, the system administrator, and the contracted actuary maintain comprehensive member data. The HPRS Board and the Port also maintain some member information. As discussed in Objective 1 on page 6, the system administrator corrected errors discovered during an HPRS benefit errors audit. However, when LLA actuarial staff analyzed the data to conduct their valuation, they found the three primary sets of data contained additional conflicting member information (errors). For example, LLA actuaries and HPRS staff were unable to reconcile DROP account balances between the three primary data sets. While the HPRS Board had tasked the system administrator with correcting benefit errors, it did nothing to ensure that future errors would not occur. In addition, the HPRS Board did not designate one person or group as responsible for maintaining complete and accurate member data.

We also found that each data set did not contain an accurate list of former HPRS members who were owed a refund of their accumulated contributions. As a result, the HPRS Board cannot easily determine how much it may owe in refunds. In addition, at least four of these members had 10 or more years of service and would be entitled to a pension benefit. Shortly before this report was issued, the HPRS Board informed us that it was working to correct this data issue so that it has an accurate accounting of refunds owed. However, because of time constraints, we were unable to verify this information.

Seventeen of the 75 (23%) HPRS enrollment forms we reviewed were missing necessary information and documentation; Port Human Resources is responsible for collecting this information. The HPRS Board also did not update member files as necessary. Because of this error, the surviving spouse of one member continued to receive a benefit for over four years after remarrying, when the benefit should have been discontinued. According to statute, the HPRS Board is responsible for ensuring that a complete and accurate set of member data is available.<sup>15</sup> Because of these data errors, the financial picture presented in past actuarial valuations by the HPRS contracted actuary has not been accurate.

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<sup>15</sup> R.S. 11:3688(A)(10)

To obtain the best data set to complete its valuation, LLA actuarial staff determined which of the three primary sources of data was the most complete and accurate. Actuarial staff then compared this data to the other sources. If they found differences between the three data sets, they discussed these differences with the CPA, administrator, HPRS Board, and Port to obtain the correct information. The majority of the differences were resolved and allowed LLA to create a data set that was reasonably accurate. However, some of the discrepancies remained because the information was not available from any of the sources. In these situations, we generally used the data element resulting in the highest liability value (most conservative), so as not to understate the liabilities of HPRS. In addition, errors occurred because the HPRS Board did not designate one person or group as responsible for maintaining complete and accurate HPRS data, so discrepancies were not discovered and resolved as they arose.

**Recommendation 6:** The HPRS Board should ensure that one source of complete and accurate member data is maintained in convenient form in accordance with R.S. 11:3688(A)(10).

**Summary of HPRS Board's Response:** The HPRS Board agrees with this recommendation. It has hired a professional administrator to work in conjunction with the Port's payroll department, which sends monthly payroll information to the HPRS administrator. Additionally, HPRS's actuary and auditor work in harmony with this process. Any personnel changes or other discrepancies found by the HPRS administrator are now brought before the HPRS Board for approval.

**Legislative Auditor's Additional Comments:** This structure was in place during our audit, yet data discrepancies remained. Again, it is the responsibility of the HPRS Board to ensure its data is complete, accurate, and available.

**Recommendation 7:** The HPRS Board should update member files and obtain necessary documents on a real-time basis or at least at consistent, periodic intervals.

**Summary of HPRS Board's Response:** The HPRS Board agrees with this recommendation.

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### **Based on LLA's 2010 actuarial valuation, HPRS is currently 55.6% funded.**

Based on LLA's 2010 actuarial valuation, the most recent actuarial valuation date, the plan was 55.6% funded. The actuarial liability for benefits owed was \$21.3 million, while the actuarial value of assets was \$11.8 million. This gap resulted in an unfunded actuarial accrued liability (UAAL) of \$9.4 million. Based on this UAAL, the Port should pay a contribution rate of 94.7% for fiscal year 2011 for HPRS to maintain actuarial solvency. However, beginning July 1, 2011, the employer contribution rate is not to exceed 20%, a 53% increase from the previous cap of 13%.<sup>16</sup>

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<sup>16</sup> R.S. 11:3690(B)(3)

The present value of future benefits owed to retirees exceeds the market value of assets, meaning HPRS does not have sufficient assets to pay the liabilities owed to current retirees. Furthermore, HPRS has no assets set aside to pay for benefit promises made to the system's active members.

The HPRS 2010 contracted actuarial valuation found that the system was 73.8% funded. These results differ from the LLA actuarial valuation for the following reasons:

- Data errors (discussed previously)
- Investment losses
- Different valuation methods
- Inclusion of Cost of Living Adjustment (COLA) benefits because HPRS has a history of providing a COLA each time the statutory test<sup>17</sup> is satisfied
- Change in the expense assumption
- Inclusion of potential refunds<sup>18</sup>
- Other factors

Unless the law is changed to allow the Port to contribute more than 20% of pay, the retirement system will distribute all of its assets well before its obligations to existing members have been satisfied. The retirement system, under existing rules, is estimated to become bankrupt, likely between 2020 and 2030.

**Recommendation 8:** The Port should increase its annual contributions to HPRS to the actuarially required amount or consider the alternatives discussed in Objective 3.

**Summary of Port's Response:** The Port disagrees with this recommendation. See Appendix B for full response.

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<sup>17</sup> R.S. 11:3685(D)

<sup>18</sup> HPRS has 84 members that it may owe a refund of accumulated contributions to that it has not accounted for in its 2009 or 2010 actuarial valuation. This represents an additional liability of over \$400,000. Shortly before this report was issued, the HPRS Board informed us that it was working to resolve this data issue and only approximately \$2,000 is owed in refunds. However, because of time constraints, we did not verify this information.

### **Objective 3: What options are available to the Port for providing retirement benefits to HPD in the future?**

The Port has three basic options to fund its promised retirement benefits in the future. One is to continue to maintain HPRS as a separate retirement system. However, for this option to work, the HPRS Board will need to improve its administration over the system to ensure effective and efficient operations. Based on a 2010 valuation report prepared by LLA actuarial staff, the Port has two additional options to fund its promised retirement benefits in the future. The second option is to merge with a larger retirement system, such as the LASERS Hazardous Duty Plan. LASERS may require a lump sum payment from the Port to fund HPRS's current shortfall, which we have estimated as \$5.7 million. The third option is for HPRS to liquidate its assets in an attempt to provide for all outstanding benefit promises. The HPRS Board and the Port should weigh all alternatives and determine the best course of action to continue to provide the benefits promised to its retirees and employees.

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#### **Option 1: The Port continues to maintain HPRS as a separate retirement system, but the HPRS Board makes necessary improvements to the system's administration.**

As stated in Objective 1, the HPRS Board has not effectively and efficiently administered HPRS. In particular, HPRS's current oversight and structure does not ensure that the system is properly operated. Therefore, if the Port chooses to continue to maintain HPRS as a separate retirement system, the HPRS Board needs to improve its administration of the system to ensure effective and efficient HPRS operations.

As mentioned in previous sections, the Port has not adopted any policies and procedures to ensure its oversight role is fulfilled. Because the current laws relating to the Port's governance are limited and do not provide sufficient guidance for the Port to oversee HPRS, the Port does not have a framework outlining its role in HPRS. Adopting policies, as suggested in Recommendation 1, would provide direction for the Port and the HPRS Board to follow and would allow for a more consistent and properly administered retirement system.

**Recommendation 9:** Should the Port choose to continue operating HPRS, it should consider seeking legislative relief to remove the 20% cap on contributions so that each year it can contribute the actuarially required amount. For example, based on our 2010 valuation report, the Port would be required to contribute 94.7% of pay for FY 2011. This would improve the funding ratio of HPRS going forward and would better ensure that benefits could be paid to members as promised.

**Summary of Port's Response:** The Port disagrees with this recommendation. See Appendix B for full response.

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## **Option 2: The Port requests a merger with LASERS' Hazardous Duty Plan.**

Because of HPRS's small size and the level of administration that a retirement system requires, it may not be practical for the Port to maintain HPRS as a separate system. Since HPRS does not have employees of its own, it requires six contractors and eight trustees to perform administrative tasks for a system of 78 members. Benefits and administration could be provided by a larger retirement system in a more efficient manner. Based on information provided to us by the Port and HPRS, they are currently considering a merger with LASERS' Hazardous Duty Plan,<sup>19</sup> as all Port employees except commissioned HPD officers are currently members of LASERS. The Port could also consider merging with other plans, such as MPERS.

According to LLA's actuarial valuation report on HPRS, LASERS may stipulate what benefit provisions it would accept for HPRS members, as well as the financial arrangements it would require. In the report, LLA actuarial staff analyzed what a reasonable approach for these merger negotiations might be. In general, LASERS will likely accept the benefit promises HPRS has already made, but pay all future benefits in accordance with LASERS Hazardous Duty provisions.

LLA's actuarial valuation further projects that LASERS could require the Port to pay a lump sum amount equal to the HPRS UAAL. After the merger, the Port would only be responsible for normal cost payments (calculated as 4.2% of pay), plus amortization of any future gains and losses attributable to HPRS employees. Based on our calculations using these assumptions, LASERS may require a lump sum payment of \$5.7 million<sup>20</sup> from the Port to fund HPRS' current shortfall.

It is also possible that LASERS may not require a lump sum payment because HPRS's funded ratio measured with LASERS' assumptions (63.5%) is close to the funded ratio of LASERS (57.7%). In this scenario, after the merger, the Port would likely be required to contribute the same amount as other employers participating in LASERS, which is currently about 23.1% of pay.

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## **Option 3: The Port liquidates HPRS assets.**

As stated in LLA's actuarial valuation, the Port also has the option to go into the marketplace and purchase annuities in an attempt to provide for all benefit promises made to date or liquidate its assets. However, as of June 30, 2010, HPRS only would be able to fund 48.4% of its future benefits. In other words, less than half of all members would be paid benefits they are owed by HPRS, based on the current market value of its assets.

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<sup>19</sup> LASERS' Hazardous Duty Plan is a subset of the LASERS plan that provides benefits for police officers and others in qualifying positions. This plan offers earlier retirement eligibility and higher benefit accrual rates because of the hazardous nature of these jobs.

<sup>20</sup> On page 12, a UAAL of \$9.4 million was mentioned. This UAAL number is lower because there are differences between the assumptions used for LASERS and HPRS. The assumptions LASERS uses significantly reduce the UAAL figure.

**Recommendation 10:** The Port and the HPRS Board should review all options available to provide benefits to its police force and determine what the best actions are under the circumstances.

**Summary of Port's Response:** The Port agrees with this recommendation. See Appendix B for full response.

**APPENDIX A: HARBOR POLICE RETIREMENT SYSTEM  
BOARD OF TRUSTEES' RESPONSE**

# HARBOR POLICE RETIREMENT SYSTEM



## **CHAIRMAN**

Robert S. Hecker

## **TRUSTEES**

Steven Dorsey

Benny Harris

Frank Jobert

Clay Miller

James Randall

Kevin Randall

Warner Tureaud

## **ADMINISTRATOR**

Gail Arnold

## **CONSULTING SERVICES**

R. Randall Roche

## **ACTUARY**

Michael A. Conefry

January 10, 2012

Louisiana Legislative Auditor  
Performance Audit Division  
1600 North Third Street  
Baton Rouge, Louisiana 70804-9397

**RE: RESPONSE TO REPORT FROM LOUISIANA LEGISLATIVE AUDITORS (LLA)**

In August 2007, The Harbor Police Retirement System (HPRS) Board discovered an error in a benefit calculation of a member who had submitted his retirement documents. A more in-depth review by the HPRS Board revealed that there were similar errors discovered in several other benefit calculations, some dating back to the inception of the Plan in 1971.

The HPRS Board decided to review each and every benefit of all retirees in an effort to find any possible errors in the benefit calculations and to ensure the prior administrator(s) followed statutory guidelines when preparing the benefit calculations. The HPRS Board initiated discussions with the State Attorney General's office to determine the most appropriate manner to handle the benefit errors and remain within statutory guidelines. The HPRS Board then hired a professional auditing firm to conduct a professional audit on the entire system.

The audit was completed in early 2011, and as a result all benefit errors were corrected. Effective July 1, 2011, the corrected benefit amounts were implemented going forward. Additionally, the HPRS Board reconciled the benefit amounts for those deceased members.

Finally, the HPRS Board proposed and eventually passed legislation in the 2011 legislative session to change the statute that will legally protect many of the HPRS retirees and their benefit payments.

Emphatically, it was the HPRS Board who discovered the benefit errors, the cause of those errors, and the most appropriate and legal manner to reconcile the errors.

**OBJECTIVE NO. 1 Has the HPRS Board efficiently and effectively administered HPRS?**

**LLA: The HPRS Board has not adopted comprehensive policies and procedures to ensure the proper operation of HPRS**

The (LLA) report indicates that the HPRS Board currently maintains only two policies, a travel policy and an investment policy. The (LLA) report indicates the HPRS Board should have additional policies in place to more comprehensively describe the operations of the HPRS. RS 11:3688 Administration, Section A paragraph 7 states-- "Subject to the limitations of this Subpart, the Board of Trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this Subpart for the transaction of its business."

**HPRS RESPONSE:**

We agree that the HPRS Board needs to create a policy and procedural manual. In fact, this was discussed at several recent HPRS Board meetings. However, the HPRS Board decided to focus on the benefit errors audit and the 2011 legislation. Adopting "policies and procedures" is now underway.

**LLA: SEVEN AREAS OF WEAKNESSES**

The (LLA) report identifies seven areas of weaknesses in HPRS's administration during the legislative auditor's review of the system. The (LLA) report further identifies those seven weaknesses as follows. We have prepared a response to each.

1. Benefit calculations and payments

**HPRS RESPONSE:**

In August of 2007, the HPRS Board found numerous errors with retiree's benefits. As a result, the HPRS Board began an internal audit eventually hiring a professional auditing firm. As the HPRS Board reviewed all of the retirees benefit payments, the HPRS discovered that errors had occurred since the inception of the fund in 1971. The HPRS Board also realized that the prior administrator was responsible for many of the more recent errors. That administrator was a part time employee and had been with the system for approximately 20 years; however, it became apparent the administrator was not paying attention to important details when calculating benefits.

PAGE THREE  
RESPONSE TO REPORT FROM LLA

In September of 2008, the HPRS Board opted to end the contract with the former administrator. The HPRS Board then hired a professional administrator (Zenith) to handle all administrative matters including benefit calculations. Additionally, the HPRS Board voted to have the system actuary check all benefit calculations done by the current administrator.

Going forward, the HPRS Board is confident that the combined effort of Zenith, the Port's payroll department, the system's actuary and the system's auditor will ensure all personnel data will be correct resulting in accurate benefit payments.

The benefit errors audit has been completed. The 2011 legislation corrected the unique situations involving the errors although a few may need to be amended in the 2012 legislation session. The HPRS Board voted to reimburse all money owed to those members who were underpaid. Due to the length of time the overpayments occurred and to avoid probable extensive and costly litigation, the HPRS Board voted to forgive all amounts retirees owed the system; however, all benefits were corrected going forward from July 1, 2011. The HPRS Board recognizes that additional scrutiny should have occurred to more closely monitor the benefit calculations.

However, it should be noted that it was the HPRS Board who initiated the action in 2007 that eventually corrected the errors, some that occurred as early as 1971. Further, the HPRS Board along with the Port management prepared the successful 2011 legislation that rectified eligibility for certain retirees. We believe we have made the necessary administrative corrections concerning this section of this objective.

2. Member eligibility determinations

**HPRS RESPONSE:**

During the audit, it was discovered that one or more members were allowed in the HPRS system although they were not eligible. The 2011, legislation has corrected all of these issues. Further, on January 15, 2011, the HPRS Board passed the following resolution:

**All member transactions shall come before HPRS Board for review and approval...to include new hires, re-hires, resignations, retirements, buy backs, transfers, or any personnel moves that may affect cost to the system. Note: Since this resolution was adopted, two new hires and a member who entered DROP all came before the HPRS Board for their review and approval.**

PAGE FOUR  
RESPONSE TO REPORT FROM LLA

There appears to be a conflict within this paragraph in your report. The first sentence states "Currently, there is no formal process in place to determine and review HPRS eligibility when the HPD hires a new officer."

However, in the same section, your (LLA) report indicates in the final sentence the following: "In 2010, the HPRS Board decided to begin reviewing new hires for eligibility prior to HPRS enrollment." This policy will be placed in our policy manual.

3. Contracting

**HPRS RESPONSE:**

Prior to entering into a contract with our current custodian and consultant we did an RFI for each. Additionally, all routine invoices are currently approved by the chairman and the secretary then sent to the administrator for processing. Any invoices above and beyond the normal invoices that are in excess of \$1,000.00 are brought before the HPRS Board for Board approval.

We agree that these procedures to include strict monitoring of all contracts and work done by contractors should be included in a procedural manual. Further, when we learned we were not in compliance with the Louisiana Office of Contractual Review (OCR), we requested our legal consultant to re-design all of our contracts to be in compliance. Our legal consultant has begun this process.

4. Trustee training requirements

**HPRS RESPONSE:**

We are strong advocates for trustee training and emphasize training standards in our travel/training manual. However, since our statute did not mandate said training, we included that change in our 2011 legislation. On February 23, 2011, the HPRS Board passed a resolution to amend the statute via 2011 legislation to add HPRS Trustees to list of systems mandated to receive specific trustee training as per RS 11:185.

There appears to be a conflict in this section of the LLA report. One sentence states "the HPRS Board only suggest this and does not require it." However, the next sentence in the paragraph states "Act 399 of the 2011 Regular Session, effective July 1, 2011, added HPRS to the list of retirement systems whose board members are required to comply with the training requirements in R.S. 11:185".

PAGE FIVE  
RESPONSE TO REPORT FROM LLA

5. Code of ethics

**HPRS RESPONSE:**

Each time a trustee is sworn in for his/her new or renewed term, that trustee is provided with a copy of the Louisiana Code of Ethics. However, we agree this should be included with the mandated training requirement passed in the 2011 legislation. Therefore, the HPRS will follow state-wide standard training requirements and ensure that ethics is included in said training.

6. Succession planning

**HPRS RESPONSE:**

We agree that our policy and procedural manual should include the process of the indoctrination of a new trustee. We have discuss staggered terms of some trustee positions. These changes can be accomplished administratively and will be included in our policy manual.

7. Monitoring of compliance with policies

**HPRS RESPONSE**

This will be included in the HPRS policy manual.

**Recommendation No. 1**

The HPRS Board should adopt comprehensive policies and procedures that provide a framework for managing and operating HPRS. The policies should address, but not limited to, benefit calculations, membership eligibility, contracting, trustee training, ethics, succession planning, and monitoring.

**HPRS RESPONSE:**

We agree with the recommendation of creating a manual to cover all of the stipulated policies and procedures discussed in this section to include monitoring whether the HPRS Board's policies are being fulfilled.

**Recommendation No. 2**

The HPRS Board should ensure that all contracts contain the necessary provisions to protect the best interests of the HPRS Board and all members.

**HPRS RESPONSE:**

The HPRS Board has agreed to review all current contracts to ensure the best interest of the HPRS Board and members of the system are protected. The HPRS legal consultant will review all current and future contracts to ensure efficiency. Further, to be in compliance with the Louisiana Office of Contractual Review (OCR), we requested our legal consultant to re-design all of our contracts to be in compliance. Our legal consultant has begun this process.

**LLA: The HPRS Board is not following all statutory requirements relevant to the oversight and structure of HPRS.**

**Medical Board:**

**HPRS RESPONSE:**

As you noted in footnote no. 11 of page 10 of your report, this was changed to “medical advisor” in the 2011 legislation session. Obviously, maintaining a medical board would have been too costly for the HPRS Board; therefore, the ability to seek assistance from a “medical advisor” for the few disability applications and follow-up on member’s collecting disability benefits was more appropriate for the HPRS. We believe we are now in compliance; however, additional language will need to be changed in the disability statute where it still refers to a medical board. We plan to introduce legislation to make said change.

**The HPRS Board is not maintaining or using the four required funds:**

**HPRS RESPONSE:**

As you noted in footnote no. 12, on page 10 of your report, the four funds were removed in the 2011 legislation.

**The Secretary of the HPRS Board does not certify all expense vouchers and expense payrolls.**

PAGE SEVEN  
RESPONSE TO REPORT FROM LLA

**HPRS RESPONSE:**

Due to logistic issues, the HPRS had voted to have the Chairman certify all expense vouchers. We realize this did not conform to the statute and have made the necessary changes to be in compliance. With advice of counsel, we will introduce future legislation to remove the position of "secretary" from the statute and make this position another "trustee" position. Until then, the HPRS Board voted to begin having all invoices co-signed by the chairman and the secretary. This process is now in place and will be added to the policy manual. Also, counsel has advised us to begin having our administrator certify pension payrolls with oversight from the HPRS Board.

**The HPRS has not elected a chairman from its members. Rather the HPD Chief has served as Chairman, without being elected since he was hired and became a trustee in 1995.**

**HPRS RESPONSE:**

This is not totally accurate. The current Chief was hired in 1995 and was then placed on the HPRS Board as a trustee per statutory guidelines. In January of 1996, the HPRS Board did, in fact, vote to place the Chief in the position of Chairman (ex-officio). Although there was no formal election, the HPRS Board did "vote" on having the Chief in the position of Chairman.

However, we agree this process needed better clarification. We have begun conducting internal elections for both Chairman and Vice-Chairman. The elected positions will be for one-year terms and elections will be held each year at the December meeting.

The process will be included in the HPRS policy and procedural manual and the statute will be amended accordingly in the next legislative session.

**The HPRS Board is not paying interest on refunds of accumulated contributions.**

**RESPONSE:**

This matter came up several times during our research of the various changes to the statute. In discussing this with our legal counsel, we all have concluded the statute is vague on this matter and does not stipulate that interest is to be paid on accumulated contributions.

PAGE EIGHT  
RESPONSE TO REPORT FROM LLA

Your report cites R.S. 11:3682 (1)... "Accumulated contribution" means the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the Annuity Savings Fund together with regular interest thereon as provided in R.S. 11:3688.

However, when reviewing 11:3688, (5) (a) Unless different actuarial assumptions are formally adopted and disclosed, the following assumptions shall be used in determining actuarial equivalents: (i) interest shall be compounded annually at the rate of seven percent per annum.

It is our opinion, and that of our legal consultant, 11:3688 does not specifically refer to interest as it relates to accumulated contributions. No amount of interest has ever been paid by the HPRS to anyone withdrawing their accumulated contributions. Since the statute is vague and not direct on this matter, the HPRS Board does not agree with your interpretation of the statute. However, we do agree that legislation is needed to make this issue clear and stipulate that the HPRS will not pay interest on accumulated contributions. This matter will be included in our proposed legislation for the 2012 legislative session.

**RECOMMENDATION NO. 3:**

**The HPRS Board should comply with all statutory requirements including, but not limited to, establishing a medical board, maintaining all required funds, having the Secretary certify expense vouchers and pension payrolls, and paying interest on refunds of accumulated contributions. If the HPRS Board believes the statute or provision is inconsequential to the proper operation of the system, it should seek legislative relief.**

**HPRS RESPONSE:**

The HPRS agrees that they should be in compliance with statutory requirements. As an update to this recommendation, the medical board was changed to medical advisor in the 2011 legislative session. The four funds were removed in the 2011 legislative session. The Secretary and the Chairman now co-sign and approve all expense vouchers.

However, the HPRS Board and the Board's legal consultant do not agree with your interpretation of the statute pertaining to interest being required on accumulated contributions. The HPRS Board and the Board's legal consultant believe the statute is vague and does not direct the HPRS Board to pay such interest. The HPRS Board will seek to change the statute to make this issue clear.

**LLA: State law does not specifically define the role of the Port as system sponsor of HPRS**

**Recommendation No. 4**

**The Port should request the Legislature to explicitly define the role of the Port as system sponsor of the HPRS**

**HPRS RESPONSE:**

As you noted in footnote 14 on page 11 of your report, changes were made in the 2011 legislation session to include the Port when selecting contractors for the HPRS.

We look forward to any other recommendations to strengthen the role and oversight of the Port.

It is obvious to all of us on the HPRS Board that the Port should have a strong voice in the operations of the HPRS while understanding the independent role of a trustee. We believe this can be accomplished with discussions with Port management and future legislation if necessary.

**Recommendation No. 5**

**Once the Port's responsibilities as HPRS sponsor are explicitly defined in law, the Port should adopt formal policies fully outlining its role in the operations of HPRS.**

**HPRS Response:**

The HPRS Board will defer to the Port for a response; however, will refer to our response to Recommendation No. 4.

**OBJECTIVE NO. 2 Is the HPRS sufficiently funded to pay all retirement obligations?**

**HPRS RESPONSE:**

We have discussed this matter and the LLA valuation report with our actuary and agree that steps are required to rectify the situation. The HPRS Board has begun discussions with the Port to determine the most appropriate course of action to take.

**LLA: The HPRS Board did not ensure that complete and accurate member data was maintained in order to value HPRS's liability as accurately as possible.**

**HPRS RESPONSE**

We agree that the HPRS Board should ensure that it receives a reliable, creditable actuarial valuation on an annual basis to ensure that stakeholders have a clear financial picture of HPRS. In an effort to do so, we have followed our statute by designating an actuary per RS 11:3688 (Administration), and have obtained a professional administrator and have tasked them to maintain accurate records. In addition, the HPRS has an annual audit completed by a professional auditor.

**Recommendation No. 6**

**The HPRS Board should ensure that one source of complete and accurate member data is maintained in convenient form in accordance with R.S. 11:3688 (A) (10)**

**HPRS Response:**

The HPRS Board has hired a professional administrator to work in conjunction with the Port's payroll department. Additionally, the HPRS maintains an actuary and auditor to work in harmony with the process.

The Port's payroll department sends monthly payroll information to the HPRS administrator. Additionally, any personnel changes or other discrepancies found by the HPRS administrator are now brought before the HPRS Board for discussion and approval.

**Recommendation No. 7**

**The HPRS Board should update member files and obtain necessary documents on a real-time basis at consistent, periodic intervals.**

**HPRS RESPONSE:**

The Port's payroll department sends monthly payroll information to the HPRS administrator. Additionally, any personnel changes or other discrepancies found by the HPRS administrator are now brought before the HPRS Board for discussion and approval.

PAGE ELEVEN  
RESPONSE TO REPORT FROM LLA

We agree that the HPRS Board should ensure that it receives a reliable, creditable member data information on a real-time basis to ensure data is concise. In an effort to do so, we have followed our statute by designating a professional administrator and have tasked them to maintain accurate records. In addition, the HPRS has an annual audit completed by a professional auditor.

**Based on legislative auditor's 2010 actuarial valuation, HPRS is currently 55.6 funded**

**HPRS RESPONSE**

All actuarial reports seem to concur on this issue. All parties are working toward a solution.

**Recommendation No. 8: The Port should increase its annual contributions to HPRS to the actuarially required amount or consider the alternatives discussed in Objective No. 3**

**HPRS RESPONSE:**

We agree with your recommendation that if the Port remains as plan sponsor, they will need to increase their annual contributions. Further, the HPRS Board will work with the Port to determine the most appropriate course of action toward stabilizing the fund.

**Objective No. 3 What options are available to the Port of New Orleans for providing retirement benefits to HPD in the future?**

**Option 1. The Port continues to maintain HPRS as a separate retirement system, but the HPRS Board makes necessary improvements to the system's administration makes necessary improvements to its administration.**

**HPRS RESPONSE**

As stated, the HPRS will work with the Port to determine the most appropriate course of action to stabilize the fund. Further, it should be evident that the HPRS has begun making substantial improvements to the system.

**Recommendation No. 9**

**Should the Port choose to continue operating HPRS, it should consider seeking legislative relief to remove the 20% cap on contributions so that each year it can contribute the actuarially required amount.**

**For example, based on our 2010 valuation report, the Port would be required to contribute 94.7% of pay for FY 2011. This would improve the funding ratio of HPRS going forward and would better ensure that benefits could be paid to members as promised.**

**HPRS Response:**

The Port has made its position clear that they are responsible for funding the HPRS. The HPRS Board is prepared to work with the Port to ensure the system is properly funded either through legislation or a possible merger with another system.

**Option 2. The Port requests a merger with MPERS or the LASERS Hazardous Duty Plan**

The HPRS is in support of a merger if that is deemed to be the most appropriate course of action. However, several unique situations will need to be discussed or negotiated on behalf of several HPRS members.

**Option No. 3. The Port liquidates HPRS assets**

Obviously, we are adamantly opposed to this course of action.

**Recommendation No. 10**

**The Port and the HPRS Board should review all options available to provide benefits to its police force and determine what the best action are under the circumstances.**

**HPRS Response:**

The HPRS is in full agreement with this recommendation.

**Appendix C: Additional Background on HPRS**

**INFORMATION:**

**Additional Board resolutions and dates passed:**

Board resolutions:

Jan. 31, 2009--To replace former administrator with Zenith Administrators

**PAGE THIRTEEN  
RESPONSE TO REPORT FROM LLA**

**Dec. 17, 2010--To move all files and records to Zenith Administrators.**

**Jan. 15, 2011--To recalculate all conversion of leave to be based on 2080 hours in a year.**

**Feb. 23, 2011--(Cost cutting measure) To maintain the 50% cut in travel for members for calendar year 2011 keeping the \$2500.00 limit per calendar year.**

**April 21, 2011-- All errors were noted and corrections were done via 2011 legislation. Our auditor has identified a few additional corrections that need to be amended in 2012 legislation.**

**SUMMARY:**

**The current HPRS Board inherited a very difficult situation when the first series of errors was discovered by the HPRS in 2007. A tremendous amount of research was required to identify each and every possible error that may have occurred since the inception of the system in 1971.**

**The HPRS Board accepted the responsibility of finding every error and seeking a method to correct each. The HPRS Board realized in order to expedite this very complicated matter as quickly as possible, additional meetings would be required, not to mention, the inordinate amount of the trustee's own time spent to research statutes and minutes from prior HPRS Board meetings. After four years of work, the HPRS Board achieved their goal.**

**The HPRS Board realizes the LLA report is meant to outline flaws in the system and to provide feedback on improving the system. The HPRS Board certainly appreciates the constructive criticism and the recommendations the LLA offered. However, it is somewhat disheartening to read the entire LLA report and not find any comments about the dedication from this Board and the extra, and at times exhaustive, work the members spent toward correcting 40 years of discrepancies. In fact, there were several occasions when the trustees stopped their work to search for documents the LLA staff needed to complete their report. Further, the members of the LLA staff attended several HPRS Board meetings and observed first-hand the extraordinary and tenuous work that was done on the audit.**

**The HPRS Board believes it is important to note that after a fourteen-month scrutiny and study of the HPRS system, there has not been a hint of any impropriety, mis-spending, misconduct or dishonesty on the part of any current or past trustee. We should at least make a note to applaud the men and women who have served on the HPRS Board as well as those who are currently serving for their high degree of integrity and honesty.**

PAGE FOURTEEN  
RESPONSE TO REPORT FROM LLA

Respectfully submitted,

On behalf of the HPRS Board of Trustees,

A handwritten signature in cursive script, reading "Robert S. Hecker", written in black ink. The signature is positioned above a horizontal line.

Robert S. Hecker  
Chairman, HPRS

cc: HPRS Board of Trustees  
Linda Stern, HPRS Administrator  
R. Randall Roche, HPRS Legal Consultant  
Becky Hammond, HPRS Auditor  
Mike Conefry, HPRS Actuary  
Pat, Gallwey, COO, Port of New Orleans  
Mike Orlesh, Counsel, Port of New Orleans  
Paul Zimmermann, Director of Operations, Port of New Orleans



Louisiana Legislative Auditor  
Performance Audit Division

Checklist for Audit Recommendations

**Instructions to Audited Agency:** Please check the appropriate box below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATIONS	AGREE	DISAGREE
<p><b>Recommendation 1:</b> The HPRS Board should adopt comprehensive policies and procedures that provide a framework for managing and operating HPRS. The policies should address, but not be limited to, benefit calculations, membership eligibility, contracting, trustee training, ethics, succession planning, and monitoring. (p. 9 of the report)</p>	✓	
<p><b>Recommendation 2:</b> The HPRS Board should ensure that all contracts contain the necessary provisions to protect the best interests of the HPRS Board and all HPRS members. (p. 9 of the report)</p>	✓	
<p><b>Recommendation 3:</b> The HPRS Board should comply with all statutory requirements including, but not limited to, establishing a medical board, maintaining all required funds, having the Secretary certify expense vouchers and pension payrolls, and paying interest on refunds of accumulated contributions. If the HPRS Board believes the statute or provision is inconsequential to the proper operation of the system, it should seek legislative relief. (p. 10 of the report)</p>	✓ *	
<p><b>Recommendation 6:</b> The HPRS Board should ensure that one source of complete and accurate member data is maintained in convenient form in accordance with R.S. 11:3688(A)(10). (p. 12 of the report)</p>	✓	
<p><b>Recommendation 7:</b> The HPRS Board should update member files and obtain necessary documents on a real-time basis or at least at consistent, periodic intervals. (p. 12 of the report)</p>	✓	

\* It is our opinion, and that of our legal consultant, 11:3688 does not specifically refer to interest as it relates to accumulated contributions. No amount of interest has ever been paid by the HPRS to anyone withdrawing their accumulated contributions. Since the statute is vague and not direct on this matter, the HPRS Board does not agree with your interpretation of the statute. However, we do agree that legislation is needed to make this issue clear and stipulate that the HPRS will not pay interest on accumulated contributions. This matter will be included in our proposed legislation for the 2012 legislative session.

**APPENDIX B: PORT OF NEW ORLEANS' RESPONSE**



January 6, 2011

GARY P. LAGRANGE, PPM  
President and Chief  
Executive Officer

Mr. Patrick W. Goldsmith, CIA, CGAP, MPA  
Assistant Legislative Auditor and  
Director of Performance Audit and Actuarial Services  
1600 North Third Street  
Baton Rouge, LA 70804-9397

Dear Mr. Goldsmith:

We thank you for the edits that the Port proposed and that you have incorporated into the Audit Report for the Harbor Police Retirement System (HPRS). There are still some areas of concern for us as stated below.

One of our most significant concerns is the continued reference to the Port's fiduciary responsibility on pages four and ten of the draft. As argued in our original comments, the Port is limited by current legislation to the appointment of two members to the HPRS Board and employer contributions not to exceed 20% annually. The Port has no statutory authority to administer the HPRS plan and thus has no fiduciary responsibility. We strongly reiterate our request that any reference to the Port's fiduciary responsibility be deleted from the report.

As discussed in our previous meeting, we disagree with the assumptions regarding Cost of Living Adjustment (COLA) benefits as provided on page thirteen. COLA's in the past were approved only when it was believed that the plan was near 100% funded. We request that this assumption be removed or at a minimum adjusted to a less aggressive outlook.

In the exhibit on page 5, we think the fees of all investment managers should be included. The investment managers that deduct their fees from investment income are not in this table.

Further, related to the Actuarial Report, we were advised that the document was not re-edited. However, there are certain edits we believe should be made to this valuation -

- The COLA calculation - as discussed above.
- Page 19 second paragraph, last sentence - the financial statement date should be changed to June 30, 2012.
- Page 48, last box - appears "maker" should be "market."
- Page 51, first bullet point - seems to be an additional "all" in the text.

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

Post Office Box 60046 \* New Orleans, Louisiana 70160 \* Tel: 504-528-3203 \* Fax: 504-528-3397

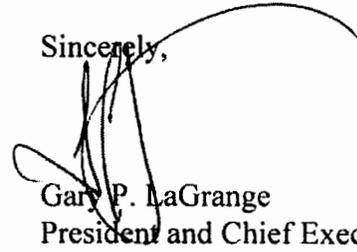
B.1

- Page 72, second sentence under "Individual Issues, etc." - appears to be an extra word "the" in the sentence.

The Port believes there are a number of other issues that we have identified in the Actuarial Report, which relate to calculations of errors, that according to the HPRS Board were previously resolved. The HPRS Board indicated that sufficient documentation was provided to the LLA to resolve these issues. If the resolution of these issues was recognized in your analysis, we believe that the system's unfunded liability would be further reduced. In the interest of time and to move forward to a resolution of the problems that have been discovered, we will not belabor those points already brought to your attention. The Port will press for the inclusion of these corrections in any future actuarial valuation or discussion of overall liability.

Thank you again for your significant efforts in assisting the Port and HPRS with this analysis. We await your response to the above.

Sincerely,



Gary P. LaGrange  
President and Chief Executive Officer



Louisiana Legislative Auditor  
Performance Audit Division

Checklist for Audit Recommendations

**Instructions to Audited Agency:** Please check the appropriate box below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATIONS	AGREE	DISAGREE
<p><b>Recommendation 4:</b> The Port should request the Legislature to explicitly define its role as HPRS sponsor. Once the Port receives specific guidance from the Legislature, the Port should draft a governance manual that outlines its statutory responsibilities regarding HPRS. (p. 10 of the report)</p>	x	
<p><b>Recommendation 5:</b> Once the Port's responsibilities as HPRS sponsor are explicitly defined in law, the Port should adopt formal policies fully outlining its role in the operations of HPRS. (p. 11 of the report)</p>	x	
<p><b>Recommendation 8:</b> The Port should increase its annual contributions to HPRS to the actuarially required amount or consider the alternatives discussed in Objective 3. (p. 13 of the report)</p>		x
<p><b>Recommendation 9:</b> Should the Port choose to continue operating HPRS, it should consider seeking legislative relief to remove the 20% cap on contributions so that each year it can contribute the actuarially required amount. For example, based on our 2010 valuation report, the Port would be required to contribute 94.7% of pay for FY 2011. This would improve the funding ratio of HPRS going forward and would better ensure that benefits could be paid to members as promised. (p. 14 of the report)</p>		x
<p><b>Recommendation 10:</b> The Port and the HPRS Board should review all options available to provide benefits to its police force and determine what the best actions are under the circumstances. (p. 16 of the report)</p>	x	

## APPENDIX C: ADDITIONAL BACKGROUND ON HPRS

**Overview and Legal Authority.** The Harbor Police Department (HPD) is part of the Port of New Orleans (Port). The HPD’s mission is to ensure the safe, secure, and efficient flow of cargo and cruise passengers, and a safe, secure working environment for Port tenants, workers, and visitors throughout the jurisdiction of the Port of New Orleans. In 1971, the Port’s governing body, the Board of Commissioners (Dock Board), sponsored legislation to create a new retirement system as a recruiting incentive exclusively for the Port’s HPD personnel. R.S. 11:3681 established the Harbor Police Retirement System (HPRS) as a defined benefit plan to provide retirement allowances and other benefits for the commissioned members of the HPD. The HPRS Board of Trustees (HPRS Board) is responsible for the proper operation of the system.

<b>Exhibit 4</b>		
<b>Composition of the HPRS Board of Trustees</b>		
<b>Number of Trustees</b>	<b>Selection Method</b>	<b>Term Length</b>
2	Two members of the system with 10 or more years of creditable service that are elected by a vote of the members.	5 years
2	Two members of the executive staff of the Port of New Orleans who are appointed by the Dock Board.	3 years
1	One retiree of HPD who is elected by the retirees of the system.	3 years
1	The Superintendent/Chief of HPD is an ex-officio member of the HPRS Board.	No term specified
1	The elected Secretary is an ex-officio member of the HPRS Board.	No term specified
1	The seven members shall select the eighth member who cannot be a member of the Dock Board and who shall be experienced in investing money.	2 years
<b>8</b>	<b>Total</b>	

**Source:** Prepared by legislative auditor’s staff using R.S. 11:3688.

## APPENDIX D: AUDIT INITIATION, SCOPE, AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We conducted this audit in response to a request by the HPRS sponsor, the Port of New Orleans. Our audit focused on providing the Port of New Orleans and HPRS with recommendations that could provide them with a sound basis for making decisions regarding revisions or alterations to the current system. Primarily, we focused on the management practices of HPRS and the administration of HPRS funds. Our audit scope covered January 1, 2008 through August 15, 2010. In addition, we reviewed benefit calculation errors from August 1, 1971 through November 9, 2010. The audit objectives were to answer the following questions:

1. Have the HPRS Board and the Port efficiently and effectively administered HPRS?
2. Is HPRS sufficiently funded to pay all retirement obligations?
3. What options are available to the Port of New Orleans for providing retirement benefits to HPD in the future?

We conducted this performance audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. To answer our objectives, we reviewed internal controls relevant to the audit objectives and performed the following audit procedures:

- Researched state law and other internal reports to understand the legal authority, responsibilities, organizational structure, goals and objectives of HPD and HPRS.
- Interviewed key personnel within HPRS, Port of New Orleans, and HPD including interviews with HPRS trustees and several HPRS contractors.
- Obtained a legal opinion from LLA general counsel on the activities and responsibilities of HPRS trustees and Port of New Orleans.
- Assessed controls over the HPRS benefit data system maintained by Zenith administration, obtained related documentation, and tested the reliability of the beneficiary and survivor data, specifically data related to the payment of benefits.
- Obtained any policies and procedures for documenting eligibility and calculating benefit payments and also obtained any policies and procedures related to HPRS, Port of New Orleans, Port of New Orleans Board of Commissioners (Dock Board), Zenith, HPRS Board of Trustees, and those of any contractors.

- Conducted file reviews to determine the accuracy of membership and eligibility of those enrolled in HPRS; compared the files maintained by Zenith with those maintained by the Port of New Orleans to ensure completeness and accuracy.
- Researched best practices for areas mentioned in our report.
- Reviewed contracts between HPRS and other entities specifically related to the handling and administration of HPRS benefits.
- Evaluated HPRS related invoices and bank statements to determine HPRS' administrative expenses.
- Obtained a valuation from LLA actuarial staff to determine the extent of how under/over stated the accrued liability is of the HPRS. LLA's actuarial staff conducted research, reviewed data, and applied actuarial principles to provide an actuarial valuation to the audit team regarding HPRS's funding and potential future options for providing retirement benefits. This valuation report was issued separately from this report in January 2012.