

PROPERTY INSURANCE ASSOCIATION
OF LOUISIANA -
PUBLIC ENTITY SUBJECT TO
VARIOUS STATE LAWS



INFORMATION REPORT

ISSUED SEPTEMBER 12, 2007

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
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BATON ROUGE, LOUISIANA 70804-9397**

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September 12, 2007

**THE HONORABLE DONALD E. HINES,
PRESIDENT OF THE SENATE
THE HONORABLE JOE R. SALTER,
SPEAKER OF THE HOUSE OF REPRESENTATIVES**

Dear Senator Hines and Representative Salter:

This report provides the results of our study of whether the Property Insurance Association of Louisiana (PIAL) is a public entity. This report also analyzes whether PIAL must comply with various state laws, such as the ethics code, civil service laws, open meetings law, audit law, public bid law, professional services procurement law, procurement code, and the public records law.

I hope this report will benefit you in your legislative decision-making process.

Sincerely,

Steve J. Theriot, CPA
Legislative Auditor

SJT/dl

PIAL07

Office of Legislative Auditor

Steve J. Theriot, CPA, Legislative Auditor



Property Insurance Association of Louisiana - Public Entity Subject to Various State Laws

September 2007

Audit Control # 40070016

IS THE PROPERTY INSURANCE ASSOCIATION OF LOUISIANA (PIAL) A PUBLIC ENTITY?

IF PIAL IS A PUBLIC ENTITY, IS IT SUBJECT TO VARIOUS STATE LAWS?

Summary

We reviewed state law, organizational documents, and other documents related to whether the Property Insurance Association of Louisiana (PIAL) is a public entity. The evidence we examined suggests that PIAL is a public entity, using the four-factor test established by the Louisiana Supreme Court in *State v. Smith*, 357 So.2d 505 (La. 1978).

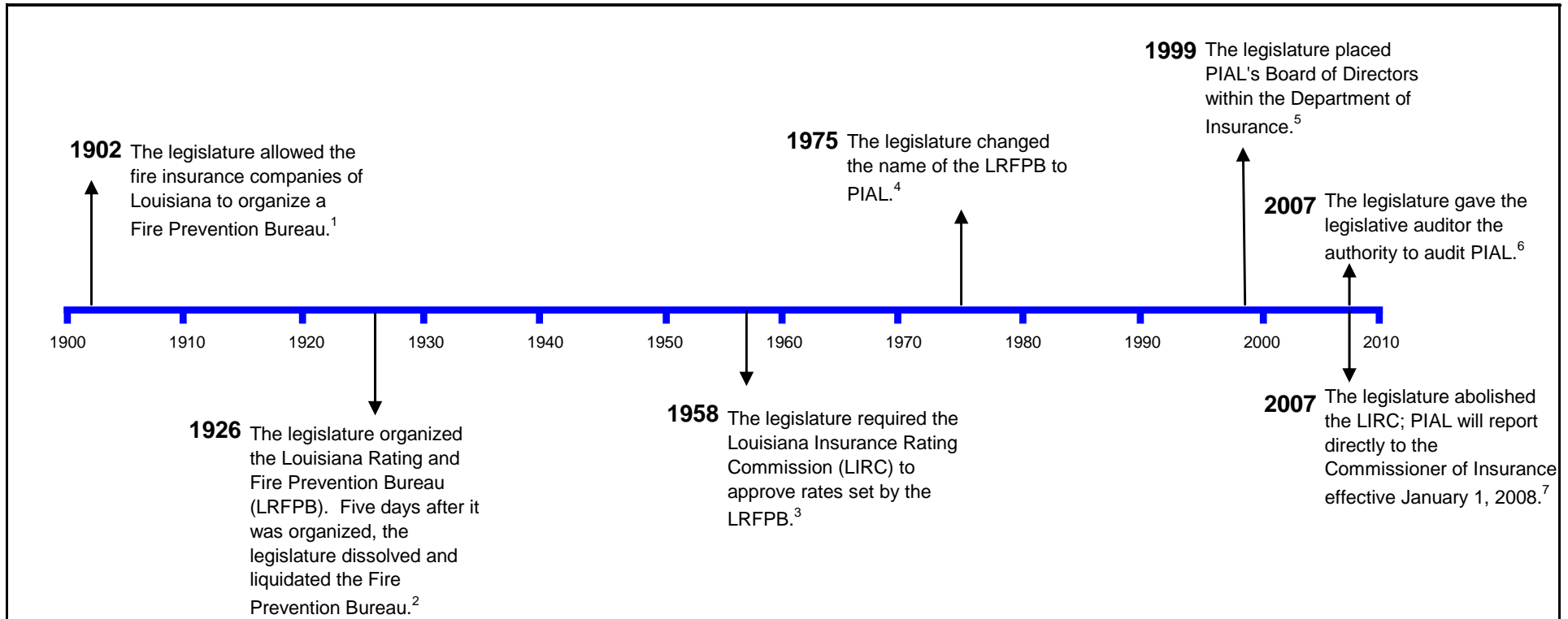
We also reviewed acts, revised statutes, court decisions, and other related documents regarding whether PIAL is subject to various state laws. The laws we focused on are the state ethics code, civil service laws, open meetings law, audit law, public bid law, professional services procurement law, procurement code, and public records law. Evidence exists to support that PIAL is subject to the following state laws:

- Ethics Code
- Civil Service Laws
- Open Meetings Law
- Audit Law
- Public Bid Law, Professional Services Procurement Law, and Procurement Code

PIAL is expressly exempt from the public records law by Louisiana Revised Statute (R.S.) 22:1405(D)(1). Only public bodies are subject to the public records law. The exemption, therefore, suggests that PIAL is a public body. Without the exemption, PIAL could be subject to the public records law.

Exhibit 1 on the following page shows the chronology of legislative mandates for PIAL. Our detailed discussion follows.

Exhibit 1
Legislative Chronology of PIAL and Its Predecessor Entities



Footnotes:

¹Acts 1902, No. 183

⁴Acts 1975, No. 311

⁷Acts 2007, No. 459

²Acts 1926, No. 302

⁵Acts 1999, No. 885

³Acts 1958, No. 125

⁶Acts 2007, No. 420

Source: Prepared by legislative auditor's staff using Acts of the legislature.

Overview: Property Insurance Association of Louisiana

PIAL was created by the legislature. Its original name was the Louisiana Rating and Fire Prevention Bureau (LRFPB). The LRFPB was organized by Act 302 in 1926. In 1975, the legislature changed LRFPB's name to PIAL through Act 311.

According to R.S. 22:1405(D)(10), one of PIAL's duties is to engage in activities to encourage and promote programs, legislation, and regulations calculated to produce and maintain a healthy property insurance market for the benefit of the insuring public in Louisiana. As a general rule, every insurance company authorized to write fire insurance in Louisiana must adhere to rates promulgated by PIAL and approved by the Louisiana Insurance Rating Commission (LIRC). In addition, every insurance company that is licensed and authorized to write fire insurance in Louisiana must belong to PIAL. PIAL's operating expenses are paid by its members and the subscribers to its services through assessments PIAL levies upon them.

Factors That Determine a Public Entity

The Louisiana Supreme Court, in *State v. Smith*, 357 So.2d 505 (La. 1978), established a four-factor test to determine if an agency or body is a public entity. This four-factor test has been cited in several subsequent cases. In *State v. Smith*, the Supreme Court stated:

The following factors were considered in finding an entity to be a state or public agency or in finding an individual to be a state or public officer:

- (1) The entity was created by the legislature;
- (2) The powers were specifically defined by the legislature;
- (3) The property of the entity belonged to the public; and
- (4) The entity's functions were exclusively of a public character and performed solely for the public benefit.

A weighing of the factors will determine whether the entity may be a public entity. A public entity is one that is generally subject to all public laws. Public entities typically are a creation of the constitution or legislature, fulfill a public purpose for the public benefit, and own public property.

Is PIAL a Public Entity Under the Four-Factor Test?

Using the four *State v. Smith* factors, evidence suggests that PIAL is a public entity that is subject to various state laws. We applied each of the factors to PIAL. Our results are summarized in the following sections.

Factor 1: The entity was created by the legislature.

Our review of the acts and revised statutes shows that the legislature first mentioned a predecessor to PIAL in 1902 (Act 183). That act provided that “it shall be lawful for the Fire Insurance Companies regularly licensed and authorized to do business in this State, to organize a Fire Prevention Bureau . . .” In 1926 (Act 302), the legislature organized the Louisiana Rating and Fire Prevention Bureau (LRFPB). This act provided that five days after the LRFPB was organized, the Fire Prevention Bureau was to be dissolved and liquidated. Any remaining assets of the Fire Prevention Bureau were to be transferred to LRFPB, and the LRFPB was to assume all outstanding liabilities of the Fire Prevention Bureau. Because Act 302 dissolved and liquidated the Fire Prevention Bureau after the LRFPB was created, the LRFPB was a new legal entity created by the legislature, not a continuation of the Fire Prevention Bureau. In 1975 (Act 311), the legislature changed the name of LRFPB to PIAL.

In summary, the legislature created the entity that is currently named PIAL in 1926 through Act 302. That act created the LRFPB, which the legislature renamed PIAL in 1975. The timeline in Exhibit 1 on page 2 shows the legislative changes to PIAL and its predecessor entities. Those legislative acts suggest that PIAL satisfies the “created by the legislature” factor.

Factor 2: The entity’s powers were specifically defined by the legislature.

PIAL has significant statutorily given powers and duties. Its powers and duties are provided in R.S. 22:1405(D)(1) - (10). They include the following:

- Inspecting properties for fire hazards
- Making rates on fire and extended coverage insurance
- Surveying municipal areas for public fire protection grading
- Filing fire insurance rating schedules with the LIRC
- Reviewing building plans and fire suppression system plans

These public duties are PIAL’s responsibilities by law. Many of these statutory duties are repeated in PIAL’s constitution. Because PIAL is a legislative creation, it must function within its legislative parameters, in accord with the courts’ reasoning in *Louisiana Insurance Guaranty Association v. Gegenheimer*¹ and *Louisiana Insurance Guaranty Association v. Commission on Ethics for Public Employees*.² PIAL is not authorized to act in any manner inconsistent with the powers expressly granted to it.

¹ *Louisiana Insurance Guaranty Association v. Gegenheimer*, 93-3021 636 So.2d 209 (La. 4/21/94) at 210.

² *Louisiana Insurance Guaranty Association v. Commission on Ethics for Public Employees*, 656 So.2d 670 (La. App. 1 Cir. 5/5/95).

PUBLIC ENTITY SUBJECT TO VARIOUS STATE LAWS

In summary, the statutory powers and duties given to PIAL by the legislature suggest that PIAL satisfies the second factor.

Factor 3: Property of the entity belonged to the public.

A large portion of PIAL's revenue is derived through a mandate in state law and from a contract with a public entity. R.S. 22:1405(B)(1) requires every insurance company with a license to write fire insurance to be a member of PIAL. R.S. 22:1405(E)(1) further requires each member to be assessed membership fees. PIAL's expenses are paid from these assessments. According to PIAL's 2005 federal tax return (the most recent available), membership dues and assessments for the year totaled over \$3 million. This amount is almost 24% of PIAL's total revenue.

In addition, more than \$7.6 million (almost 58%) of PIAL's 2005 revenue was earned from Louisiana Citizens Property Insurance Corporation (Citizens). PIAL has a contract with Citizens to provide administrative services. Citizens is a public body; thus, another 58% of PIAL's revenue came from a public entity.³ In total, at least 82% of PIAL's 2005 revenue was derived from legislatively mandated dues and assessments and a contract with a public entity. Exhibit 2 shows PIAL's 2005 revenue sources.

Exhibit 2 PIAL's Revenue Sources Year Ended December 31, 2005		
Source of Revenue	Amount of Revenue	Percentage of Total Revenue
Membership Dues and Assessments	\$3,135,078	23.83%
Program Service Revenue:		
Louisiana Joint Reinsurance Plan	769,184	5.85%
Louisiana Insurance Underwriting Plan	93,494	.71%
Louisiana Auto Insurance Plan	246,469	1.87%
Louisiana Citizens Property Insurance Corporation	7,631,554	57.99%
Inspections	1,175,257	8.93%
Other Revenue	108,182	.82%
TOTAL	\$13,159,218	100.00%
Source: Prepared by legislative auditor's staff using PIAL's 2005 federal tax return (Form 990).		

In summary, PIAL's revenue is derived primarily from sources that are mandated by law and from at least one public entity. In addition, some of the revenues earned from a public entity (e.g., Citizens) and placed under the control of PIAL are significant. These revenue sources and PIAL's management responsibilities suggest that PIAL satisfies the third factor.

³ We did not determine if PIAL's other sources of revenue constitute public sources.

Factor 4: The entity's functions were exclusively of a public character and performed solely for the public benefit.

All of PIAL's powers and duties are provided for by statute and serve a public purpose. As enumerated by the legislature in R.S. 22:1405(D)(1) - (10), one of PIAL's functions is to set fire insurance rates. The legislature recognized the substantial public importance of this responsibility in R.S. 22:1402. This statute states in pertinent part:

. . . to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this Part. (Emphasis added.)

Another of PIAL's powers and duties is included in R.S. 22:1405(D)(10). This statute provides in pertinent part:

To perform such functions, to engage in such activities, to employ personnel, consultants, and counsel, and to acquire equipment and facilities adequate to exercise the powers and duties authorized by law in order to **encourage and promote programs, legislation, and regulations calculated to produce and maintain a healthy and competitive property insurance market in Louisiana for the benefit of the insuring public.** (Emphasis added.)

PIAL's constitution (dated October 2000) mirrors the statutory authority granted by the legislature. The constitution does not describe any private functions or duties. Instead, all of the functions and duties included in the constitution are of a public nature.

PIAL's 2005 federal tax return contains statements concerning the relationship of its activities to the accomplishment of its tax-exempt purpose. The tax return states, "The Property Insurance Association of Louisiana is exempt under Section 501(c)(6) and operates to establish and improve the property insurance ratings as set in the state of Louisiana." It further states, "The association strives to improve the insurance environment as it operates within the state of Louisiana and to promote growth within the state." These statements indicate that PIAL's functions are performed for the public benefit.

In addition to the express statutory statements that address the public functions of PIAL, PIAL and its directors, employees, and staff are exempt by statute from any liability relating to the performance of their duties. This type of exemption or indemnification is typically only given to public employees, related to the performance of their statutory duties. R.S. 22:1405(H) provides in pertinent part:

There shall be **no liability** on the part of and no cause of action of any nature shall arise **against the Property Insurance Association of Louisiana or any of its officers, directors, or employees, or against any of its members for any inspections, audits or other statutory duties performed hereunder** or any statements made in good faith by them in any reports or communications concerning risks submitted to the association, or

PUBLIC ENTITY SUBJECT TO VARIOUS STATE LAWS

at any administrative hearing conducted in connection therewith under the provisions of this Part. (Emphasis added.)

This PIAL provision is very similar to the indemnification of public employees. R.S. 13:5108.1(A)(1) covers indemnification of public employees. That statute provides in pertinent part:

The state shall defend and indemnify a covered individual against any claim, demand, suit, complaint or petition seeking damages filed in any court over alleged negligence or other act by the individual, including any demand under any federal statute when the act that forms the basis of the cause of action took place while the individual was engaged in the performance of the duties of the individual's office or employment with the state.

This provision entitles a public employee to a legal defense provided by the state unless the individual was acting outside the course and scope of employment. PIAL's exemption from liability, similar to the indemnification provision found in R.S. 13:5108.1, is another indication that PIAL may be a public entity.

In summary, the evidence suggests that PIAL functions exclusively to serve the public benefit and thus satisfies the fourth factor.

If PIAL Is a Public Entity, Is It Subject to Various State Laws?

As previously discussed, evidence indicates that PIAL is a public entity under the four-factor test of *State v. Smith*. If so, PIAL is subject to various state laws. The evidence suggests that PIAL is subject to the following laws:

1. Ethics Code
2. Civil Service Laws
3. Open Meetings Law
4. Audit Law
5. Public Bid Law, Professional Services Procurement Law, and Procurement Code

PIAL is expressly exempt from the public records law by R.S. 22:1405(D)(1). Only public bodies are subject to the public records law. The exemption, therefore, suggests that PIAL is a public body. Without the exemption, PIAL could be subject to the public records law.

Each area of law is discussed separately in the following sections.

1. Ethics Code

Based on the First Circuit Court of Appeal's decisions in the Louisiana Insurance Guaranty Association (LIGA) and City of Baton Rouge cases (discussed below), PIAL may be subject to the state ethics code. The Ethics Code defines "agency" in R.S. 42:1102(2)(a) to mean a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity. R.S. 42:1102 defines "governmental entity" to mean the state or any political subdivision which employs the public employee or employed the former public employee or to which the elected official is elected, as the case may be.

A case that supports the premise that PIAL is subject to the Ethics Code is *Louisiana Insurance Guaranty Association v. Commission on Ethics for Public Employees*, 656 So.2d 670 (La. App. 1 Cir. 5/5/95). In this case, the court decided that LIGA was a state or public agency subject to the ethics code despite specific statutory language to the contrary. The court based its decision on the four factors set out in the state Supreme Court decision, *State v. Smith*. In its analysis, the court concluded that LIGA was a state or public agency subject to the Ethics Code. The court stated the following in its opinion:

LIGA was created by the legislature, which specifically defined its powers, and is subject to regulation and oversight by the Commissioner of Insurance and the Senate and House committees on insurance. LIGA's property, which is derived from **mandatory assessments** upon all insurers operating in this state, entitles the member insurers to tax credits, and all remaining funds are transferred into the state general fund. Moreover, **LIGA functions are of a public character exclusively and are performed solely for the public benefit.** Because LIGA is a state or public agency within the contemplation of the Ethics Code, its board of directors, staff, and contract employees are also **subject to the Ethics Code.** (Emphasis added.)

Several parallels exist between LIGA and PIAL. Similar to the facts presented in the LIGA case, PIAL was created by the legislature. In addition, the legislature enumerated PIAL's public purposes, which solely serve the public. Finally, PIAL is subject to the oversight of the LIRC.

Another case provides further support that PIAL may be subject to the Ethics Code. In *City of Baton Rouge, et al v. Commission on Ethics for Public Employees*, 655 So.2d 457 (La. App. 1 Cir. 5/5/95), the appellate court decided that the city's retirement system board members were public employees who are subject to the Ethics Code. The court examined the function of the board and found the following:

The Board was **created by ordinance** in accordance with the City-Parish plan of government. The **sole purpose of the Board is to administer the City-Parish retirement system.** In administering the system, the Board enforces and makes effective the provisions established by the Metropolitan Council. Furthermore, the Board is **accountable to the council through mandatory annual audit reports.** Considering these factors, we conclude that the Board is a political subdivision of the City-Parish government whose sole governmental function is to administer the employee retirement

system. It follows that the Board is a “governmental entity” within the meaning of the Code of Governmental Ethics. (Emphasis added.)

Similar to the city retirement board, PIAL is subject to oversight and review by the LIRC. Act 125 of 1958 required the LIRC to review and approve the rates that PIAL promulgates [see R.S. 22:1405(A) and (C)]. PIAL also had to file certain documents (e.g., its constitution, by-laws, list of members and subscribers) with the LIRC to be licensed as a rating organization, pursuant to R.S. 22:1409(A). Any amendments or changes to these documents must be filed with the LIRC.⁴

Based on the court’s decisions in the LIGA and City of Baton Rouge cases, PIAL may be subject to the Ethics Code. Both of these court decisions emphasize that the entity was created by statute, as was PIAL. In addition, they both stress that the entities are responsible for significant public, regulatory functions required by statute, as is PIAL.

2. Civil Service Laws

Based on R.S. 36:686, R.S. 36:801.1, and the *Polk v. Edwards* case, PIAL may be subject to the state civil service law. PIAL’s Board of Directors was one of the agencies placed under the Department of Insurance (DOI) by Act 885 of 1999 (see R.S. 36:686). R.S. 36:686(A) states that the transferred agencies, including PIAL, “. . . shall exercise their powers, duties, functions, and responsibilities in the manner provided in R.S. 36:801.1.” R.S. 36:801.1 provides that the transferred agencies shall continue to exercise the powers granted by state law or the Constitution. R.S. 36:801.1(C) says that transferred agencies shall continue to employ, appoint, remove, assign, and promote such personnel necessary for the efficient administration of programs in accordance with applicable civil service laws, rules, and regulations.

The significance of the placement of PIAL’s Board of Directors under the DOI is reinforced by our analysis of the state Supreme Court’s decision in *Polk v. Edwards*, 626 So.2d 1128 (La. 1993). This case concerned whether an entity was an agency or instrumentality of the state. The court found that the Casino Corporation was an instrumentality of the state and was subject to the provisions of the civil service system. The court made this decision despite the fact that the law authorizing the Casino Corporation said that the entity was not a state agency, except for the ethics code. The court ignored the express language of the statute and determined that the corporation was a state agency. In its opinion, the court included the following pertinent statements:

It has been held that such **broad regulatory powers could not be delegated to a private or non-governmental agency.**

⁴ Act 459 of the 2007 Regular Session abolished the LIRC. The act transferred LIRC’s powers and duties to the Commissioner of Insurance. Act 459 will become effective on January 1, 2008. Therefore, beginning in 2008, PIAL will report directly to the Commissioner of Insurance.

After considering its **powers and functions**, as well as its **interrelationship with the state in many areas**, we find that the Casino Corporation is **an instrumentality of the state and is subject to the provisions of the civil service system**. The Casino Corporation does not enjoy an existence separate from the state. It does not independently transact its business and hire its personnel. Furthermore, **its actions determine the progress of the gaming industry, which the legislature has designed to assist the growth of tourism and generate revenue as a benefit to the general welfare**. To treat this legislative entity as a nongovernmental agency outside of the civil service system would effectively emasculate the constitutional provision, which mandates civil service for “all persons holding offices and positions of trust or employment in the employ of . . . any instrumentality” of the state. (Emphasis added.)

Similar to the Casino Corporation, PIAL exercises important regulatory powers and duties. These powers and duties include setting fire insurance rates, which must be approved by the LIRC (or the Commissioner of Insurance beginning in 2008). Based on the transfer of PIAL’s Board of Directors to the DOI in R.S. 36:686 and the *Polk v. Edwards* case, PIAL may be subject to the state civil service law.

3. Open Meetings Law

A recent Attorney General’s opinion and a case involving the Louisiana High School Athletics Association (LHSAA) provide evidence that PIAL may be subject to the open meetings law. The Attorney General stated in Opinion No. 07-0166:

In consideration of the liberal construction mandated for the Open Meetings Law by R.S. 42:4.1, and due to the public purpose for which PIAL was continued by the legislature, and the policy making, administrative and advisory functions performed by PIAL, it is our opinion that PIAL is a public body for purposes of the Open Meetings Law.

This opinion is consistent with the Louisiana Supreme Court’s decision in *Spain v. Louisiana High School Athletic Association*, 398 So.2d 1386 (La. 1981). In that case, the court found that the LHSAA was a public body under the open meetings law. Some of the factors considered by the court in determining that the association was subject to the open meetings law included its statutory creation, its receipt of public funds, and its public purpose.

Attorney General Opinion No. 07-0166 and the *LHSAA* case suggest that PIAL may be a public body under R.S. 42:4.2(A)(2) and therefore subject to the open meetings law.

4. Audit Law

The Legislative Auditor was given express authority to examine, audit, or review the books and accounts of PIAL by Act 420 of the 2007 Regular Legislative Session [see R.S. 22:1405(K)]. This act became effective August 15, 2007. The same act subjects PIAL to examination by the Legislative Auditor when PIAL serves as a third-party administrator to Citizens. R.S. 22:1405(K) states the following:

The legislative auditor shall have authority to compile financial statements and to examine, audit, or review the books and accounts of the Property Insurance Association of Louisiana and the Louisiana Automobile Insurance Plan. In addition to the authority granted above, the legislative auditor shall have access to and be permitted to examine all paper, books, accounts, records, files, instruments, documents, films, tapes, and any other forms of recordation of the Property Insurance Association of Louisiana and the Louisiana Automobile Insurance Plan, including but not limited to computers and recording devices, and all software and hardware which hold data, are part of the technical processes leading up to the retention of data, or are part of the security system. The legislative auditor shall also have access to and be permitted to examine all paper, books, accounts, records, files, instruments, documents, films, tapes, and any other third-party administrator or contractor, whether public or private, of the Louisiana Citizens Property Insurance Corporation where such information is related to the work performed by the third-party administrator or contractor for the Louisiana Citizens Property Insurance Corporation. (Emphasis added.)

Before the 2007 act, a more general statutory provision suggested that PIAL was subject to review by the Legislative Auditor as a quasi public entity as defined in R.S. 24:513(A)(1)(b)(i)-(iv). Part (i) of this definition is relevant to the question of whether PIAL is subject to the state audit law. That part of the law states the following:

For the sole purpose of this Subsection, a **quasi public agency or body** is defined as:

(i) An organization, either not for profit or for profit, **created by the state of Louisiana** or any political subdivision or agency thereof, any special district or authority, or unit of local government **to perform a public purpose**. (Emphasis added.)

As a result of Act 420 of the 2007 Regular Session, PIAL is subject to the state audit law effective August 15, 2007. PIAL may have been subject to the law in effect before enactment of Act 420, as well. As stated earlier, PIAL was created by the legislature and performs a public purpose; therefore, it may be considered a quasi public body.

5. Public Bid Law, Professional Services Procurement Law, and Procurement Code

As discussed on pages 9-10, PIAL's Board of Directors was placed under the DOI in R.S. 36:686. Its placement under a state department makes PIAL's board similar to a unit or division of an executive branch agency. As part of an executive branch agency, PIAL's board is arguably subject to various state laws. These laws include the public bid law, professional services procurement law, and the procurement code.

In addition to the board's placement under the DOI, PIAL was created by statute. The Public Bid Law (also referred to as the Public Contract Law) defines "public entity" in R.S. 38:2211(A)(11). It states the following:

“Public entity” means and includes the state of Louisiana, or **any agency, board, commission, department, or public corporation of the state, created by the constitution or statute** or pursuant thereto, or any political subdivision of the state, including but not limited to any political subdivision as defined in Article VI, Section 44 of the Constitution of Louisiana, and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. "Public entity" shall not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model procurement code. (Emphasis added.)

A parallel may be drawn from an Attorney General opinion concerning a parish council on aging. In this opinion (No. 84-667), the Attorney General examined whether the council would be subject to the public bid law. The Attorney General opined that such an agency would constitute a public entity because it was created pursuant to a statute and was therefore subject to the public bid law.

The transfer of PIAL’s Board of Directors to the DOI by Act 885 of 1999, the definition of public entity in R.S. 38:2211(A)(11), and Attorney General Opinion No. 84-667, suggest that PIAL may be subject to the public bid law (R.S. 38:2211, et seq.). Furthermore, PIAL may also be subject to the professional services procurement law (R.S. 38:2310, et seq.) and the state procurement code (R.S. 39:1551, et seq.).

6. Public Records Law

PIAL is specifically exempt from the public records law by R.S. 22:1405(D)(1). The exemption from the public records law in itself, however, suggests that PIAL is a public body that requires the protection of the legislature from public records requests. This analogy suggests that PIAL would be a public entity that is subject to the public records law if it were not for the exemption.

Summary

In summary, the evidence suggests that PIAL is a public entity that is subject to the state ethics code, civil service laws, open meetings law, audit law, public bid law, professional services procurement law, and procurement code. The evidence also suggests that PIAL would be subject to the public records law if it were not specifically exempted in the statutes.

Management's Response

According to the chair of PIAL's Board of Directors, Dr. Christine Berry, this response prepared by PIAL's attorney reflects the views of PIAL's Board of Directors.

Middleberg Riddle & Gianna

A.J. Herbert III

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September 5, 2007

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Re: Property Insurance Association of Louisiana
Our File No.: 5298-0008

Dear Mr. Theriot:

The undersigned serves as counsel to the Property Insurance Association of Louisiana ("PIAL").

The following is submitted in response to your August 6, 2007 draft "information report" on the legal status of PIAL. On behalf of the Board of Directors of PIAL, thank you for your courtesy in extending the original response date of this comment letter.

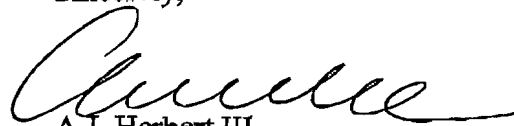
The Board of Directors of PIAL met on August 20, 2007 to consider the conclusions reached in your report. The undersigned, and a portion of the Board of Directors of PIAL, disagrees with several of the factual and legal conclusions set forth in the "information report." Moreover, given Commissioner of Insurance Jim Donelon's announcement of his intention to submit legislation at the next session to dissolve PIAL, it is imperative that certainty in critical issues relating to PIAL's status be resolved as part of any dissolution. For example, if PIAL is subject to Civil Service, how are PIAL employees to be transferred to Citizens? What about the PIAL pension plan? Who will be responsible for any underfunding in the PIAL pension plan if the employees are transferred to Citizens? How will the PIAL employees Social Security status be impacted by the conclusions set forth in your report? Will PIAL employees be eligible for

state health insurance? These and many other questions are de novo for PIAL, and have never been alleged or considered before in the 120 years of PIAL's existence. They must be carefully considered so that any adverse impact to the employees and member companies is minimized.

With that in mind, the Board of Directors of PIAL has created a Strategic Options Committee and has authorized and directed undersigned counsel to meet with Commissioner Donelon and attempt to develop a narrow list of issues arising from your "information report" conclusions which should be resolved through the authority of the judicial branch. We are working through that process, but it is not complete as of this date. Until such process is complete, it is not possible to address the conclusions in your report point by point. The Board of Directors of PIAL is not scheduled to meet again until September 8, which, of course, is after the due date of this response. Once the PIAL Board of Directors has determined a course of action, I will advise you accordingly.

Thank you for the opportunity to submit this response, and for your courtesy in responding the due date. If you have any comments or questions, please feel free to call.

Sincerely,



A.J. Herbert III

AJH/lar

cc: Dr. Christine Berry
Mr. Joe Deutsch