



Report to the Mississippi Legislature

FY 2022 Impact Report

FY 2022 PEER Reports

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FY 2022 PEER Report Impacts

Impact: Parole Board

A Review of the Mississippi State Parole Board (Report #656)

Parole was first used in the United States in New York in 1876. Today, parole is the principal means by which offenders are released from prison; in 2019, offenders were released on parole 63.4% of the time. It is less expensive to supervise a parolee than to incarcerate an offender, but society still receives some protection because the offender is supervised. Parole is also a method of rehabilitation because it gives offenders supervision and guidance during their reentry into society.

MISS. CODE ANN. § 47-7-5 (1972) creates the State Parole Board. The Board is made up of five members who are assisted by a secretary to the Board and two administrative assistants. MDOC also assigns five department staff to assist with Board activities. The law empowers the Board with the exclusive responsibility to grant, refuse, and revoke parole.

State Parole Board Issues:

- **Untimely parole hearings:** In 2019, 47% of offenders eligible for parole received untimely hearings.
- **Ineffective use of presumptive parole as contemplated by law:** In 2019, the Board conducted 274 parole hearings for offenders who met the standards of presumptive parole.
- **Lack of minutes documenting parole decisions:** The Board does not maintain minutes documenting its parole decisions in a format required by law.
- **Unauthorized travel reimbursements:** Contrary to State Travel Regulations, two Board members received travel reimbursements for commuting to their regular place of work.
- **Members' failure to work as full-time employees:** Board members do not function as full-time employees (i.e., they receive compensation for time absent from the Board office).

Parole Process

The parole process in Mississippi is a progression from incarceration to parole composed of many steps including reviewing the files of parole-eligible offenders, attending victim/advocate meetings, and holding hearings.

The percentage of offenders released on parole has increased over time. As of 2019, parole was the method used most often to release offenders from prison, with 63.4% of all offenders released that year being released through parole.

Conclusions

Parole is a form of discretionary release for certain eligible prison offenders, the purpose of which is to reintegrate offenders into society as law-abiding and productive citizens. Parole has become the most-used method of release of offenders from prison in Mississippi. The Mississippi State Parole Board has the exclusive responsibility to grant, refuse, and revoke parole. PEER conducted a compliance review regarding the laws and policies governing the Board and found several instances of noncompliance. Using methods from contiguous states, the Board might increase effectiveness of its activities and the parole process in general.

MISS. CODE ANN. § 47-7-5 (1972) will be repealed effective July 1, 2022. If repealed, MDOC will be responsible for administering parole. However, MDOC currently does not have an adjudicatory division

equipped to handle the parole process, so one would need to be created. If the law were reenacted as is, the Board would most likely continue to operate with the same problems. Therefore, it is timely for the Legislature to examine all possible options and pass legislation that could make the State Parole Board more efficient.

Possible Options

1. **Reenactment of current laws:** This option would retain the present structure and duties of the State Parole Board. The Board should have a statutory obligation to report to relevant committees of the Legislature as to how the Board intends to improve its efficiency to meet the challenges of a changing parole environment. A one-year repealer could be included in the Board's enabling legislation.
2. **Enact structural changes in the administration of Mississippi's parole process:** This could mean placing the Board organizationally within MDOC and setting out its duties as an adjudicator of parole and parole revocation matters, providing for the creation of an Executive Director of the State Parole Board, providing for the appointment of hearing officers, providing for teleconferencing by members of the Board so as to limit travel to Jackson for hearings, or amending outdated or conflicting laws regarding the Board.
3. **Empower MDOC to administer parole:** By the terms of this provision, if the Legislature chose to allow the Board's legislation to be repealed in 2022, the Board would be eliminated and its powers and duties would revert back to MDOC, which would become responsible for conducting the parole process. Should the Board be allowed to repeal, MDOC should be empowered to:
 - establish a three-member board of Parole Commissioners who are given a term of office to serve as an adjudicative body for parole and parole revocation matters;
 - provide sufficient funding for MDOC to hire hearing officers to assist the Commissioners in hearing cases, and developing proposed findings for the Board to consider and act upon;
 - provide the newly created board with authority to establish rules and regulations for the hearing of cases and the use of hearing officers; and,
 - provide that administrative support for the parole process shall be under the supervision and control of a Division of Parole established within MDOC.

Impact: Tenure

Mississippi IHL Universities' Tenure Policies and Practices (Report #657)

Tenure traces its roots in American higher education to the 1940 *Statement of Principles on Academic Freedom and Tenure*. The *Mississippi Constitution of 1890* authorizes the IHL Board and defines its authority to employ university faculty, as well as the reasons that tenured faculty members may be dismissed. The IHL Board also sets minimum tenure standards in their policies, but permits IHL universities to set additional tenure standards and requirements.

Tenure Process

When applying for tenure, tenure-track faculty follow the same general process at each university. After being granted tenure, tenured faculty members receive a four-year contract that continually renews, as opposed to the one-year contract that tenure-track and non-tenure-track faculty receive.

Faculty Numbers and Average Salaries:

Between FY 2019 and FY 2021, tenured faculty comprised 34% of IHL university faculty members. During that same period, the average salary of a tenured faculty member was 29% higher on average than that of a tenure-track faculty and 113% higher than that of a non-tenure-track faculty member.

Surrounding States

Mississippi's IHL universities follow the same general tenure process as surrounding states, but Mississippi's higher education governance structure is unique. In surrounding states, a coordinating board oversees issues across all university systems while a governing board oversees the day-to-day activities for each system. The IHL Board functions as both a coordinating board and a governing board.

In a comparison of 16 states in the southeast, for typical tenured positions— professors and associate professors— average salaries ranked 13th and 11th respectively. For the typical tenure-track faculty ranking— assistant professors— average salaries ranked 12th. For typical non-tenure track positions— instructors and lecturers— average salaries ranked 11th and 16th respectively.

Student Benefits:

1. Tenure benefits students by providing faculty members with years of teaching and research experience. For example, at JSU, tenured faculty received higher evaluations than tenure-track and non-tenure-track faculty teaching the same course (college algebra).
2. Students also benefit, for example, from increased access to research opportunities and funding that tenured and tenure-track professors provide. At UM, tenured and tenure-track faculty brought roughly \$75 million in research and grant funding to the university between FY 2018 and FY 2020. This type of funding supports graduate assistantships and provides undergraduate and graduate students with introductions to scholarly research.

Ensuring Faculty Effectiveness

1. The post-tenure review process happens after tenured faculty receive multiple negative evaluations (or, for some universities, is triggered after the sixth year of tenured employment). Three faculty members have been separated from employment for unsuccessfully completing the post-tenure review process between FY 2019 and FY 2020.
2. Annual evaluations are used not only to evaluate tenured faculty, but also tenure-track and non-tenure-track faculty. Annual evaluations judge faculty based on goals they set with the department chair or dean on a faculty member's teaching, research, and service performance.

Dismissing Tenured Faculty

1. Tenured faculty can be dismissed for four reasons specified in IHL polices: malfeasance (wrongdoing), inefficiency, contumacious conduct (willful disobedience to authority), or financial exigency (imminent financial crisis) as declared by the IHL Board. For all reasons but financial exigency, faculty can appeal the decision at the university level, and if unsuccessful, to the IHL Board.
2. Universities have dismissed two faculty members between FY 2019 and FY 2021: one at MSU for contumacious conduct, and one at DSU for inefficiency resulting from unsuccessfully completing the post-tenure review process. However, four tenured faculty resigned at UM during that period as a result of the university opening investigations into their conduct or effectiveness.

Conclusions

The IHL Board is the constitutionally authorized entity responsible for employing and granting tenure to university faculty. IHL universities establish and follow the same general process for tenure-track faculty to apply for tenure after serving a probationary period. IHL universities employ more non-tenure-track faculty than tenured or tenure-track faculty, but tenured and tenure-track faculty earn higher salaries on average. Universities state that tenure provides certain benefits to students, including the teaching and research experience tenured faculty gain over years of teaching, and the research funding and opportunities that tenured faculty bring to university students. Finally, universities maintain evaluative processes to ensure tenured faculty members remain effective in their teaching, research, and service to the universities.

Recommendations

1. In order to further ensure that tenured faculty are formally evaluated, the IHL Board should consider adopting a policy that requires an automatic trigger for post-tenure reviews of tenured faculty after the sixth year of tenured employment, as is in place at MSU and MVSU.
2. In order to ensure that IHL universities can adequately demonstrate to the IHL Board, the State Legislature, and the public the benefits that students receive as a result of the tenure system, the IHL Board should require that IHL universities develop a system to track and periodically report to the IHL Board the benefits that tenure provides to each university and its students, including:
 - the amount of research or grant funding that tenure-track and tenured faculty are awarded; and,
 - the benefit of tenure to students demonstrated through academic metrics and outcomes.
 - Although awarding tenure to new hires is rare and only utilized for faculty with exceptional qualifications, IHL universities should nevertheless amend faculty handbooks and tenure policies to include criteria that reflects the types of exceptional qualifications that new hires should possess to be hired with tenure.

Impact: Telework

Mississippi Telework Policies in the Wake of the COVID-19 Pandemic (Report #658)

In March 2020, Mississippi, like the rest of the United States, faced the threats and uncertainties of the COVID-19 pandemic. Government employers, along with businesses and not-for-profit organizations, were faced with the challenge of balancing the health interests of employees and the public against the need to ensure that necessary public services were provided to citizens and other clients of government.

During the pandemic, Governor Tate Reeves issued executive orders that enabled state agencies to take steps to ensure that services could continue to be rendered without necessarily having all state employees physically report to work. In complying with the Governor's executive orders, many state agencies and educational institutions implemented telework policies for employees whose services were required but who did not necessarily have to be at their usual duty stations.

When is telework an appropriate alternative to on-site work?

Mississippi's general policy is that offices will be open from 8:00 a.m. to 5:00 p.m. where government services are delivered, and that employees performing government services will work eight-hour days. MISS. CODE ANN. § 25-1-98 makes clear that services should be delivered from state offices by employees, but there are certain specific cases in which this policy can be overridden. In the following circumstances, telework could be used as an alternative:

- Declared emergencies
- Health-related issues
- Physical conditions at an office that necessitate temporary closure

Exemplary State Agency Telework Policies

In reviewing telework survey results from state agencies, PEER observed the following agencies whose telework policies included significant accountability attributes:

- Secretary of State
- Mississippi Department of Education
- Public Employees' Retirement System
- Mississippi State Department of Health

Critical Elements of a Telework Policy

1. To assist in crafting uniform telework policies, there should be guidance as to when telework is an appropriate alternative to on-site work and which methods and practices should be used to ensure teleworking achieves the appropriate ends of the agency.
2. Regarding appropriateness, it would appear that a telework policy should address the conditions under which teleworking can be allowed as an alternative to being on-site and make clear that there is no general right to telework.

Ensuring an Effective Telework Policy

1. A telework policy should set out procedures under which managers can ensure that work is being performed on schedule and to the requirements of supervisors.
2. It should also establish essential requirements to protect the confidentiality of work and files being utilized offsite.

3. Finally, a telework policy should ensure that agencies accomplish the provision of services to the public effectively in cases where contact with the service population is absolutely necessary.

Conclusions

Telework refers to a work flexibility arrangement under which an employee performs their duties, responsibilities, and other authorized activities from an approved worksite other than the location from which the employee would otherwise work. Telework allows an employee to perform work during any part of regular, paid hours at an approved alternative worksite (e.g., home, telework center). In addressing the problems caused by the COVID-19 pandemic, Mississippi governmental entities appear to have arrived at several useful, pragmatic solutions to the problem of providing services through telework. The implementation of these solutions varied considerably. PEER conducted a review of telework policies of state agencies and educational institutions in order to develop policy recommendations for consideration by the Legislature.

Two major conclusions can be drawn from the results of PEER's survey:

- a majority of the agencies and educational institutions did not formally adopt telework policies; and,
- the agencies and educational institutions that did adopt telework policies addressed major issues included in MSPB's policy guidance memoranda.

Recommendations

1. PEER recommends that the Legislature consider amending MISS. CODE ANN. § 25-1-98 regarding office access and workdays to specifically authorize telework for the limited reasons of:
 - a. providing services in a declared emergency;
 - b. allowing persons with specific verified medical conditions to telework without regard to emergency declarations; and,
 - c. permitting telework in cases where access to the worksite may have been barred by weather or other dangerous conditions that prohibit staff from safely using the worksite.
2. In such cases, the agencies may allow telework if:
 - a. It is an appropriate means of rendering services. Appropriateness should be determined by applying standards similar to those found in Mississippi State Personnel Board and Mississippi Department of Education policies.
 - b. Services can be rendered without compromising confidential or protected information.
 - c. Employees sign a telework agreement certifying that they understand the conditions under which telework is allowed. Such agreements should clearly set out that agreements may be cancelled at any time by the employers, and that they create no right to telework beyond what is specifically provided for in the agreement.
3. Agencies should establish procedures to ensure that offices can still provide personal contact with clients in need of assistance. This might be done through the use of volunteer employees or possibly through the use of special compensation plans through which employees could be compensated for bearing some additional risks.

Impact: Delta Health Alliance

An Evaluability Assessment of the Mississippi Delta Medicaid Population Health Demonstration Project (Report #659)

During the 2014 Regular Session, the Legislature passed House Bill 1481 (Division of Medicaid's [DOM] appropriation bill), which authorized DOM to allocated state general funds for the Project in FY 2015. DOM determined the Project's two areas of focus would be reducing prediabetes and reducing preterm births.

On June 26, 2014, DOM issued a request for grant proposals. PEER identified several applicant requirements that could be considered restrictive, and given the resulting narrow scope, the Delta Health Alliance (DHA) submitted the only grant proposal. DOM awarded DHA the Project on July 14, 2014.

Organizations Involved in the Project

Four primary organizations had a role in the project. Additionally, clinic providers entered into Memoranda of Agreements with DHA to provide electronic medical record data.

- Delta Health Alliance (DHA)
- Division of Medicaid (DOM)
- Cerner
- University of Memphis Center for Community Research and Evaluation
- Contracted Electronic Medical Record Providers

What is the Future of the Project?

During the 2021 Legislative Session, the Legislature passed House Bill 1400 (i.e., DOM's appropriation bill). H.B. 1400 significantly reduced the funding allocated to DHA for the Project from \$4,161,095 in FY 2021 to \$1,000,000 in FY 2022. Given this reduction in funding, DHA reported it has taken actions, "in order to have an orderly shutdown of the project" and continue serving existing patients.

Conclusions

The Mississippi Delta Medicaid Population Health Demonstration Project, hereafter referred to as "the Project," began in 2014 as a pilot project with Medicaid funding through the Division of Medicaid (DOM). It is administered by the Delta Health Alliance (DHA) and comprises two programs, the Delta Medicaid Prediabetes Program and the Healthy Pregnancy Program. As required in House Bill 1713, 2020 Regular Session, PEER sought to evaluate the services of DHA in administering the Project.

Recommendations

1. In order for PEER to evaluate the Project's evaluability in future years, DHA should implement the following steps:
 - a. Develop a documented research methodology for how the program is evaluated;
 - b. Develop performance measures, as required by the Legislature, including not only identifying outcome measures in which to report on the Project but identifying what levels are to be achieved. Additional performance measures might include but are not limited to:
 - i. Number of participants completing each program each year;
 - ii. Program completion rate; and,
 - iii. Program non-completion rate.
 - c. Document project performance. This includes source data, metrics, and dates in Project evaluations.
2. The Legislature should require DOM to oversee the Project and report its findings in conjunction with DHA's annual progress report. This includes:
 - a. assessing the efficacy of such performance metrics established by DHA;
 - b. monitoring the Project's process toward achieving established performance metrics;

- c. evaluating DHA's compliance with developing a documented written methodology in which to evaluate and assess the Project's performance;
 - d. determining, in conjunction with DHA, the extent of program overlap/service overlap with other state-funded programs; and,
 - e. establishing and enforcing oversight mechanisms on holding DHA accountable (e.g., authority to assess liquidated damages).
3. The Legislature should require DOM to report to the Legislature (e. g., Chairmen of the Senate and House Public Health Committees, Medicaid Committees, and Appropriations Committees) by December 31, 2021, alternatives for how DOM would utilize such funding if not allocated to the Project and the reasons why.

Impact: Pass-through Appropriations

A Review of Pass-through Funding in Mississippi State Agency Appropriation Bills for Fiscal Years 2021 and 2022 (Report #660)

Summary

PEER reviewed Mississippi state agency appropriation bills for FY 2021 and FY 2022 to identify pass-through funding, i.e., line-item funding appropriated to a state agency that is intended to be passed through the state agency to one or more recipient entities. During its 2021 Regular Session, the Mississippi Legislature enacted S.B. 2824 to monitor the expenditure of pass-through funds. PEER used the parameters of S.B. 2824 to determine how much of the pass-through funding would be subject to the monitoring requirements in compliance with the new legislation.

Report Conclusions

1. For FY 2021 and FY 2022, the Legislature enacted a total state budget of \$22.3 billion and \$23.3 billion, respectively.
2. For FY 2021 and FY 2022, the Legislature appropriated \$6.5 billion in pass-through funding: \$3.4 billion in FY 2021 and \$3.1 billion in FY 2022.
3. PEER determined that over 99% of pass-through funding in FY 2021 and FY 2022 would not be subject to S.B. 2824's monitoring requirements due to:
 - a. Exemptions specified in S.B. 2824;
 - b. not meeting the definition of state money or pass-through funding as defined in S.B. 2824; or,
 - c. state agencies have existing controls in place to monitor the expenditure of pass-through funding.
4. In both fiscal years, \$20.6 million, less than one percent of total pass-through funding, would be subject to S.B. 2824 monitoring.
5. The lack of a single entity responsible for providing guidance to funding recipients and responsible for collecting and reporting expenditure information hinders oversight and transparency.

Impact: Child Support Enforcement

An Evaluation of the Privatization of Child Support Enforcement by the Mississippi Department of Human Services (Report #661)

The child support enforcement program operated by the Mississippi Department of Human Services is a federally mandated program that promotes parental responsibility, family sufficiency, and child well-being, and reimburses benefits paid by the government's public assistance programs.

The child support enforcement program performs six functions: case establishment, parent locator services, paternity establishment, support order establishment, collection and distribution of child support payments, and enforcement of support orders.

PEER reviewed MDHS's process for privatizing the following key program areas: (1) CSE services include the majority of services provided through the program and its local child support offices; (2) the Central Receiving and Disbursement Unit (CRDU) receives and disburses child support payments; and (3) the call center answers child support calls statewide.

Two contractors—YoungWilliams and Informatix—provide the majority of services for MDHS's child support enforcement program. Thus, MDHS's role is primarily that of contract oversight. In FFY 2019, MDHS distributed \$334,844,297 in child support collections to families or foster care agencies. In FFY 2020, collections increased by 19% due to interception of stimulus payment funds from COVID-19.

Report Conclusions

1. Throughout the 1990s to 2015, YoungWilliams performed limited CSE services for the state. MDHS has increasingly relied upon YoungWilliams, and as of 2021, YoungWilliams provides a vast array of CSE services for all 82 counties in Mississippi and operates the statewide call center.
2. MDHS contracted out its state disbursement unit in 2014 to Informatix, who continues to perform this function for MDHS.
3. According to PSCRB records, Governor Phil Bryant directed MDHS to pursue privatization of CSE services in 2014. In response, MDHS implemented a 17-county pilot program to determine the effectiveness of privatization in January 2015.
4. In 2016, MDHS privatized its CSE services statewide despite the results of the partially executed pilot program showing that control counties operated by MDHS were performing better than counties operated by YoungWilliams on four of five measures.
5. MDHS entered into contracts with YoungWilliams in 2015, 2016, and 2021 for the procurement of "legal services" although such contracts included non-legal components.
6. In 2019, MDHS administered the procurement process inefficiently and gave the impression of preferential treatment toward the incumbent vendor.
7. MDHS's contract with YoungWilliams for FFYs 2017 through 2021 was insufficient to hold YoungWilliams accountable for its performance. However, MDHS's upcoming contract for FFYs 2022 through 2026 made improvements to these deficiencies.
8. Results of MDHS's contract monitoring activities have not been used to address root causes of issues.
9. In the three years after full privatization in 2016, Mississippi's performance on paternity establishment and child support order establishment improved. However, the state did not improve its performance on current collections and collections of arrears during that time. Mississippi's performance in the area of cost-effectiveness (i.e., collections per dollar of program spending) remained relatively high after full privatization.
10. Socioeconomic factors contribute to Mississippi's low performance in the area of collections. However, MDHS has not taken a proactive role in assessing which collections strategies are most effective in increasing compliance in a cost-effective way for Mississippi's population. Also, MDHS does not have statutory authority to utilize several enforcement tools other states use.

The Legislature should:

1. Consider amending MISS. CODE ANN. § 27-104-7 (1972) to replace the PPRB exemption for “attorneys” with “legal services.” Further, this section should define what constitutes “legal services.”
2. Upon the implementation of Recommendation 1, consider amending MISS. CODE ANN. § 7-5-39 (1972) to require that any new contracts or modifications to legal services contracts that contain non-legal services outside of those defined by MISS. CODE ANN. § 27-104-7 (1972) be approved by PPRB.
3. Consider requiring MDHS to propose an arrears management strategy to the Legislature by January 1, 2023.
4. Further, the Senate and House Appropriations Committees should review this report and determine whether they should adopt language for inclusion in MDHS’s FY 2023 appropriations bill making the use of appropriated funds conditional on re-bidding legal and non-legal services separately.

MDHS should:

1. Ensure it monitors YoungWilliams’s performance on all measures included in the contract for FFY 2022 through FFY 2026, require the implementation of corrective action plans for non-compliance or performance deficiencies, and assess liquidated damages for non-compliance or performance deficiencies.
2. Consider bringing child support enforcement functions back in-house should YoungWilliams fail to meet performance or contractual obligations.
3. Consider formally tracking additional performance measures in order to provide a more holistic assessment of program performance (e.g., collections per court order).
4. Be consistent in constructing well-developed, performance-based RFPs and contracts for privatized services reflective of its needs, and consistently hold vendors accountable for their performance.
5. Use results of its monitoring activities to address root causes of compliance or performance issues.
6. Monitor the effects of YoungWilliams’s staffing decreases from FFY 2022 to FFY 2026 to ensure that services are not negatively impacted and take immediate corrective action if contract monitoring warrants such action.
7. Assess the effectiveness of its pass-through and disregard policies.
8. Consider conducting further research on the following policy areas regarding Mississippi’s child support enforcement program: termination of child support, and the administrative versus judicial child support process.

Impact: Master Plans

A Review of the University Master Planning Process for Capital Outlay Projects (Report #662)

According to APPA (formerly the Association of Physical Plant Administrators), campus master plans guide the physical development needed to support the mission and strategic plan of an institution of higher education. According to Section 903A of the IHL Board of Trustees *Policies and Bylaws*, universities must submit updated master facilities plan (i.e., campus master plans) every ten years to the IHL Office of Real Estate and Facilities for review and approval.

DFA reported it does not play a role in the development or oversight of campus master plans. However, DFA does utilize a process outlined in statute and the DFA *BOB Manual* to annually evaluate capital needs and report its recommendations to the Legislature.

Planning for University Capital Outlay Projects

IHL Board Policy 903A requires universities to update the master plan every 10 years, but does not specify minimum criteria to include. According to the IHL Office of Real Estate and Facilities, each university is responsible for identifying its own methods for best assessing the needs and capacity of its facilities and determining the extent to which its facilities are utilized by the university as a whole. University methods for conducting needs assessments and tracking campus space utilization vary. The IHL Board of Trustees approves projects greater than \$1 million, while authority for projects \$1 million or less is delegated to universities, except in certain occasions (e.g., building name, demolition).

IHL and DFA's Process for Developing Funding Recommendations for Capital Outlay Projects

DFA utilizes a process outlined in MISS. CODE. ANN. § 31-11-27 (1972) and the DFA *BOB Manual* to evaluate capital needs and make funding recommendations to the Legislature. IHL utilizes its internally developed 4-Year Bond Plan to make funding recommendations to the Legislature.

No Single Entity Tracks Expenditures for University Capital Outlay Projects

PEER determined no single entity tracks expenditures for university capital outlay projects, although DFA attempts to track components of the state's capital outlay project expenditures. This lack of information impedes the Legislature from determining the full scope of funding for university capital outlay projects when making funding decisions. To ascertain the total state expenditures for university capital outlay projects, one must survey each of the state's eight public universities as well as the University of Mississippi Medical Center. Total funding for university capital outlay projects from FY 2016 to FY 2021 was \$1,322,990,778, including approximately \$431 million in state funds and \$892 million in non-state funding.

Conclusion

PEER defined university capital outlay projects as projects with a cost of at least \$50,000. Projects may include sidewalk repair/replacement, building demolition, repair/renovation projects, significant maintenance projects, and planning for and constructing a new building. Each university is responsible for identifying its own methods for best assessing the needs and capacity of its facilities and determining the extent to which its facilities are utilized by the university as a whole. PEER determined no single entity tracks expenditures for university capital outlay projects, although DFA attempts to track components of the state's capital outlay project expenditures. To ascertain the total state expenditures for university capital outlay projects, one must survey each of the state's eight public universities as well as the University of Mississippi Medical Center. This lack of information impedes the Legislature from determining the full scope of funding for university capital outlay projects when making funding decisions.

Recommendation

1. In order to better inform the Legislature regarding capacity and resource allocations, which inevitably contribute towards the universities' master planning efforts, the Legislature should require the IHL Board of Trustees to provide information regarding the full scope of funding for university capital outlay projects.

The Legislature should require the IHL Board of Trustees, in conjunction with the eight universities and UMMC, to develop a mechanism to compile existing data sources (e.g., DFA BOB BRICKS database on state-funded projects, IHL records for Board-approved projects greater than \$1,000,000) and annually report to the Legislature the following:

- a. Cumulative expenditure totals for university capital outlay projects for each institution, by revenue source (e.g., bond funding, capital expense funds, self-generated funds);
- b. Total number of university capital outlay projects by kind of capital outlay (i.e., number of new construction projects, repair and renovation projects, and planning projects); and,
- c. Category of university capital outlay projects by type of facility (e.g., residence hall, athletic facility, administrative/university support facility, classroom/academic facility, etc.).

Impact: MPIC

Issue Brief: A Review of the Sustainability of the Mississippi Prison Industries Corporation (Report #663)

The Mississippi Prison Industries Act of 1990 created a nonprofit corporation, known as the Mississippi Prison Industries Corporation (MPIC), to operate the prison industries program independent from, but in cooperation with, the Mississippi Department of Corrections (MDOC). The purpose of this issue brief is to determine if MPIC has been successful in achieving financial stability and its statutory goal of reducing recidivism.

In FY 2015, MPIC began experiencing a decline in its financial sustainability and did not have a positive growth in net position until FY 2020. MPIC's unaudited financial statements for FY 2021 show a further decline in its financial sustainability.

The purpose of a prison industry program is to provide "real-world" work experience and training to inmates to increase inmates' job skills and employability upon release. In return, this should lead to a reduction in the reincarceration of inmates into the correctional system. While PEER's 2018 report stated the importance of maintaining inmate program and recidivism data to determine the effectiveness of the prison industry program in reducing recidivism, MPIC has not maintained its data as required.

Considerations for the Legislature

While MPIC may be able to continuously fund inmate programs in the future, the possibility exists that MPIC may suspend funding of inmate programs due to a downturn in MPIC revenues and the resulting lack of available funds for such programs.

Of the 49 states operating a prison industries program (Alaska's Legislature repealed its prison industries program in 2005), only Mississippi and Florida operate their programs through a nonprofit prison industries corporation working with the state's corrections department. In the other 47 states, either the state's corrections department bears sole responsibility for the operation of the program or a division of the corrections department functioning as a semiautonomous agency operates the program.

Therefore, PEER staff recommends that the Legislature consider repealing MPIC's enabling statute, MISS. CODE ANN. Section 47-5-533 (1972), in order to dissolve the Corporation. The law states that upon dissolution of the Corporation, MDOC becomes responsible for the duties of MPIC and receives the Corporation's assets. MDOC could use these assets to create a more stable reentry division with greater oversight and the resources to provide inmates with opportunities to gain skills that can help inmates find meaningful work after incarceration and reduce recidivism.

Impact: State Government Purchasing

State Government Purchasing: A Biennial Review (Report #664)

MISS. CODE ANN. Section 5-3-72 (1972) requires PEER to evaluate on a biennial basis the procurement process used by all state agencies, including, but not limited to, the contract review, reporting, record keeping, and bid requirements in state law. Upon completion of its review, PEER is required to submit a report to the Legislature with its recommendations for improving the procurement process.

Mississippi state law governs the processes for procurement of commodities, services, and technology, and delegates oversight responsibility to the Department of Finance and Administration (DFA) and the Department of Information Technology Services (ITS). DFA and ITS have worked together to create procurement rules and regulations to provide consistency across state government. The procurement process is complex, and the average length of time for a state agency to procure varies by agency and by the type and amount of goods and services needed

As required by state law, PEER conducted its fourth biennial review of state procurement. This review provided an overview of Mississippi's procurement environment and emergency procurement process, specifically during the COVID-19 pandemic. In addition, PEER addressed legislators' concerns regarding the Mississippi Department of Education's (MDE) emergency declaration regarding the procurement of technology products and professional services, and subsequent requests to suspend the one-year restriction on contract(s) awarded from an emergency declaration.

On March 14, 2020, in response to the pandemic, Governor Tate Reeves issued a proclamation declaring a state of emergency in Mississippi. This proclamation allowed state agencies to temporarily suspend or modify rules, regulations, or orders if compliance with such provisions would prevent, hinder, or delay action necessary to cope with COVID-19.

Overview of Emergency Procurement in Mississippi

- An "emergency" is defined as an unexpected circumstance that creates a threat to health, safety, or the preservation of public property.
- The executive director or board of a state agency has the authority to declare that an emergency exists, and an emergency purchase is necessary.
- State agencies are not required to obtain prior approval from an oversight authority to make an emergency purchase if the emergency threatens health, safety, or the preservation of property. Proper documentation is required to be filed with the appropriate oversight authority after the purchase is made.
- Emergency purchases determined to be in the "best interest of the state" do require prior approval from an oversight authority.
- State law does not require DFA and ITS to conduct an analysis to determine the validity of an emergency declaration.
- Procurement rules and regulations prohibit emergency contracts exceeding one year in duration.

In September 2021, MDE declared that an emergency existed for the department in the procurement of technology products and services. MDE stated that the emergency existed because the delay in undertaking a competitive procurement would threaten health, safety, or the preservation of property. On September 16, 2021, under the authority of the Governor's Proclamation on March 14, 2020, the ITS Board approved MDE's request to temporarily suspend the ITS regulation restricting emergency contracts to one-year for six technology products totaling \$89 million.

There were 314 emergency procurement contracts, totaling approximately \$469.6 million from July 1, 2018, to September 16, 2021. The majority of emergency contracts were during FY 2020 and FY 2021. According to DFA and ITS, the increase in emergency procurement contracts can be attributed to the COVID-19 pandemic.

Approximately **154 or 49%** of the total emergency procurement contracts reviewed by PEER did not have an emergency declaration letter as required by state law. According to DFA, it is common for state agencies to proceed with an emergency purchase without an emergency declaration letter, even prior to the pandemic.

Report Conclusions

1. State agencies claim emergencies threaten health, safety, or property even when the agency made the emergency procurement to correct a procedural error.
2. MDE's emergency declaration allows the department to use federal COVID-19 relief funds to procure the products and services prior to the award deadline.
3. While MDE's emergency declaration does not appear to threaten health, safety, or property, MDE is within the bounds of the state emergency procurement law.
4. The ITS Board is within its authority to temporarily suspend the one-year restriction because it is an ITS rule and not state law, and the Governor's Proclamation on March 14, 2020, allowing the suspension of rules and regulations.
5. An emergency procurement plan, as recommended by best practices, would help the state navigate procurement during an emergency situation, such as the pandemic.

Report Recommendations

1. The State Auditor should annually conduct a random sample and audit of emergency procurement contracts made without prior approval from DFA or ITS, to determine if emergencies in the sample did threaten health, safety, or property.
2. DFA and ITS should amend their rules and regulations to require procedural errors to be submitted as in the "best interest of the state" emergencies, which require prior approval.
3. DFA, ITS, and Mississippi Emergency Management Agency should build on preexisting inter-agency relationships to prepare an Emergency Procurement Response Plan, focused on ensuring documentation and continued operations.
4. The Legislature should consider amending state law to:
 - limit any IT-related contract awarded in response to an emergency to a term not to exceed one year;
 - include emergency contracts for personal or professional services;
 - prevent any part of the emergency procurement process from being suspended during an emergency; and,
 - require DFA and ITS to evaluate jointly on a biennial basis the procurement process utilized by all state agencies and repeal state law that currently requires PEER to conduct such review.

Impact: Cosmetology

A Review of the Mississippi State Board of Cosmetology (Report #665)

MISS. CODE ANN. § 73-7-1 (1972) establishes the Mississippi State Board of Cosmetology (MSBC). MSBC is composed of five members appointed by the Governor with the advice and consent of the Senate. As of October 1, 2021, MSBC had nine full-time staff members.

MSBC is a special fund agency supported by funds collected from licensing, inspection, and examination fees and fines collected for disciplinary actions. From FY 2019 to FY 2021, the Board's expenditures increased from approximately \$580,000 to \$884,000, an increase of 52%.

Conclusion

MSBC regulates schools, salons, and individuals engaged in the teaching, demonstration, and practices of cosmetology, manicuring, and esthetics. MSBC experiences several issues that decrease the effectiveness and efficiency of the Board: issues with Board composition, structure, and responsibilities, issues with regulatory activities, issues with financial management and controls, and other administrative issues. Additionally, the overlap in the scopes of practice regulated by MSBC and the Mississippi Board of Barber Examiners is significant and makes differentiating between the jurisdictions of the two boards difficult.

MSBC Issues

- MSBC, in its current form, does not ensure Board representation of consumers or all Board-licensed persons;
- Board member terms are not staggered and qualifications for Board service are higher than those of similar boards;
- MSBC Board members are involved in day-to-day responsibilities that should be handled by the staff;
- MSBC's meetings are disorganized and inefficient;
- On 10 occasions in FY 2021, a quorum of the Board met but did not provide meeting minutes;
- Universal licensing requirements create an imbalance between in- and out-of-state license applicants, resulting in a competitive disadvantage for Mississippi residents;
- In FY 2021, MSBC completed only 63% of its mandated inspections and is unlikely to finish inspections in FY 2022 due to current staffing levels;
- Inspectors give warnings to licensees for most first-time violations, contravening the Board's rules and regulations;
- MSBC does not have a consistent complaints investigation process and does not schedule a regular, standard time to hold hearings;
- MSBC maintains a large cash balance while continuing to collect fees and fines from licensees;
- MSBC has not assessed its own efficiency in the operation of inspector vehicles to maximize its financial resources;
- Weaknesses in the Board's segregation of duties compromise MSBC's accounting records;
- MSBC Board member policies for claiming per diem, meals, and travel reimbursements are inconsistent and insufficient for expanding public funds in a cost-effective and prudent manner; and,
- Administrative issues including: the lack of expertise to perform critical Board functions, oversight of Executive Director leave and comp time, and issues related to agency work environment.
- Due to a lack of staff, the Board has increasingly relied on contractors to perform several core administrative tasks (e.g., budget development, accounting, IT), which could result in an inefficient use of funds and potentially an over-reliance on contractors to perform critical Board functions.
- From March to September 2021, the Executive Director requested and received 142 hours of comp time without approval by the appointing authority (i.e., the Board) as required by state law. In addition, the Executive Director did not request prior approval for comp time, which is generally accepted practice.
- Over the course of PEER's review of MSBC, it became evident that the Board is operating with personnel conflicts that may jeopardize the future ability of the Board to fulfill its statutory obligations.

Legislative Recommendations

1. The Legislature should consider amending MISS. CODE ANN. § 73-7-1 (1972) to reduce the Board members' experience requirement from 10 to 5 years, eliminate the age requirement, and restructure and expand the Board's membership. The Legislature should also consider the option of dissolving both the State Board of Cosmetology and the State Board of Barber Examiners, and create a single State Board of Cosmetology and Barbering. If the Legislature creates this board, its composition should reflect representation of all licensed professions.
2. To eliminate the imbalance of licensing requirements for in-state and out-of-state applicants, the Legislature should consider removing the English fluency requirement, reduce the minimum age and education requirements, and allow aspiring practitioners to qualify for licensing examination through apprenticeship hours instead of school hours.
3. To reduce the Board's involvement in the day-to-day operations of the agency, the Legislature should consider formally creating the position of Executive Director within the statute and providing basic direction on the scope of the position's responsibilities.
4. The Legislature should consider amending MISS. CODE ANN. § 25-3-92 (1972) to require the Mississippi State Personnel Board to develop a policy for agencies that hire state service personnel regarding the appropriate process for the requesting, approval, and use of Executive Director compensatory time.

Board Recommendations

1. The Board should address its deficiencies in core competencies by hiring qualified, full-time staff to accomplish such functions. If MSBC is unable to do so, the Board should consult with the Department of Finance and Administration (DFA) to increase the cost-effectiveness of its operations by determining an alternative solution to its current use of contractors.
2. In order to increase the efficiency of Board meetings, the Board should require the Executive Director to provide meeting materials the week prior to the meeting, begin meetings promptly and complete meeting agenda items in a timely manner, only conduct as many meetings for the amount of time necessary to oversee the management of the Board (not the day-to-day operations of the Board), and formalize and improve the general order of meetings.
3. The Board should review and develop operational policies and procedures that ensure compliance with all open meetings laws and regulations.
4. To achieve its statutory mandate regarding annual inspections, the Board should evaluate inspector territories to factor for travel distance and consider redrawing territories to make inspection quotas more feasible. For better recruitment and retention of inspectors, the Board should provide flexible work schedules to inspectors, as allowed by state law. Additionally, the Board should create a more formal and equitable inspection schedule and increase its number of inspectors to meet the statutory inspection mandate.
5. To increase consistency within the enforcement process, the Board should amend rules and regulations to reflect actual practices, revise policies to ensure uniform processes of investigation, and schedule regular hearings to adjudicate complaints.
6. MSBC should develop plans to expend the licensees' funds held in reserve in a manner effective for the accomplishment of the agency's goals and objectives and for the benefit of its licensees.
7. The Board should consult with DFA to determine whether fleet vehicles would be more cost-effective than mileage reimbursement.
8. The Board should create a written standard procedure for Board members requesting per diem to ensure consistency in the Board's use of funds.
9. The Board should adopt and enforce policies and procedures that strengthen the agency's internal controls over segregation of duties.
10. To ensure transparency and efficient use of public funds, the Board should submit receipts with meal reimbursement requests and ensure that its policies and procedures are in alignment with DFA's travel reimbursement guidelines.
11. The Board should require agency staff to participate in trainings offered by the State Personnel Board and seek mediation assistance from a human resources or counseling professional in order to provide leadership coaching and relationship-building skills.

Impact: Tourism

FY 2021 Annual Report: A Review of the Mississippi Development Authority Tourism Advertising Fund (Report #666)

MISS. CODE ANN. § 57-1-64 (1972) created the Tourism Advertising Fund and gave the Mississippi Development Authority the license to expend funds for the purpose of advertising and promoting Mississippi Tourism.

Additionally, MISS. CODE ANN. § 57-1-64.1 (1972) created the Mississippi Tourism Association Marketing (MTA) Marketing Advisory Board to provide assistance to MDA in planning goals and initiatives.

The Board is composed of the following:

- the MTA Executive Director;
- five members of the MTA Board of Directors representing each of MTA's five tourism regions;
- three at-large members;
- three at-large members appointed by the Governor;
- one at-large member appointed by the Lieutenant Governor; and,
- one at-large member appointed by the Speaker of the House of Representatives.

Recommendation

PEER staff believes that MDA has made expenditures from the Tourism Advertising Fund in accordance with MISS. CODE ANN. § 57-1-64. However, it is imperative that monies expended from the fund are effective in growing tourism and attracting visitors to the state. Therefore, PEER recommends the Legislature give PEER the authority to conduct a review of the effectiveness of MDA tourism marketing efforts.

Impact: Charter Schools

FY 2021 Annual Report: Analysis of Funding for Mississippi Charter Schools and the Charter School Authorizer Board (Report #667)

Summary

The Mississippi Charter School Authorizer Board (MCSAB) a state agency of seven appointed members, is the sole authorizing body for charter schools in the state and is responsible for oversight of charter school operations. MCSAB currently has one vacant Board member position.

Funding from state, local, federal, and other sources was sufficient for charter schools in FY 2021. However, the local ad valorem pro rata calculation required by state law continues to provide for unequal shares between charter schools and the school districts. FY 2021 was the third year the state funding formula, in which each charter school provides 3% of its state and local per-pupil revenue to MCSAB, generated sufficient funding to support the Board's activities for the year. Having analyzed several consecutive years of financial data from MCSAB, PEER believes that MCSAB has achieved the financial stability to operate on less than 3% of charter school revenues. MCSAB plans to request a no-cost extension on its Charter School Program (CSP) grant in 2022 so that it can continue to work toward its goals (e.g., increasing the number of charter schools and charter school seats).

During the 2021 application cycle, MCSAB did not approve any applications on the recommendation of its independent evaluator. During the 2020-2021 school year (SY 2020-2021), seven charter schools (five located in Jackson, one located in Clarksdale, and one located in Greenwood) served 2,417 students. During SY 2020-2021, six charter schools administered the Mississippi Academic Assessment Program (MAAP) to students in 3rd through 8th grade. Academic performance dropped from SY 2018-2019 to SY 2020-2021, presumably due to the learning loss resulting from COVID-19.

At its June 2021 Board meeting, MCSAB approved a four-year renewal contract for Joel E. Smilow Prep, with conditions. In 2017, the U.S. Department of Education awarded a five-year, \$15 million CSP grant to MCSAB to help expand the state's charter school sector. MCSAB had spent only 17% of its total grant funds by the end of the fourth year of the grant. At the time of application, MCSAB expected to have expended 74% of its grant funds by FY 2021.

Conclusions

1. The current constitution of board members' staggered terms results in three board members rolling off at one time, potentially impacting the board's quorum requirement.
2. On recommendation by its independent evaluator, MCSAB did not approve any applications for charter schools in 2021.
3. Academic performance of the charter schools that administered MAAP assessments in both the 2018-2019 and 2020-2021 school years dropped in all three academic areas, presumably due to the learning loss resulting from COVID-19. Notably, due to school closures resulting from COVID-19, students did not take the MAAP assessments in the 2019-2020 school year.
4. MDE distributed MAEP funding to charter schools at the same amounts it provided MAEP funding to the school districts in which those charter schools were located (before add-on program costs), in accordance with statute.
5. The local ad valorem pro rata calculation required by statute provides unequal shares between charter schools and the school districts. The total dollar amount of unequal funding from FY 2017 to FY 2021 for JPSD was \$1.4 million.
6. FY 2021 was the third year the state funding formula for MCSAB provided enough funds to cover the operations of the board.
7. MCSAB's 3% fee revenues have increased at a greater rate than its expenditures. Therefore, PEER believes MCSAB has achieved the financial stability to operate on less revenue.
8. Neither MCSAB's contract with Professional Polish to provide assistance to potential and currently operating charter applicants and schools; nor its contract with Champe Carter to develop, create, and implement a "Best Practice Tool Kit" for aspiring, approved, and operating charter schools included performance metrics to help assess the level of services MCSAB is receiving.

Recommendations

1. The Legislature should consider amending the MISS. CODE ANN. § 37-28-11 (1) (1972) to replace the 3% authorizer fee with funding from available funds; or, if the legislature chooses to keep the 3% fee, consider amending § 37-28-11 (1) to allow MCSAB to receive up to 3% of annual per pupil allocations.
2. The Legislature should, because MCSAB is defined as a state agency, consider enacting a separate appropriations bill for the board. Such a bill should contain the total amount of funds appropriated for the operations of the board and a total number of authorized full- and part-time positions.
3. MCSAB in consultation with MDE should, in order to make the pro rata distribution of local ad valorem funds equitable between school districts and charter schools, submit to the Senate and House Education Committees by January 1, 2023, a proposed amendment to MISS. CODE ANN. §§ 37-28-55 (2) and (3) (1972) revising the calculation such that traditional public-school students and charter school students in those districts receive equal per-pupil local ad valorem funding.
4. The Legislature should consider reconstituting the Board to establish terms of office that, when concluded, minimize the impact on the Board's operations.
5. As recommended by NACSA, MCSAB should revise its renewal process timeline to allow for earlier renewal decisions so that parents and schools know as early as possible whether the school will continue to operate the following year.
6. To improve the effectiveness of its contracts for the CSP grant, MCSAB should include strategic, measurable, actionable (achievable), relevant, and time-based (SMART) metrics in its contracts and use these metrics to assess the contractor's performance over time.
7. To improve the relevance and utility of its technical assistance provider satisfaction survey, MCSAB should ensure that the survey design incorporates best practices. In particular, MCSAB should:
 - a. adjust the timing of its survey so that results are not skewed based on the approval or denial decisions of MCSAB;
 - b. consider conducting a survey after each phase of the application process; and,
 - c. revise ambiguous survey questions so that they are more clearly stated and provide for more targeted feedback.

MCSAB should use the results of the survey to guide the work of its technical assistance provider so that applicants receive the highest level of assistance possible during the application process.

Impact: PERS

2021 Update on Financial Soundness of the Public Employees' Retirement System (Report #668)

The Public Employees' Retirement System of Mississippi (PERS) is a defined benefit retirement plan for a majority of the employees (and/or their beneficiaries) of state agencies, counties, cities, colleges and universities, public school districts, and other participating political subdivisions. State law requires PEER to report annually to the Legislature on the financial soundness of PERS. The 10-member PERS Board of Trustees has a primary responsibility of ensuring adequate funding of the plans it administers. One way the Board accomplishes this task is by setting contribution rates for employers participating in the plan. For assistance in setting these rates, the PERS Board receives actuarial reports annually and works with independent actuarial advisers to develop comprehensive models that are used to project the financial position of the various plans. These models include components such as investment return assumptions, wage inflation assumptions, retirement tables, and retiree mortality tables. Each of these components must work in concert with the others for the PERS plan to maintain financial soundness. Underperformance in any one area can cause additional stress on other components and can lead to underperformance of the PERS plan as a whole. In addition to annual actuarial valuations and projection reports, the PERS Board biennially reviews the actual experience of the various plans to expected experience for reasonableness, and adjust, as necessary, the assumptions used. This report also includes information about MCD's Self-Directed Brokerage Account.

Actuarial Soundness

The PERS Board, in consultation with its actuaries, develops an actuarial model based on such assumptions as projected investment returns, payroll increases, inflation, retirement ages, mortality rates, marriage rates, and accrued leave to project the plan's future assets and liabilities. Although the PERS Board sets plan assumptions based on biennial experience studies, the plan's actual experience (e.g., investment returns or mortality rates) is a product of environmental and demographic factors. As a result of the most recent four-year experience study ending June 30, 2020, and in consultation with its actuary, the PERS Board voted to change all three assumptions for the plan. The PERS Board reduced the price inflation assumption from 2.75% to 2.40% (a reduction of 0.35%). Reflecting this assumption change, among other factors, the Board reduced the wage inflation assumption from 3.00% to 2.65% (a reduction of 0.35%). The Board also reduced the investment return assumption from 7.75% to 7.55% (a reduction of 0.20%).

Wage Inflation Assumptions

Over the past 5- and 10-year periods, the PERS actual average annual payroll increase has continued to remain below the actuarial model's projected rate of wage increase (currently assumed at 2.65%). Although the PERS Board adopted changes based on its most recent experience studies (as of June 30, 2012; June 30, 2014; June 30, 2016; June 30, 2018; and June 30, 2020), which help PERS's actuarial assumptions align more closely with actual experience, continued analysis of variation between actual and assumed wage growth is warranted.

Active and Retired Member Assumptions

From FY 2010 through FY 2020, the ratio of active members to retired members decreased by approximately 32%, driven by the increasing number of retirees and the decreasing number of active members. As a result of the decrease, the payroll of fewer active members must fund future pension obligations.

Sustainability

The PERS plan's funding policy defines several goals and objectives, including the maintenance of an increasing trend in the plan's funded ratio (over the projection period) with the target of a 100% funding level by 2047.

Based on the results of the evaluation metrics in the funding policy as of June 30, 2021, the plan has two metrics at green signal-light status (funded ratio and cash flow as a percentage of assets) and one metric at red status (ADC/FCR ratio).

Risk Management

As of June 30, 2021, the PERS funded ratio was 61.3%, an increase from 60.5% as of June 30, 2020. Primarily due to the greater-than-expected investment returns, the PERS plan has a projected future funded ratio of 93.5% as of 2047, which passes the assessment metrics outlined in the plan's new funding policy with a green signal-light status.

Investment Management

For FY 2021, the PERS plan's combined investment portfolio experienced a return of 32.71%. For FY 2021, the PERS Board of Trustees continued to adhere to the overall asset allocation model adopted in June 2015. This model continues to set investment-level targets for the PERS investment portfolio and to mitigate investment risks through diversification.

Differences between the Actuarially Recommended and Board-Adopted Long-Term Assumed Investment Rate of Return

The investment return assumption is used in the actuarial model to project the long-term perspective of investments in combination with the long-term perspective of the liabilities. Based on the plan's most recent analysis of these data points, PERS's consulting actuary recommended lowering the PERS plan's investment return assumption from the previously **targeted** rate of 7.50% to 7.00% (a reduction of 0.50%). The PERS Board adopted this recommendation. However, while the plan's actuary makes recommendations to the Board regarding what rates should be used for the investment return assumption, it is ultimately the responsibility of the Board to set the rate utilized. For the FY 2021 valuation, the PERS Board reduced the **utilized** investment return assumption rate from 7.75% to 7.55% (a reduction of 0.20%). According to the amended funding policy, the plan's **utilized** investment assumption rate will be reduced until it reaches the **target** rate recommended by the actuary in the most recent experience study.

Update on Changes to the Mississippi Deferred Compensation Plan

The Mississippi Government Employees' Deferred Compensation Plan and Trust (MDC) is a voluntary government employees' deferred compensation plan sponsored by the State of Mississippi. State law charges PERS with the oversight and administration of MDC, which the PERS Board accomplishes through its Defined Contribution Committee. Under its authority as the administrator of MDC, and with the assistance of its investment consultants, the PERS Board selects the investment options available within MDC and monitors the performance of plan management offerings. The PERS Defined Contribution Committee created the Self-Directed Brokerage Account (SDBA) to provide MDC participants with the option to create a supplemental account within their MDC account with the ability to invest in mutual funds that are not available under MDC. Participants in SDBAs assume the responsibility, management, and risks associated with investing in these supplemental investment options. SDBA investment options will initially be limited to mutual funds; however, as PERS continues to monitor the participation in MDC core investments and the SDBA, the PERS Board may consider additional options at a later time.

Conclusion

Based on the most recent experience study and the recommendations from PERS's consulting actuary, Cavanaugh Macdonald Consulting, LLC, the PERS Board adopted changes to the plan's economic, demographic, and other actuarial assumptions. Additionally, the PERS Defined Contribution Committee created the Self-Directed Brokerage Account to provide the Mississippi Deferred Compensation Plan and Trust (MDC) participants with the option to create a supplemental account within their MDC account with the ability to invest in mutual funds that are not available under MDC.

Impact: Postsecondary Governance

A Review of the Current Postsecondary Governance in Mississippi (Report #669)

IHL Board of Trustees

The IHL Board is constitutionally empowered to manage and control the state's eight institutions of higher learning. Mississippi initially established individual boards for each institution and gave the Governor authority to appoint all board members. This led to government overreach and interference with university operations (e.g., governor-led termination of university presidents and staff), which threatened universities' accreditation. In 1943, Mississippians voted to create the IHL Board to govern the state's universities and prohibited current elected officials from serving as Board members. If Mississippi were to consider changing its postsecondary structure, it would need to take into account regulatory and support functions currently conducted by the IHL Board (e.g., finance and administration, facility operations).

Mississippi Community College Board

The Mississippi Community College Board establishes guidelines for the fifteen local community colleges; each has its own local governing board. In 1928, the Commission of Junior Colleges oversaw the development of the state's early junior colleges. In 1986, the Legislature reconstituted the Commission as the State Board for Community and Junior Colleges (later renamed the Mississippi Community College Board) in 2011. If the state were to consider making changes to the state's postsecondary structure, the state would need to take into account the administrative and support functions currently conducted by the MCCB (e.g., administration, workforce education).

Things to Consider:

Limited information exists about best practices for reorganizing postsecondary governance.

- Focus on the ends, not the means.
- Identify and articulate the core issues the state is trying to address.
- Examine options for working within existing governance.
- A change in governance of institutions managed and controlled by the IHL Board of Trustees would require an amendment of Section 213A of the *Mississippi Constitution of 1890*.

Identifying Approaches for Restructuring the State's Postsecondary Governance

State leaders could take multiple approaches to amend the current postsecondary governance model. Most models to alter the university governance would require a constitutional amendment and most models to alter the community college structure would at least require a statutory amendment.

Should the State have An Overarching/Unifying Postsecondary Governance Structure?

- could involve adding an overarching coordinating body for community colleges and universities; and,
- could improve the functionality of the existing governance structure or merging IHL Board and MCCB.

Which Approach Does Mississippi Want to Utilize to Govern Its Universities?

- maintain existing structure (a central governing board for universities only);
- move toward institutional governing boards for each university or a multiple-university system that has its own board; or,
- institute an overarching governing/coordinating board with some level of authority over universities.

Which Approach Does Mississippi Want to Utilize to Govern Its Community Colleges?

- maintain existing structure (community colleges have their own local governing boards);
- move toward centralization (e.g., a community college governing board); or,

- establish one board with authority over universities and community colleges.

Identifying Approaches for Restructuring UMMC's Governance

State leaders could take multiple approaches to amend UMMC's governance. Any approach that alters UMMC's governance would require a change in statute and potentially amending the state's constitution if such change in governance related to removing UMMC from IHL Board of Trustees oversight or significantly altering IHL authority as it relates to UMMC.

Can the State Identify Sufficient Cause to Change the Existing UMMC Governance?

- could adjust involvement of IHL Board in decision-making; and,
- could make changes in state law to adjust UMMC's governance without significantly modifying the state's postsecondary governance.

Does Mississippi Want a Single Entity to Govern UMMC?

- could involve eliminating half of UMMC's current dual governance (UM and IHL Board) and requiring UMMC to report only to one board; and,
- would likely require a constitutional amendment.

Does Mississippi Want UMMC to be Governed by a UMMC-Specific Board?

- involves removing UMMC from its current dual governance and reconstituting UMMC under a single board more tailored to governing an academic health center; and,
- would require a constitutional amendment.

Does Mississippi Want to Separate UMMC's Clinical Enterprise (i.e., hospitals, clinics, and telehealth) from UMMC's Academic and Research Components?

- involves examining the ownership of UMMC's clinical enterprise; and,
- could involve creating a separate governing arrangement (e.g., separate non-profit; partnership with other healthcare providers).

Conclusion

The PEER Committee, under its authority granted by MISS. CODE ANN. § 5-3-51 (1972) et seq., authorized a review of the governance of Mississippi's universities, plus the University of Mississippi Medical Center (UMMC). Mississippi's postsecondary governance consists of two boards: a governing board manages the state's eight four-year universities (Board of Trustees of the Institutions of Higher Learning) and a coordinating board that coordinates the state's 15 community colleges (Mississippi Community College Board). Because no standard for best practices exists, PEER identified potential approaches for restructuring the state's postsecondary governance.

Impact: Exemption of MDCPS from MSPB Oversight

Issue Brief: A Review of the Exemption of the Mississippi Department of Child Protection Services from Mississippi State Personnel Board Oversight (Report #670)

Background

In 1980, the Mississippi Legislature established a centralized personnel agency, the Mississippi State Personnel Board (MSPB), for the statewide coordination of public personnel administration. In accordance with MISS. CODE ANN. Section 25-9-101 et seq. (1972), MSPB is a personnel agency responsible for maintaining a merit system, operating a classification and compensation system, tracking employee compensation expenditures, and providing for employee development, among other tasks.

MSPB exerts considerable control over state agency resources. State service positions are under the classification and selection controls of MSPB.

MSPB is charged by state law with the creation and maintenance of Mississippi's compensation plan, currently known as the Colonel Guy Groff Variable Compensation Plan (VCP), a set of policies and procedures created by MSPB to ensure that compensation of state service employees is done in accordance with state and federal laws. With input from state agencies, MSPB establishes the starting and ending salaries for job classes in state government and determines how much compensation agencies can give to state employees in those positions.

As a component of the state's VCP, MSPB is tasked with creating and maintaining a system of minimum qualifications for state service positions. These qualifications outline the lowest qualifications necessary in a candidate to complete the assigned duties of a specific employment position.

Purpose of Issue Brief

In PEER's December 2020 publication, *Issue Brief: Effect of Agencies Being Exempted from Mississippi State Personnel Board's Purview*, PEER reviewed the impact of legislation from the 2010 through 2020 Regular Sessions that granted four agencies temporary exemptions from MSPB oversight. The Committee authorized a second review to determine whether additional agencies had requested and received exemptions in FY 2021 or FY 2022, and the impacts of those exemptions. MSPB reported to PEER that no agency received a temporary legislative exemption from MSPB oversight in FY 2021 or FY 2022.

MDCPS has been operating under MSPB oversight for nearly two years. PEER compared the staffing actions of MDCPS during its exemption period (FY 2017 through FY 2020) and any impacts on MDCPS's staffing and/or budget during the period in which it was under MSPB's oversight beginning in FY 2021. In particular, PEER reviewed MDCPS's filled and unfilled PINs, staffing expenditures, salary increases, staff separations, and staff terminations.

Issue Brief Findings

MDCPS Staffing

During its exemption period from FY 2017 through FY 2020, MDCPS underwent major staffing changes. Specifically, MDHS transferred 1,607 PINs to MDCPS, the Legislature authorized MDCPS an additional 347 PINs (78% of which MDCPS allocated for front-line staff and supervisors), and MDCPS exchanged 50 PINs with MDHS.

Unfilled PINs

Even with the additional flexibility of the exemption in place from FY 2017 through FY 2020, MDCPS struggled to fill its PINs; 29% of MDCPS's 1,954 PINs were unfilled at the end of the exemption period on June 30, 2020. Since moving under MSPB oversight in FY 2021, the high number of unfilled PINs at MDCPS continues to be an issue.

MDCPS Staffing Expenditures

During the exemption period, MDCPS's salary expenditures averaged approximately \$77.3 million. For FY 2021 and FY 2022 projections, MDCPS's staffing expenditures remained relatively stable, averaging approximately \$75.8 million. While this figure represents a slight decrease of approximately 2% from the exemption period, there are various plausible reasons for this decrease (e.g., staff's length of employment).

MDCPS Salary Increases

During its exemption period, MDCPS granted \$6.3 million in salary increases to 1,388 employees, primarily for realignments and intra-agencies promotions. After moving under MSPB oversight in FY 2021, MDCPS granted \$6.6 million in salary increases to 937 employees, primarily for reclassifications within new career ladders that foster upward movement for caseworkers and support staff.

Staff Separations and Terminations

MDCPS averaged more separations and terminations during its exemption period than it did during the period under MSPB oversight.

Legislative Considerations

- The Legislature should consider requiring agencies to create a written plan describing the justification for the exemption and the actions they plan to implement if granted an exemption. This plan would provide more complete information by which legislative committee members could make informed decisions regarding exemptions and provide for greater accountability for results.
- For agencies granted exemptions from hiring and promoting staff with minimum qualifications, the Legislature should consider requiring these agencies to report information related to the impact of such hiring decisions. This information would provide decision-makers with the information needed to ensure competency of agency staff.

Impact: Legislative Support

Legislative Assistance

PEER Committee rules state that PEER staff will provide assistance to any legislator or legislative committee upon request. During FY 2022, PEER staff completed 55 legislative assistance requests, ranging from simple information and data requests to more complex direct assistance on behalf of committees or subcommittees. The following list illustrates the types of assistance provided by PEER staff:

- COVID-19 information;
- PERS analysis;
- Medicaid postpartum extension information;
- state government purchasing;
- child support; and,
- cryptocurrency.

Appointee Background Investigations

Since 1977, Senate committees have routinely requested PEER staff to conduct background investigations of appointees to assess each appointee's compliance with statutory qualifications and general fitness to hold office prior to their consideration for advice and consent of the Senate. During FY 2022, PEER staff completed 138 background investigations of gubernatorial and other appointees named to state boards or commissions. Some of the more notable background investigations included appointees to the:

- State Board of Education;
- Information Technology Services Authority;
- Mississippi Lottery Corporation Board of Directors;
- State Board of Mental Health;
- Board of Animal Health;
- State Board of Physical Therapy;
- State Parole Board; and,
- Selected state agency executive directors.

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