

**STATE OF WEST VIRGINIA**

**Special Report**

**Cable and Television Advisory Board**

**Disposition of Furniture, Equipment and Records  
Status of Revenue Balances**

**OFFICE OF LEGISLATIVE AUDITOR  
Performance Evaluation and Research Division  
Building 1, Room W-314  
State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305  
(304) 347-4890**

PE98-11-103

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Performance Evaluation and Research Division

Harvey Burke, Research Manager  
Shannon Riley, Research Analyst

**September 1998**

**WEST VIRGINIA LEGISLATURE**  
*Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



Antonio E. Jones, Ph.D.  
Director

September 13, 1998

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable Vicki Douglas  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Special Report of the Cable and Television Advisory Board, which will be presented to the Joint Committee on Government Operations on Sunday, September 13, 1998. The issues covered herein are "Disposition of Furniture, Equipment and Records; and, Status of Revenue Balances."

Sincerely,

A handwritten signature in black ink, appearing to read "Antonio E. Jones".

Antonio E. Jones

AEJ/wsc

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*Joint Committee on Government and Finance*

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## **Cable Television Advisory Board Special Report**

The Cable Television Advisory Board (CTAB) was terminated by the Legislature during the 1997 Regular Session. The Joint Committee on Government Operations requested the Performance Evaluation and Research Division to issue this Special Report on the Board's disposition of records, equipment and any expenditures made after the June 30, 1998. We confirmed with the State Auditor's Office the expenditures and balance of the fund and confirmed with the Department of Administration the disposition of the equipment and records.

### **Disposition of Fiscal and Other Records**

The CTAB in accordance with Code §5A-8-9 should have submitted to the Administrator (Secretary of the Department of Administration) a schedule of records and the length of time for retention. The Code states...

*The head of each agency shall:...submit to the administrator, in accordance with the standards established by him, schedules proposing the length of time each state record series warrants retention for administrative, legal or fiscal purposes after it has been received by the agency.*

The disposal of state records is governed by Code §5A-8-17 of the West Virginia Code which states...

*No record shall be destroyed or otherwise disposed of by an agency of the state, unless it is determined by the administrator and the director of the section of archives and history of the division of culture and history that the record has no further administrative, legal, fiscal, research or historical value.*

The Director of Purchasing, who oversees records management for state government; confirmed that the records management section of the Purchasing Division was not contacted by CTAB for storage of the fiscal and business records. We contacted the Public Service Commission's fiscal officer for further inquiry as to the physical location of the records. We were informed the records pertaining to the activities of the Cable Television Advisory Board were sent to the Department of Culture and History, Division of Archives at the Cultural Center. The Archives and History Division received 26 boxes and 16 file drawers of records on June 24, 1998. The Board sent an additional 27 boxes to archives on June 30, 1998. The records include the board minutes, franchise applications, agreements, franchise reports complaints, correspondence, financial and personnel records. The director of Archives and History also confirmed the CTAB did not have a disposition schedule for its records on file (see attachment).

### **Personnel Records**

The Division of Archives and History (DAH) raised the question of personnel records being retained in their custody. The Director of DAH contacted the Division of Personnel (DOP)

regarding the possibility of the personnel records being transferred to them; however, the DOP refused to accept the records because CTAB staff was not covered by civil service. The personnel records being retained by DAH instead of DOP presents problems because former staff while seeking employment elsewhere, has no specific agency for prospective employers to contact for: confirmation of CTAB employment dates; If the former CTAB employee becomes employed by another state agency, the records for confirming and reinstating years of service for increment purposes is not available; Further the former employees have no way of confirming sick leave balance during their tenure which can be reinstated by the hiring agency. This information might also be used for retirement purposes.

The Sunset law does not provide specific procedures for the disposition of records when an agency is terminated. The Code specifies what on-going agencies are required to do about records management. However, it does not address the procedures to be used when an agency has been terminated.

### **Disposition of Equipment and Inventories**

The Director of Purchasing is mandated to have full authority over inventories and property. The Cable Television Advisory Board was required in accordance with §5A-3-35 of the WV Code, to:

*... on or before the fifteenth of July of each year, file with the director an inventory of all real and personal property, and of all equipment, supplies and commodities in its possession as of the close of the last fiscal year, as directed by the director.*

The Cable Television Advisory Board contacted the Department of Administration's (DOA) Surplus Property Division to arrange for the disposal of the Board's equipment in compliance with §5A-3-45 of the West Virginia Code and the DOA Purchasing Division surplus property procedures. **The Board did not submit the required annual inventory for June 30, 1997 as set forth in §5A-3-35. An inventory as June 30, 1997 of all real and personal property and inventories of supplies and commodities should have been compared to the list of items retired to surplus property. We could not determine if all inventory items were accounted for and transferred to surplus property at the close of business on June 30, 1998 because CTAB failed to submit the required inventory on that date.**

The physical removal of all office property occurred on June 29 and June 30, 1998. The CTAB completed and submitted the necessary inventory and summary sheets to the Surplus Property Division of the Department of Administration. The equipment sent to surplus included four computer workstations, computers and laser printers, chairs, desks, typewriters and miscellaneous office equipment. The office space occupied by CTAB was leased to the Department of Health and Human Services effective July 1, 1998.



## Expenditures Paid After June 30, 1998

We compared expenditures for fiscal year 1997 and fiscal year 1998 to determine whether there were any fluctuations in the various line items for CTAB. We found that the CTAB spent \$12,392 more in fiscal year 1998 than was spent in fiscal year 1997. The only unusual item was a reimbursement from Public Employees Insurance Agency for insurance premiums paid during the period June, 1992 through December, 1996. The State Auditor reported the Cable Television Advisory Board fund (Fund number 8609) balance as of June 30, 1998 was \$134,899.82. The State Auditor confirmed the final personal services was paid on June 30, 1998, which included the final paycheck, accumulated annual leave and the annual increment. The Board incurred \$4,469.58 of expenditures during June of 1998 which were paid during the 30-day carry over period. The CTAB made arrangements with FIMS and the State Auditor's Office to process any outstanding debts. The payments processed in the 30 day closeout period ending July 31, 1998 were for the following outstanding costs: employees benefits for the month of June, 1998 in the amount of \$2,846.96 and various current expenses in the amount of \$1,622.62. A breakdown of expenditures during the closeout period appears in **Table 1**.

**Table 1**  
**Cable Television Advisory Board Close-Out Expenditures**

Vendor	Good or Service	Amount
Public Employees Retirement	Retirement Contribution	\$898.00
Bureau of Employment Programs	Workers Compensation	\$ 380.94
Public Employees Insurance	June premium	\$1,568.02
State Auditor's Office	FIMS Fees	\$11.50
Public Service Commission	Postage	\$8.61
Public Service Commission	Phone Service	\$643.95
Department of Administration	Quick Copy - Parking Garage	\$817.20
IS&C	Services	\$52.10
Board Member	Travel-Board Meeting	\$35.00
AAA Office Bazaar Ltd	Office Supplies	\$10.51
WV Association of Rehabilitation Services	Bulk Mail Services	\$43.75
<b>Total</b>		<b>\$4,469.58</b>

As of July 1, 1998, the State Auditor's Office's Accounting Division and Payroll Division placed the Cable Television Advisory Board payroll account on inactive status. No further expenses or payrolls can be processed on the fund. **The balance of the fund as July 31, 1998 was \$131,328.24.** It did not expire to the General Revenue Fund. According to the State Auditor,

*When a state agency is terminated without any provisions for the disposition of remaining balances, the funds will remain with the operating funds in existence at the time of termination, pending action by the Legislature.*

### **Outstanding Litigation**

The Attorney General's Office (AG) confirmed the CTAB has three active litigation files pending from 1997. The files are outstanding civil penalties imposed on three different cable operators in the amounts of \$225, \$250 and \$95 for a total of \$570. The AG's intends to move forward on the collection of these fines, however raised some concerns regarding the termination procedures. The Sunset section of the Code does not address what procedures are be followed for outstanding litigation when an agency is terminated.

### **Conclusion**

The CTAB has terminated its operations as of June 30, 1998; however, the procedures for disposition of equipment and records were not completed in accordance with the Code. The *Sunset law* does not address the proper procedures to be followed by an agency when the agency has been terminated. The Code address issues for disposal of records and equipment for on-going agencies; however, it does not address what procedures the agency should follow when it has been terminated. The *Sunset Law* provides for the disposition of remaining money in the agency's fund but does not address the procedures dealing with disposition of equipment, property, agency records and outstanding litigation.

### **Recommendation**

*The Legislature should consider statutory changes to the Sunset law to provide terminated agencies with detailed guidelines for the disposition of equipment, property, records or other matters assuring proper oversight during the fiscal year after termination.*

**APPENDIX A**  
**Letter from Purchasing Division**

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CECIL H. UNDERWOOD  
GOVERNOR

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON STREET, EAST  
P.O. BOX 50130  
CHARLESTON, WEST VIRGINIA 25305-0130

JOSEPH F. MARKUS  
CABINET SECRETARY  
DAVID TINCHER  
DIRECTOR

August 3, 1998

**RECEIVED**

**AUG 6 1998**

**RESEARCH AND PERFORMANCE  
EVALUATION DIVISION**

Mr. Harvey Burke, Research Manager  
WV Legislative Auditor's Office  
Performance Evaluation and Research Division  
Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0610

Dear Harvey:

In response to your July 17, 1998 memorandum, please be advised of the following;

1. The Cable Television Advisory Board contacted Surplus Property to arrange for proper disposition of equipment. Attached are copies of relevant documents.
2. Records Manager Catherine Bryan indicated that to the best of her knowledge, she received no inquiries from this agency concerning records storage.

Please let me know if you need additional information.

Respectfully,

Dave Tinchler, Director  
Purchasing Division

DT/dw

Attachment

cc: Catherine Bryan, Purchasing Division  
Ken Frye, Surplus Property



**APPENDIX B**  
**Letter from Culture and History**







**WEST VIRGINIA DIVISION OF  
CULTURE AND HISTORY**

RECEIVED

AUG 12 1998

RESEARCH AND PERFORMANCE  
EVALUATION DIVISION

12 August 1998

Ms. Shannon Riley  
Performance Evaluation & Research Division  
Legislative Auditor's Office  
Bldg 1, Room W-314  
1900 Kanawha Blvd. E.  
Charleston, WV 25305-0610

Dear Ms. Riley:

Ms. Debra Basham informed me of your request regarding the West Virginia Cable Advisory Board dissolution and the transfer of its records to Archives and History.

On 24 June we picked up, at the Cable Advisory Board offices in the Brooks Medical Building, twenty-six (26) boxes, some cubic foot and some bankers boxes, and sixteen file drawers of records (an additional 27 cubic feet). An additional twenty-seven boxes were delivered from storage at Archives Services, Inc. to our location on 30 June. In addition to board minutes, franchise applications, agreements, franchise reports, regulations, complaints, correspondence, there are financial records relating to Cable Advisory Board expenditures and income and personnel files.

The Cable Advisory Board had no disposition schedule for its records on file. The State Archives is responsible for the preservation of the state's historical record and this is why we attempt to monitor and contact boards and commissions and etc. that are dissolved through the provisions of the sunset process regarding the disposition of their records. Records which retain legal, fiscal and administrative value should not be the responsibility of the State Archives and in some cases should not be accessible at the archives. Specifically this would apply to personnel records and possibly to some financial and legal records. We do know that some active files were transferred to Deputy Attorney General Darlington for final resolution. While the Legislative Auditor's Office and the legislature conduct the process leading up to the dissolution of such bodies as the Cable Advisory Board, there appears to be no process for the final disposition of such records. If the records of the Cable Advisory Board transferred to Archives and History have been subjected to all necessary state audit procedures, may we proceed with disposal of the records not possessing sufficient historical value to warrant their preservation in the State Archives? We have already contacted Personnel and they do not want the personnel records because Cable Advisory Board staff were not covered. Would Consolidated Retirement have need for these records at any time in the future? Would former employees of the board look to the state to provide any employment history from these records?

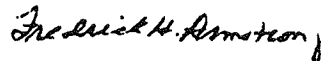
THE CULTURAL CENTER • 1900 KANAWHA BOULEVARD, EAST • CHARLESTON, WEST VIRGINIA 25305-0300  
TELEPHONE 304-558-0220 • FAX 304-558-2779 • TDD 304-558-3562  
EEO/AA EMPLOYER

Ms. Shannon Riley  
12 August 1998  
Page Two

While the Legislative Auditor's Office may be interested in completing its process of documenting the close out of the Cable Advisory Board, the process as it regards this board's records, as with any agency, board or commission, leaves many unanswered questions, as well as in some cases a quantity of official state records. We would appreciate any advice you may be able to provide regarding the specific records, such as personnel and financial, which should not be in the State Archives. We would also welcome your attention to the development of procedures so as to insure that the records of any agency, board or commission, subjected to the final provisions of the state's sunset legislation, would be transferred to the appropriate state agency, the State Archives, or properly disposed of because they possess no further legal, administrative or fiscal value.

I hope the information provided above on the records transferred by the Cable Advisory Board to Archives and History meets your needs. If you have any questions please advise. At this time and until we can resolve some of the questions posed, we are not in a position to provide a detailed listing of the folders and boxes of the records transferred. We are looking for answers to the questions posed before undertaking this task.

Sincerely,



Fredrick H. Armstrong  
Director  
Archives and History.

**APPENDIX C**  
**Letter from the Director of Accounting, State Auditor's Office**





# State of West Virginia

Office of the State Auditor  
Building 1, Room W-100  
Charleston, West Virginia 25305

August 3, 1998

Glen B. Gainer III  
State Auditor

R. Ross Guyer  
Chief of Staff

Paul S. Mollohan  
Chief Clerk

Telephone: (304) 558-2251

FAX: (304) 558-5200

Internet: <http://www.wvauditor.com>

Legislative Auditor's Office  
Mr. Harvey R. Burke, Research Manager  
Building 1, Room W-314  
Charleston, West Virginia 25305-0610

**RECEIVED**

**AUG 6 1998**

**RESEARCH AND PERFORMANCE  
EVALUATION DIVISION**

Dear Mr. Burke:

Per your request of July 17, 1998, please note the following:

- 1). The balance of Fund 8609, Cable Television Advisory Board on July 31, 1998 was \$131,328.24.
- 2). The final payroll on June 30, 1998, included the final paycheck, accumulated annual leave and the annual increment.
- 3). The following payments were processed in the 31 day closeout period ending July 31, 1998.
  - a. Employee Benefits \$2,846.96
  - b. Unclassified \$1622.62

I have attached copies of the original coversheets and invoices paid in July. If I can be of further assistance, please contact me at 558-2250, extension 147.

Sincerely,

G. Michael Hutchinson,  
Director of Accounting

GMH:ps



**APPENDIX D**  
**Comparison of Expenditures, 1997 and 1998**





<b>Cable TV Advisory Board</b>				
<b>Comparison of Fiscal Year 1998 and 1997 Revenues and Disbursements</b>				
		<b>FY 1998</b>	<b>FY 1997</b>	<b>1998-1997</b>
<b>Description</b>		<b>Actual</b>	<b>Actual</b>	<b>Difference</b>
		<b>Amount</b>	<b>Amount</b>	<b>(under)</b>
<b>Personal Services</b>				
Personal Services	1	120,556.37	116,060.00	4,496.37
Personal Services	2	2,700.00	2,750.00	(50.00)
PAR Reimbursements	3	19,392.60	17,849.52	1,543.08
Annual Increment	4	3,928.85	0.00	3,928.85
<b>Employee Benefits</b>				
Civil Service	10	(5,009.02)	813.75	(5,822.77)
Social Security Match	11	10,722.35	10,116.80	605.55
Public Employees Insurance	12	19,558.34	16,585.28	2,973.06
Workers Compensation	14	1,249.41	605.08	644.33
Pension & Retirement	16	12,573.17	12,178.77	394.40
<b>Current Expenses</b>				
Office, Postal, Freight	20	2,803.13	1,941.18	861.95
Printing and Binding	21	2,286.54	2,221.14	65.40
Rental (Building)	22	7,385.99	8,428.65	(1,042.66)
Telephone	24	8,581.19	7,132.60	1,448.59
Contractual & Professional	25	311.29	89.00	222.29
Travel	26	11,300.31	7,341.94	3,958.37
IS & C	27	770.63	297.72	472.91
Machine Rentals	30	1,173.81	1,617.00	(443.19)
Association Dues	31	60.00	0.00	60.00
Risk Management Insurance	32	1,100.00	1,100.00	0.00
Advertising	35	546.63	3,738.57	(3,191.94)
Miscellaneous	51	450.00	0.00	450.00
Postal & Freight	53	574.34	117.78	456.56
<b>Repair And Alterations</b>				
Building	64	0.00	574.24	(574.24)
<b>Equipment</b>				
Office Equipment	70	1,199.99	0.00	1,199.99
Other	78	99.99	364.92	(264.93)
<b>Total</b>		<b>224,315.91</b>	<b>211,923.94</b>	<b>12,391.97</b>
Revenues	861	113,736.36	213,821.57	(100,085.21)
<b>Source of Information: State Auditor's Office AO 213 Line Item Report</b>				
<b>Purpose: Compare Actual Cost Increases/Decreases from Year to Year</b>				
<b>Legend:</b>				
Bold numbers denote the transaction object code was undeterminable and was				



**APPENDIX E:  
Agency Response**





# State of West Virginia

Office of the State Auditor  
Building 1, Room W-100  
Charleston, West Virginia 25305

Glen B. Gainer III  
State Auditor

August 25, 1998

Telephone: (304) 558-2251  
FAX: (304) 558-5200  
Internet: <http://www.wvauditor.com>

Antonio E. Jones, Ph. D.  
Director, Performance Evaluation  
and Research Division  
West Virginia Legislature  
Building 1, Room W-314  
Charleston, WV 25305

Dear Dr. Jones:

This is in response to your August 19, 1998 correspondence concerning the disposition of the remaining fund balance of the terminated West Virginia Cable Advisory Board.

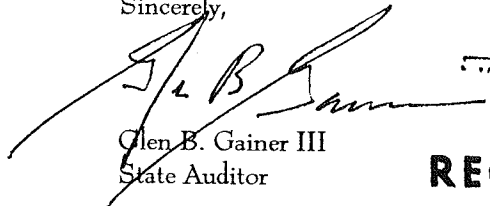
In answer to the first question, the balance remaining on June 30, 1998 for the Board did not expire to the General Revenue Fund.

In answer to the second question, the disposition of any remaining funds of a terminated State entity depends on the statute that caused the termination.

If the agency is terminated without any provisions for the disposition of the remaining balances, the funds will remain with the operating funds in existence at the time of termination, pending action by the Legislature.

I trust the above information answers your inquiries sufficiently. If I can be of further assistance to you in any way, please don't hesitate to give me a call at 558-2251.

Sincerely,



Glen B. Gainer III  
State Auditor

GBGIII/lq

**RECEIVED**

**AUG 26 1998**

**RESEARCH AND PERFORMANCE  
EVALUATION DIVISION**

