

LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION

BAKERTON VOLUNTEER FIRE DEPARTMENT

FOR THE YEAR ENDING DECEMBER 31, 2011

REPORT OVERVIEW

- Lack of Support for \$22,300.62 of State Funds
- Commingled \$15.500 in State Monies



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WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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June 17, 2014

The Joint Committee on Government and Finance:

We conducted a compliance inspection and review of the financial transactions and records of the Bakerton Volunteer Fire Department's state funds for the calendar year ended December 31, 2010. We reported on October 9, 2012, the chief allegedly used a VFD check and credit card for personal purchases and other unauthorized expenses while serving as chief. In compliance with the provisions of W. Va. Code §12-4-14 as amended, we conducted a follow-up compliance inspection and review of the financial transactions and records of the Bakerton Volunteer Fire Department's state funds for the calendar year ended December 31, 2011. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,

A handwritten signature in blue ink that reads "Denny Rhodes".

Denny Rhodes, Director
Legislative Post Audit Division

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FINDINGS

Finding 1 **Lack of Support for \$22,300.62 of State Funds**

Condition: Based on the documentation provided to us, the Bakerton Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$22,300.62.¹

In the items that lack support, we noted a debit for \$5,500.00, dated 5/6/2011 made payable to Bakerton Fire Department and a debit for \$6,703.00, dated 12/19/2011 made payable to cash.

Criteria: **W. Va. Code §8-15-8(b), as amended, states in part:**

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source.”

Cause: The department did not have sufficient procedures in place to insure that all expenditures are properly documented.

Effect: There is a greater risk for fraud and abuse when expenditures are not properly documented. Due to the lack of proper supporting documentation, we were unable to determine if these expenditures were allowable.

Recommendation: We recommend the department maintain proper documentation for all expenditures made from state funds and reimburse their State account \$22,300.62 for expenditures that lacked proper support. We recommend the department obtain proper documentation and examine the propriety of all transactions that lacked proper support. We further recommend the department engage an independent CPA to assist the department to evaluate all accounts and provide an audit of the department’s finances.

¹ See **Supplemental Information – Expenditures Lacking Supporting Documentation** for an itemized list of expenditures with missing documentation.

Finding 2 Commingled \$15,500 in State Monies

Condition: The Bakerton Volunteer Fire Department commingled State funds with funds from other sources by making three transfers from their state account to their non state account (general account), totaling \$15,500. The department also made three deposits, totaling \$9,643, to their state account from non-state sources.

Criteria: **W.Va. Code §8-15-8(b), as amended, states in part:**

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, **may not be commingled with funds received from any other source.” Emphasis added**

Cause: The department did not follow W. Va. Code §8-15-8(b), as amended, and commingled funds from other sources with funds received pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code.

Effect: Due to the commingling of funds, we may be unable to determine if all expenditures made from state funds were allowable and/or properly documented.

Recommendation: We recommend the Bakerton VFD maintain all State funds in a separate account and not commingled with funds received from other sources. We further recommend the department reimburse their state account \$15,500.00 for undocumented transfers to their non state account.

**Bakerton Volunteer Fire Department
January 1, 2011 – December 31, 2011**

**SUPPLEMENTAL INFORMATION: EXPENDITURES LACKING SUPPORTING
DOCUMENTATION FOR YEAR ENDING DECEMBER 31, 2011**

CHECK NO.	CHECK DATE	PAYEE	AMOUNT
1099	12/8/2010	Winsteads Fire Equip.	\$149.12
EFT (1104)	1/13/2011	AT&T Mobility	\$312.90
1105	1/5/2011	Voyage Fleet	\$1,480.36
1106	1/5/2011	Courtney Auto Parts	\$12.00
1108	1/19/2011	Rhino Lining	\$1,600.00
1109	1/19/2011	Courtneys	\$127.00
1110	VOID	VOID	\$0.00
1111	VOID	VOID	\$0.00
1112	VOID	VOID	\$0.00
1113	VOID	VOID	\$0.00
EFT (1120)	2/8/2011	Voyage Fleet	\$868.24
1124	3/18/2011	WV Sec. of State's Office	\$25.00
No Number	5/6/2011	Bakerton Fire Dept	\$5,500
EFT	6/7/2011	Deluxe Bus Systems	\$43.44
EFT	6/7/2011	Deluxe Bus Systems	\$44.16
Debit Memo	8/3/2011	MVB Bank	\$55.75
EFT (1125)	12/27/2011	CSI Global Fleetcard	\$4,000.00
1126	VOID	VOID	\$0.00
1127	8/9/2011	*** ²	\$71.00
Debit Memo	8/29/2011	MVB Bank	\$760.64
Debit Memo	10/12/2011	Apple Valley Fire	\$548.01
No Number	12/19/2011	Cash	<u>\$6,703.00</u>
		Total	\$22,300.62

² Individual's name removed for privacy.

**Bakerton Volunteer Fire Department
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**SUPPLEMENTAL INFORMATION: AUDITED DIFFERENCES FOR STATEMENT OF
EXPENDITURES FOR YEAR ENDED DECEMBER 31, 2011**

Authorizing W.Va. Code	Audit	VFD	Differences
Chapter 8, Article 15, Section 8b(1)	\$263.00	\$443.00	-\$180.00
Chapter 8, Article 15, Section 8b(2)	\$2,335.51	\$8,416.15	-\$6,080.64
Chapter 8, Article 15, Section 8b(3)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(4)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(5)	\$6,299.62	\$8,658.29	-\$2,358.67
Chapter 8, Article 15, Section 8b(6)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(7)	\$1,080.52	\$312.90	\$767.62
Chapter 8, Article 15, Section 8b(8)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(9)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(10)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(11)	\$0.00	\$7,572.47	-\$7,572.47
Chapter 8, Article 15, Section 8b(12)	\$0.00	\$25.00	-\$25.00
Chapter 8, Article 15, Section 8b(13)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(14)	\$0.00	\$0.00	\$0.00
Chapter 8, Article 15, Section 8b(15)	\$0.00	\$0.00	\$0.00
Total Disbursements	\$9,978.65	\$25,427.81	-\$15,449.16

SCOPE

We conducted an evaluation of the revenue and expenditure transactions, and other records of the Bakerton Volunteer Fire Department's state accounts for the year ending December 31, 2011. Our scope included determining instances of noncompliance with W. Va. Code, §8-15-8b, and other applicable laws and regulations. The Compliance inspection was conducted in accordance with criteria set forth by the Legislative Post Audit Division.

OBJECTIVES AND METHODOLOGIES

The objective of our report was to review expenditures from the department's state fund to ensure all expenditures were allowable and supported, and to report any unlawful expenditures that we find. Additionally, we were to examine the spending unit's financial transactions and records to evaluate its compliance with applicable State laws, rules and regulations.

Our sample of departments to test was randomly selected by district, after determining a population of all departments for which a report has not been issued. Our sample also included specific departments selected for audit at the request of the Fire Marshal or by Legislative Post Audit.

We scheduled all canceled checks that were submitted regarding State funds, accounting for every check number in sequence. We matched these checks to the proper invoices and noted any lack of documentation and any instances of noncompliance with W. Va. Code, §8-15-8b, as amended. We reviewed the bank statements to determine if the account was commingled, or if any other deposits were made during the year that did not come from the WV State Treasurer. While reviewing the bank statements we also looked for any other electronic debits or credits or bank service charges. For all State grants awarded to the department for our audit period we requested and reviewed the grant agreement, supporting invoices, bank statements, checks, ledgers, and sworn statement of expenditures, if applicable, to determine if expenditures for the grant were allowable and properly documented.

We made copies of any documents that were questionable. We developed a list of any missing documentation and sent it with a letter to the Fire Chief of the department to give them a minimum of one week to find any missing documents and to explain any discrepancies we might have with the amount reported by the department versus the audited amount. We prepared our findings if applicable and report after the deadline had passed. We discussed this report with the department and explained they would get a copy of the report when it is presented to the Subcommittee.

Our reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving the operations of volunteer fire departments.

CONCLUSIONS

Based on our review, due to the commingling of state funds and lack of accurate financial records we were unable to determine if all expenditures were allowable and supported. However, based on our review of documents provided, we found the department lacked proper documentation for expenditures totaling \$22,300.62. Also, the Bakerton VFD commingled State funds with funds from other sources by making three transfers from their state account to their non state account (general account), totaling \$15,500. The department also made three deposits, totaling \$9,643, from other sources to their State account.

EXIT CONFERENCE AND DEPARTMENT RESPONSE

We discussed this report with the Fire Chief of the Bakerton Volunteer Fire Department on 3/14/2014. All findings and recommendations were reviewed and discussed. The department agreed with all findings and recommendations.

We asked the current Fire Chief of the Bakerton Volunteer Fire Department if the department has made any changes in accounting practices that will help prevent fraud from occurring again. We received the following response:

“Yes, we now ensure that there are two signatures on every check and made certain that the bank will not accept checks without two signatures. We are ensuring that we spend on items only listed in state code. We also sent two members (myself and the Assistant Chief) to Parkersburg WV to take a Fire Department Fraud Prevention Class. All expenditures outside the normal monthly utilities are brought up before the membership and all books are open for the members to review at every meeting. We also are currently working with an outside source to assist in becoming our business manager.”

OFFICERS AND STAFF

- Tracy SmithPresident/Treasurer
- Jennifer SimsVice President/Treasurer
- Brook MurphySecretary
- Quinton Davis.....Board Member
- David HolmesBoard Member
- Joshua SmithFire Chief
- Randy Whittington..... Assistant Chief
- Brad Fritts..... Captain
- John BishopLieutenant

POST AUDIT AUTHORITY

The procedures were conducted pursuant to W. Va. Code, §12-4-14, which allows the Legislative Auditor to “assign an employee or employees to perform audits or reviews at the direction of the Legislative Auditor of the disbursement of state grant funds to volunteer fire departments.”

BACKGROUND

To provide additional revenue for the municipal firemen's pension and relief funds and for volunteer and part volunteer companies and departments, the West Virginia Legislature levied under W. Va. Code, §33-3-14d, as amended in 2001, an additional premium tax equal to one percent of the taxable premiums collected for fire insurance and casualty insurance policies. Under this section of the Code, volunteer and part volunteer fire departments that are certified by the State Fire Marshal prior to each quarterly allocation are to receive 25 percent of the revenues generated by this premium tax.

In 1999, to provide additional revenue for the municipal fireman's pension and relief funds and for volunteer and part volunteer companies and departments, the West Virginia Legislature levied under the provisions of W. Va. Code, §33-12c-9, as amended, a tax equal to four percent of the gross premiums and fees on excess line policies. These moneys are to be distributed in accordance with the provision of W. Va. Code, §33-3-14d, as amended.

The West Virginia Legislature again provided additional revenue for the volunteer and part volunteer fire departments by authorizing, under W. Va. Code, §33-3-33, as amended in 2001, a policy surcharge equal to one percent of the taxable premiums paid by policyholders of any fire insurance policy or casualty insurance policy. Under this section of the Code, 50 percent of the moneys collected are to be distributed to those volunteer and part volunteer fire departments and companies certified by the State Fire Marshal before each quarterly allocation.

W. Va. Code, §33-3-14d and 33 provide that the volunteer fire departments receive distributions on an equal share basis and part volunteer fire departments receive a reduced amount based on the ratio of full-time paid firefighters who are members of the municipal firemen's pension system to the total number of the members of the fire department. The moneys are to be distributed quarterly on the first day of the months of January, April, July and October of each year.

To receive these funds, the volunteer and part volunteer fire companies and departments must comply with the provisions of W. Va. Code, §8-15-8a, as amended:

The Legislature placed restrictions on the use of these additional revenues by the volunteer fire departments under W. Va. Code, §8-15-8b, as amended March 8, 2000, and again April 9, 2005.

Prior to the March 8, 2000 amendment, W. Va. Code, §8-15-8b did not allow Operating expenses as described in subsection (11) nor did the law prohibit the commingling of the funds with funds from other sources. Prior to the April 9, 2005 amendment, W. Va. Code, §8-15-8b did not allow Dues as described in subsection (12). On March 13, 2010, W. Va. Code, §8-15-8b was amended to include items (13) Workers' Compensation premiums, (14) Life insurance premiums to provide a benefit not to exceed

**Bakerton Volunteer Fire Department
January 1, 2011 – December 31, 2011**

\$20,000 for firefighter; and (15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

W. Va. Code, §12-4-14, as amended, requires an audit at the cost of the grantee, by an independent certified public accountant, of any person who receives State funds or grants in the amount of \$25,000 or more. The audit must be filed within two years of the end of the year in which the disbursement of the funds or grants occurred. The Legislature amended this section of the Code effective June 9, 1995, and again effective July 1, 2005 providing an alternative to an audit for volunteer fire departments. In lieu of an audit, volunteer fire departments may file a sworn statement of annual expenditures to the Legislative Auditor's Office on or before July 1, of each year. If the sworn statement of annual expenditures is not filed by the first day of July, the Legislative Auditor shall notify the State Treasurer who shall withhold any payment that would otherwise be distributed to the fire department.

W. Va. Code, §12-4-14 as amended March 8, 2000, and again April 9, 2005 provides that the Legislative Auditor may perform random audits of the volunteer fire departments. This section also requires that the volunteer fire department shall cooperate with the Legislative Auditor's Office in performing their duties under this section. If the Legislative Auditor determines a volunteer fire department is not cooperating, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the department until such time that the Legislative Auditor informs the Treasurer that the fire department has cooperated as required by this section.