

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Building 1, Room E-132
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4800
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Aaron Allred

Legislative Manager
Legislative Auditor

May 19, 2016

The Honorable William Cole, President
West Virginia State Senate
Post Audits Subcommittee, Co-Chair
Building 1, Room 229-M
State Capitol Complex
Charleston, WV 25306

The Honorable Timothy Armstead, Speaker
West Virginia House of Delegates
Post Audits Subcommittee, Co-Chair
Building 1, Room 228-M
State Capitol Complex
Charleston, WV 25306

Dear Mr. President and Mr. Speaker:

It has recently come to my attention that in 2014 the Division of Highways (DOH) initiated a payout of all DOH employees' compensatory time. This resulted in 99 employees being paid a total of \$242,778.11. The top three payouts were for a Highway District Engineer/Manager (\$10,678.15); the former Equipment Division Director/Executive Assistant to the Agency Head (\$10,056.46); and the Deputy Secretary (\$9,596.05). It must be noted that this is the same former Equipment Division Director that was indicted on 29 federal offenses in 2015. Along with the compensatory time buyout, DOH policy was modified to eliminate the ability to earn compensatory time in the future. According to the Secretary of Transportation/Commissioner of Highways:

...the previous policy was changed in preparation for the wvOASIS payroll implementation. The DOH was advised that the new payroll system, called KRONOS, would not accommodate the earning or use of compensatory time. As a result of the inability of KRONOS to track the earning and use of compensatory time, the DOH policy was changed to eliminate compensatory time entirely.

The assessment of KRONOS' inability to track compensatory time is incorrect according to the ERP Project Director who oversees wvOasis and KRONOS. He stated:

*...the KRONOS application is capable of and **has been** configured to allow for the earning or use of compensatory time. The wvOASIS application has been configured to ensure compliance with the Fair Labor Standards Act (FLSA) for non-exempt employees and allow for various agency desired flexibilities for FLSA exempt classification employees.*

The Director of the Joint Committee on Government and Finance's Fiscal Office stated that her understanding of how compensatory time is calculated and paid by KRONOS is the same as described by the wvOasis ERP Project Director. However, since Joint Expenses is not utilizing KRONOS, the Joint Committee has not tested the compensatory time calculations, and our understanding is based solely on information provided by wvOASIS during the various training sessions.

Additionally, the design specification for compensatory time was recommended by the WV ERP Steering Committee which includes the Secretary of Transportation or his designee. This design specification is for 1.5 hours of compensatory time for each hour over 40 hours in a workweek for non-exempt employees. Compensatory time for exempt employees will accrue at the rate authorized by the agency and may not exceed 240 or 480 hours depending upon FLSA rules.

Regarding the DOH compensatory buyout, the State Auditor added:

...any compensatory time buyouts were unnecessary and a discretionary decision made by the agency or agencies, as the new system is fully capable of handling the recording of compensatory time balances earned in other legacy leave systems and accounting for its later usage within wvOASIS HRM/Payroll.

The State Auditor indicated he has no knowledge of buyouts by state agencies other than the DOH buyout. Thus, my office also concludes that the \$242,778 payout of DOH employees was an unnecessary expense by the Division of Highways. Attached to this letter is the full correspondence from the Cabinet Secretary of the Department of Transportation, the wvOasis ERP Director, and the State Auditor.

Sincerely,

A handwritten signature in cursive script that reads "Aaron Allred".

Aaron Allred



**WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • (304) 558-0444**

**Earl Ray Tomblin
Governor**

**Paul A. Mattox, Jr., P. E.
Cabinet Secretary**

March 17, 2016

Joint Committee

MAR 18 2016

**Mr. Denny Rhodes
Director, Post Audit Division
West Virginia Legislative Auditor's Office
State Capitol Complex
Building 1, Room 329W
Charleston, West Virginia 25305**

Post Audit Division

Dear Mr. Rhodes;

Thank you for your letter dated March 10, 2016 in which you requested information regarding the West Virginia Division of Highways' (WVDOH) compensatory and overtime policies. I hope the following information will satisfy your inquiry:

The policy entitled *Payment to Exempt Employees* outlined in your request is not the current policy of the WVDOH. The current policy for the WVDOH went into effect January 1, 2014. Please see Exhibit A for additional information. The current WVDOH policy does not allow employees to earn compensatory time so the choice to choose straight time or compensatory time is no longer an option.

The previous policy was changed in preparation for the WvOASIS payroll implementation. The WVDOH was advised that the new payroll system, called KRONOS, would not accommodate the earning or use of compensatory time. As a result of the inability of KRONOS to track the earning and use of compensatory time, the WVDOH policy was changed to eliminate compensatory time entirely.

The discussions surrounding the change in policy were focused on the elimination of compensatory time, identifying the number of individuals with compensatory time and the number of hours for each individual. Discussions also took place to determine a viable strategy to reduce all compensatory hours to zero by the WvOASIS go live date.

Since compensatory time was eliminated, there were no employees grandfathered into the new policy.

The WVDOH did initiate a compensatory time buyout of its employees in 2014. The compensatory buyout occurred to eliminate all compensatory time on the books and the monetary liability associated with it and develop a pay-as-you-go approach. WVDOH management was aware that the cost and value of compensatory hours could continue to rise as a result of promotions, classification changes, and pay raises.

Mr. Denny Rhodes
Page Two
March 17, 2016

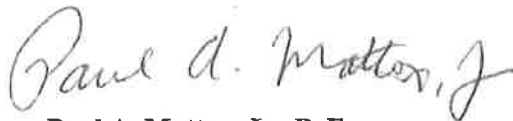
Employees were informed of the Revised Attendance, Leave, and Overtime Administrative Procedure in a memorandum dated January 15, 2014, enclosed as Exhibit B. Additionally, all employees with compensatory time were mailed letters notifying them of the changes to policy and procedure. This letter also gave the options available for the use of compensatory time prior to June 30, 2014 or the buyout option. A combination of the two options was not permitted. The WVDOH policies and procedures were modified by eliminating all references to compensatory time, illustrated in Exhibit C.

Prior to the buyout, it was determined how many employees would be affected, the total number of hours, and the total cost to the agency. The WVDOH first determined that it was legal for a buyout to occur and then contacted the Public Employees Retirement System for discussion. It was determined that, because of the inability of the WVDOH to provide specific pay periods the compensatory hours that were earned along with pay rates, that payments would be considered lump sum and neither employee nor employer contributions would be made. It was determined that the lump sum payments would not be considered in retirement calculations.

The total cost to the agency was \$242,778.11 which included a FICA amount of \$17,252.69. A list of employees who were paid under this program, including amount received, number of days bought out, job title, annual salary at the time of the buyout and job location is enclosed as Exhibit D. Since compensatory time no longer exist, there are no plans for a future buyout.

Again, thank you for the opportunity to provide this information. Should you have any questions or wish to discuss these matters further, please don't hesitate to contact my office.

Sincerely,



Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

PAM:Cz

From: Todd Childers ([REDACTED])
Sent: Wednesday, April 13, 2016 2:44 PM
To: Aaron Allred
Cc: 'Glen Gainer ([REDACTED])'; Stowers, Josh; 'Gale Given'
Subject: RE: wvOASIS and DOH Comp Time Payments

Aaron,

Please accept these responses to your inquiry date April 6th regarding wvOASIS and DOH Comp Time Payments.

Question: Did wvOASIS officials advise Division of Highways or Department of Transportation representatives the KRONOS could not accommodate compensatory time?

Answer: I am not aware of any such communication to the Division of Highways or Department of Transportation. Furthermore, a directive of that nature would have been inconsistent with the known capabilities and planned configurations of the wvOASIS HR/Payroll/KRONOS application.

Question: Is KRONOS currently capable of accommodating the earning or use of compensatory time or could it have been configured to do so?

Answer: Yes. The KRONOS application is capable of and **has been** configured to allow for the "earning or use of compensatory time". The wvOASIS application has been configured to ensure compliance with the Fair Labor Standards Act (FLSA) for non-exempt employees and allow for various agency desired flexibilities for FLSA exempt classification employees. The design specification recommended by the WV ERP Steering Committee (which includes the Secretary of Transportation or his/her appointee) and further approved by the WV ERP Board is copied below for your convenience.

Introduction:

Agencies frequently accumulate Compensatory Time for employees who work beyond their normal workweek. For the purposes of this design specification, Compensatory Time is defined as hours accumulated by employees for work performed beyond 40 hours in a workweek.

Design Specification:

Compensatory time will accrue for non-exempt employees at a rate of 1.5 hours for each hour worked over 40 hours during a workweek as required by the FLSA. Compensatory time when authorized by the agency for exempt employees will accrue at a rate as determined by the agency. Accrued compensatory time may not exceed 240 hours (or 480 hours for public safety or other qualifying positions as defined by the FLSA), after which overtime must be paid. Compensatory hours that are unused at separation will be paid out to the employee.

Question: Were any other state agencies besides the Department of Transportation made aware of the need to reduce compensatory time to zero before the wvOASIS go live date?

Answer: I am not aware of any such communication to any agencies. Agencies were informed of the above noted "design specification" and were provided the opportunity to load / enter compensatory time balances as part of the go-live cutover process.

Sincerely,

Todd

Todd Childers, CPA, MPA
WV ERP Board
Project Director



State of West Virginia

Glen B. Gainer III

State Auditor

Office of the State Auditor
1900 Kanawha Boulevard, East
State Capitol, Building 1, Suite W-100
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April 28, 2016

LEGISLATIVE MANAGER

Mr. Aaron Allred, Legislative Auditor
West Virginia Legislature
Building 1, Room E-132
1900 Kanawha Blvd., East
Charleston, West Virginia 25305-0610

APR 28 2016

RECEIVED

Dear Mr. Allred:

I am writing in response to your letter dated April 7, 2016, in which you request information regarding a purported "buyout" of accrued compensatory time by the West Virginia Division of Highways (WVDOH) in the amount of \$242,778.11. Such buyout is indicated as having occurred at an unspecified time *prior* to the May 16, 2015, launch of Wave 1 of the *wvOASIS* HRM/Payroll Module. Please be advised that this office is unable to verify the accuracy of these claims. Any such buyout would have happened while the WVDOH employees were being paid using the EPICS Payroll System, which does not have a separate Pay Type Code for "Compensatory Time". All Compensatory Time paid to employees within the EPICS Payroll System is paid out using Type Code 001 - Regular Earnings. Therefore, your inquiry concerning Compensatory Time buyouts by the West Virginia Division of Highways would properly be referred to Mr. Paul Mattox, Department of Transportation Cabinet Secretary, and the records with regard to any such buyouts would be held within that agency.

Additionally, your letter requests information regarding compensatory time buyouts by other State agencies from some unspecified point in 2013 (*January 1, 2013 - Assumed*) through April 7, 2016. As stated earlier, the EPICS Payroll System does not have the functional capability to isolate and highlight buyouts and/or payments of Compensatory Time as a separate, distinct pay type. Therefore, any informed inquiry by your office with respect to the accrual, usage and related payments for Compensatory Time would have to be directed to those individual State spending units.

In relation to your question pertaining to buyouts of Compensatory Time from State employees by spending units which was made in preparation of and/or was dictated by

Mr. Aaron Allred, Legislative Auditor
April 28, 2016
Page Two

the Wave 1 conversion to wvOASIS HRM/Payroll, including KRONOS, we have no knowledge of any such buyouts, other than your referenced WVDOH situation.

Please note, however, any Compensatory Time buyouts were unnecessary and a discretionary decision made by the agency or agencies, as the new payroll system is fully capable of handling the recording of Compensatory Time balances earned in other legacy leave systems and accounting accurately for its later usage within wvOASIS HRM/Payroll. Additionally, the new payroll system is fully capable of tracking Compensatory Time payments and we are providing you with a flash drive which has a full and accurate accounting of Compensatory Time payouts for all Wave 1 Departments, including individual payments to specific employees during the period from May 30, 2015 through April 7, 2016. The Microsoft Excel file found on the enclosed flash drive entitled "Comp Time Report" has three (3) separate sheets detailing the information which you requested.

I trust this information proves responsive to your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen B. Gainer III". The signature is stylized and includes a small "III" at the end.

Glen B. Gainer III
State Auditor

GBGIII/nlp

Enclosure

cc: The Honorable John D. Perdue, West Virginia State Treasurer
The Honorable William P. Cole III, President, West Virginia State Senate
The Honorable Timothy Armstead, Speaker, West Virginia House of Delegates
Mr. Charles O. Lorensen, Chief of Staff, Office of the Governor of West Virginia