

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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MEMORANDUM

Date: June 8, 1998

From: Michael E. Sizemore **MES**

To: Theodore L. Shanklin, Director

Subject: FOLLOW-UP REVIEW OF THE
POST AUDIT OF THE PUBLIC SERVICE
COMMISSION OF WEST VIRGINIA
FOR THE PERIOD 7/1/84 - 6/30/95

In accordance with your instructions, I conducted a follow-up review to examine the implementation of recommendations contained in the post audit report of the Public Service Commission of West Virginia (PSC) for the period July 1, 1984 - June 30, 1995. In conducting this follow-up, I met with Mr. Danny Ellis, Executive Director who was given the responsibility by Chairman Charlotte Lane to implement procedures to satisfy the audit recommendations. I also reviewed transactions in areas which would be impacted by any changes made in such procedures. As a part of the review, I also examined the changes in procedures to evaluate whether such changes, if fully implemented would resolve the audit findings noted in the aforementioned audit report. My review shows that the majority of the recommendations made by us in the report have been implemented as of June 5, 1998; however, several of the recommendations have not been fully implemented and a limited number have had relatively limited action taken on them.

Chapter 5A, Article 8, Section 9 of the West Virginia Code dealing with the responsibilities of the head of the agency to provide adequate internal controls states as follows:

"The head of each agency shall:

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential

transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities...."

Our review indicates this section of State law is still not being complied with regarding purchasing procedures, accounting for compensatory time accrued and used by professional staff and verification of tenure of PSC employees for purposes of paying the annual increment payroll.

Specifically, we noted the agency does not utilize a central receiving function, receiving reports are not being prepared upon the receipt of equipment bought by the agency and equipment which is being purchased currently is still not being recorded in the official inventory of the agency and being given identifying tags, where required under the policies and guidelines of the Purchasing Division of the Department of Administration. As a result, the PSC is not adequately accounting for equipment purchases as required by State law.

Also, the Commission has not yet implemented a comprehensive Commission-wide policy governing the accrual, usage and recording requirements for compensatory time earned by professional staff to ensure the West Virginia Labor Laws are being complied with and employees are not being paid for services not rendered. In addition, the Commission has not performed verification procedures planned by them to ascertain each employee has been credited with the correct amount of State employment tenure for purposes of paying the annual increment payroll to ensure employees are not being paid for services not rendered. The Commission's internal controls over compensatory time and payment of annual increment are not in compliance with State law.

In the following pages of this review, each finding included in the post audit of the Public Service Commission are set out individually with a short synopsis of the Commission's actions taken thus far to remedy the audit findings. Attention should be paid to Findings #4, 12, 14, 18, and 19 where the PSC's actions have not been sufficient to implement the audit recommendations and correct the audit findings.

FINDING #1

An employee was reimbursed \$17,588.39 for travel expenses in fiscal year 1995 for travel to, from or in the vicinity of Weirton, West Virginia while his headquarters was shown as Charleston, West Virginia in violation of the Governor's Travel Regulations and the same employee had telephone calling card charges of \$1,375.32 including numerous calls from Tridelpia, West Virginia; however, travel documents do not indicate the employee spent any time conducting State business at that location. Two other employees' telephone calling cards incurred charges of \$2,623.04 and \$1,430.32, respectively, and showed evidence of calls which we believe may have been for non-State business.

We Recommended:

The Commission comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code.

Spending Unit Action:

1. The PSC following Chairman Lane's appearance at the May 1997 Post Audit Subcommittee meeting initiated a procedure where all employees having cellular phones or calling cards will receive a copy of their bill and be asked to verify by signature the accuracy of the charges. Travel expenses incurred by employees are to be approved by the Division Director for who the employee works and reviewed by the Executive Director prior to payment.

FINDING #2

The Commission purchased \$226,308.28 of computer equipment on a lease-purchase arrangement and paid approximately \$14,000.00 in interest even though the Commission had sufficient cash to buy the equipment outright.

We Recommended:

The Commission comply with Chapter 5A, Article 2, Section 18 of the West Virginia Code.

Spending Unit Action:

1. The PSC adopted a new procedure effective December 22, 1997 where the purchasing clerk will submit written justification supporting the necessity for a lease-purchase arrangement to the Executive Director for prior approval before any purchases will be made on any basis other than cash payment through the issuance of a State warrant.

FINDING #3

Three employees were overpaid a total of \$479.17 due to calculation errors in their leave accruals, other employees were overpaid on 15 different occasions but these errors were caught and corrected in later pay periods and some time sheets were not signed by employees and/or did not have supervisory approval.

We Recommended:

The Commission comply with Chapter 12, Article 3, Section 13 of the West Virginia Code.

Spending Unit Action:

1. Effective February 24, 1998, any employee requesting "Leave Without Pay" status who have exhausted their available leave require approval of forms requesting such status approved by the respective Division Directors with these forms forwarded immediately to the Administrative Division to avoid employees being paid for services not rendered.

FINDING #4

Our audit disclosed two employees who we believe have been overpaid a total of \$3,852.00 and two other employees who were underpaid a total of \$2,844.00 for annual increment.

We Recommended:

The Commission comply with Chapter 5, Article 5, Section 2 of the West Virginia Code, as amended.

Spending Unit Action:

1. On March 9, 1998, the Executive Director ordered verification of the tenure of all current employees of the PSC as a means to address the audit finding. As of June 5, 1998, the verification has not been performed.

FINDING #5

We noted one employee who did not fully reimburse workers' compensation benefits in exchange for buy back of sick leave and the Commission miscalculated the number of days of sick leave which should have been restored to the employee's credit.

We Recommended:

The Commission comply with Chapter 23, Article 4, Section 1 of the West Virginia Code, as amended, and Sections 15.03 (f) and 15.04 (e) of the Division of Personnel's Administrative Rules and Regulations.

Spending Unit Action:

1. Effective March 13, 1998, the PSC established a special payroll report to be generated internally each pay period by the Administrative Division which will track special payroll situations, such as those employees who are receiving Workers' Compensation benefits in order to recoup such benefits for restoration of leave benefits.

FINDING #6

Our audit disclosed 11 utility companies operating in West Virginia who were not charged revenue assessment fees; 49 landfills in operation which were not billed property assessment fees; three utility companies who were not billed a total of \$2,311.72 in property assessment fees and the Commission's practice of waiving assessment fees when utility companies were sold.

We Recommended:

The Commission comply with Chapter 24, Article 3, Section 6 of the West Virginia Code, as amended.

Spending Unit Action:

1. The PSC adopted specific target dates for mailing assessments for utility revenue and property assessments and gas pipeline assessments, as well as, specific administrative remedies in the event of non-payment. Utility assessments and gas pipeline assessments due July 1, 1998 are targeted to be mailed by June 10, 1998; however, the assessment ledgers and mailings were not ready as of June 5, 1998 because all companies had not yet returned forms reporting the needed information regarding revenues and gas pipeline miles.

FINDING #7

Our audit showed the majority of revenue assessment fees, gas pipeline assessment fees, and property assessment fees were not paid by the due dates set in law resulting in the State losing interest of approximately \$4,033.00 and \$12,674.00 in fiscal years 1995 and 1994, respectively. Also, past due fees totaled \$6,232.33 as of June 30, 1995.

We Recommended:

The Commission comply with Chapter 24, Article 3, Section 6, as amended; Chapter 24B, Article 5, Section 3, as amended; and, Chapter 14, Article 1, Section 18a of the West Virginia Code.

Spending Unit Action:

1. The PSC adopted specific target dates for mailing assessments for utility revenue and property assessments and gas pipeline assessments, as well as, specific administrative remedies in the event of non-payment. Utility assessments and gas pipeline assessments due July 1, 1998 are targeted to be mailed by June 10, 1998; however, the assessment ledgers and mailings were not ready as of June 5, 1998 because all companies had not yet returned forms reporting the needed information regarding revenues and gas pipeline miles.

FINDING #8

Our audit showed several instances where utility companies failed to pay penalties totaling \$55,250.00 assessed through Commission orders, as well as, some instances where such penalties totaling \$4,550.00 were waived by a later Commission order, although no specific laws, rules or regulations empower the Commission to waive assessed penalties.

We Recommended:

The Commission comply with Chapter 24, Article 4, Section 3, as amended, and Chapter 24, Article 2, Section 2, as amended, of the West Virginia Code. In addition, the Commission should seek to amend the West Virginia Code or apply the provisions of legislative rule-making as cited in Chapter 29, Article 3A of the West Virginia Code to seek the authority to specifically allow penalties to be waived.

Spending Unit Action:

1. Beginning on January 28, 1998, the PSC implemented a procedure where the Executive Secretary's Office forwards a copy of any Commission Order containing a fine and/or penalty assessment to the Administrative Division to record in a receivables ledger. We observed the receivables ledger and collection efforts and determined the Commission is complying with the recommendation as of June 5, 1998.

FINDING #9

We noted a PSC handgun was assigned to a training instructor who was not employed by the Commission during the period August 26, 1991 through September 23, 1994 and the weapons inventory was not fully updated.

We Recommended:

The Commission strengthen internal controls over the safeguarding of weapons by following established inventory procedures for weapons and maintaining physical control of handguns that are not needed currently by Commission employees and others in the course of carrying out official duties.

Spending Unit Action:

1. The PSC made several procedural changes effective April 29, 1998 designed to improve accountability for firearms which if complied with will remedy the audit finding.

FINDING #10

We noted the Commission did not maintain accounting ledgers relating to the following: fines and penalties assessed through Commission orders; registration fees for customer-owned, coin-operated telephone (COCOT) providers; intrastate/interstate registration fees collected by the Motor Carrier Division and various miscellaneous receipts.

We Recommended:

The Commission comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code.

Spending Unit Action:

1. As noted previously in Finding #8, the PSC established a receivables ledger for fines and penalties. Effective May 20, 1998, the PSC set up the necessary record-keeping for COCOT fees. A review by us of the intrastate/interstate registration fees collected by the Motor Carrier Division indicates those fees now appear to be adequately accounted for through changes made during the course of the audit during 1996.

FINDING #11

We noted two companies who we believe paid incorrect amounts for gas pipeline assessment fees; two pipeline companies who did not have annual reports on file; and, unexplained adjustments in the accounts receivable ledger for gas pipeline assessment fees.

We Recommended:

The Commission comply with Chapter 24B, Article 5, Section 3 of the West Virginia Code, as amended.

Spending Unit Action:

1. The PSC adopted several procedural changes during January and February 1998 designed to remedy the audit findings which based on our review appear to address the problem areas. We will not be able to assess the effectiveness of these changes until the next audit is performed because the changes will effect assessments yet to be collected.

FINDING #12

We noted three occasions where employees covered by the West Virginia Labor Law worked over 40 hours per week but received compensatory leave in lieu of overtime compensation.

We Recommended:

The Commission comply with Chapter 21, Article 5C, Section 3 of the West Virginia Code, as amended.

Spending Unit Action:

1. As of June 5, 1998, the PSC has not yet developed and implemented policies and procedures delineating those employees eligible for accrual of compensatory time off, as well as, specific instructions to the various divisions regarding the recording, accrual and usage of compensatory time off.

FINDING #13

Except for the Consumer Advocate Division, the Commission did not maintain individual ledgers for each contract which would indicate the remaining balance of spending authority pertaining to the contract.

We Recommended:

The Commission comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code.

Spending Unit Action:

1. Effective March 9, 1998, the PSC began to maintain the contract ledgers called for in the recommendation. Our review indicates the ledger format should address the problem areas noted; however, a more detailed examination as part of an agency-wide audit would be needed to determine that all contract payments are being properly posted.

FINDING #14

We could not locate a commercial sweeper costing \$349.95 purchased in December 1994, as well as, a hand-held computer costing \$4,635.00 and the Commission did not file an annual inventory as required by law.

We Recommended:

The Commission comply with Chapter 5A, Article 3, Section 35 of the West Virginia Code and Section 4B of the West Virginia State Property Handbook.

Spending Unit Action:

1. The PSC has completed an inventory of all pagers and cellular phones and begun to inventory all personal and laptop computers. However, the PSC still does not utilize a central receiving function, receiving reports for equipment and supplies are not prepared and the Commission is still receiving equipment which is not being recorded in the official inventory and properly tagged upon receipt. The review indicates controls over equipment and equipment purchases are still weak and the internal control structure over equipment is in noncompliance with the requirements set out in Chapter 5A, Article 8, Section 9 of the West Virginia Code.

FINDING #15

We noted the Commission is requiring some telecommunication companies to submit bonds through Commission orders but the bonding requirement is not specifically allowed by the West Virginia Code or the Commission's rules and regulations.

We Recommended:

The Commission comply with Chapter 24, Article 1, Section 7 of the West Virginia Code and seek to promulgate rules and regulations or amend the statute to specifically address the issue of these bonding requirements.

Spending Unit Action:

1. After conclusion of the fieldwork for the audit, the PSC ended the practice of requiring the posting of the aforementioned bonds by telecommunications companies selling debit cards to the public.

FINDING #16

We noted two duplicate payments totaling \$9,011.70 made by the Commission. Reimbursements were subsequently received from the vendors but the State lost approximately \$400.00 in interest revenue.

We Recommended:

The Commission comply with Chapter 12, Article 3, Section 9 of the West Virginia Code, as amended.

Spending Unit Action:

1. The PSC considers these duplicate payments to have been due to human error rather than a failure in their internal control structure and PSC management believes no further procedures can or should be implemented to attempt to detect duplicate payments.

FINDING #17

Our audit showed \$2,647.67 paid to employees for meal reimbursements on single-day trips which were not included on these employees' W-2 forms as compensation.

We Recommended:

The Commission comply with Chapter 11, Article 21, Sections 12 and 72 of the West Virginia Code, as amended.

Spending Unit Action:

1. The Executive Director of the PSC indicates he talked to IRS personnel who told him the PSC was not required to report these reimbursements to employees but no confirmation of this was received in writing. Changes in the Governor's Travel Regulations tentatively due to take effect on July 1, 1998 concerning meal reimbursements for single-day travel may make this compliance issue a moot point.

FINDING #18

We noted ten employees who had overstated or understated annual leave, sick leave or compensatory leave balances due to calculation errors, as well as, procedural weaknesses in accounting for employee leave accruals.

We Recommended:

The Commission comply with Division of Personnel's Administrative Rule. Also, we recommend the Commission make the necessary adjustments to the preceding employees' leave balances.

Spending Unit Action:

1. As of June 5, 1998, the PSC has not yet developed and implemented policies and procedures delineating those employees eligible for accrual of compensatory time off, as well as, specific instructions to the various divisions regarding the recording, accrual and usage of compensatory time off. The Commission made the needed adjustments to the leave records of the respective employees in order to correct errors in annual, sick or compensatory leave balances located during the audit.

FINDING #19

We were unable to identify the employees who received a total of \$6,586.60 in clothing purchases due to inadequate inventory records and who authorized some purchases because purchase orders were not utilized in all cases.

We Recommended:

The Commission comply with the Agency Purchasing Procedures Manual by implementing purchase orders for items under \$500.00. Also, we recommended the Commission make one employee of office responsible for purchasing.

Spending Unit Action:

1. The PSC in January 1998 implemented procedures calling for written requisitions for all items with a purchase price in excess of \$100.00 and purchase orders for all purchases over \$500.00. These procedures were developed by former Manager of Administration , Robert L. Stine and outlined in his memorandum to all Division Directors dated February 6, 1992. If the provisions of the memorandum are followed in conjunction with effective administrative oversight, some of the problem areas in the purchasing process will be adequately addressed from a procedural standpoint. However, the purchasing procedures are still weak because the PSC is not fully accounting for equipment purchases by ensuring equipment bought is added to the PSC inventory and tagged, where necessary.

FINDING #20

Our examination showed PSC employees took a total of 15,981 days of sick leave costing \$2,499,772.00 during the period January 1, 1991 through December 31, 1995.

We Recommended:

The Commission monitor employee sick leave usage for patterns which may be indicative of excessive use of sick leave.

Spending Unit Action:

1. The Executive Director of the PSC issued a memorandum to all Division Directors and the Commissioners dated March 9, 1998 outlining management's responsibilities to monitor sick leave usage as set out in Section 15.05 of the Division of Personnel's Administrative Rules.

FINDING #21

We believe the PSC should strengthen internal controls in the area of compliance with the West Virginia Code and various rules and regulations which control the Commission's operations.

We Recommended:

The Commission strengthen or establish the necessary internal controls to better ensure compliance with the West Virginia Code and other administrative rules and regulations which govern the operations of the Commission.

Spending Unit Action:

1. While the PSC appears to have strengthen internal controls in several areas in responding to the audit findings, additional effort by the PSC management is needed to fully and effectively address those problem areas brought out in Finding Numbers 4, 12, 14, 18, and 19. At this point, the effectiveness of the procedural changes made with respect to Finding Numbers 6, 7, and 11 will not be known until the assessment and collection of utility revenue and gas pipeline assessment fees due July 1, 1998.