

LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION

# Thornton Area Volunteer Fire Department

FOR THE YEAR ENDING DECEMBER 31, 2010

## REPORT OVERVIEW

- Non-Allowable Expenditures
- Lack of Supporting Documentation
- Commingled Deposit



WEST VIRGINIA LEGISLATIVE AUDITOR  
POST AUDIT DIVISION



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## LEGISLATIVE POST AUDIT SUBCOMMITTEE

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Mike Hall

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Harry Keith White  
Tim Armstead

### WEST VIRGINIA LEGISLATIVE AUDITOR LEGISLATIVE POST AUDIT DIVISION

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**WEST VIRGINIA LEGISLATURE**  
***Joint Committee on Government and Finance***

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November 8, 2011

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 12, Article 4, Section 14 as amended, we conducted a compliance inspection and review of the financial transactions and records of the Thornton Area Volunteer Fire Department's state funds for the calendar year ended December 31, 2010. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,



Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

SLS/nmh

**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**EXECUTIVE SUMMARY**

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<b>Thornton Area VFD Taylor County</b>	<b><u>December 31, 2010</u></b>
Non-Allowable Expenditures	\$1,754.45
Lack of Supporting Documentation	265.00
Commingled Deposit	432.97
<b>Total</b>	<b><u>\$2,452.42</u></b>

**RECOMMENDATIONS:**

**Finding 1:**

We recommend the Thornton Area VFD reimburse their state account \$1,321.48, which is the amount of the unallowable expenditures minus the \$432.97 refund check from Kubota Credit Corporation (See finding 3). We further recommend all revenues allocated to the fire department only be used for expenditures reasonably required for effective and efficient fire protection service, used for the public good, made in accordance with their Corporate Charter and by laws, and authorized by Chapter 8. Article 15, Section 8(b) of the West Virginia Code, as amended. The department has reimbursed their state account \$18.76 for sales tax.

**Finding 2:**

We recommend the Thornton Area VFD stop writing checks to individuals, maintain proper documentation for all expenditures and reimburse their state account \$265.00.

**Finding 3:**

We recommend Thornton Area VFD deposit refunds from non state sources in their non state account.

**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**INTRODUCTION**

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**POST AUDIT AUTHORITY**

The procedures were conducted pursuant to Chapter 12, Article 4, Section 14 of the West Virginia Code, 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 Chapter 33, Article 3, Section 14d of the West Virginia Code, 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 Chapter 33, Article 12c, Section 9 of the West Virginia Code, 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 Chapter 33, Article 3, Section 14d, as amended.

The West Virginia Legislature again provided additional revenue for the volunteer and part volunteer fire departments by authorizing, under Chapter 33, Article 3, Section 33 of the West Virginia Code, 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.

Chapter 33, Article 3, Sections 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 Chapter 8, Article 15, Section 8a of the West Virginia Code, as amended:

The Legislature placed restrictions on the use of these additional revenues by the volunteer fire departments under Chapter 8, Article 15, Section 8b of the West Virginia Code, as amended March 8, 2000, and again April 9, 2005.

Prior to the March 8, 2000 amendment, Chapter 8, Article 15, Section 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, Chapter 8, Article 15, Section 8b did not allow Dues as described in subsection (12). On March 13, 2010, Chapter 8, Article 15, Section 8b was amended to include items (13) Workers' Compensation premiums, (14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighter; and (15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

Chapter 12, Article 4, Section 14 of the West Virginia Code, 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.

Chapter 12, Article 4, Section 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.

**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**OFFICERS AND STAFF**

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Robert Gable .....President  
Frances Shaw.....Secretary  
Sherri Heavner..... Treasurer  
Bob Thorn.....Fire Chief



**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**SCOPE**

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We conducted an evaluation of the revenue and expenditure transactions, and other records of the Thornton Area Volunteer Fire Department's state accounts for the year ending December 31, 2010. Our scope included determining instances of noncompliance with Chapter 8, Article 15, Section 8b of the West Virginia code, and other applicable laws and regulations. The Compliance inspection was conducted in accordance with criteria set forth by the Legislative Post Audit Division.

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**OBJECTIVES AND METHODOLOGIES**

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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.

This communication is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, and the Volunteer Fire Department. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving the operations of Volunteer Fire Departments. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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**CONCLUSIONS**

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The Thornton Area Volunteer Fire Department made \$1,754.45 in expenditures identified from state funds that were not allowed, but the department received a refund for \$432.97 from a vendor. The VFD also lacked proper supporting documentation for expenditures totaling \$265.00, and commingled \$432.97 from non State sources with State funds. Therefore, we recommend the department reimburse their state account \$1,586.48.

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## **EXIT CONFERENCE**

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We discussed this report with the Treasurer of the Thornton Area Volunteer Fire Department on December 6, 2011. All findings and recommendations were reviewed and discussed.

**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

**FINDINGS**

**FINDING 1 - NONALLOWABLE EXPENDITURES:**

The Thornton Area Volunteer Fire Department made \$1,754.45 in expenditures identified from state funds that were not allowed by Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended.

**CONDITION:**

We noted the fire department made the following expenditures identified from State funds that were not allowable by Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended.

<b>CHECK NO.</b>	<b>INVOICE DATE</b>	<b>PAYEE</b>	<b>N/A</b>	<b>DESCRIPTION</b>
2392	02/01/2010	Walgreens	\$ 0.90	Sales Tax
2395	02/12/2010	R.G. Motors	12.14	Sales Tax
2396	03/09/2010	R.G. Honda	32.60	Repair of vehicle not owned by Dept
2405	03/12/2010	Gatchell Grant Resources	600.00	Fundraising
2406	04/25/2010	Go Mart	11.06	Food
2414	05/03/2010	Scott Ford	3.31	Sales Tax
2416	05/06/2010	**Kubota Credit Corporation	336.01	Payment on 4 wd Tractor
2420	N/A	PARCS	250.00	Tractor deductible
2424	05/28/2010	Wal-Mart Stores	2.58	Sales Tax
2427	05/25/2010	Sams Club Stores	477.05	Food & misc,
2428	05/24/2010	US Cellular	4.80	Sales Tax
2446	10/18/2010	Paula L. Bomhoff	24.00	Sales Tax
		<b>Totals</b>	<b><u>\$1,754.45</u></b>	

We noted \$586.01 was paid from state funds for expenditures for a tractor purchased at a total cost of \$19,600.00. The Treasurer declined to state the purpose of the tractor.

\*\*We also noted that the department received a refund of \$432.97, check number 451242, from Kubota Credit Corporation for payment from sources other than state funds (See finding 3 ). When combined with the \$336.01 payment made to Kubota Credit Corporation using check number 2416, this nets to a difference of \$96.96.

Furthermore, we noted state funds were used to repair a vehicle not owned by the Department, food purchases, and sales tax.

Revenues allocated to the fire department may only be used for expenditures reasonably required for effective and efficient fire protection service, used for the public good, made in accordance with their Corporate Charter and by laws, and authorized by Chapter 8. Article 15, Section 8(b) of the West Virginia Code, as amended.

**CRITERION:**

Chapter 8, Article 15, Section 8(b) of the West Virginia Code, 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.”

According to the Corporate Charter of the Thornton Area Volunteer Fire Department, which states in part:

“III. The objectives for which this corporation is being formed are as follows.

1. To provide fire and emergency protection.”

**CAUSE:**

According to the Treasurer, the Department purchased the tractor with non state funds and therefore does not have to disclose the purpose for the purchase of the tractor. According to the treasurer, food purchases and payment of sales taxes were an oversight, and they are working to correct.

**EFFECT:**

Due to unallowable expenditures, the VFD may have less funding available for expenditures required for effective and efficient fire protection services. Funds may be unlawfully expended and not be detected due to the lack of Legislative oversight of non state funds.

**RECOMMENDATION:**

We recommend the Thornton Area VFD reimburse their state account \$1,321.48, which is the amount of the unallowable expenditures minus the \$432.97 refund check from Kubota Credit Corporation. We further recommend all revenues allocated to the fire department only be used for expenditures reasonably required for effective and efficient fire protection service, used for the public good, made in accordance with their Corporate Charter and by laws, and authorized by Chapter 8. Article 15, Section 8(b) of the West Virginia Code, as amended.

**FINDING 2-LACK OF SUPPORTING DOCUMENTATION:**

The Thornton Area Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$265.00.

**CONDITION:**

We noted the fire department could not provide a proper invoice for check 2391, made payable to Olivia Thorn for \$200.00. We also noted check 2390, made payable to Red Lobster, was not documented.

**CRITERION:**

Chapter 8, Article 15, Section 8(b) of the West Virginia Code, 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:**

According to the Treasurer, a \$200 purchase was made through Olivia Thorn’s Business. The Treasurer stated they did not have an actual invoice or receipt for the purchase. According to the Treasurer, the check made payable to Red Lobster was for expenses related to a trip to Maryland, and the fireman did not return the receipt.

**EFFECT:**

There is a higher risk of fraud when checks are made payable to individuals and expenditures lack proper supporting documentation. Due to the lack of proper supporting documentation, we were unable to make any determination as to possible fraud or if these expenditures were allowable.

**RECOMMENDATION:**

We recommend the Thornton Area VFD stop writing checks to individuals, maintain proper documentation for all expenditures, and reimburse their state account \$265.00.

**FINDING 3- COMMINGLED DEPOSIT:**

The Thornton Area Volunteer Fire Department commingled \$432.97 from non State sources with State funds.

**CONDITION:**

We noted the fire department deposited a refund of \$432.97, check number 451242 from Kubota Credit Corporation, for a refund for payment from sources other than State funds.

**CRITERION:**

Chapter 8, Article 15, Section 8(b) of the West Virginia Code, 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:**

According to the Treasurer, the refund should be deposited in their non state account. It was deposited in error in the state account.

**EFFECT:**

When State and non State funds are commingled, we may be unable to determine if all expenditures made from state funds were allowable and/or properly documented.

**RECOMMENDATION:**

We recommend Thornton Area VFD deposit refunds from non state sources in their non state account.

**THORNTON AREA VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**SUPPLEMENTAL INFORMATION**  
**STATEMENT OF EXPENDITURES YEAR ENDED DECEMBER 31, 2010**

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<u>Authorizing W.Va Code</u>	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(1)	\$ 0.00	\$ 0.00	\$ 0.00
Chapter 8, Article 15, Section 8b(2)	4,103.03	4,103.03	0.00
Chapter 8, Article 15, Section 8b(3)	210.00	210.00	0.00
Chapter 8, Article 15, Section 8b(4)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(5)	9,393.49	8,884.57	508.92
Chapter 8, Article 15, Section 8b(6)	19,123.82	19,220.78	(96.96)
Chapter 8, Article 15, Section 8b(7)	160.80	156.00	4.80
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)	6,336.46	6,086.46	250.00
Chapter 8, Article 15, Section 8b(11)	1,141.01	505.05	635.96
Chapter 8, Article 15, Section 8b(12)	0.00	0.00	0.00
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
<b>Total Disbursements For Year Ended December 31, 2010</b>	<b><u>\$40,468.61</u></b>	<b><u>\$39,165.89</u></b>	<b><u>\$1,302.72</u></b>

**STATE OF WEST VIRGINIA**

**OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:**

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 7<sup>th</sup> day of December 2011.

  
Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

Notification of when the report was released and the location of the report on our website was sent to the Secretary of the Department of Administration to be filed as a public record. Report release notifications were also sent to the Governor; Attorney General; State Auditor; and State Fire Marshal. Copies forwarded to the Thornton Area Volunteer Fire Department; Prosecuting Attorney, Taylor County; County Clerk, Taylor County.