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WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

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January 8, 2019

*LETTER REPORT –
CHAPTER 30 BOARDS
FUND BALANCE ANALYSIS*

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Justin Robinson
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January 8, 2019

The Honorable Mitch Carmichael, President
West Virginia State Senate
Post Audits Subcommittee, Co-Chair
Room 229 M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Roger Hanshaw, Speaker
West Virginia House of Delegates
Post Audits Subcommittee, Co-Chair
Room 228 M, Building 1
State Capitol Complex
Charleston, WV 25305

Mr. President and Mr. Speaker:

The audit report of the West Virginia Board of Registration for Foresters, released at the December 9, 2018 Post Audits Subcommittee meeting, found the year-end cash balance of the Board of Registration for Foresters was over four times the Board's actual expenses for both the 2017 and 2018 Fiscal Years. W.Va. Code places a limit on this fund balance of twice the Board's annual budget. However, for each of these years the Board reported an annual budget for expenditures that was nearly 2.5 times its actual expenditures, which effectively prevented¹ it from being subject to the statutory limit. W.Va. Code §30-1-10, states in part,

*...when the special fund of any board accumulates to an amount which **exceeds twice the annual budget of the board or \$10,000, whichever is greater, the excess amount shall be transferred** by the State Treasurer to the state General Revenue Fund. (Emphasis Added)*

While the Board of Registration for Foresters' fund balance was within the statutory limit based on its reported annual budget, the Board's actual expenditures were consistently less than the annual budget amount. In Fiscal Year 2017, the Board reported an annual budget that was 2.37 times its actual expenditures. In Fiscal Year 2018, the reported annual budget was 2.48 times the Board's actual expenditures. This presents a potential issue with the procedure for, and oversight of, the Chapter 30 boards' annual budget process which would ensure accurate budgeting and

¹ During the audit, the Board of Registration for Foresters did not respond to inquiries by the Post Audit Division; therefore, the reason for the discrepancies between budgeted and actual expenditures was not determined. The State Treasurer's Office was notified of the Legislative Auditor's recommendation to transfer the Board's excess balance to the General Revenue Fund.

compliance with the established fund balance limit. Based on this finding, the Legislative Auditor conducted a review of the year-end fund balances for the special revenue accounts of all Chapter 30 boards subject to W.Va. Code §30-1-10 for Fiscal Years 2016 through 2018.

The objective for this review was to determine if these balances are being maintained at the statutorily mandated level. This was accomplished through a comparison of each board's annual budget to the year-end cash balance of each fund. The annual budgets were then compared to the actual annual expenditures to determine if there appears to be an issue with the budgeting process and compliance with W.Va. Code §30-1-10.

Boards Reviewed

There are 31 boards delineated in Chapter 30. Three of these are exempt from W.Va. Code §30-1-10². Therefore, the following 28 were included in the review:

- Board of Accountancy
- Board of Architects
- Board of Barbers and Cosmetologists
- Board of Chiropractic
- Board of Dental Examiners
- Board of Dietitians
- Board of Examiners for Speech-Language Pathology and Audiology
- Board of Examiners in Counseling
- Board of Examiners of Psychologists
- Board of Registration for Foresters
- Board of Hearing Aid Dealers
- Board of Landscape Architects
- Board of Medicine
- Board of Occupational Therapy
- Board of Optometry
- Board of Osteopathic Medicine
- Board of Pharmacy
- Board of Physical Therapy
- Board of Registration for Professional Engineers
- Board of Respiratory Care
- Board of Sanitarians
- Board of Social Work
- Board of Veterinary Medicine
- Massage Therapy Board
- Medical Imaging and Radiation Therapy Technology Board of Examiners
- Board of Professional Surveyors
- Real Estate Board of Appraisers
- Real Estate Commission

As of June 30, 2018, the ending fund balance for each of the 28 boards reviewed ranged from approximately \$16,500 to approximately \$4.2 million³. Based on comparisons of the annual budgets and year-end fund balances for each of the 28 boards listed above, the Legislative Auditor determined that the special revenue fund accounts are being maintained in accordance with W.Va. Code §30-1-10.

However, as shown in Table 1, this analysis revealed several boards had actual expenditures that were significantly less than the annual budget, some in multiple years. The potential effect of the discrepancies between budgeted and actual expenditures is that due to inaccurate or overestimated budgeted amounts, excess funds are not transferred to the General

² The exempt boards are: The Board of Acupuncture, the Board of Funeral Service Examiners, and the Board of Registered Professional Nurses.

³ See Appendix A for the fund balances, budgeted and actual expenses, and fund balance ratios to budgeted and actual expenses for fiscal years 2016, 2017, and 2018.

Revenue Fund⁴. This same information is available for all 28 boards reviewed for Fiscal Years 2016 through 2018 in Appendix A.

Table 1 - Chapter 30 Boards' Year-End Cash Balance Ratio Analysis					
Board Name/Fiscal Year	Budget Expenditures	Actual Expenditures	Year-End Fund Balance	Ending Cash Balance to Budget Ratio	Ending Cash Balance to Actual Ratio
Board of Dietitians - 2016	\$28,000	\$21,801	\$56,956	2.03	2.61
Board of Dietitians - 2017	\$34,957	\$26,431	\$55,525	1.59	2.1
Board of Dietitians - 2018	\$38,000	\$30,719	\$63,161	1.66	2.06
Board of Registration for Foresters - 2016	\$23,900	\$22,147	\$48,289	2.02	2.18
Board of Registration for Foresters - 2017	\$28,390	\$11,989	\$51,150	1.8	4.27
Board of Registration for Foresters - 2018	\$27,900	\$11,244	\$53,851	1.93	4.79
Board of Hearing Aid Dealers - 2016	\$43,129	\$15,773	\$40,473	0.94	2.57
Board of Landscape Architects - 2016	\$28,224	\$11,006	\$29,831	1.06	2.71
Board of Landscape Architects - 2017	\$28,224	\$9,339	\$29,467	1.04	3.16
Board of Medicine - 2016	\$2,056,541	\$1,587,371	\$3,573,721	1.74	2.25
Board of Occupational Therapy - 2016	\$115,000	\$88,477	\$198,388	1.73	2.24
Board of Occupational Therapy - 2017	\$115,000	\$85,149	\$207,934	1.81	2.44
Board of Occupational Therapy - 2018	\$115,000	\$91,200	\$214,319	1.86	2.35
Board of Optometry - 2018	\$156,000	\$118,124	\$267,167	1.71	2.26
Board of Physical Therapy - 2016	\$434,728	\$148,627	\$997,179	2.29	6.71
Board of Physical Therapy - 2017	\$562,452	\$305,929	\$1,047,230	1.86	3.42
Board of Physical Therapy - 2018	\$500,000	\$389,204	\$942,639	1.89	2.42
Board of Veterinary Medicine - 2018	\$310,403	\$256,163	\$549,273	1.77	2.14
Real Estate Board of Appraisers - 2018	\$563,018	\$399,384	\$829,995	1.47	2.08
Real Estate Commission - 2017	\$883,035	\$573,604	\$1,375,855	1.56	2.4
Real Estate Commission - 2018	\$883,035	\$656,488	\$1,434,086	1.62	2.18

Data obtained from wvOASIS

Lack of Budgetary Procedures and Oversight May Circumvent the Intent of W.Va. Code §30-1-10.

Within wvOASIS, the comparison of a board’s annual budget and year-end fund balance is what determines if a board has an excess fund balance. This in turn is what triggers the excess, as defined by W.Va. Code §31-1-10, to be subsequently transferred to the General Revenue Fund. Statute does not establish a uniform procedure or requirement for a board to follow when formulating its budget to help ensure accurate budgeting. Further, each board enters its annual budget into the wvOASIS system with no independent external review. Since this transfer of excess funds is dependent upon data generated and recorded in wvOASIS by each board, with no independent external oversight, it is easily susceptible to error, inaccuracy, or manipulation. Consequently, this inaccurate budgeting could potentially cause excess fund balances to not be transferred in accordance with W.Va. Code.

For example, if a board has a year-end fund balance of \$500,000 and budgets \$250,000 for its yearly expenditures it will not be considered to have an excess fund balance. This remains true

⁴ The Legislative Auditor did not contact the individual boards regarding their budgeting process or reasoning for these discrepancies, as it was beyond the scope of the audit.

even if the actual expenditures are only \$100,000, significantly less than what is budgeted. This would in turn potentially allow a board to accumulate an excessive fund balance just by overestimating its annual budget, whether intentionally or not.

W.Va. Code §30-1-10 May Require Revision to Clarify the Intent of the Fund Limit

If the intent of establishing a fund balance limit through W.Va. Code §30-1-10 was to prevent large fund balances from accumulating outside of Legislative purview and budgetary oversight, the current budgeting procedures of Chapter 30 boards may not be sufficient to do so. Conversely, this transfer of excess funds may also have an adverse effect on a board's ability to carry out its statutory mission due to a loss of funds that the boards might have intended to use. For instance, a board may incur unexpected expenditures or have a need for increased funding in a future year which would cause its fund balance to be in excess of this limit, which does not appear to be contemplated in the current language of the statute.

Based on these conclusions, the Legislative Auditor recommends the Legislature consider clarifying the intent of this statute to ensure proper compliance and to assist in formulating a budgetary procedure that would ensure compliance.

Recommendations

1. The Legislative Auditor recommends the Legislature review W.Va. Code §30-1-10 and clarify the intent of the established fund limits and determine the proper basis for the limit between annual budget or actual expenditure amounts.
2. The Legislative Auditor recommends the Legislature consider revising W.Va. Code §30-1-10 to establish and require a budgeting procedure to be followed by all Chapter 30 boards to ensure accurate budgeting and compliance with the fund limit.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "J. Robinson".

Justin Robinson, Director

Appendix A- Fiscal Year 2016

Board Name	Budget Expenses	Actual Expenses	Fund Balance as of June 30, 2016	Ending Cash Balance to Budget Ratio	Ending Cash Balance to Actual Ratio*
Board of Accountancy	\$536,800	\$338,326	\$631,589	1.18	1.87
Board of Architects	\$169,244	\$139,020	\$269,637	1.59	1.94
Board of Barbers and Cosmetologists	\$744,466	\$596,556	\$114,047	0.15	0.19
Board of Chiropractic	\$111,864	\$102,407	\$92,679	0.83	0.91
Board of Dental Examiners	\$512,000	\$397,755	\$437,128	0.85	1.10
Board of Dietitians	\$28,000	\$21,801	\$56,956	2.03	2.61
Board of Examiners for Speech-Language Pathology and Audiology	\$148,813	\$128,883	\$164,269	1.10	1.27
Board of Examiners in Counseling	\$166,123	\$151,709	\$157,484	0.95	1.04
Board of Examiners of Psychologists	\$134,826	\$129,791	\$29,506	0.22	0.23
Board of Hearing Aid Dealers	\$43,129	\$15,773	\$40,473	0.94	2.57
Board of Landscape Architects	\$28,224	\$11,006	\$29,831	1.06	2.71
Board of Medicine	\$2,056,541	\$1,587,371	\$3,573,721	1.74	2.25
Board of Occupational Therapy	\$115,000	\$88,477	\$198,388	1.73	2.24
Board of Optometry	\$156,000	\$151,207	\$234,447	1.50	1.55
Board of Osteopathic Medicine	\$485,055	\$419,975	\$475,275	0.98	1.13
Board of Pharmacy	\$1,872,683	\$1,765,104	\$3,459,237	1.85	1.96
Board of Physical Therapy	\$434,728	\$148,627	\$997,179	2.29	6.71
Board of Registration for Foresters	\$23,900	\$22,147	\$48,289	2.02	2.18
Board of Registration for Professional Engineers	\$1,100,000	\$747,995	\$1,101,197	1.00	1.47
Board of Professional Surveyors	\$200,000	\$182,700	\$204,911	1.02	1.12
Board of Respiratory Care	\$131,030	\$123,050	\$245,449	1.87	1.99
Board of Sanitarians	\$14,400	\$13,027	\$19,460	1.35	1.49
Board of Social Work	\$253,644	\$183,403	\$269,706	1.06	1.47
Board of Veterinary Medicine	\$276,082	\$272,443	\$491,897	1.78	1.81
Massage Therapy Board	\$127,066	\$119,159	\$199,630	1.57	1.68
Medical Imaging and Radiation Therapy Technology Board of Examiners	\$229,230	\$194,014	\$292,360	1.28	1.51
Real Estate Board of Appraisers	\$498,310	\$421,285	\$556,387	1.12	1.32
Real Estate Commission	\$883,035	\$681,812	\$1,365,317	1.55	2.00

**Bolded ratios indicate an ending fund balance ratio that exceeded twice the actual expenses for the Fiscal Year.*

Data obtained from the wvOASIS system.

Appendix A- Fiscal Year 2017

Board Name	Budget Expenses	Actual Expenses	Fund Balance as of June 30, 2016	Ending Cash Balance to Budget Ratio	Ending Cash Balance to Actual Ratio*
Board of Accountancy	\$536,800	\$350,820	\$623,539	1.16	1.78
Board of Architects	\$169,244	\$140,247	\$276,216	1.63	1.97
Board of Barbers and Cosmetologists	\$744,466	\$565,980	\$127,758	0.17	0.23
Board of Chiropractic	\$135,313	\$104,969	\$122,591	0.91	1.17
Board of Dental Examiners	\$512,000	\$466,643	\$450,090	0.88	0.96
Board of Dietitians	\$34,957	\$26,431	\$55,525	1.59	2.10
Board of Examiners for Speech-Language Pathology and Audiology	\$145,813	\$135,546	\$237,408	1.63	1.75
Board of Examiners in Counseling	\$185,772	\$140,108	\$270,500	1.46	1.93
Board of Examiners of Psychologists	\$134,826	\$116,566	\$36,590	0.27	0.31
Board of Hearing Aid Dealers	\$43,129	\$20,937	\$33,236	0.77	1.59
Board of Landscape Architects	\$28,224	\$9,339	\$29,467	1.04	3.16
Board of Medicine	\$2,056,541	\$1,907,457	\$3,523,457	1.71	1.85
Board of Occupational Therapy	\$115,000	\$85,149	\$207,934	1.81	2.44
Board of Optometry	\$156,000	\$132,160	\$246,937	1.58	1.87
Board of Osteopathic Medicine	\$485,055	\$473,444	\$440,149	0.91	0.93
Board of Pharmacy	\$2,456,000	\$1,929,145	\$3,777,007	1.54	1.96
Board of Physical Therapy	\$562,452	\$305,929	\$1,047,230	1.86	3.42
Board of Registration for Foresters	\$28,390	\$11,989	\$51,150	1.80	4.27
Board of Registration for Professional Engineers	\$1,066,000	\$797,240	\$1,152,451	1.08	1.45
Board of Professional Surveyors	\$200,000	\$164,762	\$221,125	1.11	1.34
Board of Respiratory Care	\$131,030	\$122,393	\$245,224	1.87	2.00
Board of Sanitarians	\$20,000	\$12,760	\$16,715	0.84	1.31
Board of Social Work	\$253,644	\$192,658	\$307,324	1.21	1.60
Board of Veterinary Medicine	\$293,603	\$258,282	\$514,396	1.75	1.99
Massage Therapy Board	\$127,066	\$118,565	\$206,015	1.62	1.74
Medical Imaging and Radiation Therapy Technology Board of Examiners	\$229,230	\$224,532	\$282,301	1.23	1.26
Real Estate Board of Appraisers	\$549,018	\$421,504	\$681,511	1.24	1.62
Real Estate Commission	\$883,035	\$573,604	\$1,375,855	1.56	2.40
<i>*Bolded ratios indicate an ending fund balance ratio that exceeded twice the actual expenses for the Fiscal Year.</i>					
<i>Data obtained from the wvOASIS system.</i>					

Appendix A- Fiscal Year 2018

Board Name	Budget Expenses	Actual Expenses	Fund Balance as of June 30, 2016	Ending Cash Balance to Budget Ratio	Ending Cash Balance to Actual Ratio*
Board of Accountancy	\$536,800	\$391,690	\$578,701	1.08	1.48
Board of Architects	\$169,304	\$148,198	\$269,492	1.59	1.82
Board of Barbers and Cosmetologists	\$744,466	\$556,648	\$149,728	0.20	0.27
Board of Chiropractic	\$135,000	\$114,795	\$139,246	1.03	1.21
Board of Dental Examiners	\$512,000	\$423,463	\$530,366	1.04	1.25
Board of Dietitians	\$38,000	\$30,719	\$63,161	1.66	2.06
Board of Examiners for Speech-Language Pathology and Audiology	\$138,813	\$127,495	\$158,523	1.14	1.24
Board of Examiners in Counseling	\$190,340	\$175,073	\$211,911	1.11	1.21
Board of Examiners of Psychologists	\$126,272	\$107,996	\$50,295	0.40	0.47
Board of Hearing Aid Dealers	\$43,129	\$15,278	\$29,958	0.69	1.96
Board of Landscape Architects	\$28,224	\$13,532	\$25,065	0.89	1.85
Board of Medicine	\$2,196,541	\$1,947,080	\$3,451,238	1.57	1.77
Board of Occupational Therapy	\$115,000	\$91,200	\$214,319	1.86	2.35
Board of Optometry	\$156,000	\$118,124	\$267,167	1.71	2.26
Board of Osteopathic Medicine	\$444,385	\$417,205	\$404,512	0.91	0.97
Board of Pharmacy	\$3,356,000	\$2,419,984	\$4,201,059	1.25	1.74
Board of Physical Therapy	\$500,000	\$389,204	\$942,639	1.89	2.42
Board of Registration for Foresters	\$27,900	\$11,244	\$53,851	1.93	4.79
Board of Registration for Professional Engineers	\$1,066,000	\$805,341	\$1,379,291	1.29	1.71
Board of Professional Surveyors	\$200,000	\$164,297	\$230,560	1.15	1.40
Board of Respiratory Care	\$141,090	\$138,300	\$236,036	1.67	1.71
Board of Sanitarians	\$12,500	\$8,822	\$16,529	1.32	1.87
Board of Social Work	\$253,644	\$211,573	\$317,564	1.25	1.50
Board of Veterinary Medicine	\$310,403	\$256,163	\$549,273	1.77	2.14
Massage Therapy Board	\$147,066	\$131,586	\$209,864	1.43	1.59
Medical Imaging and Radiation Therapy Technology Board of Examiners	\$229,230	\$205,251	\$294,520	1.28	1.43
Real Estate Board of Appraisers	\$563,018	\$399,384	\$829,995	1.47	2.08
Real Estate Commission	\$883,035	\$656,488	\$1,434,086	1.62	2.18

**Bolded ratios indicate an ending fund balance ratio that exceeded twice the actual expenses for the Fiscal Year.*

Data obtained from the wvOASIS system.