

STATE OF WEST VIRGINIA

**PRELIMINARY PERFORMANCE
REVIEW OF THE**

CONTRACTOR LICENSING BOARD

Lack of Statutory Authority
Low Collection Rate of Fines
Unable to Determine How Time
Spent

**Performance Evaluation and Research Division
Building 5, Room 751
State Capitol Complex**

CHARLESTON, WEST VIRGINIA 25305

(304) 347-4890

PE 96-03-44

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June 1996

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Antonio E. Jones, Ph.D.
Director

June 5, 1996

The Honorable A. Keith Wagner
State Senate
Box 446
Jaeger, West Virginia 24844

The Honorable Joe Martin
House of Delegates
Building 1, Room 213E
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Gentlemen:

Pursuant to the West Virginia Sunset Law, we are transmitting this Preliminary Performance Review of the Contractor Licensing Board, which will be reported to the Joint Committee on Government Operations on Monday, June 10, 1996. The issues covered herein are "Lack of Statutory Authority, Low Collection Rate of Fines and Unable to Determine How Time Spent."

Sincerely,

A handwritten signature in black ink, appearing to read "Antonio E. Jones".

Antonio E. Jones

AEJ/wsc

Enclosure

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EXECUTIVE SUMMARY

The West Virginia Contractor Licensing Board (CLB) was created by the 1991 Acts of the Legislature (WV Code §21-11-4). The purpose of the Contractor Licensing Act is for "persons desiring to perform contracting work in this state be duly licensed to ensure capable and skilled craftsmanship utilized in construction projects in this state, both public and private, fair bidding practices between competing contractors through uniform compliance with the laws of this state, and **protection of the public from unfair, unsafe and unscrupulous bidding and construction practices.**" (emphasis added)

ISSUE AREA 1: PERD Was Unable To Determine The Amount Of Time Spent On Contractor Licensing Activities Vs. General Revenue Activities.

The statute governing the Contractors Licensing Board and the Contractors Licensing Board Fund (special revenue) stipulates that "expenditures from said fund shall be for the purposes set forth in this article" (§21-11-17). A recurring problem with the Division of Labor has been the expenditure of Contractor Licensing Funds to subsidize other areas of the agency. Both a 1993 Performance Audit and a 1994 Post Audit report found that the Division of Labor had violated this provision of the article. It was recommended by the more recent Legislative Post Audit Division that the Division of Labor develop time sheets which measure in hours the amount of time its employees spend on Contractors Licensing activities and General Revenue activities. The Speaker of the House of Delegates, as Cochair of the Post Audit Committee, asked that the Division of Labor adhere to this recommendation to correct the problem found by the Legislative Post Audit Division. The Division of Labor has not developed time sheets, as recommended by Post Audit, and reiterated by the Speaker.

ISSUE AREA 2: The Contractor Licensing Board Has A Low Collection Rate Of Cease And Desist Order Fines.

Compliance officers, who work under the Division of Labor, monitor contracting activities throughout the state. When an officer locates a company or individual not properly licensed, the officer will issue a cease and desist order. This order stops the activities of the contractor until the contractor can be properly licensed. Contractors operating without a valid contractors license are subject to fines of up to \$1,000. The Board has an extremely poor collection rate concerning the fines it does levy. For example, compliance officers issued 737 cease and desist orders in FY95. Of these, 270 or 37% resulted in a fine but only 32% of the 270 were collected.

ISSUE AREA 3: The Contractor Licensing Board Lacks The Statutory Authority To Protect The Citizens of West Virginia From Unscrupulous Licensed Contractors.

The West Virginia Contractor Licensing Board (CLB) has restrictions placed upon it that inhibit the Board's power. The Board cannot take any disciplinary action against a licensed contractor until a court of record has issued a judgment against the licensed contractor. Without

adequate power, the consumer is at great risk from unscrupulous, licensed contractors.

The Division of Labor has a full-time staff that performs contractor licensing work to help the Contractor Licensing Board function. Such duties include maintaining records of new licensees, the number of licensees renewed and the amount of fees received. In addition, the Division of Labor maintains checks of other state agencies to ensure licensees are current.

WV Code §21-11-14 lists several causes for disciplinary action by the Board. The powers of the Board and reasons for punishment appear to be consistent with other boards and commissions within the state. However, subsection (h) of §21-11-14 is not consistent with statutes governing other boards and commissions.

The limitations imposed by subsection (h) of §21-11-14 is in contrast to the recommendations of the National Association of Home Builders (NAHB). According to the 1991 Contractor Licensing Manual published by the NAHB, a board should have the power to investigate the acts of any contractor within the state and suspend or revoke any license and impose fines, after a proper hearing before a board or hearing officer.

Review Objective, Scope and Methodology

This preliminary performance review of the West Virginia Contractor Licensing Board is required and authorized by the West Virginia Code in the "Sunset Law" (Chapter 4, Article 10). The primary functions of the Board are to ensure that contractors are licensed properly, to discipline unlicensed contractors, and to protect the public from unfair, unsafe and unscrupulous bidding and construction practices. The objective of the review was to determine the Board's effectiveness in disciplining unlicensed contractors and protecting the public from unscrupulous licensed contractors.

The scope of the review was limited to determining if the Board has adequate power to discipline a contractor, if the Board is effective in issuing and collecting fines, and if internal controls are in place to ensure that contractor licensing money is not being used to reimburse non-contractor licensing activities.

The methodology included personal interviews with Division of Labor officials; telephone interviews with Board members; an interview with the senior assistant Attorney General assigned to the Board; and an opinion from the senior attorney of Legislative Services. In addition, PERD conducted an analysis of the Contractor Licensing Board's cease and desist collection activities which is included in the Appendix of the report.

This review follows the generally accepted Government Auditing Standards.

ISSUE AREA 1: PERD Was Unable To Determine The Amount Of Time Spent On Contractor Licensing Activities Vs. General Revenue Activities.

The 1991 legislation creating the Contractors Licensing Board also created a special revenue account and specified in Chapter 21, Article 11, Section 17 "expenditures from said fund shall be for the purposes set forth in this Article" A recurring problem with the Division of Labor has been the expenditure of Contractors Licensing Funds to subsidize other areas of the agency. Both a 1993 Performance Audit and a 1994 Post Audit report found that the Division of Labor had violated Section 17 of Chapter 21, Article 11 through it's management of the Contractor Licensing Fund. The Post Audit report stated in part:

"Based on the monthly activities report, we determined that 65% of the compliance officers activities were General Revenue Fund functions and 35% Contractor Licensing Fund functions..... This means the General Revenue Fund functions of the Division are being subsidized by the Contractor Licensing Fund revenues."

According to the Post Audit report, the Division of Labor established the equivalency percentages at 50/50 for those employees who work in the Contractor Licensing Section of the Division. This means that these individuals are spending 50% of their time on General Revenue Fund functions and 50% on Contractor Licensing Fund functions. As a result of this report the Division of Labor was told by the Speaker of the House of Delegates, as Cochair of the Post Audits Committee, to take appropriate measures to correct this problem and that "the Contractor Licensing funds not be used for other departmental functions."¹

However, the Division of Labor did not agree with the Post Audit report's percentages of 65/35. The Commissioner addressed this issue in a letter to PERD (see Appendix C). The letter stated in part:

"....that a monthly activity report may not be an accurate gauge of the separation of employees' duties. For example, due to the terrain and rural areas of the state, it may require an inspector to spend three hours travel time to reach a job site to do a contractor license inspection, 30 minutes to do the actual inspection, and another three hours travel time to return to the employee's headquarters. This leaves the inspector one hour in the day to work on wage and hour or contractor license duties."

The Commissioner also noted that compliance officers perform both contractor licensing duties and wage and hour duties. Due to the nature of the duties and the varying times in which the officers perform these duties, it is difficult for the Division of Labor to determine the

¹ The Division of Labor was "to maintain time sheets for all employees which would detail the work duties of the employees in terms of what percentage of that time was devoted to contractor licensing functions and general revenue related functions.

compliance officers' salary percentages. The Post Audit Division recommended that **"the Division develop time sheets which measure in hours how much time is spent on General Revenue Fund functions and Contractor Licensing Fund functions."** The time sheets reviewed by PERD, and which compliance officers submit to the Division of Labor, seem to be vague and still do not differentiate in hours between contractor licensing activities and non-contractor activities (see **Appendix D**). The Division has not adhered to this recommendation and continues to have the officers keep their time sheets in the same manner they always have. Therefore, PERD cannot determine from the time sheets the percentage of time a compliance officer devotes to contractor licensing activities and non-contractor activities. As a result, PERD also cannot determine if General Revenue Fund functions performed by the Division are being subsidized with money from the Contractor Licensing Fund.

In addition to the above mentioned problem, funds loaned in 1994 to the Elevator Safety Program from Contractors Licensing have never been repaid to the Contractors Licensing Fund. The Legislative intent of this authorized Loan of \$381,828 was for the start-up of the Elevator Safety Program. According to the Commissioner of Labor, "it is highly unlikely that these funds will ever be reimbursed unless legislation is passed to increase the revenue generated by the Elevator Safety Program". A full account of the Division of Labor's response to questions concerning this problem are contained in **Appendix E**.

Recommendation 1

Due to continuing problems with the Division of Labors management of Contractors Licensing funds the Legislature may consider moving the Contractors Licensing Board to another state agency or make the Contractors Licensing Board a separate entity separate and independent from the Division of Labor.

ISSUE AREA 2: The Contractor Licensing Board Has A Low Collection Rate Of Cease And Desist Order Fines.

Cease and Desist Orders

Part of the Division of Labor's staff consists of approximately 29 compliance officers, whose duties include contractor licensing functions. These compliance officers monitor contracting activities throughout West Virginia. The officers continually check projects in their districts to ensure companies working there are properly licensed. When an officer locates a company or individual not properly licensed, then the officer will issue a cease and desist order. This order stops the activities of the contractor until the contractor can be properly licensed. Contractors operating without a valid contractors license are subject to fines of up to \$1000. Contractors who continue to operate once a cease and desist order has been issued are subject to a misdemeanor and can be fined or imprisoned or both.

It is clear that numerous contractors violate the law. However, **the Board is extremely lenient with unlicensed contractors** and is more than willing to give them the benefit of the doubt. In fact, if a contractor is caught without a license, he can **then test for a license within 60 days and have any fine or letter of reprimand rescinded.** According to some Board members, the Division of Labor is understaffed, which may contribute to the extremely poor collection rate concerning the fines it levies. Compliance officers issued 737 cease and desist orders in FY95. Of these, 270 or 37% resulted in a fine but only 32% of the 270 were collected. Also, the total amount of money assessed for each fiscal year has almost doubled since the inception of the Board, while the total amount of fines collected for each fiscal year has remained stable for the most part. In addition, unlicensed out-of-state contractors pay these fines at a higher rate than West Virginia contractors. A synopsis of the cease and desist orders issued and collection rates is in Table One below. A full account can be found in **Appendix B.**

Table One

Years	Total C&D Orders	Fines Assessed	Fines Paid	Fines not Paid	Percentage Fines Collected
91-92	338	150	82	68	<u>55%</u>
92-93	441	191	118	73	<u>62%</u>
93-94	560	191	90	101	<u>47%</u>
94-95	737	270	86	184	<u>32%</u>

The number of cease and desist orders and the number of fines assessed have increased each year. The collection rate, however, has consistently fallen in the last three years. The Board can sue an unlicensed contractor who has not paid a fine. However, according to the Attorney General's Senior Assistant, who advises the Board, the CLB has never sued an unlicensed contractor in the two years that he has been counsel to the Board. This, combined with the

contractor in the two years that he has been counsel to the Board. This, combined with the increasing number of fines issued, has no doubt caused the decline in collection rates. The National Association of Home Builders had the following to say concerning unlicensed contractors.

Efforts to control unlicensed activity are important for a number of reasons. Unlicensed activity increases the risk that the consuming public will receive an inferior product; gives an unfair competitive advantage to the unlicensed contractor over the complying contractor; decreases the amounts of tax revenues paid to the state (causing others to pay higher taxes to compensate for lost revenue); and detracts from the industry's image.

Therefore, the importance of controlling unlicensed activity is acknowledged by a national organization for contractors. The number of cease and desist orders issued indicates that the CLB has increased efforts at controlling unlicensed activity and is being effective, but does not receive the benefits of those efforts through the collection of all fines. In comparison, the Board assessed a fine in only 39% of the cases for which a cease and desist order was issued. Although there are perhaps many reasons why the Board only assessed fines in this number of cases, not issuing fines gives an appearance of extreme leniency. The Board is exploring the possibility of utilizing a collection agency to collect the unpaid fines and should continue to pursue such methods. As a result of the Board's low collection rate of fines assessed, the Performance Evaluation and Research Division makes the following recommendation:

Recommendation 2

The Legislature may consider giving the Contractor Licensing Board an additional tool, such as seizing tax returns or assets, to collect fines not paid.

ISSUE AREA 3: The Contractor Licensing Board Lacks The Statutory Authority To Protect The Citizens Of West Virginia From Unscrupulous Licensed Contractors.

The West Virginia Contractor Licensing Board (CLB) has powers to discipline licensed contractors provided for in the Code. However, the Board cannot truly protect the public from unscrupulous, licensed contractors. This is due to §21-11-14 (h) of the statute requiring a court of record (circuit court) judgment be rendered against a licensed contractor before the Board can discipline a licensed contractor. Without adequate authority, the public is at great risk from unscrupulous, licensed contractors.

Licensing Activities of the Board

One of the primary activities of the CLB is licensing contractors. The Division of Labor maintains a full-time staff which completes the work necessary to implement the Contractor Licensing Act. The staff keeps records of new licensees, the number of licensees renewed, and the amount of fees received. In addition, the Division of Labor maintains checks of other state agencies to ensure licensees are current with the Tax Department, Unemployment Compensation, Workers Compensation, and the Secretary of State. The actual testing is contracted to a private firm, the National Assessment Institute. This firm continually provides testing opportunities in the Charleston area as well as occasional testing in alternate locations throughout the state. The Board has licensed the following number of contractors since 1991:

Table Two

FY Years	Total	WV Companies	Out of State Companies
91-92	14,173	10,893	3280
92-93	1841	1129	712
93-94	1505	971	534
94-95	1604	1036	568
Totals	19,123*	14,029	5094

*Note: Total licensed since 1991; actual active and valid number of contractors is 17,590

Disciplinary Powers of the Board

The 1991 legislation gave the Contractor Licensing Board certain disciplinary powers. The following are some examples of the powers and authority given to the Board to discipline licensed contractors.

- (1) Permanently revoke a license
- (2) Suspend a license for a specific period
- (3) Censure or reprimand a licensee

West Virginia Code §21-11-14 also lists several causes for disciplinary action by the Board (see **Appendix A**). The powers of the Board and reasons for punishment appear to be consistent with other boards and commissions within the state. However, subsection (h) of §21-11-14 is not consistent with statutes governing other boards and commissions. The Attorney General's Senior Assistant agrees with this conclusion. The Senior Assistant stated that "**the CLB is the only board in West Virginia that he knows of that has to wait on a circuit court judgment before any disciplinary action can be taken.**" A review by Legislative Services legal staff, of 78 statutes, governing boards and commissions revealed only two other such provisions. Namely Hotel and Restaurants Licensees and Lottery Sales Agent Licensees. The aforementioned subsection (h) essentially removes all power of the CLB to discipline and regulate licensed contractors "**unless the licensee has been finally adjudicated as having perpetrated such act in a court of record.**" Then and only then can the CLB punish a licensed contractor. Most Board members interviewed indicated that the Board should have more power than what is currently allowed by the statute. The Commissioner of the Division of Labor also believes that the Board is not very powerful given the current process. Furthermore, the Senior Attorney of Legislative Services reiterated that the disciplinary action the Board can take is severely limited by the language of subsection (h). Without adequate power to discipline licensed contractors, the Board is reduced to merely a licensing role. The Board does use its power, when it can, to suspend licenses of contractors which have been ruled against in a court of record. According to the Division of Labor, the Board has suspended a contractor's license only 26 times. In comparison, the Consumer Protection Division of the Attorney General's Office compiled data of 1,455 complaints since 1992 regarding home repair/remodeling.² Although all of these complaints may not be the result of licensed contractors, this comparison demonstrates that many consumers may not be aware of licensing requirements or the existence of the Board. This data also gives an indication of how many consumers are forced to take legal action against a contractor.

National Association of Home Builders Recommendations

The limitations imposed by subsection (h) of §21-11-14 is in contrast to the recommendations of the National Association of Home Builders (NAHB). According to the 1991 Contractor Licensing Manual published by the NAHB, a board should have the power to investigate the acts of any contractor within the state and suspend or revoke any license and impose fines, after a proper hearing before a board or hearing officer. It is recommended that a state board may suspend or revoke a contractor's license if a contractor is found guilty of:

² Of the 1455 complaints, PERD was not able to determine how many involved licensed contractors. This is due to the distinct possibility that some of the contractors were not licensed to begin with. Also, a contractor only needs to be licensed if the cost of labor and materials for the project is \$1,000 or more; undoubtedly some of the 1455 complaints involved projects that cost less than \$1,000.

1. **Abandonment of contract without legal excuse;**
2. **Willful or deliberate disregard and violation of the applicable building codes of the state or its subdivisions;**
3. **Commission of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting;**
4. **Diversion of funds or property received for prosecution or completion of a specific contract.**

These reasons are consistent with §21-11-14, however the NAHB recommends "*Any decision of the board may be appealed to the appropriate court of the state.*" The statute governing the West Virginia CLB requires a licensed contractor be judged by a court of record prior to any disciplinary action taken by the Board. By having such a requirement, consumers are perhaps forced to take a contractor to court to settle disputes. This undoubtedly increases the number of court cases throughout the state. The Board members and the Senior Assistant Attorney General also believe that the current process is too time consuming and can place a financial burden on both consumers and contractors, especially the smaller ones.

Recommendation 3

The Legislature should consider amending the statute governing the Contractor Licensing Board giving the Board authority to discipline licensed contractors prior to a court of record.

APPENDICES

Appendix A

The following are causes for disciplinary action:

1. Abandonment, without legal excuse, of any construction project or operation engaged in or undertaken by the licensee;
2. Willful failure or refusal to complete a construction project or operation with reasonable diligence, thereby causing material injury to another;
3. Willful departure from or disregard of plans or specifications in any material respect without the consent of the parties to the contract;
4. Willful or deliberate violation of the building laws or regulations of the state or of any political subdivision thereof;
5. Willful or deliberate failure to pay any moneys when due for any materials free from defect, or services rendered in connection with such person's operations as a contractor when such person has the capacity to pay or when such person has received sufficient funds under the contract as payment for the particular construction work for which the services or materials were rendered or purchased, or the fraudulent denial of any amount with intent to injure, delay or defraud the person to whom the debt is owed;
6. Willful or deliberate misrepresentation of a material fact by an applicant or licensee in obtaining a license, or in connection with official licensing matters;
7. Willful or deliberate failure to comply in any material respect with the provisions of this article or the rules of the board;
8. Willfully or deliberately acting in the capacity of a contractor when not licensed, or as a contractor by a person other than the person to whom the license is issued except as an employee of the licensee;
9. Willfully or deliberately acting with the intent to evade the provisions of this article by:
(i) Aiding or abetting an unlicensed person to evade the provisions of this article; (ii) combining or conspiring with an unlicensed person to perform an unauthorized act; (iii) allowing a license to be used by an unlicensed person; or (iv) attempting to assign, transfer or otherwise dispose of a license or permitting the unauthorized use thereof;
10. Engaging in any willful, fraudulent or deceitful act in the capacity as a contractor whereby substantial injury is sustained by another; or
11. Performing work which is not commensurate with a general standard of the specific classification of contractor or which is below a building or construction code adopted by the municipality or county in which the work is performed.

Appendix B

Cease and Desist Collection Rates

Fiscal Years	Total C&D's	Fines Assessed	Fines Paid	Fines Not Paid	% Collected	Total \$ Assessed	Fines Collected	% of \$ Collected	Contractors Not Fined
91-92	Totals	338	82	68	55%	\$55,800.00	\$25,800.00	46%	188
	WW Contractors		36	31	55%	\$27,100.00	\$12,100.00	45%	114
	Non WW Contractors		46	37	55%	\$28,700.00	\$13,700.00	48%	74
92-93	Totals	441	118	73	62%	\$60,550.00	\$30,600.00	50%	250
	WW Contractors		49	38	56%	\$24,750.00	\$12,100.00	49%	154
	Non WW Contractors		69	35	66%	\$35,800.00	\$18,500.00	52%	96
93-94	Totals	560	130	101	47%	\$80,600.00	\$35,150.00	44%	369
	WW Contractors		21	49	30%	\$26,850.00	\$6,400.00	24%	233
	Non WW Contractors		69	52	57%	\$53,750.00	\$28,750.00	53%	136
94-95	Totals	737	86	184	32%	\$106,150.00	\$30,800.00	29%	467
	WW Contractors		22	82	21%	\$37,550.00	\$7,600.00	20%	290
	Non WW Contractors		64	102	38%	\$68,600.00	\$23,200.00	34%	177
Overall Totals	2076	802	376	426	47%	\$303,100.00	\$122,350.00	40%	1274

Contractors not Fined= Reprimands, Fines Recinded, or contractor licensed

Appendix C
WEST VIRGINIA DIVISION OF LABOR

319 Building Three, Capitol Complex • Charleston, West Virginia 25305
Phone (304) 558-7890 • Fax (304) 558-3797

GASTON CAPERTON
Governor



SHELBY LEARY
Commissioner

March 8, 1996

Dr. Antonio Jones
West Virginia Legislature
Performance Evaluation & Research Division
State Capitol Complex
Charleston, W.Va. 25305

Dear Dr. Jones:

With regard to your letter dated Feb. 26, 1996, I would like to respond.

Effective immediately upon my appointment as commissioner of the state Division of Labor, I requested an audit be performed to ascertain whether the agency was performing its functions in a responsible and cost-effective manner. I also began meeting with the agency's section directors and staff members to review the section functions, staffing, resource management and other activities to ensure that these were both efficient and cost-effective. Some of the changes implemented included reassigning counties of field inspectors to maximize use of personnel and planning work assignments to minimize expenses.

I then began reviewing procedures in the fiscal office to ensure that agency funds were being utilized properly. This included the budget process, purchasing, cost allocation and other financial activities. Salary, benefits and expenses of the employees being charged to the various funds were reviewed and adjusted. All purchases were reviewed and approved by me along with other changes in these areas.

After the implementation of these changes within the Division of Labor, periodic reviews were done and continue to be done to update and adjust accordingly.

With respect to the Contractor Licensing Program, on July 6, 1995, Labor Deputy Commissioner Chris Quasebarth, Director of Administration Mitchell Samples, and Accounting

-1-

We are an Equal Opportunity Employer



Assistant Denise Brown met with Thedford L. Shanklin and Charles L. Lunsford of the Legislative Post Audit Division for an exit conference for the division's audit report for the period of July 1, 1986, through June 30, 1994.

During this exit conference, the matter of FTE's on compliance officer salary percentages of 50/50 and monthly activity summaries reflecting 65 percent General Revenue Fund functions and 35 percent Contractor Licensing Fund functions were discussed. It was explained to Mr. Shanklin and Mr. Lunsford that a monthly activity report may not be an accurate gauge of the separation of employees' duties.

For example, due to the terrain and rural areas of the state, it may require an inspector to spend three hours travel time to reach a job site to do a contractor license inspection, 30 minutes to do the actual inspection, and another three hours travel time to return to the employee's headquarters. This leaves the inspector one hour in the day to work on wage and hour or contractor license duties.

In most cases, an inspector can do a wage and hour investigation or answer a complaint over the phone, or can request payroll information by phone, rather than having to travel by vehicle to a company office. We explained this to Mr. Shanklin by giving him this example, and he indicated that this sounded reasonable and he would note this response in the final audit report.

Another example of why a monthly activity report would not necessarily be a good gauge for determining the particular activities of each inspector would be an inspector who works on wage and hour duties exclusively for a full week and the next week works exclusively on contractor licensing concerns.

If the auditor at random chose the activity report for the week that the inspector was doing only wage and hour work, then the percentages of 50/50 would not be an accurate reflection of the inspector's work as far as the auditor saw it.

Therefore, we take the legislative auditor's recommendation to review the duties of each inspector periodically and adjust the FTE percentages accordingly. We also have taken the auditor's recommendation during the exit conference to evaluate our activity reports to ensure that the reports are a true reflection of the actual duties being performed.

During our recent presentation before the Joint Committee on Government Operations, we advised the committee that there were not any other areas of the Division of Labor's operations being subsidized with money from the Contractor Licensing account, nor will there be, unless an appropriation is made by the Legislature at its discretion.

For example, the Legislature did authorize the transfer of funds in the amount of \$381,828.00 for the Elevator Safety Section in the Division of Labor and the transfer of \$100,000.00 for the fuel quality testing program in the division's Weights and Measures Section out of the Contractor Licensing account. This transfer was for the period of July 1, 1994, through June 30, 1995. However, we do not anticipate such a situation's happening again.

When a contractor seeks a license, he or she must be registered and in compliance with the Secretary of State, Workers Compensation, Employment Security and the Tax and Revenue departments. When a contractor seeks a renewal of a license, he or she must still be in compliance with each of these state agencies.

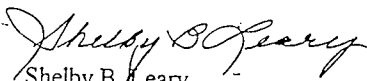
When information gathered from any one of these agencies shows that a contractor is not in compliance and owing money, the contractor receives notice that he or she must get in contact with that agency and receive a letter of good standing from that agency in order to get a license renewal. The only times that the Division of Labor would hold up a contractor's license would be when the contractor is not in compliance with an agency or has failed to pay a fine from the Contractor Licensing Board.

Page 4

A contractor's license can be revoked by the Contractor Licensing Board if he or she is found guilty in a court of record for a complaint filed by a homeowner or a business that hired the contractor to do work that turned out to be unsatisfactory. Only then is a contractor license revoked. Upon payment of the court mandate, a contractor may seek reinstatement of his or her license.

I hope that this letter answers your questions. If I may be of further assistance, please let me know.

Sincerely,


Shelby B. Leary
Commissioner, Division of Labor

SBL:kkk

Appendix D

WEST VIRGINIA DIVISION OF LABOR - HOURLY TIME AND TRAVEL REPORT

Inspector: _____

Week Ending: _____

Headquarter: _____

Supervisor: _____

Date	Sat/Sun	Monday 6	Tuesday 7	Wednesday 8	Thursday 9	Friday 10		
On Duty Time		8:30	8:30	8:30	8:30	8:30		
Location		Headquarters Parkersburg	Headquarters	Headquarters	Headquarters	Headquarters		
List firm and location in order and detail travel		Met with Bob at Hospital to discuss Prevailing Wage Went to Magistrate Court to file a misdemeanor for	Traveled Parkersburg Area for Contractors ↓	Worked in office ↓	Worked in office ↓	Traveled to St. Marys and back to Parkersburg Area		
Meals	Off On	Off 12:00 On 12:30	Off 12:00 On 12:30	Off 12:00 On 12:30	Off 12:00 On 12:30	Off 12:00 On 12:30		
List firm and location in order and detail travel		No Wage Bond after CED Came back to office and worked ↓	Traveled to Waverly to check Cont. violation Watkins Co. CED for Cont. Lic. Traveled back to P-burg area worked in office 4:30	Went to Hospital to discuss Prevailing Wage issue Traveled through Williamsport and Wood Co. Area for Cont. 4:30	Traveled Rt. 50 South Parkersburg Aval Rt. 2 for Cont. Viol.	Traveled Market St. Checking Places that had building Permits attached to them for Cont. Lic. & Wage Bond 4:30		
Time Location		4:30 P-burg	4:30 P-burg	4:30 P-burg	4:30 P-burg	4:30 Headquarters	TOTALS	
Hours Worked		8	8	8	8	8	40	
Holiday								
Sick								
Annual								
Other								
DAILY EXPENSES							TOTAL HOURS	
Mileage	State	State 39	State 38	State 22	State 45	State 61	205	
	Personal	Personal 0	Personal 0	Personal 0	Personal 0	Personal 0	0	
	Total	Total 39	Total 38	Total 22	Total 45	Total 61	205	
Meals								
Motel								
Misc.								

I certify that the work described and travel listed are a true and accurate record of my work hours and performance and agree with all inspection reports and expense accounts as submitted.

Highlighted reports already

Total Vehicle Expense
Expense Total _____

WEST VIRGINIA DIVISION OF LABOR - HOURLY TIME AND TRAVEL REPORT

BC

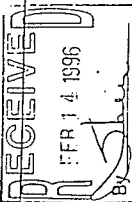
Inspector:

Week Ending:

Headquarr:

Supervisor:

Date	Sat/Sun	Monday 1-29-96	Tuesday 1-30-96	Wednesday 1-31-96	Thursday 2-1-96	Friday 2-2-96		
On Duty Time		8:30A	8:30A	8:30A	8:30A	8:30A		
Location		Headquarters	Headquarters	Headquarters	Matthew	O		
List firm and location in order and detail travel		Had a RFA Request Comphindnt come to house. To Ridgeley & Area ck	Headquarta to Keyser & Area ck wrote a c: D for CN Keyser to Knobley Rd.	Headquarters to Lakeview Estates & Area ck. Shortgap & Area ck To HQ	E. Kidwell Came top house got wage Pmt. Call. filed RFA.	F F I L E		
Meals	Off	Off 11:00	Off 12:55	Off 12:30	Off 12:40	Off 11:00		
	On	On 12:30	On 1:25	On 1:00	On 1:20	On 12:40		
List firm and location in order and detail travel		Ridgeley & Area ck Chy to lampard to HQ	Knobley Rd & Area ck to HQ	OFFICE WORK	calls RE: Above RFA for Ashby & Area ck to HQ.	W O R K		
Time Location		4:30P Headquarters	4:30P Headquarters	4:30P Headquarters	4:30P Headquarters	4:30P Headquarters	TOTALS	
Hours Worked		8	8	8	8	8	40	
Holiday								
Sick								
Annual								
Other								
DAILY EXPENSES							TOTAL HOURS	40
Mileage	State	State 24	State 46	State 23	State 8	State 0	Total	101
	Personal	Personal 0	Personal 0	Personal 0	Personal 0	Personal 0	Total	0
Meals							Total	0
Motel							Total	0
Misc.							Total	0



I certify that the work described and travel listed are a true and accurate record of my work hours and performance and agree with all inspection reports and expense accounts as submitted.

Signature

Total Vehicle Expense
Expense Total

Appendix E

WEST VIRGINIA DIVISION OF LABOR

319 Building Three, Capitol Complex • Charleston, West Virginia 25305
Phone (304) 558-7890 • Fax (304) 558-3797

GASTON CAPERTON
Governor



SHELBY LEARY
Commissioner

May 6, 1996

Mr. Antonio E. Jones, Director
West Virginia Legislature
Performance Evaluation & Research Div.
Building 5, Room 751A
1900 Kanawha Blvd., E.
Charleston, West Virginia 25305

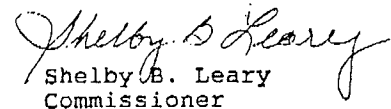
Dear Director Jones:

In response to your request of May 2, 1996, regarding the Evaluation of the Contractors Licensing Board, I respectfully submit the following:

1. In addition to loaning funds to begin the Elevator Safety Program, the 1994 Budget also authorized \$100,000.00 of Contractor Licensing Funds to be used for the purpose of Fuel Testing. This authorization was not a loan and does not have to be repaid.
2. None of the funds authorized for the Elevator Safety Program have been reimbursed to the Contractor Licensing Board. Unless legislation is passed to increase the revenue generated by the Elevator Safety Program, it is highly unlikely these funds will ever be reimbursed.

Should you need additional information regarding this matter, please contact my office at 558-7890.

Sincerely,


Shelby B. Leary
Commissioner

SBL/dkb

We are an Equal Opportunity Employer



