

LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION

GILMER COUNTY
VOLUNTEER FIRE DEPARTMENT

FOR THE YEAR ENDING JUNE 30, 2010

REPORT OVERVIEW

- Commingled Funds



WEST VIRGINIA LEGISLATIVE AUDITOR
POST AUDIT DIVISION



Aaron Allred - *Legislative Auditor*
Stacy Sneed, CPA - *Director*

Room 329 W, Building 1
1900 Kanawha Boulevard East
Charleston, West Virginia 25305
phone: (304) 347 - 4880

LEGISLATIVE POST AUDIT SUBCOMMITTEE

Senate

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Roman Prezioso
Mike Hall

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Tim Armstead

WEST VIRGINIA LEGISLATIVE AUDITOR LEGISLATIVE POST AUDIT DIVISION

Aaron Allred
Legislative Auditor

Stacy L. Sneed, CPA, CICA
Director

Ronald W. Ash
Auditor-in-Charge

Nathan Hamilton
Auditor I

Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., East
Charleston, WV 25305-0610
(304) 347-4880

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For more information about the Legislative Post Audit Division, please visit our website at
www.legis.state.wv.us/Joint/postaudit/postaudit.cfm

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., E.
Charleston, West Virginia 25305-0610



Area Code (304)
Phone: 347-4880
Fax: 347-4889

November 10, 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 Gilmer County Volunteer Fire Department's state funds for the fiscal year ended June 30, 2010. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacy L. Sneed".

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

SLS/rwa

GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

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GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

EXECUTIVE SUMMARY

Gilmer County VFD <u>Gilmer County</u>	<u>December 31, 2010</u>
Commingled Funds	\$141,087.50
Total	<u>\$141,087.50</u>

RECOMMENDATIONS:

We recommend the Gilmer County VFD maintain all state funds in a separate account and not commingle with funds received from other sources.

GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

INTRODUCTION

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.

GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

OFFICERS AND STAFF

Martin Hess.....President
Bob MooreSecretary
David HoardTreasurer
Kevin Wiant.....Fire Chief

GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

SCOPE

We conducted an evaluation of the revenue and expenditure transactions, and other records of the Gilmer County Volunteer Fire Department's state accounts for the year ending June 30, 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.

OBJECTIVES AND METHODOLOGIES

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.

CONCLUSIONS

We noted the Gilmer County Volunteer Fire Department commingled \$141,087.50 from non State sources with funds received from the State.

EXIT CONFERENCE

We discussed this report with the Fire Chief of the Gilmer County Volunteer Fire Department on November 10, 2011. All findings and recommendations were reviewed and discussed.

GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

FINDINGS

FINDING 1: COMMINGLED FUNDS:

The Gilmer County Volunteer Fire Department commingled \$141,087.50 from non State sources with funds received from the State, in violation of Chapter 8, Article 15, Section 8(b) of the West Virginia Code, as amended.

CONDITION:

We noted the fire department commingled the following funds identified from Non State sources with funds received from the State:

<u>Description</u>	<u>Amount</u>
USDA Loan	\$ 90,000.00
USDA Grant	50,000.00
Deposit 12/16/2009 County Commission	1,000.00
Check 363 DTD 3/11/2010 donation from Rhoades Trucking	87.50
Total	<u>\$141,087.50</u>

According to documentation received from the department, they made deposits for receipt of a \$90,000.00 USDA Loan and a \$50,000 USDA Grant. They also deposited \$1,000 from the County Commission for concrete work at the new station. A donation of \$87.50 credited from Rhoades Trucking invoice for his cost to deliver stone.

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 Fire Chief Kevin Wiant, they were unaware that state funds should be maintained in a separate account and not commingled with other funds.

EFFECT:

Due to the commingling of funds, we may be unable to determine if all expenditures made from state funds were allowable and/or properly documented.

RECOMMENDATION:

We recommend Gilmer County VFD maintain all state funds in a separate account and not commingle with funds received from other sources.

GILMER COUNTY VOLUNTEER FIRE DEPARTMENT
July 1, 2010 – June 30, 2010

SUPPLEMENTAL INFORMATION
STATEMENT OF EXPENDITURES YEAR ENDED JUNE 30, 2010

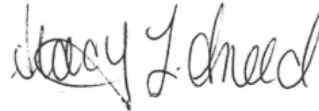
<u>Authorizing W.Va Code</u>	<u>VFD</u>	<u>AUDIT</u>	<u>DIFFERENCES</u>
Chapter 8, Article 15, Section 8b(1)	\$ 1,651.00	\$ 1,651.00	\$ 0.00
Chapter 8, Article 15, Section 8b(2)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(3)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(4)	179,131.56	179,131.56	0.00
Chapter 8, Article 15, Section 8b(5)	25,423.11	26,736.73	(1,313.62)
Chapter 8, Article 15, Section 8b(6)	14,625.36	14,625.36	0.00
Chapter 8, Article 15, Section 8b(7)	0.00	0.00	0.00
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)	0.00	0.00	0.00
Chapter 8, Article 15, Section 8b(11)	0.00	0.00	0.00
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
Total Disbursements For Year Ended June 30, 2010	<u>\$220,831.03</u>	<u>\$222,144.65</u>	<u>(\$1,313.62)</u>

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 29th day of November 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 Gilmer County Volunteer Fire Department; Prosecuting Attorney, Gilmer County; County Clerk, Gilmer County.