

LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION  
BAISDEN  
VOLUNTEER FIRE DEPARTMENT

FOR THE PERIOD JANUARY 1, 2010 - DECEMBER 31, 2010

REPORT OVERVIEW

- Lack of Supporting Documentation
- Unallowable Expenditures



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

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Harry Keith White  
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### 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  
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**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

March 13, 2012

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 Baisden 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,

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

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

SLS/rwa

**BAISDEN VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**BAISDEN VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**EXECUTIVE SUMMARY**

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<b>Baisden VFD Mingo County</b>	<b><u>December 31, 2010</u></b>
Finding 1 - Lack of Supporting Documentation	\$44.46
Finding 2 – Unallowable Expenditures	<u>146.13</u>
<b>Total</b>	<b><u>\$190.59</u></b>

**RECOMMENDATIONS:**

Finding 1 - We recommend they maintain proper documentation for all expenditures, not write checks to individuals and reimburse their state account \$44.46.

Finding 2 -We recommend the Baisden VFD not pay sales tax and reimburse their state account \$146.13.

**RESPONSES:**

Finding 1 - The department stated they will document all transactions and will no longer write checks to individuals.

Finding 2 - The department has already reimbursed their state account and will no longer pay sales tax.

**BAISDEN 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, as amended, 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, as amended, 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.

**BAISDEN VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**OFFICERS AND STAFF**

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Scotty Sammons..... President  
Emerson Thompson ..... Vice President  
Debbie Riggs..... Secretary  
Pat Moore ..... Treasurer  
James Lester..... Fire Chief  
Lola Cline ..... Assistant Fire Chief

**BAISDEN 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 Baisden 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, as amended, 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 presented to 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 Baisden Volunteer Fire Department made \$146.13 in expenditures identified from state funds that were not allowed. The VFD also lacked proper supporting documentation for expenditures totaling \$44.46. We also noted several checks written to individuals. The department agrees with all findings and recommendations.

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**EXIT CONFERENCE**

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We discussed this report with the Treasurer of the Baisden Volunteer Fire Department on March 15, 2012. All findings and recommendations were reviewed and discussed. The department agrees with all findings and recommendations.

**BAISDEN VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**FINDINGS**

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<b>Finding 1</b>	<b>Lack Of Support</b>
	The Baisden Area Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$44.46. We also noted several documented checks to individuals.
Condition:	We noted the fire department could not provide proper documentation for one check written to Wal-Mart in the amount of \$44.46.  The Department also wrote documented checks 1612, 1639 and 1645 to individuals for reimbursements.
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 receipts are lost or not turned in.
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 they maintain proper documentation for all expenditures, not write checks to individuals and reimburse their state account \$44.46.

**Finding 2****Unallowable Expenses**

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.

<u>CHECK DATE</u>	<u>PAYEE</u>	<u>Amount</u>	<u>DESCRIPTION</u>
6/19/2010	WV Revenue Division	\$ 34.97	sales tax
7/18/2010	Lowes	23.98	sales tax
8/2/2010	Lola Cline	5.64	sales tax
8/2/2010	Lowes	19.08	sales tax
8/2/2010	Wal-Mart	36.80	sales tax
8/7/2010	Sam's Club	2.10	sales tax
8/7/2010	Wal-Mart	2.73	sales tax
8/7/2010	Sam's Club	9.85	sales tax
8/10/2010	Pat Moore	5.34	sales tax
9/2/2010	Wal-Mart	5.64	sales tax
	<b>Total</b>	<b>\$146.13</b>	

Criterion:

Tax Exempt Organizations are discussed in Publication TSD-300 of the West Virginia Tax Department, which states in part:

**“Certain Nonprofit Organizations** - Purchases by a corporation or organization which has a current registration certificate and which is exempt from federal income taxes under section § 501(c)(3) or (c)(4) of the Internal Revenue Code are exempt ...”

W.V Code §11-15-9 states in part:

*“(a) Exemptions for which exemption certificate may be issued. -- A person having a right or claim to any exemption set forth in this subsection may, in lieu of paying the tax imposed by this article and filing a claim for refund, execute a certificate of exemption, in the form required by the Tax Commissioner, and deliver it to the vendor of the property or service in the manner required by the Tax Commissioner. However, the Tax Commissioner may, by rule, specify those exemptions authorized in this subsection for which exemption certificates are not required. The following sales of tangible personal property and services are exempt as provided in this subsection:...*

(6) Sales of tangible personal property or services to a corporation or organization which has a current registration certificate issued under article twelve of this chapter, which is exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, and which is:...

(C) A corporation or organization which annually receives more than one half of its support from any combination of gifts, grants, direct or indirect charitable contributions or membership fees;

Cause: According to the Treasurer, paying sales tax was an oversight and has been corrected.

Effect: Due to unallowable expenditures, the VFD may have less funding available for expenditures required for effective and efficient fire protection services.

Recommendation: We recommend the Baisden VFD not pay sales tax and reimburse their state account \$146.13.

**BAISDEN 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)	\$21,322.86	\$21,322.86	\$ 0.00	
Chapter 8, Article 15, Section 8b(2)	0.00	0.00	0.00	
Chapter 8, Article 15, Section 8b(3)	450.00	450.00	0.00	
Chapter 8, Article 15, Section 8b(4)	9,391.24	9,391.24	0.00	
Chapter 8, Article 15, Section 8b(5)	18,908.99	18,850.31	58.68	b
Chapter 8, Article 15, Section 8b(6)	1.00	1.00	0.00	
Chapter 8, Article 15, Section 8b(7)	5,409.21	5,408.61	0.60	c
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)	8,058.43	8,058.43	0.00	
Chapter 8, Article 15, Section 8b(11)	4,255.56	4,123.65	131.91	b
Chapter 8, Article 15, Section 8b(12)	125.00	125.00	0.00	
Chapter 8, Article 15, Section 8b(13)	1,028.00	1,028.00	0.00	
Chapter 8, Article 15, Section 8b(14)	0.00	0.00	0.00	
Chapter 8, Article 15, Section 8b(15)	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	
<b>Total Disbursements For Year Ended December 31, 2010</b>	<b><u>\$68,950.29</u></b>	<b><u>\$68,759.10</u></b>	<b><u>\$191.19</u></b>	a

a - Lack of proper supporting documentation. \$44.46  
b - Unallowable Expenses (sales tax) \$146.13  
c - Check written for \$33.39 but recorded as \$33.99. Not an exception \$0.60

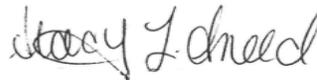
**Total \$191.19**

**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 11th of May 2012.



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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 Baisden Volunteer Fire Department; Prosecuting Attorney, Mingo County; County Clerk, Mingo County.