



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Department of Law and Public Safety
Office of the Attorney General**

July 1, 2010 to March 31, 2012

**Stephen M. Eells
State Auditor**

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New Jersey State Legislature

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Enclosed is our report on the audit of the Department of Law and Public Safety, Office of the Attorney General for the period of July 1, 2010 to March 31, 2012. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in black ink that reads "Stephen M. Eells".

Stephen M. Eells
State Auditor
September 25, 2012

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Scope

We have completed an audit of the Department of Law and Public Safety, Office of the Attorney General (OAG) for the period July 1, 2010 to March 31, 2012. Our audit included financial activities accounted for in the state's General Fund. The financial activities for the Attorney General's Law Enforcement Forfeiture Account and State Forensic Laboratory Fund are audited separately and were excluded from the scope of this audit.

Expenditures of the office during fiscal year 2011 were \$17 million. The Attorney General serves as the state's chief law enforcement officer and legal advisor, and is responsible for the management and administration of the department and the State Athletic Control Board. The board's revenues from license fees and taxes during fiscal year 2011 were \$700,000. The office also collected a one-time settlement fee of \$1.7 million during fiscal year 2011.

Objectives

The objectives of our audit were to determine whether financial transactions were related to the office's programs, were reasonable, and were recorded properly in the accounting systems.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, the administrative code, circular letters promulgated by the Department of the Treasury, and policies of the office. Provisions we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed office personnel to obtain an understanding of the programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions, as well as internal control and compliance attributes. Sample populations were sorted and transactions were judgmentally selected for testing.

Conclusions

We found that the financial transactions included in our testing were related to the office's programs, were reasonable, and were recorded properly in the accounting systems. In making these determinations, we noted opportunities for cost savings and revenue enhancements.

Cost Savings and Revenue Enhancements

There is an opportunity for cost savings and revenue enhancements.

During our review of revenue and expenditures we noted the following opportunities for cost savings and revenue enhancements.

- All counties in New Jersey have county prosecutors. The Attorney General can appoint an acting county prosecutor for any county for various reasons. In our review of payroll, we discovered that the Attorney General appointed an individual as acting prosecutor for one of the counties. This individual is on the state payroll while working for this county. During the 13 month period ending March 31, 2012, salary and fringe benefits totaled \$230,000. As of August 1, 2012, this individual remained on the state's payroll while employed by this county. In addition, N.J.S.A. 2A:158-10 allows for partial reimbursement of salary costs to counties. Although amounts were paid by the state, in November 2011 the county received \$65,000 in reimbursement aid from the Department of Community Affairs intended to offset a portion of the prosecutor's salary. There was no request by the state for reimbursement from the county for these amounts.
- The State Athletic Control Board falls under the control of the Office of the Attorney General. The board regulates all persons, practices, and associations related to the operation of boxing, extreme wrestling, and martial arts events. The board also licenses and regulates promoters, officials, and participants in boxing and martial arts events, and supervises the conduct of these activities including the collection of fees and taxes for all events. Fees and tax rates have not changed since 1985. In addition, ticket taxes and media taxes are based on a tiered rate schedule ranging from three to six percent capped at \$100,000 per event. If the state's seven percent sales tax rate amount was applied without a cap, the extra revenues for calendar year 2011 would have amounted to \$160,000.
- According to a national survey, other states have mandated electronic payment of payroll, and at least one state has required web-based notification for all employees. These states have experienced a nearly 100 percent participation rate in their programs. Similarly, the Social Security Administration has mandated electronic payment for new applicants for retirement benefits as of May 1, 2011 and will require all benefit payments to be electronic by March 1, 2013. New Jersey has a voluntary program for electronic payment of payroll and web-based notifications. We noted that the Department of Law and Public Safety issued 11,700 payroll type items for the pay period ending March 9, 2012. Approximately 8,700 were either a paycheck or paystub and 3,000 were web-based notifications. The current process is wasting state resources. Approximately \$60,000 could be saved annually for printing, postage, and physical distribution if all payroll was electronic with web-based notification.

Recommendation

We recommend the department:

- Request reimbursement of the salary and fringe benefits for the acting county prosecutor.
- Research if the current fees and tax rates for the State Athletic Control Board are appropriate and reasonable.
- Encourage that all payroll type items be transmitted electronically.

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September 20, 2012

John J. Termyna
Assistant State Auditor
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Dear Mr. Termyna:

On behalf of the Office of the Attorney General, thank you for the opportunity to provide comments to the draft audit report issued by your office on September 4, 2012. Enclosed please find our response.

Please do not hesitate to contact me if you have any questions or need additional information.

Kindest Regards.

Sincerely

A handwritten signature in cursive script, appearing to read "Barbara Haley".

Barbara Haley
Deputy Administrator

c: Deborah Edwards, Counsel to the Attorney General
Howard McCoach, Administrator
Peter Traum, Director of Strategic Planning



Audit Report Comment

All counties in New Jersey have county prosecutors. The Attorney General can appoint an acting prosecutor for any county for various reasons. In our review of payroll, we discovered that the Attorney General appointed an individual as acting prosecutor for one of the counties. This individual is on the state payroll while working for this county. During the 13 month period ending March 31, 2012, salary and fringe benefits totaled \$230,000. As of August 1, 2012, this individual remained on the state's payroll while employed by this county. In addition, N.J.S.A. 2A:158-10 allows for partial reimbursement of salary costs to counties. Although amounts were paid by the state, in November 2011 the county received \$65,000 in reimbursement aid from the Department of Community Affairs intended to offset a portion of the prosecutor's salary. There was no request by the state for reimbursement from the county for these amounts.

Recommendation: Request reimbursement of the salary and fringe benefits for the acting county prosecutor.

Response

It should be noted first that this Acting Prosecutor is not employed by the county but rather is an Assistant Attorney General who is currently assigned to perform the functions of the Acting Prosecutor for this specific county. She has been and will continue to be an employee of the Department of Law and Public Safety. With regard to reimbursement, a decision by the Attorney General to seek or not to seek reimbursement from a specific county for such services may depend on factors such as expected length of service; any special needs of the county, the Acting Prosecutor or Attorney General; or the employment status of the acting prosecutor at the time of appointment. In this specific instance, the employment status is that of an employee of the Department on assignment at the direction of the Attorney General. Regarding the Department of Community Affairs (DCA) reimbursement aid for the Acting Prosecutor position, DCA and this county have corrected this one-time error, and the county reimbursed DCA for these funds on August 13, 2012.

Audit Report Comment

The State Athletic Control Board falls under the control of the Office of the Attorney General. The board regulates all persons, practices, and associations related to the operation of boxing, extreme wrestling, and martial arts events. The board also licenses and regulates promoters, officials, and participants in boxing and martial arts events, and supervises the conduct of these activities including the collection of fees and taxes for all events. Fees and tax rates have not changed since 1985. In addition, ticket taxes and media taxes are based on a tiered rate schedule ranging from three to six percent capped at \$100,000 per event. If the state's seven percent sales tax rate amount was applied without a cap, the extra revenues for calendar year 2011 would have amounted to \$160,000.

Recommendation: Research if the current fees and tax rates for the State Athletic Control Board are appropriate and reasonable.

Response

The State Athletic Control Board was established by the Legislature to ensure that all public boxing and other combative sports exhibitions, events, performances and contests are subject to an effective and efficient system of strict control and regulation. As such, the Board's main purpose is to protect the safety and well-being of all participants and promote the public confidence and trust in the regulatory process and conduct of public boxing and other combative sports.

Although its purpose does not include acting as a revenue-raiser for the State, the Board is concerned about promoting an environment that allows the sports it regulates to prosper, and thus bring about added economic benefits throughout the State. These sporting events have a positive impact on other industries such as casinos, hotels, and restaurants; and thus produce additional tax revenues. The competition among neighboring states and localities to hosts these events is ever increasing, and the loss of just one major event could result in a drop of more than \$200,000 in tax revenues and accompanying revenue streams. While the Board does not have the authority to unilaterally implement a change in the revenue structures discussed (this would require legislative action), any such changes must take these considerations into account.

Audit Report Comment

According to a national survey, other states have mandated electronic payment of payroll, and at least one state has required web-based notification for all employees. These states have experienced a nearly 100 percent participation rate in their programs. Similarly, the Social Security Administration has mandated electronic payment for all new applicants for retirement benefits as of May 1, 2011 and will require all benefit payments to be electronic by March 1, 2013. New Jersey has a voluntary program for electronic payment of payroll and web-based notifications. We noted that the Department of Law and Public Safety issued 11,700 payroll type items for the pay period ending March 9, 2012. Approximately 8,700 were either a paycheck or paystub and 3,000 were web-based notifications. The current process is wasting state resources. Approximately \$60,000 could be saved annually for printing, postage, and physical distribution if all payroll was electronic with web-based notification.

Recommendation: Encourage that all payroll type items be transmitted electronically.

Response

The Department has periodically e-mailed its employees to encourage the use of direct deposit and has also posted this suggestion prominently on its intranet site. The Department will continue with this encouragement. Notably, there is pending legislation (S-2090) mandating direct deposit for all public employees by July 1, 2014. The Department will continue to monitor the progress of this legislation. Also, the Department of the Treasury recently issued a circular letter requiring web-based payroll notification for all employees of the executive, legislative and judicial branches of State government who currently utilize direct deposit. This requirement will eliminate the production of pay stubs for these individuals. Implementation is scheduled to be phased-in during the next few months.