

STATE OF CONNECTICUT



*AUDITORS' REPORT
BOARD OF FIREARMS PERMIT EXAMINERS
FOR THE FISCAL YEARS ENDED JUNE 30, 2009 AND 2010*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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AUDITORS OF PUBLIC ACCOUNTS

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August 10, 2011

AUDITORS' REPORT BOARD OF FIREARMS PERMIT EXAMINERS FOR THE FISCAL YEARS ENDED JUNE 30, 2009 AND 2010

We have made an examination of the financial records of the Board of Firearms Permit Examiners (Board) for the fiscal years ended June 30, 2009 and 2010. This report on our examination consists of the Comments, Recommendations, and Certification which follow.

Financial statements pertaining to the operations and activities of the Board of Firearms Permit Examiners are presented on a Statewide Single Audit basis to include all state agencies. This audit examination has been limited to assessing the Board's compliance with certain provisions of laws, regulations, contracts and grants, and evaluating the Board's internal control structure policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Board of Firearms Permit Examiners operates under Title 29, Chapter 529, Section 29-32b of the Connecticut General Statutes. The Board functions as an autonomous agency; however, Section 29-32b, subsection (a), of the General Statutes placed the Board under the Department of Public Safety for "administrative purposes only." The Department of Administrative Services (DAS), under a Memorandum of Understanding, provided human resource, payroll, fiscal, and administrative support to the Board of Firearms Permit Examiners during the audited period.

The function of the Board is to hear appeals of any person aggrieved by any refusal to issue or renew a permit or certificate under the provisions of section 29-28 (local chief of police) or 29-36f (commissioner of public safety); or by any limitation or revocation of such permit or certificate; or by refusal to provide an application for such permit or certificate. On such appeal, the Board is required to inquire into and determine the facts and, unless it determines that such refusal, limitation or revocation would be for just cause, it shall order such permit or certificate to be issued, renewed or restored or the limitation modified or rescinded, as the case may be.

Auditor of Public Accounts

The Board's business office functions, together with payroll and personnel functions are provided by the DAS under a memorandum of understanding.

Members of the Board:

Under the provisions of Section 29-32b, subsection (a), of the General Statutes, the Board's seven members are appointed by and serve terms concurrently with that of the Governor until their successors are appointed and qualify. Members of the Board are not compensated for their services but are reimbursed for reasonable expenses incurred in performing their duties. The Board on June 30, 2010, was comprised of one nominee from each of the following agencies or organizations:

Ye Connecticut Gun Guild, Inc.
Peter Kuck

The Connecticut State Rifle and Revolver Association, Inc.
Arthur C. Carr

Commissioner of Public Safety
Joseph T. Corradino

Connecticut State Association of Chiefs of Police
Chief William Knapp

Commissioner of Environmental Protection
Colonel Kyle E. Overturf

The Public members of the Board are:
James J. Finnerty, III
Kenneth Tramadeo

RÉSUMÉ OF OPERATIONS:

General Fund and Capital Equipment Purchase Fund expenditures totaled \$98,264 and \$85,413 during the fiscal years ended June 30, 2009 and 2010, respectively. A comparison of total expenditures during the audited period and the fiscal year ended June 30, 2008, is presented below:

	Fiscal Year Ending June 30,		
	<u>2008</u>	<u>2009</u>	<u>2010</u>
Personal Services	\$84,280	\$89,569	\$77,420
Other Expenses	7,543	8,695	7,294
Capital Equipment	-	-	699
Total Expenditures	<u>\$91,823</u>	<u>\$98,264</u>	<u>\$85,413</u>

The decrease in personal services during fiscal year 2010 was due to a part-time employee who left state service in October, 2009 and was not replaced. Other expenses consisted of court reporting services, office equipment rental, postage and other administrative costs.

The following table summarizes the Board's case activity during the audit period.

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Total Request for Appeals Received	318	361	325
Active Cases:			
Resolved or Cancelled Prior to a Hearing	145	202	281
Decision at Hearings	<u>80</u>	<u>149</u>	<u>137</u>
Total Cases Closed	<u>225</u>	<u>351</u>	<u>418</u>

Although all appeals are scheduled for hearings, not all are heard. For example, the Board requires appellants to submit a follow-up questionnaire before their appeal can be heard, but many of the appellants never submit the form. As noted in the table above, most of the appeals are resolved or cancelled prior to the scheduled hearing.

The frequency of Board hearings increased from 11 in the four prior fiscal years to 16 hearings in fiscal year 2009 and 18 hearings in fiscal year 2010. The more frequent meetings over the audited period resulted in a decrease in the case backlog from 407 in August, 2008 to 284 as of June 30, 2010. Over that same period, the estimated number of months needed to clear the backlog decreased from approximately 16 months to 10.5 months. This matter is discussed further in our Condition of Records section.

CONDITION OF RECORDS

Our examination of the financial records of the Board of Firearms Permit Examiners revealed five areas requiring improvement.

Hearing Backlog:

Background: Section 4, subsection (b), of Public Act 01-130 amended Section 29-28 of the General Statutes by eliminating local handgun permits. Individuals now apply for a state permit through their local authorities who may deny or issue a temporary 60-day permit, pending further review by the Department of Public Safety (DPS). Decisions to deny a permit at either the local or state level may be appealed to the Board of Firearms Permit Examiners.

Criteria: Section 29-32b, subsections (b), (c), and (d), of the General Statutes indicate that the Board should schedule a hearing within ten days of receiving an appeal at such time and place as the Board reasonably determines to be required, but not less than once every ninety days. While an appeal is pending, the Board must seek written statements from the appellant and issuing authority and inquire into and determine the facts from the beginning.

Condition: Our review found that the time lag between an appellant's request for a hearing and the scheduled hearing date did not meet the "reasonably determines" clause in the statute. We noted that the backlog of cases as of June 30, 2010 was 284. It is estimated that, based upon the backlog as of June 30, 2010 and hearing frequency during the audited period, it will take approximately 10.5 months from the appellant's initial contact with the Board to a hearing.

Effect: The length of the delay between the receipt of a request for an appeal and the related hearing or negotiated DPS settlement may be considered a denial of the appellant's right to a timely hearing.

Cause: The frequency of Board hearings increased from 11 in the four prior fiscal years to 16 hearings in fiscal year 2009 and 18 hearings in fiscal year 2010. The more frequent meetings over the audited period resulted in a decrease in the case backlog from 407 in August, 2008 to 284 as of June 30, 2010. Over that same period, the estimate of the number of months needed to clear the backlog decreased from approximately 16 months to 10.5 months.

While this is a marked improvement over the prior audit period, additional effort will be required by the Board to reduce the estimated 10.5 month backlog to an acceptable level (i.e. ninety days or less).

Recommendation: To ensure compliance with Section 29-32b, the Board should continue its efforts to reduce the hearing backlog to a minimum of three months or less. (See Recommendation 1.)

Agency Response: “The Board agrees with the audit recommendation and is diligently working to reduce the backlog. In July 2008 Board agreed to meet more often and to hear more cases with a goal to reduce the backlog by a third. The Board not only met its goal but further reduced the backlog or wait time for a hearing from 18 months to 9 months. The Board will continue to be cognizant of the backlog and with the cooperation of the Department of Public Safety continue to review cases that can be resolved prior to the hearing, thereby reducing the backlog further.”

Necessary Revisions to Statutes and Regulations:

Criteria: Section 29-32b, subsection (a), of the General Statutes establishes the Board under the Department of Public Safety for administrative purposes only. Section 4-38f, subsections (a) and (b) of the General Statutes define “administrative purposes only” and indicate that such association does not limit the Board’s regulatory authority and policy-making functions. The section also indicates in part, that the DPS shall provide record keeping, reporting and related administrative and clerical functions for the agency as deemed necessary.

Section 4-167, subsection (a) (1), requires the Board to maintain regulations that include the methods for contacting the Board.

Section 29-32b-4 of the Board’s regulations indicates that all official communications to the Board should be directed to the Board’s official address at 251 Maxim Road, Hartford, Connecticut.

Condition: State Statutes and Regulations relating to the Board do not reflect its current operations. The Board has an agreement with the Department of Administrative Services whereby that agency provides administrative and accounting services to the Board rather than the DPS. Also, the Board is no longer located at the address referred to by the regulations.

Effect: State statutes and regulations conflict with the Board’s current operations. Official correspondence relating to the Board’s operations could be directed to the wrong address based on the regulations.

Cause: The Board did not follow through on the actions that it described in its agency response to this recommendation in the prior audit.

Recommendation: The Board should propose changes to its statutes and regulations by formalizing the Department of Administrative Services as its administrative purposes only agency and by correcting its address in the regulations. (See Recommendation 2.)

Agency Response: “The Board agrees with the audit recommendation that the address of the Board should not be in the regulations. The Board is presently waiting for information regarding the possible merger of the agency with ten other agencies, the Office of Governmental Accountability, and the possibility of no longer being part of the Small Agency Resource Team under Department of Administrative Services. Should the merger go forward the Board members will seek guidance from the new executive director on how to move forward to correct the Statutes and Regulations.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Board contained four recommendations. There has been satisfactory resolution of two of those recommendations. The two remaining recommendations have been repeated or restated to reflect current conditions.

- *The Board should ensure timely hearings in compliance with Section 29-32b of the General Statutes either by increasing the frequency of its hearings or by increasing the number of appeals scheduled at each hearing. The Board should consider seeking the Department of Public Safety's review of cases sooner than the month before the hearing date.*

Significant improvement in the hearing backlog was noted during the audited period. However, additional effort will be required by the Board to reduce the estimated 10.5 month backlog to a reasonable level (e.g. ninety days or less). Therefore, the recommendation will be repeated in modified form. (See Recommendation 1.)

- *The Board should establish and enforce attendance standards for its members by whatever means, including legislative action, if necessary.*

The attendance rate during the audited period improved to 84 percent from an average of 74 percent in the prior audited period. Therefore, this recommendation will not be repeated.

- *The Board should consider proposing changes to its statutes and regulations by formalizing the Department of Administrative Services as its administrative purposes only agency and by correcting its address in the regulations.*

The Board has not taken the necessary corrective action to address this recommendation. The recommendation will be repeated. (See Recommendation 2.)

- *The Board should compare its current practices with relevant statutory confidentiality provisions to prevent breaching the confidentiality of information disclosed during public hearings and should seek a formal opinion from the Freedom of Information Commission.*

Subsequent research and follow-up with the Board secretary and the Office of the Attorney General found that the relevant statutes and Board practices appear to be in agreement. The recommendation will not be repeated.

Current Audit Recommendations:

- 1. To ensure compliance with Section 29-32b, the Board should continue its efforts to reduce the hearing backlog to a minimum of three months or less.**

Comment:

Our review found that the time lag between an appellant's request for a hearing before the Board and the scheduled hearing date was approximately 10.5 months for the fiscal year ending June 2010.

- 2. The Board should propose changes to its statutes and regulations by formalizing the Department of Administrative Services as its administrative purposes only agency and by correcting its address in the regulations.**

Comment:

Although the Board is under the Department of Public Safety for administrative purposes only, the Department of Administrative Services has been providing administrative and accounting services. The regulations instruct appellants to file appeals at the Board's former address.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Board of Firearms Permit Examiners for the fiscal years ended June 30, 2009 and 2010. This audit was primarily limited to performing tests of the Board's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the Board's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the Board are complied with, (2) the financial transactions of the Board are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the Board are safeguarded against loss or unauthorized use. The financial statement audits of the Board of Firearms Permit Examiners for the fiscal years ended June 30, 2009 and 2010, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Board of Firearms Permit Examiners complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

In planning and performing our audit, we considered the Board of Firearms Permit Examiners' internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the Board's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the Board's internal control over those control objectives.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance with requirements was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies and material weaknesses have been identified. However, as described in the accompanying Condition of Records and Recommendations sections of this report, we identified a deficiency in internal control over financial operations, safeguarding of assets, and compliance with requirements that we consider to be a material weaknesses.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions to prevent or detect and correct unauthorized, illegal or irregular transactions on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies in internal control, such that there is a

reasonable possibility that noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions and/or material noncompliance with certain provisions of laws, regulations, contracts, and grant agreements that would be material in relation to the Board's financial operations will not be prevented, or detected and corrected on a timely basis. We consider the following deficiency described in detail in the accompanying Condition of Records and Recommendations sections of this report to be a material weakness: Recommendation 1– the time lag between an appellant's request for a hearing and the scheduled hearing date may be inconsistent with the "reasonably determines" clause in the statute.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Board of Firearms Permit Examiners complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the Board's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we noted certain matters which we reported to Board management in the accompanying Other Matters, Condition of Records and Recommendations sections of this report.

The Board of Firearms Permit Examiners' responses to the findings identified in our audit are described in the accompanying Condition of Records section of this report. We did not audit the Board of Firearms Permit Examiners' responses and, accordingly, we express no opinion on them.

This report is intended for the information and use of Board management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

In conclusion, we wish to express our appreciation for the cooperation and courtesies extended to our representatives by the personnel of the central office of the Board of Firearms Permit Examiners and of the various divisions, bureaus, schools, and other units during the course of our examination.



Michael R. Adelson
Principal Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts