



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
STATE CAPITOL
NASHVILLE, TENNESSEE 37243-0285

Larry B. Martin
Commissioner

January 12, 2015

MEMORANDUM

TO: The Honorable Mike Bell, Chairman
Senate Government Operations Committee

The Honorable Judd Matheny, Chairman
House Government Operations Committee

Rick Nicholson, Director
Office of Legislative Budget Analysis

Cathy Higgins, Director
Office of Legislative Budget Analysis

FROM: Larry Martin, Commissioner of Finance and Administration *Larry B. Martin*

SUBJECT: 2013-2014 Regulatory Agencies – Fees and Operating Costs

Under the provisions of TCA § 4-29-121(a), I certify that six (6) regulatory boards and commissions, listed on the two attached charts, did not collect fees in an amount sufficient to pay operating costs in the fiscal year ending June 30, 2014. Three (3) of the agencies are administratively attached to the Division of Health Related Boards in the Department of Health and three (3) of the agencies are administratively attached to the Division of Regulatory Boards in the Department of Commerce and Insurance.

In the Division of Health Related Boards, two (2) of the listed boards have a positive reserve balance. In the Division of Regulatory Boards, one (1) of the listed boards has a positive reserve balance.

The attached charts also indicate which of the boards had two-year operating deficits, including one (1) of the Health Related Boards and one (1) in the Division of Regulatory Boards. These are the boards subject to a review by a joint evaluation committee under the provision of TCA 4-29-121(b). In the Division of Health Related Boards, the two-year deficit board has a negative reserve balance. In the Division of Regulatory Boards, the two-year deficit board has a negative reserve balance.

LM:DT:SW

Enclosures (2)

CC: Department of Health
Department of Commerce and Insurance

Division of Regulatory Boards
 Department of Health
 Comparison of Fees and Costs
 FY 2012-2013 and FY 2013-2014
 Closing Report

Board	2012-2013			2013-2014			Reserve Balance June 30, 2014
	Fees	Costs	Deficit	Fees	Costs	Deficit	
2-Year Deficit:							
Polysomnography Committee	\$ 22,770.00	\$ 28,265.49	\$ (5,495.49)	\$ 20,550.30	\$ 29,991.63	\$ (9,441.33)	\$ (33,086.48)
2013-2014 Deficit Only:							
Medical Examiners	\$ 3,295,645.23	\$ 3,007,264.86	\$ 288,380.37	\$ 3,410,955.36	\$ 3,486,386.73	\$ (75,431.37)	\$ 2,365,964.78
Pharmacy	\$ 2,277,553.87	\$ 1,980,741.04	\$ 296,812.83	\$ 2,512,777.20	\$ 2,578,913.66	\$ (66,136.46)	\$ 1,160,083.11

Division of Regulatory Boards
 Department of Commerce and Insurance
 Comparison of Fees and Costs
 FY 2012-2013 and FY 2013-2014
 Closing Report

Board	2012-2013			2013-2014			Reserve Balance June 30, 2014
	Fees	Costs	Deficit	Fees	Costs	Deficit	
2-Year Deficit:							
Racing	\$ 2,330.00	\$ 4,065.70	\$ (1,735.70)	\$ 2,280.00	\$ 2,322.72	\$ (42.72)	\$ (974.82)
2013-2014 Deficit Only:							
Barber	\$ 390,604.12	\$ 354,310.48	\$ 36,293.64	\$ 388,855.62	\$ 485,880.87	\$ (97,025.25)	\$ (222,191.23)
Soil Scientists	\$ 23,023.90	\$ 6,179.68	\$ 16,844.22	\$ 3,506.62	\$ 9,877.03	\$ (6,370.41)	\$ 19,433.23

Polysomnography Professional Standards Committee Summary

Background

To assist the Tennessee Board of Medical Examiners, the Polysomnography Professional Standards Committee was established by the General Assembly in 2007 to license those individuals actively engaged in the practice of polysomnography as that term is defined in T.C.A. §63-31-101(9)(A).

The Committee is responsible for safeguarding the health, safety and welfare of Tennesseans by ensuring those who practice polysomnography are qualified.

The Committee is authorized to issue licenses to qualified candidates who have completed appropriate education and successfully completed required examinations.

The Committee, along with the Board, determines the appropriate standard of care, investigates alleged violations of laws and rules, and disciplines licensees who are found guilty of such violations.

This is the third time this committee has appeared for a self- sufficiency hearing. The committee promulgated rules, effective August 14, 2013, that raised their licensure fees by \$100 and \$70 respectively. They have never accumulated any reserves.

Like other health boards, their license fees are collected biennially.

Fee History:

2008	\$100 Application Fee	\$50 Renewal Fee
2013	\$200 Application Fee	\$120 Biennial Renewal Fee

The number of licensees has increased 33% in their four year history:

2010: 419 June – December, 2010
2011: 495
2012: 536
2013: 558
2014: 560 as of 6/30

Revenue & Expense information attached.

**Tennessee Polysomnography Professional Standards
Actual Revenue and Expenditures
for Fiscal Year ending June 30, 2014**

<u>Acct. Code</u>	<u>Description</u>	<u>FY 2014</u>	<u>FY 2013</u>	<u>FY 2012</u>
701	Salaries & Wages	\$6,603.25	\$9,534.67	\$1,700.27
70102	Longevity	\$312.73	\$0.00	\$0.00
70104	Overtime	\$0.00	\$0.00	\$0.00
702	Employee Benefits	<u>\$3,122.78</u>	<u>\$3,660.02</u>	<u>\$276.03</u>
	Payroll Expenditures (701-702)	\$10,038.76	\$13,194.69	\$1,976.30
703	Travel	\$825.32	\$1,909.42	\$1,171.40
704	Printing & Duplicating	\$0.00	\$0.00	\$0.00
705	Utilities & Fuel	\$0.00	\$0.00	\$0.00
706	Communications	\$4.02	\$0.00	\$0.00
707	Maintenance & Repairs	\$0.00	\$0.00	\$0.00
708	Prof. Svc. & Dues	\$720.23	\$643.65	\$1,285.68
709	Supplies & Materials	\$0.00	\$0.00	\$0.00
710	Rentals & Insurance	\$0.00	\$0.00	\$0.00
711	Motor Vehicle Ops.	\$0.00	\$0.00	\$0.00
712	Awards & Indemnities	\$0.00	\$0.00	\$0.00
713	Grants & Subsidies	\$0.00	\$100.00	\$0.00
714	Unclassified	\$0.00	\$0.00	\$0.00
715	Stores for Resale	\$0.00	\$0.00	\$0.00
716	Equipment	\$0.00	\$0.00	\$0.00
717	Land	\$0.00	\$0.00	\$0.00
718	Buildings	\$0.00	\$0.00	\$0.00
721	Training of State Employees	\$0.00	\$0.00	\$0.00
722	Computer Related Items	\$0.00	\$0.00	\$0.00
725	State Prof. Svcs.	<u>\$3,691.17</u>	<u>\$1,751.41</u>	<u>\$1,668.19</u>
	Total Other Expenditures (703-725)	\$5,240.74	\$4,404.48	\$4,125.27
	Total Direct Expenditures	\$15,279.50	\$17,599.17	\$6,101.57
	Allocated Expenditures			
	Administration	\$6,095.93	\$4,989.43	\$5,098.68
	Investigations	\$629.84	\$1,143.87	\$0.00
	Legal	\$7,558.45	\$4,046.65	\$14,287.26
	Cash Office	<u>\$427.91</u>	<u>\$486.37</u>	<u>\$439.66</u>
	Total Allocated Expenditures	\$14,712.13	\$10,666.32	\$19,825.60
	Total Expenditures	\$29,991.63	\$28,265.49	\$25,927.17
	Board Fee Revenue	\$20,550.30	\$22,770.00	\$16,522.86
	Current Year Net	(\$9,441.33)	(\$5,495.49)	(\$9,404.31)
	Cumulative Carryover	(\$33,086.48)	(\$23,645.15)	(\$18,149.66)

Race Tracks & Drag Strips Summary

Background

A program operated by the Department of Commerce & Insurance, there is no board or commission associated with this licensure. Licensing statute first passed in 1968 and has been amended a few times since. At one time, there were more than 50 tracks in the state, now there are only 13.

All licensed tracks are required to carry liability insurance.

Revenue & Expenditure information, along with governing statutes, attached.

RACETRACKS & DRAG STRIPS

**REGULATORY BOARDS
EXPENDITURES
For Fiscal Years 2010-2013**

	FY10-11	FY11-12	FY12-13	FY13-14
EXPENDITURES BY OBJECT	BOX & RACE	BOX & RACE	BOX & RACE	BOX & RACE
Regular Salaries and Wages (70100)	1,786	1,481	1,445	1,173
Longevity (70102)	124	15	0	0
Overtime (70104)	0	0	0	0
Employee Benefits (702)	882	669	663	647
Payroll Expenditures	2,792	2,165	2,108	1,820
Travel (703)	0	1	0	0
Printing, Duplicating & Film Proc. (704)	0	0	0	0
Utilities and Fuel (705)	0	0	0	0
Communications & Shipping (706)	1,126	285	168	82
Maint., Repairs and Svcs by Others (707)	0	0	0	0
Third Party Prof. & Admin. Svcs (708)	0	0	0	0
Supplies and Office Furniture (709)	0	0	101	0
Rentals and Insurance (710)	0	0	0	0
Motor Vehicle Operation (711)	0	0	0	0
Awards and Indemnities (712)	0	0	0	0
Grants and Subsidies (713)	0	0	0	0
Unclassified Expenses (714)	0	0	0	0
Inventory (715)	0	0	0	0
Equipment (716)	0	0	0	0
Land (717)	0	0	0	0
Buildings (718)	0	0	0	0
Lost Discounts (719)	0	0	0	0
Highway Construction (720)	0	0	0	0
Training of State Employees (721)	0	0	0	0
Computer Related Items (722)	0	0	0	0
State Prof. Svcs. (725)	17	12	15	19
Total Other Expenditures	1,143	298	283	101
GRAND TOTAL	3,935	2,463	2,392	1,921
Cost Backs:				
Administration	963	2,336	1,674	402
Investigation	0	0	0	0
Legal				
Total Cost Backs	963	2,336	1,674	402
TOTAL EXPENDITURES	4,898	4,799	4,066	2,323
Case and Complaint Revenue				
Licensing Revenue	5,700	2,200	2,450	2,400
Case and Complaint Revenue			0	0
Less: State Regulatory Fee	120	105	120	120
Net Revenue	5,580	2,095	2,330	2,280
FISCAL YEAR BALANCE	682	(2,704)	(1,736)	(43)
PRIOR FISCAL YEAR RESERVE	2,954	3,636	932	(804)
RESERVE BALANCE	3,636	932	(804)	(846)
CORE Expense	0	0	0	128
RESERVE BALANCE AFTER CORE EXPENSE	3,636	932	(804)	(975)

Title 55
Motor & Other Vehicles
Chapter 22
Automobile Race Tracks and Drag Strips

55-22-101. License required.

55-22-102. Application Fee.

55-22-103. Disposition of fees.

55-22-104. Conditions for granting license.

55-22-105. Assumption of risk by participants.

55-22-106. Expiration dates of licenses Renewal.

55-22-107. Revocation of license Causes Procedure Reinstatement.

55-22-108. Penalty for violation.

55-22-109. Tourist resort counties Motor vehicle racing When permitted Penalty.

55-22-101. License required.

(a) No person, firm, or corporation shall operate or conduct any motor vehicle races on any permanent race track or other place for the holding of a motor vehicle race upon which motor vehicles of any description are raced, unless a license to operate and conduct the race is first obtained from the department of commerce and insurance upon compliance with this chapter and the payment of a fee in the amount and in the manner provided in this chapter.

(b) Any person, firm or corporation owning or operating two (2) tracks on the same premises shall be required to obtain only one (1) license for the whole premises and shall not be required to obtain a license for each track on the premises.

(c) (1) Notwithstanding any other provision of this chapter to the contrary, upon a two-thirds (2/3) vote of the county legislative body in any county having a population of not less than thirty-five thousand three hundred (35,300) nor more than thirty-five thousand five hundred (35,500), according to the 1990 federal census or any subsequent federal census, the county legislative body has the authority to regulate and license permanent automobile race tracks or other places for the holding of such races upon which motor vehicles of any description are raced in the county.

(2) In the resolution or ordinance adopting a county's regulation and licensure of automobile race tracks located in the county, the county legislative body shall provide for and set the application fees for licenses to operate or conduct a race track; provide for the disposition of the fees; establish the conditions for granting the licenses; establish minimum

liability insurance coverage to be maintained by the licensee; provide for the expiration dates and renewal procedures for the licenses; enumerate causes for the revocation of the licenses and procedures for the reinstatement thereof; establish penalties for the conduct or operation of a race track without a license; provide for the times, dates and conditions under which licensees may conduct races; and establish any other rule or regulation relative to the regulation and licensure of automobile race tracks that the county legislative body deems prudent and advisable.

(3) This subsection (c) does not apply to any permanent automobile race track or other place for the holding of the races that has been in operation for at least two (2) years prior to May 31, 1993.

Acts 1968, ch. 534, 1; 1972, ch. 678, 10; 1973, ch. 264, 2; 1979, ch. 28, 3; T.C.A., 59-2301, 66-401; Acts 1993, ch. 469, 1.

55-22-102. Application Fee.

(a) Application for a license to operate or conduct a race track or other place for the holding of races or exhibitions shall be made in writing to the department of commerce and insurance at least thirty (30) days prior to the date on which any race or exhibition or series of races or exhibitions shall be held. The application shall describe the track or place desired to be licensed and shall contain any further information the department may require.

(b) The application shall be accompanied by a fee of one hundred dollars (\$100), of which seventy-five dollars (\$75.00) shall be returned to the applicant if the license is refused.

Acts 1968, ch. 534, 2; 1972, ch. 678, 11; 1979, ch. 28, 3; T.C.A., 59-2302, 66-402.

55-22-103. Disposition of fees.

All fees collected under this chapter shall be deposited in the state treasury to the credit of the general fund.

Acts 1968, ch. 534, 3; T.C.A., 59-2303, 66-403.

55-22-104. Conditions for granting license.

(a) No license shall be issued for the operation or conduct of any track or other place unless the applicant has insurance for the general public approved by the commissioner of commerce and insurance with minimum limits of one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per accident or three hundred thousand dollars (\$300,000) combined single limit, for loss because of bodily injury, including death, at any time resulting therefrom caused to any person or persons by the operation of the track or other place; provided, that this insurance shall not be applicable to:

- (1) Drivers;
- (2) Pit area personnel;

(3) All persons involved in the conduct of any motor vehicle race; or

(4) Any persons involved with the race who have signed a written release of liability.

(b) Satisfaction by the insured of a final judgment for injury shall not be a condition precedent to the duty of the insurer to make payment on account of the injury.

Acts 1968, ch. 534, 4; impl. am. Acts 1971, ch. 137, 2; T.C.A., 59-2304, 66-404.

55-22-109. Tourist resort counties - Motor vehicle racing - When permitted Penalty.

(a) (1) In any county that is a tourist resort county, motor vehicle racing may be permitted on not more than three (3) days a week. If racing is conducted for three (3) days a week, one (1) of the days shall be Sunday.

(2) For the purpose of this section, tourist resort county means a county having two (2) or more municipalities in which at least forty percent (40%) of the assessed valuation of the real property in those municipalities consists of hotels, motels, restaurants and similar businesses serving traveling persons as shown by the tax assessment records of the county.

(b) (1) No racing shall be conducted after eleven o'clock p.m. (11:00 p.m.). At the conclusion of a racing event, the track management shall encourage all participants and patrons to vacate the premises by not later than eleven-thirty p.m. (11:30 p.m.).

(2) No racing shall be conducted on a Sunday except between twelve o'clock (12:00) noon and six o'clock p.m. (6:00 p.m.). At the conclusion of a Sunday racing event, the track management shall encourage all participants and patrons to vacate the premises by not later than six-thirty p.m. (6:30 p.m.).

(c) A violation at any track of any condition of a license is punishable by a civil penalty of not more than five hundred dollars (\$500).

Acts 1991, ch. 368, 1.