

AR TOWING AND RECOVERY BOARD

Enabling Laws

Act 123 of 2010
A.C.A. §27-50-1203(c)(1) et seq.

History and Organization

Arkansas faced losing its Federal highway funds as a result of unfavorable findings by the Commercial Motor Vehicle Safety Regulatory Review Panel created by Congress in 1984. Thereafter, the 77th General Assembly enacted legislation creating the Arkansas Towing and Recovery Board (ATRB) [§27-50-1203(a)(1)], delegating to the Board authority to regulate Arkansas' towing industry [§27-50-1203(c)(1)]. Appropriations legislation was not enacted until 1993; therefore, implementation did not begin to be accomplished until late 1994.

The Towing and Recovery Board promulgates and administers rules and regulations for the towing industry, establishing reasonable licensing, insurance, and safety equipment requirements for businesses providing non-consent towing and related services [§27-50-1203(c)(1)(A)] and establishing reasonable safety equipment requirements for any business providing consent towing or using tow vehicles in any commercial purposes [§27-50-1203(c)(1)(B)].

The Towing and Recovery Board worked diligently in striving to bring more non-consent towing businesses as well as consent only businesses in compliance during FY99 and FY00. The Board issued 1,899 non-consent licenses and 2,934 tow vehicle safety permits. In FY01 and FY02 the Board issued approximately 1,136 non-consent licenses and 3,233 tow vehicle safety permits. In FY03 and FY04 the Board issued approximately 1,075 non-consent licenses and 3,489 tow vehicle safety permits. It is the Board's continued goal to have all tow vehicles operating on Arkansas public roadways in compliance.

During FY01 and FY02, the participation of municipal, county and state law enforcement agencies across the state continued to increase. Office staff continued to work with law enforcement agencies on a daily basis in helping bring and keep tow businesses in compliance.

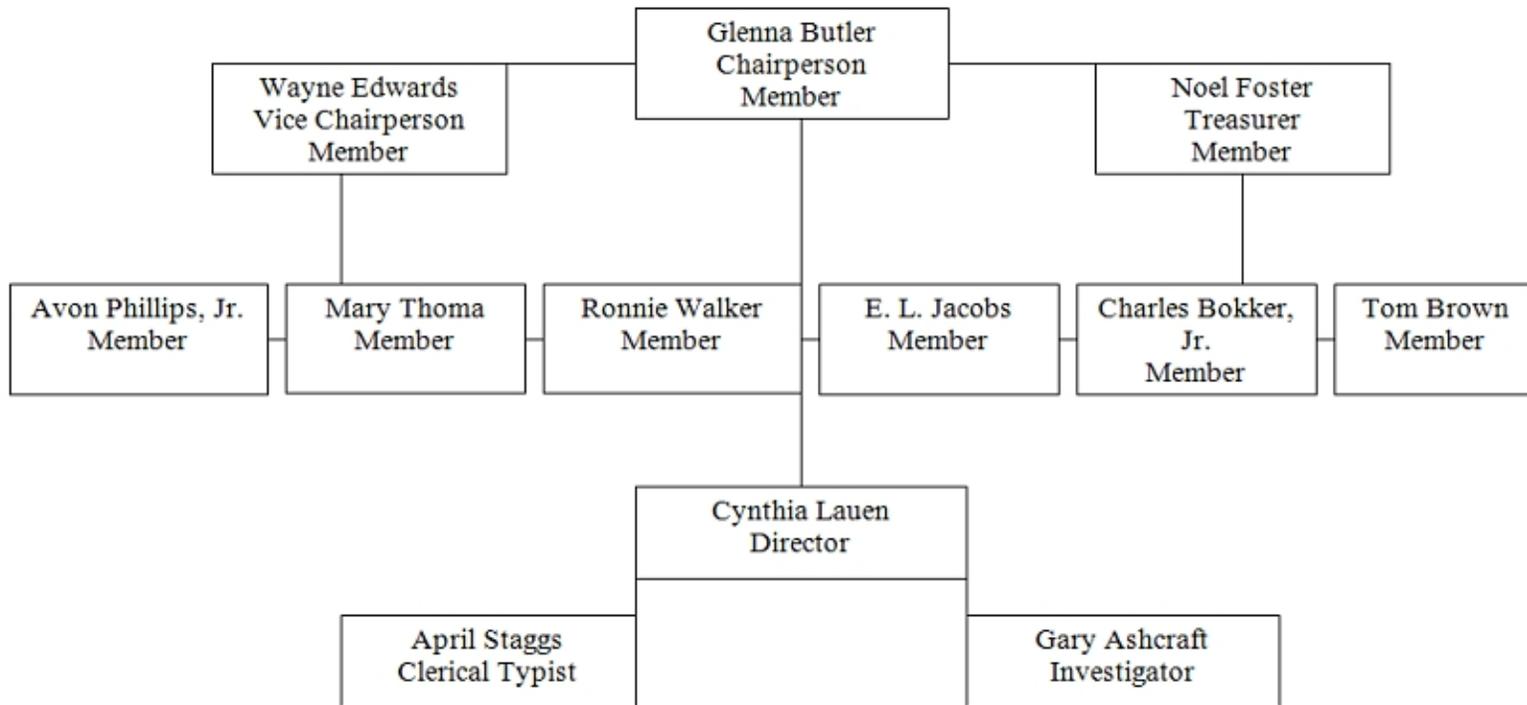
Fiscal years FY03 and FY04 were years of transition, the Board moved to a new location, established a web site and continued to work with municipal, county and state law enforcement agencies with compliance issues.

Fiscal years FY05 and FY06 the Board set to the task of regulating and reviewing excessive pricing in the towing industry. A towing investigator was added to the staff to help with the review and investigations for noncompliance and pricing complaints. The Board also

updated the Rules and Regulations to reflect new regulatory authority to be current with the new legislation passed in the 2005 Legislative Session.

Fiscal years FY07 and FY08 the Board set to the task of regulating and reviewing excessive pricing complaints and fining some towing companies for excessive charges. The Board was able to complete more investigations, resulting in several hearings for violations. Fees for the Tow Safety license were raised to \$100.00 and Tow Safety permits were raised to \$36.00 in FY08. Both consent and non-consent tow companies were required to purchase a safety license, as the Board requires verification of minimum state and federal insurance. In January 2008, the Board started working with the Department of Revenue with regards to the new "tow license plate." To get this license plate, tow operators must provide proof the tow vehicle has a tow vehicle safety permit issued by this agency.

The Arkansas Towing and Recovery Board is a nine-member board appointed by the Governor with a make-up of 4 Non-consent towing representatives, 2 Consent towing representatives, 2 citizen representatives, and 1 insurance representative. The Board has three employment positions: ATRB Director, ATRB Clerical Typist and ATRB Tow Investigator.



Agency Commentary

The Arkansas Towing & Recovery Board is a cash fund agency which receives its revenues from penalties assessed for violations, late filing fees, and fees for the license and vehicle safety permit issued to towing businesses.

The Board's operating expenditures have remained steady with increased cooperation of law enforcement agencies in helping keep members of the towing industry in compliance. The Board will have to reorder year tabs for its safety permit renewals.

With the increased support of law enforcement agencies, the complaints/investigations have considerably increased. The Board is requesting an extra help position to help with the administrative processing of applications and in assisting to help the investigator resolve the current back log of complaints/investigations. Eventually, the Board hopes to employ additional investigators who will be able to conduct tow vehicle safety inspections to help reduce some of the workload of certified law enforcement officers, who currently perform these inspections.

With the statewide accounting system (AASIS), the Board continues the need for an appropriation to upgrade its current program basis as well as acquire new programs to assist in computerizing the current manual processes in the office. In addition, the Board is in the process of upgrading some of its computers.

The current reserves and the projected revenues generated from the license and permit fees, late filing fees, the penalties from administrative hearings and additional funding from citations issued by the courts for operating in violation of A.C.A. §27-50-1201 et seq. are believed to be sufficient to cover the Towing and Recovery Board's budget requests.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS TOWING AND RECOVERY BOARD
FOR THE YEAR ENDED JUNE 30, 2008

Findings

None

Recommendations

None

Employment Summary

	Male	Female	Total	%
White Employees	1	2	3	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			3	100 %

Cash Fund Balance Description as of June 30, 2010

Fund Account	Balance	Type	Location
3600000	\$153,269	Checking	Simmons First Bank, Searcy

Statutory/Other Restrictions on use:

A.C.A. 27-50-1203(g)-(i) authorizes the disposition of funds, allowing the Board to operate.

Statutory Provisions for Fees, Fines, Penalties:

A.C.A. 27-50-1203 (f) authorizes the Board to levy applicable towing fees, safety permit fees, and late filing fees. A.C.A 27-50-1204 (d) authorizes the Board to prescribe monetary penalties.

Revenue Receipts Cycle:

Funds are collected through out the year.

Fund Balance Utilization:

Warrants are written as necessary for Board expenditures with the balance remaining on deposit in the interest-bearing account.

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
None	N/A	N	N	0	N/A

Agency Position Usage Report

FY2008 - 2009						FY2009 - 2010					FY2010 - 2011						
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
3	3	0	3	0	0.00 %	3	3	0	3	0	0.00 %	3	3	0	3	0	0.00 %

Analysis of Budget Request

Appropriation: A28 - Cash Operations

Funding Sources: 360 - Towing & Recovery - Cash

The Towing & Recovery Board was established under Arkansas Code Annotated §27-50-1203 to regulate Arkansas' towing industry. The Board is responsible for promulgating and administering rules and regulations for the industry, establishing licensing, insurance and safety equipment requirements for towing and related services and establishing tow truck safety requirements for vehicles utilized for commercial purposes. The Board issues towing business licenses and tow vehicle safety permits, assesses late filing fees, and investigates allegations of violations.

Funding is derived from fees levied on towing businesses.

Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Career Service Payments. The Base Level request for Regular Salaries includes board member stipend payments.

The Change Level Request of \$10,783 for FY12 and FY13 is for an Extra Help position and Personal Services Matching, to assist with the administrative processing of applications and assist with resolving the backlog of administrative complaints. In June 2005, the board had approximately 787 tow companies on record and as of May 2010 it increased to 1,052, an increase of approximately 33%.

Executive Recommendation provides for Agency Request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: A28 - Cash Operations
Funding Sources: 360 - Towing & Recovery - Cash

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2009-2010 Actual	2010-2011 Budget	2010-2011 Authorized	2011-2012			2012-2013		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	84,250	86,599	84,795	85,999	85,999	85,999	85,999	85,999	85,999
#Positions	3	3	3	3	3	3	3	3	3
Extra Help 5010001	0	0	0	0	10,000	10,000	0	10,000	10,000
#Extra Help	0	0	0	0	1	1	0	1	1
Personal Services Matching 5010003	29,759	30,768	30,457	30,670	31,453	31,453	30,670	31,453	31,453
Operating Expenses 5020002	37,551	42,840	42,840	42,840	42,840	42,840	42,840	42,840	42,840
Conference & Travel Expenses 5050009	0	0	0	0	0	0	0	0	0
Professional Fees 5060010	6,000	7,200	7,200	7,200	7,200	7,200	7,200	7,200	7,200
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	0	0	0	0	0	0	0	0	0
Total	157,560	167,407	165,292	166,709	177,492	177,492	166,709	177,492	177,492
Funding Sources									
Fund Balance 4000005	90,548	153,269		144,976	144,976	144,976	132,815	132,815	132,815
Cash Fund 4000045	220,281	159,114		154,548	165,331	165,331	154,548	165,331	165,331
Total Funding	310,829	312,383		299,524	310,307	310,307	287,363	298,146	298,146
Excess Appropriation/(Funding)	(153,269)	(144,976)		(132,815)	(132,815)	(132,815)	(120,654)	(120,654)	(120,654)
Grand Total	157,560	167,407		166,709	177,492	177,492	166,709	177,492	177,492

The FY11 Budget amount in Regular Salaries and Personal Services Matching exceeds the authorized amount due to salary and matching rate adjustments during the 2009-2011 biennium.

Change Level by Appropriation

Appropriation: A28 - Cash Operations
Funding Sources: 360 - Towing & Recovery - Cash

Agency Request

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	166,709	3	166,709	100.0	166,709	3	166,709	100.0
C01	Existing Program	10,783	0	177,492	106.5	10,783	0	177,492	106.5

Executive Recommendation

Change Level		2011-2012	Pos	Cumulative	% of BL	2012-2013	Pos	Cumulative	% of BL
BL	Base Level	166,709	3	166,709	100.0	166,709	3	166,709	100.0
C01	Existing Program	10,783	0	177,492	106.5	10,783	0	177,492	106.5

Justification

C01	The board requests an increase of \$10,783 each fiscal year for one (1) Extra Help position due to new legislation and new rules and regulations set by the Board, and to assist with the administrative processing of applications. In June 2005, the board had approximately 787 tow companies on record and as of May 2010, that number increased to 1,052, an increase of approximately 33%. The position will also assist in resolving the backlog of administrative complaints.
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