

AR TOWING AND RECOVERY BOARD

Enabling Laws

Act 98 of 2014
A.C.A. §27-50-1203 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

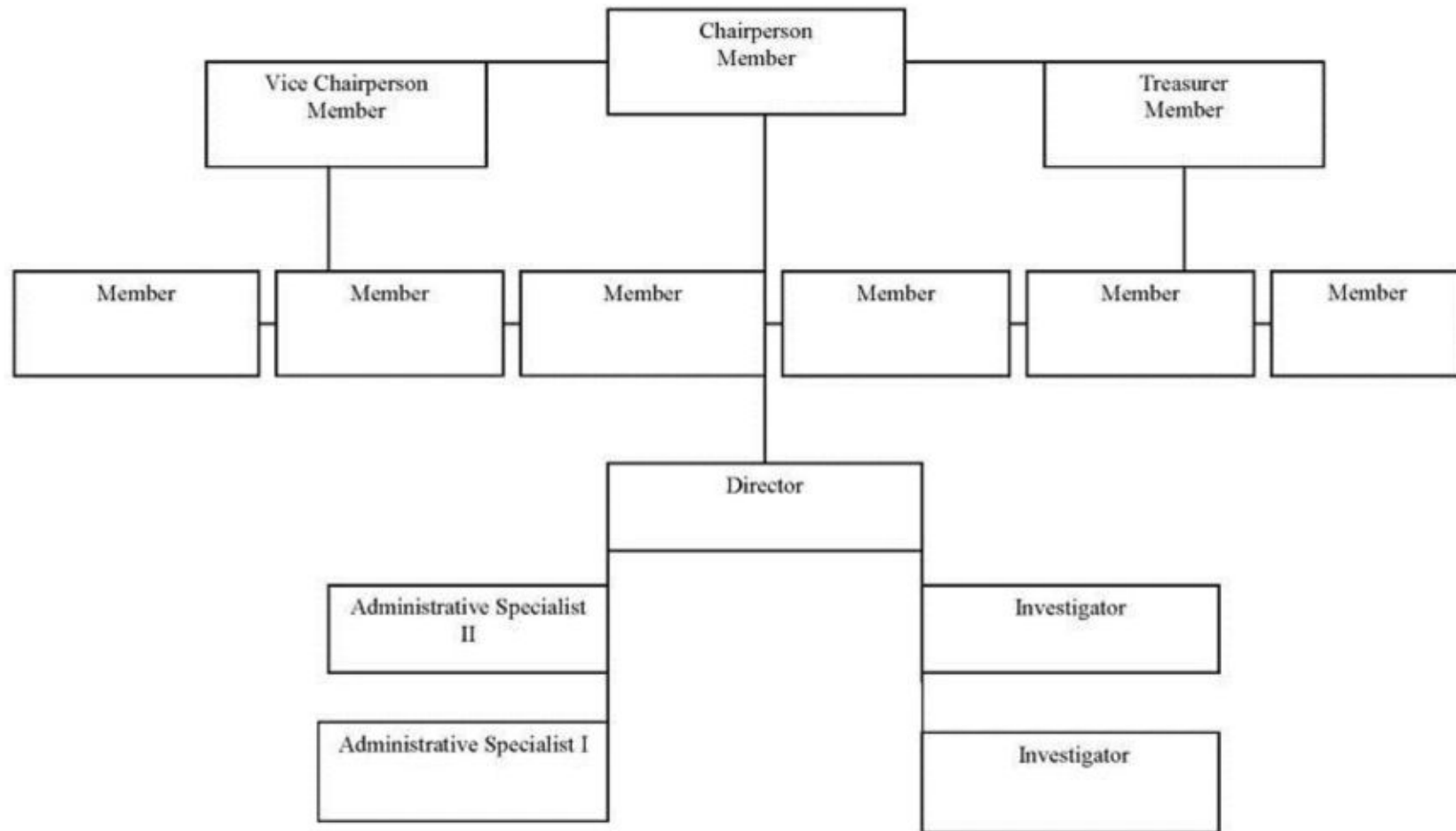
updated the Rules and Regulations to reflect new regulatory authority to be current with the new legislation passed in the 2005 Legislative Session.

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 Finance & Administration - Revenue Division 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.

In FY09, the Board raised its Tow Safety Permit Fee to \$48, to help cover the increase in operating expenses. In FY11 and FY 12 the Board reviewed and updated the Rules and Regulations to reflect legislative changes and better address some definitions in relations to the towing industry. In FY12, the agency hired an "Extra Help" person to allow more efficient processing of applications due to the increase in applications and additional clerical duties for Board investigator. In July 2011, the Board lost revenues with the exemption of tow companies who tow only vehicles they own. The Board continues to investigate possible violations and holds hearings to address those companies with violations.

In FY13 and FY14, the Board was able to increase efficiencies by bringing on line a towing database and by hiring a second investigator. The increase in complaint investigations has created an administrative backlog. Additional correspondence, hearing notices, findings, etc are being generated as a result of a faster completion of complaint investigations. In FY 15, The Board reviewed and updated the Rules and Regulations to reflect the addition of vehicle immobilization services and other legislative changes.

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 five employment positions: ATRB Director, ATRB Clerical Typist and 3 ATRB Tow Investigator, and one extra help position.



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 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.

With the current operating expenditures, the Board was able to purchase database software which has increased the efficiency of the office staff in processing towing applications for license and permits. It now produces renewals and other correspondence with minimal input by staff. The Board has also hired a second investigator, which has reduced the backlog of pending complaint investigations by over half (ie. pending complaint investigations before hiring of second investigator 102, current pending complaint investigations 34). Stage 2 of the database is in the process of being implemented to include complaints, hearings and hearing resolutions to help our investigators be even more efficient. The increase of investigations has produced a great deal of time sensitive correspondence, which has caused other administrative activities to be backlogged; with more efficient use of existing staff and the discontinuation of the extra help position, the Board hopes to reallocate current appropriations, to take care of the back log of administrative processes.

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.

The Board requests a change level reduction of \$10,771 each year of the biennium for the Extra Help position and Personal Services Matching; better utilization of existing staff has made the position unnecessary.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS TOWING AND RECOVERY BOARD
FOR THE YEAR ENDED JUNE 30, 2013

Findings	Recommendations
Financial Management Guide Regulation R4-19-4-501 states that "good internal controls dictate daily deposits to Treasury and/or a commercial bank account. Weekly deposits are allowable if an agency receives only minimal amounts of cash and/or checks." A	Obtain training for employees, deposit funds timely, and provide additional financial reporting to the Board.

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS TOWING AND RECOVERY BOARD
FOR THE YEAR ENDED JUNE 30, 2013

Findings	Recommendations
<p>review of 30 receipts revealed an average of 23 days from the day of receipt to the deposit in the bank account. Lack of expediency in depositing public monies could allow for misappropriation and is a result of lack of management oversight.</p>	<p><u>Agency Response:</u> The Agency strives to accomplish the deposits in a timely fashion. However, as this function falls to the Director, the accounting and deposits are processed as time permits. A monthly treasurer's report is given to the Board members at each meeting as well as an annual treasurer's report at the end of each fiscal year. A clerical report of all license and permits issued is included.</p>
<p>A review of professional service invoices identified two vendors that were paid over \$5,000, in violation of state procurement regulations and Arkansas Code. In one instance, half the amount was paid in fiscal year 2012, and the rest was paid in fiscal year 2013. By splitting the procurement, the competitive bid limit was circumvented, in violation of Ark. Code Ann. § 19-11-234(d). In the second instance, the service was obtained without three competitive bids or a sole source justification, in violation of Ark. Code Ann. §§ 19-11-234(a)(3), -234(b)(1).</p>	<p>The Agency will make a priority to cross-train additional personnel, the Administrative Specialist, to help with the backlog of accounting and deposits in order to maintain the weekly deposit of funds received.</p> <p>Review state accounting policies and regulations to ensure compliance with Arkansas law.</p> <p><u>Agency Response:</u> The Arkansas Towing and Recovery Board staff was unaware of the requirement to bid the professional services over \$5,000. We thought the maximum was \$10,000. However, when our Agency was advised of this requirement, in March 2013, we completed the justification/ratification letter and the sole source justification and provided copies of all of the service contracts signed by the current vendor. These were submitted to OSP [Office of State Procurement] in May of 2013 and to my understanding subsequently approved. In the second instance, the vendor, who was contracted for miscellaneous technical support, had only provided services in the amount for which they were paid. It was determined the vendor could not be paid for services not rendered in FY 2012, and therefore, when the services were performed in FY 2013, payment was then made.</p>
<p>Ark. Code Ann. § 19-4-706 states that agencies may enter into contracts that contemplate the payment of interest and late fees only when such late charges are incurred 60 days after payment is due. We noted one instance in which the Agency paid interest and late fees that were assessed prior to 60 days after payment was due.</p>	<p>A current review of all the state accounting policies and regulations is in progress to ensure Agency compliance with Arkansas law.</p> <p>Review state accounting policies and regulations to ensure compliance with Arkansas law.</p> <p><u>Agency Response:</u> The Arkansas Towing and Recovery Board staff was aware of the Agency not</p>

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ARKANSAS TOWING AND RECOVERY BOARD
FOR THE YEAR ENDED JUNE 30, 2013

Findings	Recommendations
	<p>responsible for paying late fees and interest prior to 60 days after the invoice. However, having spoken to vendor and reviewing state contract, our Agency could not determine if this was included in contract. To prevent finance charges from accruing on top of finance charges, our Agency opted to pay the late fee and interest.</p> <p>A current review of all the state accounting policies and regulations is in progress to ensure Agency compliance with Arkansas law.</p>
<p>Ark. Code Ann. § 19-4-1103 states that it is the responsibility of each executive head of a state agency to establish adequate internal controls to ensure prompt and accurate payment of obligations. During review of expenditures, we noted a vendor overpayment of \$335 without management approval.</p>	<p>Seek reimbursement from the vendor for the overpayment and thoroughly review invoices prior to payment.</p>
	<p><u>Agency Response:</u> In FY 2012, the vendor in question applied a credit to our mobile account for our land lines account, which resulted in a large credit balance. In review of the invoice, I contacted said vendor to correct the misapplication of funds. This process went on for several months. Having spoken repeatedly to vendor, the vendor attempted to correct our account with credits and adjustments. In November of 2012, we finally got an invoice for a larger than normal amount. I, again, contacted the vendor to inquire as to why the bill was so large; they advised the invoice was comprised of all the missed/unbilled charges their system calculated after the final application of the monies, charges, and adjustments made to correct the accounts. There was no overpayment to this vendor.</p>
<p>Financial Management Guide Regulation R1-19-4-903 states that private vehicle mileage will be reimbursed at the distance between the travel destination and the employee's official station or residence, whichever is less. The regulation further defines "official station" as the geographic location or address "where the employee normally reports for duty...and must be designated as such in writing by the employer." A review of travel reimbursements and supporting documentation noted the following:</p> <ul style="list-style-type: none">One employee claimed mileage from his residence instead of his official station for 10 roundtrips during the 2013 fiscal year, resulting in reimbursement of \$840 for 2,000 unallowable miles.	<p>Review the Financial Management Guide regulations and review travel reimbursements for proper mileage prior to disbursement of funds. In addition, seek reimbursements for the travel overpayments.</p> <p><u>Agency Response:</u> The Arkansas Towing and Recovery Board Investigators' official work stations are their homes. This is a requirement of employment. Each investigator maintains all their open files and workable documentation in their office. Each investigator meets with the Agency Director one day a week in the office in Searcy to apprise the Director of their progress and any ongoing investigations and to pick up any mail/correspondence they may have received. All agency employees have a business mailing address of P.O. Box</p>

DIVISION OF LEGISLATIVE AUDIT
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ARKANSAS TOWING AND RECOVERY BOARD
FOR THE YEAR ENDED JUNE 30, 2013

Findings	Recommendations
their official stations during the 2014 fiscal year, resulting in reimbursement of \$529 and \$297, for 1,260 and 716 unallowable miles, to	8285, Searcy, AR 72145. This allows the Agency to account for and document all mail/monies received by U.S. Mail, FedEx, UPS, and certified mail.
	The Agency will consult with DFA to see how this information/official work station can be maintained on file in AASIS and with each employee it is applicable to.

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2014

None

Employment Summary

	Male	Female	Total	%
White Employees	1	3	4	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			4	100 %

Cash Fund Balance Description as of June 30, 2014

Fund Account	Balance	Type	Location
3600000	\$268,637	Checking	Simmons First Bank - Searcy AR

Statutory/Other Restrictions on use:

Sections of 2, 3, 4, and 5 of Act 1209 of 2007.

Statutory Provisions for Fees, Fines, Penalties:

A.C.A. 27-50-1203 (f) authorizes the Board to levy applicable towing license 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 throughout 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. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
None	N/A	N	N	0	N/A	0	0.00

Agency Position Usage Report

FY2012 - 2013						FY2013 - 2014						FY2014 - 2015					
Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused
	Filled	Unfilled	Total				Filled	Unfilled	Total				Filled	Unfilled	Total		
3	3	0	3	0	0.00 %	5	4	0	4	1	20.00 %	5	4	1	5	0	20.00 %

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 Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2015 1% Cost of Living Adjustment and Career Service payments for eligible employees. Personal Services Matching also includes a \$10 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base level salaries and matching do not include appropriation for Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments.

The Board requests a Change Level decrease of \$10,771 each year for the following:

- Elimination of Extra Help and Personal Services Matching of \$10,771. Better utilization of the existing staff has made the Extra Help position unnecessary.

The Executive Recommendation provides for the 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		2013-2014	2014-2015	2014-2015	2015-2016			2016-2017		
		Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	102,836	139,781	143,169	140,840	140,840	140,840	140,840	140,840	140,840
#Positions		4	5	5	5	5	5	5	5	5
Extra Help	5010001	7,556	10,000	10,000	10,000	0	0	10,000	0	0
#Extra Help		1	1	1	1	0	0	1	0	0
Personal Services Matching	5010003	42,661	55,733	49,305	56,657	55,886	55,886	56,657	55,886	55,886
Operating Expenses	5020002	50,564	47,124	47,124	47,124	47,124	47,124	47,124	47,124	47,124
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		209,617	259,838	256,798	261,821	251,050	251,050	261,821	251,050	251,050
Funding Sources										
Fund Balance	4000005	237,989	268,637		214,313	214,313	214,313	184,992	195,763	195,763
Cash Fund	4000045	240,265	205,514		232,500	232,500	232,500	232,500	232,500	232,500
Total Funding		478,254	474,151		446,813	446,813	446,813	417,492	428,263	428,263
Excess Appropriation/(Funding)		(268,637)	(214,313)		(184,992)	(195,763)	(195,763)	(155,671)	(177,213)	(177,213)
Grand Total		209,617	259,838		261,821	251,050	251,050	261,821	251,050	251,050

FY15 Budget amount in Personal Services Matching exceeds the authorized amount due to matching rate adjustments during the 2013-2015 Biennium.

Change Level by Appropriation

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

Agency Request

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	261,821	5	261,821	100.0	261,821	5	261,821	100.0
C03	Discontinue Program	(10,771)	0	251,050	95.9	(10,771)	0	251,050	95.9

Executive Recommendation

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	261,821	5	261,821	100.0	261,821	5	261,821	100.0
C03	Discontinue Program	(10,771)	0	251,050	95.9	(10,771)	0	251,050	95.9

Justification

C03	The Board requests a change level reduction of \$10,771 each year of the biennium for the Extra Help position and Personal Services Matching; better utilization of existing staff has made the position unnecessary.
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