

AR TOWING AND RECOVERY BOARD

Enabling Laws

Act 205 of 2016
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)]. Appropriation legislation was not enacted until 1993; therefore, implementation did not begin to be accomplished until late 1994.

The Arkansas 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.

FY2001 and FY2002 saw a significant increase in city, county and state law enforcement agencies developing and implementing non-consent rotation policies. The Board staff began working with these law enforcement agencies in a cooperative effort to increase compliance. In FY2001 and FY2002 the Board issued 1,136 non-consent business licenses and 3,233 tow vehicle safety permits.

The Board was in transition during FY2003 and FY2004. The Board moved to a new office location in Searcy, Arkansas, a website was created and the staff continued to work with law enforcement across the state. The Board issued 1,075 non-consent business licenses and 3,489 tow vehicle safety permits.

Adding the investigator allowed the Board to become more aggressive, by holding disciplinary hearings on a regular basis as an attempt to curb excessive pricing for services within the tow industry. The Board also updated the Rules and Regulations reflecting new regulatory authority passed during the 2005 Legislative Session.

The Board continued attempts to curb excessive pricing complaints through disciplinary hearings and fines assessed against tow companies for the most aggrieved offenses during FY2007 and FY2008. The business license fees increased to \$100.00 annually and the tow safety permit increased to \$36.00 annually in FY2008. Both consent only and non-consent tow companies were required to obtain a business license and both licensing categories were required to provide proof of insurance. The Board began working with the Department of Finance & Administration, Revenue Division in January 2008 requiring the issuance of a tow safety permit from the Board before a license plate for a tow vehicle would be issued.

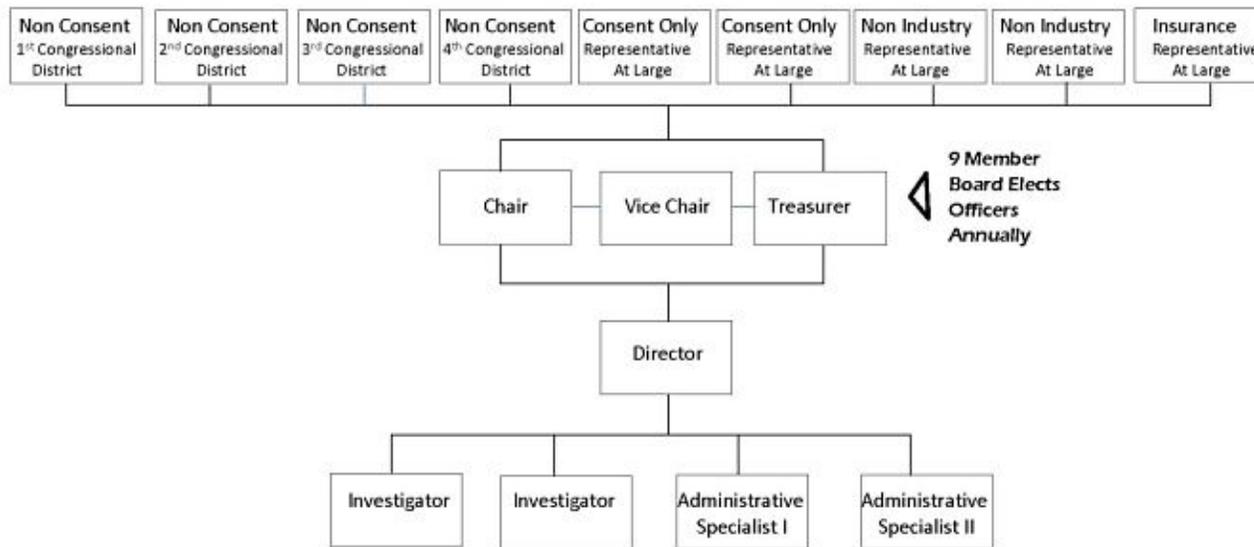
In FY 2009 the Board raised its fee for a Tow Safety Permit to \$48.00 to offset increased overhead costs.

The Board updated the Rules and Regulations in FY2011 and FY2012 to reflect new legislation and to better address several key definitions. There was a significant loss of revenue in FY 2011 when tow companies who hauled only vehicles they owned were exempted. (Primarily used car dealers and auction companies) In FY2012 an 'Extra Help' person was hired to facilitate faster issuance of license and permit applications and aid the investigator with clerical duties. The Board continued to manage consumer complaints through its investigative efforts and disciplinary hearings.

A new database installed in FY2013 and FY2014 increased the licensing and permitting efficiency and aided in better tracking tow companies in Arkansas. In response to an increased number of consumer complaints a second investigator was added to the staff. The Board updated the Rules and Regulations in early FY2015 to reflect new legislation regulating vehicle immobilization services. License fees increased to \$150.00 annually and Tow Vehicle Safety Permits were increased to \$72.00 annually.

There were a large number of changes in FY 2015 and FY 2016. With two (2) investigators, disciplinary hearings increased sharply and along with the use of a Consent Agreement tow companies were held accountable for excessive pricing. New legislation enacted in 2015 allowed the Board to require financial restitution to the complainant or party harmed by overcharging. Rules and regulations were reviewed. A new director was hired and the office was relocated to North Little Rock, Arkansas. In FY2016 there were 827 business licenses issued (176 consent only and 653 non-consent) and 1,827 tow safety permits were issued.

The Arkansas Towing and Recovery Board is a nine (9) member board appointed by the Governor for a three (3) year term. The board consists of four (4) non-consent tow representatives, [one (1) appointed from each Congressional District]; two(2) consent only tow representatives; two (2) non industry representatives and one (1) representative from the insurance industry. The Board has five (5) staff positions: A director, an Administrative Specialist I, an Administrative Specialist II and two (2) Investigators.



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.

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 an increase in Operating Expenses of \$26,004 for FY18 and \$13,504 in FY19 to reflect an increase in rent of facilities and

mileage each year of the biennium. The request also reflects one time expenditures to purchase a power point projector, purchase office furniture, website, and to purchase permit safety stickers in FY18.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
 AUDIT OF :
 ARKANSAS TOWING AND RECOVERY BOARD
 FOR THE YEAR ENDED JUNE 30, 2015

Findings	Recommendations
None	None

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016

None

Employment Summary

	Male	Female	Total	%
White Employees	4	1	5	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			5	100 %

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

FY2014 - 2015						FY2015 - 2016					FY2016 - 2017						
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		
5	5	0	5	0	0.00 %	5	5	0	5	0	0.00 %	5	5	0	5	0	0.00 %

Analysis of Budget Request

Appropriation: U37 - Towing and Recovery Operations

Funding Sources: NTT - Towing & Recovery - Treasury

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. The Base Level request for Regular Salaries includes board member stipend payments.

Funding is derived from fees levied on towing businesses.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes 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 a Cost of Living Adjustment or Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments.

The Board requests a Change Level increase in Operating Expenses of \$26,004 for FY18 and \$13,504 for FY19 for the following:

- \$9,500 in FY18 only for one time expenses for the purchases of a power point projector, office furniture, and permit safety stickers.
- \$3,000 in FY18 only for updating the Board's website.
- \$10,000 each year of the biennium for mileage.
- \$3,504 each year of the biennium to reflect an increase in rent of facilities.

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

Appropriation Summary

Appropriation: U37 - Towing and Recovery Operations

Funding Sources: NTT - Towing & Recovery - Treasury

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	140,186	159,929	140,840	159,929	159,929	159,929	159,929	159,929	159,929
#Positions		5	5	5	5	5	5	5	5	5
Personal Services Matching	5010003	56,091	64,288	55,886	65,101	65,101	65,101	65,101	65,101	65,101
Operating Expenses	5020002	61,047	47,124	47,124	47,124	73,128	73,128	47,124	60,628	60,628
Conference & Travel Expenses	5050009	0	0	0	0	0	0	0	0	0
Professional Fees	5060010	0	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		257,324	278,541	251,050	279,354	305,358	305,358	279,354	292,858	292,858
Funding Sources										
Fund Balance	4000005	310,000	329,171		353,830	353,830	353,830	377,676	351,672	351,672
Cash Fund	4000045	276,495	303,200		303,200	303,200	303,200	303,200	303,200	303,200
Total Funding		586,495	632,371		657,030	657,030	657,030	680,876	654,872	654,872
Excess Appropriation/(Funding)		(329,171)	(353,830)		(377,676)	(351,672)	(351,672)	(401,522)	(362,014)	(362,014)
Grand Total		257,324	278,541		279,354	305,358	305,358	279,354	292,858	292,858

FY17 Budget amount in Regular Salaries and Personal Services Matching exceeds the authorized amount due to salary and matching rate adjustments during the 2015-2017 Biennium. The Board voted to move to the State Treasury in January of Fiscal Year 2016. The Fund Balances for both FY16 and FY17 reflects monies in both its Cash in Bank and State Treasury Fund accounts.

Change Level by Appropriation

Appropriation: U37 - Towing and Recovery Operations
Funding Sources: NTT - Towing & Recovery - Treasury

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	279,354	5	279,354	100.0	279,354	5	279,354	100.0
C01	Existing Program	23,004	0	302,358	108.2	13,504	0	292,858	104.8
C08	Technology	3,000	0	305,358	109.3	0	0	292,858	104.8

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	279,354	5	279,354	100.0	279,354	5	279,354	100.0
C01	Existing Program	23,004	0	302,358	108.2	13,504	0	292,858	104.8
C08	Technology	3,000	0	305,358	109.3	0	0	292,858	104.8

Justification

C01	The Board requests an increase of \$23,004 in FY18 and an increase of \$13,504 in FY19 for Operating Expenses to be allocated as follows: an increase of \$9,500 in FY18 only for one time expenses for the purchases of a power point projector, office furniture, and permit safety stickers, increase of \$10,000 each year of the biennium for mileage, and an increase of \$3,504 each year of the biennium to reflect an increase in rent of facilities.
C08	Increase of \$3,000 in FY18 only for updating the Board's website.