

# *Legislative Performance Audit*

## *Committee*

### **Committee Members:**

*Senator John Harms, Chair*  
*Senator Dan Watermeier, Vice Chair*  
*Speaker Greg Adams*  
*Senator Annette Dubas*  
*Senator Bob Krist*  
*Senator Heath Mello*  
*Senator John Wightman*

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FOR IMMEDIATE RELEASE

CONTACT: Senator John Harms, (402) 471-2802

January 13, 2014

### **Preaudit of Abstracters Board of Examiners Triggers Legislation**

A Legislative Audit Office review of the Nebraska Abstracters Board of Examiners expenditures recommended by the Auditor of Public Accounts prompted lawmakers Monday to introduce legislation that would require small-sized agencies to be subjected to external reviews of their expenditures. The bill, introduced by the Legislative Performance Audit Committee, would require the Department of Administrative Services, or a state agency authorized by DAS, to conduct pre-audit reviews of state agencies with fewer than seven full-time employees. Under current law, agencies can conduct their own reviews if authorized by DAS to do so. The department may rescind the authority if problems arise.

In a June letter to the Performance Audit Committee, the APA identified a number of instances of what the APA considered questionable and, in some cases, potentially illegal expenditures and accounting practices at the Abstracters Board. The potential law violations included increasing the annual application fee over the statutory maximum and contracting with Board's director to allow use of a state-owned laptop for personal use and to purchase the laptop inexpensively after three years. State accounting policy violations included meal reimbursements totaling almost \$100 for two people who were neither board members nor employees and a nearly \$200 reimbursement to the director for candy, soft drinks and a gift card the director gave as gifts to employees of another state agency.

“The issues identified by the Auditor of Public Accounts reflect a pattern of non-compliance with state accounting policies and potentially state law,” said Senator John Harms, Chairman of the Performance Audit Committee. “The Committee believes this reflects badly on the board and on state government as a whole, even though the dollar amounts involved are relatively small.”

The APA in the June letter suggested the Performance Audit Committee review the possibility of a merger of the Abstracters Board with the Nebraska Real Estate Commission. The Committee later directed its staff to research, in a preaudit study, agreements some agencies have with DAS or other agencies to conduct audit reviews and to meet with the Real Estate Commission about the suggested merger. Audit staff learned

during their review that DAS intended to rescind the authority of the Abstracters Board to pre-audit its expenses.

If passed, the bill was expected to impact a limited number of agencies. Of the 19 non-code agencies with fewer than seven employees, only four—including the Abstracters Board—do their own pre-audit reviews, according to the preaudit memo released Monday. Non-code agencies are governmental bodies not subject to the governor's direct control. For example, the governor does not select the executive directors of these agencies, but appoints the board members who select the directors.

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## **Memorandum**

**To:** Committee Members  
**From:** Martha Carter  
**Date:** January 9, 2014  
**Re:** Abstracters Board of Examiners Preaudit

### **Background**

In June, the Audit Committee received a letter from Auditor Foley highlighting the problems identified in his office's review of the Abstracters Board of Examiner's expenditures and practices, and suggesting that the Committee look into a possible merger of the Board with the Nebraska Real Estate Commission. In general terms, the Auditor identified two types of problems: those that violated state law or state accounting policies; and those that appeared to be unreasonable or bad practice but did not violate law or policy. Table 1, on page 3, lists the potential law and policy violations.

In August, the Board wrote to the Committee stating its opposition to a merger and stating that it would conduct monthly review of expenditures.

In September, the Performance Audit Committee adopted a preaudit inquiry asking audit staff to:

1. Research agreements that some state agencies have with DAS or other agencies for pre-expenditure review. Such an agreement might be an option for increasing accountability without merging the Board with the Commission; and
2. Talk to the Real Estate Commission about their perspective on the potential merger.

### **DAS Responsibility and Potential Action**

The Abstracters Board is currently authorized by DAS to "preaudit" its own expenditures, meaning the Board is responsible for making sure its expenditures comply with state law and policy. By law, DAS can allow an agency to preaudit its expenditures and DAS retains the right to rescind that authority if problems arise. We have been told that DAS plans to rescind the Abstracters Board's authority to preaudit its expenses, in which case the DAS Accounting Division would take over that responsibility.

## **Research on Non-code Agencies with Few Staff**

Non-code agencies are agencies that are not subject to the Governor's direct control. For example, the Governor does not appoint the Executive Director of the Abstracters Board; he appoints the board members and they select the Executive Director.

We found that most non-code agencies with six or fewer staff do not conduct their own preaudit review—instead, it is done by either DAS or another agency. Of the 19 non-code agencies with six or fewer employees, only four do their own preaudit reviews: the Abstracters Board (1 part-time employee), the Barber Examiners Board (2 employees), the Industrial Relations Commission (3 employees), and the Public Accountancy Board (3 employees). Table 2, on page 4, shows the entities that conduct preaudit reviews for agencies with six or fewer staff.

## **Conclusion**

DAS review of the Abstracters Board's expenditures should provide the double check needed to provide additional protection against the types of problems identified by the State Auditor. Additionally, since there are only three other small agencies that conduct their own preaudit reviews, the problems caused solely by the size of an agencies' staff are not widespread. Nevertheless, the Committee may want to consider introducing legislation to require small agencies to have an external review of their expenditures in order to protect against problems developing in the future.

**Table 1. Violations of Law/State Accounting Policy Identified by the State Auditor**

<b>Problem</b>	<b>Cost</b>	<b>Violation of</b>
Meal reimbursement for two people who were neither board members nor employees (p.7*)	About \$100 (avg. \$49 each)	State Accounting Policies—not reimbursable expenditures.
Board’s director reimbursed for golf tournament registration (tournament was not a business activity) (p.7)	\$70	
Board’s director reimbursed for purchases given as gifts to employees of other state agencies (candy and pop; a gift card) (p. 8)	Candy/Pop—\$145 Gift card—\$50	
Board’s director reimbursed for two nights & a board member reimbursed for one night of lodging within 60 miles of workplace, without justification (p.15)	\$327	State Accounting Policies—Could have been OK if board had justified the need.
In addition, tax was paid that should not have been because of state exemptions.	\$57	
Director was reimbursed for \$800 in payments to a consultant instead of the consultant being paid directly (p. 9)	No cost	State Accounting Policies
Had consultant been paid directly, state would have filed federal income tax form; Board should have filed one but did not (p. 9)		IRS requirement
Director did not properly account for laptop computers as fixed assets (p. 16)	No cost	State Accounting Policies
Computer agreement allowed Director to use a state laptop for personal use (p. 10)	No cost	State Law 81-1120.27 & 49-14,101.01
Computer agreement allowed Director to purchase laptop inexpensively after 3 years (p. 10)	No cost	State Law 81-161.04
Director delayed deposit of exam/license fee checks (p. 11)	No cost	State Law (deposit within 3 days of receipt) 84-710
Application fee exceeded statutory maximum and no documentation for fee increase (p. 12)	No cost to state, members paid more	State Law 76-542
Director had excess vacation leave (p. 14)	No cost	State Accounting Policies

\*Page numbers refer to *Attestation Report of the Nebraska Abstracters Board of Examiners*, Nebraska Auditor of Public Accounts, June 18, 2013.

**Table 2. 19 Non-code Agencies with Six or Fewer Employees (In Order by Agency that Conducts Preaudit), FY2011-12**

<b>Pre-Audit Conducted By</b>	<b>Name</b>	<b>Perm. Employees</b>
Administrative Services, Accounting Division	Lieutenant Governor (Art IV, sec 1)	1.24
Administrative Services, Central Finance Division	Real Property Appraiser Board (§ 76-2222)	2
	Indian Affairs Commission (§ 81-2501)	3
	Latino-Americans, Commission on (§ 81-8,262)	3
	Power Review Board, Nebraska (§ 70-1003)	3.37
Administrative Services, Central Finance Division and Dept. of Agriculture	Ethanol Board, Nebraska (§ 66-1335)	3.97
Dept. of Agriculture	Dairy Industry Development Board, Nebraska (§ 2-3951)	0
	Dry Bean Commission (§ 2-3745)	0.8
	Grain Sorghum Development, Utilizations, and Marketing Board (§ 2-4002)	0.85
	Wheat Development, Utilization, and Marketing Board (§ 2-2302)	2
	Corn Development, Utilization, and Marketing Board (§ 2-3604)	6
Board of Educational Lands & Funds	Land Surveyors' Examiners Board (§ 81-8,110)	0
Board of Engineers & Architects	Geologists Board (§ 81-3520)	0
	Landscape Architects' Board (§ 81-8,186)	0
Dept. of Revenue	Racing Commission, State (§ 2-1201)	5
None	Abstracters Board of Examiners (§ 76-540)	0.5
	Barber Examiners Board (§ 71-221)	2
	Industrial Relations Commission (Art XV, sec 9; § 48-803)	3
	Public Accountancy Board (§ 1-107)	3

Sources: Legislator's Guide to Nebraska State Agencies 2013-2014, Legislative Fiscal Office; Nebraska Blue Book 2012-13, Clerk of the Legislature's Office; and the Department of Administrative Services.