

Report on the

**Board of Electrical Contractors
State of Alabama
Montgomery, Alabama**

October 1, 2016 through September 30, 2018

Filed: January 4, 2019



**Department of
Examiners of Public Accounts**

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Rachel Laurie Riddle, Chief Examiner



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Honorable Rachel Laurie Riddle
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, as added by Act Number 2018-129, I submit this report on the results of the examination of the Alabama Board of Electrical Contractors for the period October 1, 2016 through September 30, 2018.

Sworn to and subscribed before me this
the 19 day of December, 20 18.

Kelly D. Matthews
Notary Public

rb

Respectfully submitted,

Gerald Dedon

Gerald Dedon
Examiner of Public Accounts

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Department of
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SUMMARY

**Board of Electrical Contractors
October 1, 2016 through September 30, 2018**

The Board of Electrical Contractors (the “Board”) operates under the authority of the *Code of Alabama 1975*, Sections 34-36-1 through 34-36-18. By law, the Board exercises license/regulatory authority over businesses engaged in electrical contracting.

This report presents the results of an examination of the Board and a review of compliance by the Board with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12, as added by Act Number 2018-129. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Board properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Board. Our examination included determining compliance by the Board with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Board accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Findings are numbered and reported by the examination period in which the finding originally occurred.

The following instances of noncompliance with State laws and regulations and other matters were found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and are summarized below.

CURRENT FINDINGS

- 2018-01 Relates to the Board not transferring excess funds into the State General Fund.
- 2018-02 Relates to the Board not compensating board members for attending meetings.
- 2018-03 Relates to the Board not notifying the Secretary of State of board member vacancies.

UNRESOLVED PRIOR FINDING

- 2009-03 Relates to the Board issuing and renewing provisional licenses without statutory authority.

Board members and the Executive Director were invited to an exit conference held on December 3, 2018. Individuals in attendance were Keith Warren, Executive Director, along with Gerald Dedon, Examiner, and Janet Berry, Examiner, from the Department of Examiners of Public Accounts.



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COMMENTS

**Board of Electrical Contractors
October 1, 2016 through September 30, 2018**

The Board of Electrical Contractors (the “Board”) operates under the authority of the *Code of Alabama 1975*, Sections 34-36-1 through 34-36-18. By law, the Board exercises license/regulatory authority over businesses engaged in state electrical contracting.

The Board is comprised of nine members appointed by the Governor, one from each congressional district and two at-large members. Members appointed from the congressional districts must be actively engaged in the electrical construction business as a qualified person with electrical construction background of not less than five consecutive years, and must be licensed as electrical contractors. The two at-large members must be members of the Alabama State Electrical Workers Association. Members serve three year terms and may continue to serve until their successors are appointed and qualified. Members may not serve more than two consecutive terms.

The Board contracts with Warren & Company, Inc. for clerical services, administrative facilities, and office space. The president of Warren & Company serves as the Board’s executive director. The executive director serves at the pleasure of the Board.

The Board operates from Special Revenue Fund 0381 maintained in the State Treasury. The Board’s operating funds are derived from fees and penalties collected by the Board in carrying out its statutory mission. The *Code of Alabama 1975*, Section 34-36-17, requires the Board to transfer any funds unspent and unencumbered at the end of the fiscal year in excess of \$100,000 to the State’s General Fund.

The Board owned non-consumable personal property consisting of office furniture. A comparison was done of non-consumable personal property in the custody of the Board with property records maintained by the Property Inventory Division of the State Auditor’s Office. No discrepancies were noted.

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*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2018

Ref. No.	Finding/Noncompliance
2018-01	<p><u>Finding:</u> The Board did not transfer excess funds in the amount of \$2,622.90 to the General Fund at the end of fiscal year 2017.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-36-17 states, “Any funds unspent and unencumbered at the end of any state fiscal year in excess of one hundred thousand dollars (\$100,000) shall be transferred into the State General Fund on or before January 15 of the succeeding year.”</p> <p><u>Recommendation:</u> The Board should transfer any unspent and unencumbered funds that exceed \$100,000.00 at the end of the fiscal year to the State General Fund on or before January 15 of the succeeding year.</p>
2018-02	<p><u>Finding:</u> The Board did not pay eight board members \$300.00 board member compensation pay for attending the January 29, 2018, board meeting.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-36-5 states, “The members of the board shall receive up to three hundred dollars (\$300) per day with a limit of 15 days per year while performing their official duties, in addition to the same per diem and mileage provided to state employees.”</p> <p><u>Recommendation:</u> The Board should ensure that members are compensated for attending meetings of the Board.</p>
2018-03	<p><u>Finding:</u> The Board did not notify the Secretary of State of vacancies occurring as a result of the expiration of the terms of three board members whose terms expired June 30, 2018.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-14-17(d) states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy scheduled to occur on the board as a result of the expiration of a term at least 45 days before the vacancy occurs.”</p> <p><u>Recommendation:</u> The Board should notify the Secretary of State of vacancies occurring as a result of the expiration of members’ terms at least 45 days before the terms expire.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2018

UNRESOLVED PRIOR FINDING

Ref. No.	Finding/Noncompliance
2009-03	<p><u>Prior Finding:</u> The Board is still issuing and renewing provisional licenses without apparent statutory authority and repeated failed attempts to obtain statutory authority for such license. Despite having been notified in a previous review of the agency's operations for the legislative Sunset Committee, wherein we found that with no apparent statutory authority, the Board was issuing and renewing a provisional license and charging a fee for the license. The Board's rule 303-X-2-.01 (12) authorizes the Board to issue a provisional electrical contractor's license for a fee to those who are licensed or permitted by a city or county, who work within the boundaries of the county or city and who have taken (does not say passed) an examination offered by the Board within the preceding 12 months. The license is not mandatory.</p> <p>We found no provision in the law that authorizes the Board to create a rule that allows the Board to issue a provisional license or any license in the name of the State, except to those who have completed all of the requirements specified by law to obtain a regular state journeyman or contractor's license. Attorney General Opinion 1997-036 states that, "It is well established that administrative rules and regulations cannot subvert or enlarge upon statutory policy." "This office has consistently interpreted this rule to preclude state boards and regulatory agencies from doing things not expressly or impliedly authorized by statute, including the preclusion from issuing sub-licenses or specialty certifications without express or implied authorization."</p> <p><u>Current Status: (2018)</u> The finding is unresolved. The Board continues to issue and charge fees for a provisional license.</p> <p><u>Recommendation:</u> It is again recommended the Board should not issue licenses of any type or charge any fee unless such licenses or fees are authorized in existing statutes. Board rules should not include provisions not authorized by existing statutes.</p>

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***Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2016 through September 30, 2018***

	2017-2018	2016-2017
<u>Receipts</u>		
Licensing Fees	\$ 692,225.00	\$ 619,010.00
Administrative Fines	1,500.00	
Total	<u>693,725.00</u>	<u>619,010.00</u>
<u>Disbursements</u>		
Personnel Costs	11,700.00	9,900.00
Employee Benefits	926.87	789.25
Travel, In-State	25,548.17	22,000.70
Travel, Out-of-State	5,889.76	8,061.99
Repair and Maintenance		280.00
Rentals and Leases	46.08	75.84
Utilities and Communication	6,342.34	7,241.57
Professional Services	717,659.86	569,661.63
Supplies, Materials, and Operating Expenses	20,334.94	25,635.93
Total	<u>788,448.02</u>	<u>643,646.91</u>
Excess (Deficiency) of Receipts Over Disbursements	(94,723.02)	(24,636.91)
Cash Balances at Beginning of Year	<u>158,460.03</u>	<u>183,096.94</u>
Cash Balances at End of Year	63,737.01	158,460.03
Reserve for Unpaid Obligations	<u>(63,737.01)</u>	<u>(55,837.13)</u>
Available Cash Balances at Year-End	<u>\$</u>	<u>\$ 102,622.90</u>

