

Report on the

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

October 1, 2018 through September 30, 2020

Filed: November 12, 2021



**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:

An examination was conducted on the Board of Electrical Contractors, Montgomery, Alabama, for the period October 1, 2018 through September 30, 2020. Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I hereby swear to and submit this report to you on the results of the examination.

Respectfully submitted,

Charnelle Martin
Examiner of Public Accounts

rb

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Department of
Examiners of Public Accounts

SUMMARY

**Board of Electrical Contractors
October 1, 2018 through September 30, 2020**

This report presents the results of an examination of the Alabama Board of Electrical Contractors (the “Board”) and a review of the Board’s compliance 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. Our examination was performed to determine 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.

The Board operates under the authority of the *Code of Alabama 1975*, Section 34-36-1 through Section 34-36-18. By law, the Board exercises license/regulatory authority over businesses engaged in 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. Members may not serve more than two consecutive terms.

The Board owned nonconsumable personal property consisting of office furniture. A comparison was done of nonconsumable 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.

FINDINGS

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 they are summarized below.

- ◆ 2020-001 Relates to the Board not accurately reporting its encumbrances and accounts payable at the end of the fiscal year to the Comptroller's Office.
- ◆ 2020-002 Relates to the Board issuing and renewing provisional licenses without statutory authority. This finding was reported in the prior examinations as Finding 2009-003.
- ◆ 2020-003 Relates to the Board incorrectly coding funds received for licensure as penalties.
- ◆ 2020-004 Relates to the Board not verifying an employee's employment eligibility through E-Verify and not completing the I-9 form.

EXIT CONFERENCE

Board members and the Executive Director were invited to an exit conference held by teleconference on September 15, 2021. Individuals in attendance were Board members: Shon Rogers and Jeremy Atchley; and Keith Warren, Executive Director, along with Maria L. Catledge, Robin Hutcheson and Charnelle Martin from the Department of Examiners of Public Accounts.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-001	<p><u>Finding:</u></p> <p>The Board is not accurately reporting its encumbrances and accounts payables at the end of the fiscal year to the Comptroller’s Office. The Board encumbered \$101,087.28 at the end of fiscal year 2019 and expended \$27,890.38 in the next fiscal year. The Board encumbered \$73,846.38 at the end of fiscal year 2020 and expended \$19,386.74 in the next fiscal year. As a result of overstating encumbrances and accounts payable for fiscal year 2020 the Board did not transfer the correct amount of unspent funds in excess of \$100,000.00 to the State General Fund.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-36-17, requires the Board of Electrical Contractors to transfer any funds unspent and unencumbered at the end of any state fiscal year in excess of \$100,000.00 into the State General Fund on or before January 15 of the succeeding year.</p> <p>Opinion to Honorable Thomas R. DeBray, Interim Co-Director, Departmental Management dated September 29, 1982, Attorney General’s Opinion Number 82-00572 states, the “<i>Code of Alabama 1975</i>, Section 41-4-93, provides that, ‘All unencumbered balances of all appropriations shall revert to the State Treasury at the end of each fiscal year and to the credit of the General Fund or the special fund from which the appropriation or appropriations were made’. The implication of this section is that funds can be encumbered so they will not revert to the State. Of course, that implication does not defeat the overall purpose of the law. The purpose of the law is to forbid state departments and agencies from carrying forward unspent or unencumbered appropriations. <u>An agency cannot ‘creatively’ encumber all of its unspent funds for next year’s normal operational expenses...</u>” (Emphasis added)</p> <p><u>Recommendation:</u></p> <p>The Board should only encumber commitments that are related to unperformed contracts and should not include unenforceable commitments or intentions to spend. Requisitions and other intentions to spend money should not be included as part of the encumbered fund balance at year-end. Accounts payable should only represent liabilities of the state for goods and services received but not paid for by the end of the fiscal year.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-002	<p><u>Finding:</u> The Board adopted Administrative Rule 303-X-2-.01(12) to issue and charge a \$75.00 fee for a provisional license that is not authorized by statute. The Board collected unauthorized provisional license fees of \$40,200.00 in fiscal year 2020 and \$16,200.00 in fiscal year 2019. The provisional license allows individuals to engage in electrical contracting within a limited geographic boundary. This finding was reported in fiscal year 2009 as Finding 2009-003 and has been reported for each examination thereafter.</p> <p>Opinion to Honorable Dr. Benjamin F. Hooker, D.C., President, Alabama State Board of Chiropractic Examiners dated November 6, 1996, Attorney General’s Opinion Number 1997-036 states, “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>Recommendation:</u> The Board should discontinue issuing and renewing provisional licenses.</p>
2020-003	<p><u>Finding:</u> The Board incorrectly coded \$106,525.00 in penalty fees as license fees in fiscal year 2020. As a result, penalty fees were overstated, and licensure fees were understated in the accounting records.</p> <p>According to the State of Alabama Department of Finance’s Fiscal Policy and Procedures Manual, “Deposits of revenues include taxes, fees, fines, interest, rent, grants, and federal funds. Agencies are required to enter the four-digit revenue source code from the chart of accounts and select the revenue source code that describes the receipt that is being certified.”</p> <p><u>Recommendation:</u> The Board should use the correct revenue source codes to record their revenues in the accounting records.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-004	<p><u>Finding:</u></p> <p>The Board did not verify an employee’s eligibility through E-Verify or complete the Employment Eligibility Verification Form (I-9). As a result of the Board not verifying the employee’s employment eligibility through E-Verify, the Board could hire and employ an unauthorized alien.</p> <p>The <i>Code of Alabama 1975</i>, Section 31-13-15(b) states, “Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, <i>according to federal statutes and regulations governing E-Verify, shall verify employment eligibility of the employee through E-Verify.</i>”</p> <p>The Federal <i>Immigration Reform and Control Act of 1986</i> prohibits employers from hiring any individual, including a U. S. citizen, for employment in the U. S. without verifying his or her identity and employment authorization on Form I-9. Employers or their authorized representative must complete and sign the form within 3 business days of the employee’s first day of employment.</p> <p><u>Recommendation:</u></p> <p>The Board should E-Verify and complete I-9 forms for all new employees.</p>

***Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2018 through September 30, 2020***

	2019-2020	2018-2019
<u>Receipts</u>		
Electrical Contractor License	\$ 708,030.00	\$ 663,475.00
Professional/Occupational Board Penalties	7,500.00	
Total	<u>715,530.00</u>	<u>663,475.00</u>
<u>Disbursements</u>		
Personnel Costs	45,686.88	25,363.96
Employee Benefits	3,535.66	1,983.24
Travel, In-State	29,177.68	29,431.98
Travel, Out-of-State	2,336.64	3,710.11
Rentals and Leases	529.92	83.20
Utilities and Communication	5,981.32	6,134.96
Professional Services	512,951.76	535,629.23
Supplies, Materials, and Operating Expenses	30,528.82	22,991.19
Other Equipment Purchases		796.86
Total	<u>630,728.68</u>	<u>626,124.73</u>
Excess of Receipts Over Disbursements	84,801.32	37,350.27
Cash Balances at Beginning of Year	<u>101,087.28</u>	<u>63,737.01</u>
Cash Balances at End of Year	185,888.60	101,087.28
Reserve for Unpaid Obligations	<u>(73,846.38)</u>	<u>(101,087.28)</u>
Available Cash Balances at Year-End	<u><u>\$ 112,042.22</u></u>	<u><u>\$</u></u>

Board Members and Official
October 1, 2018 through September 30, 2020

Board Members		Term Expires
Hon. Johnny Grimes	Chairman	2021
Hon. Fred J. Moore	Member	2021
Hon. Terry L. Wallace	Member	2022
Hon. W. Waid McCreless, Jr.	Member	2021
Hon. Robert Lamborne	Member	2022
Hon. Theodore O. Blunt, Jr.	Member	2022
Hon. Shon Rogers	Member	2023
Hon. Jeremy Atchley	Member	2023
Hon. John Thomas	Member	2023
Hon. Mike Custred	Member	2020
Hon. Mark Lamborne	Member	2019
Hon. J. Bruce Taylor	Member	2020
Hon. Richard Meadows	Member	2019
Hon. Jesse Stutts, III	Member	2020

Official

Mr. Keith Warren
Executive Director
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