



Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES

**HOUSE POST AUDIT
AND
OVERSIGHT BUREAU**

ROOM 146

• STATE HOUSE •

BOSTON, MASSACHUSETTS 0213

In 1992, Speaker of the House, Charles F. Flaherty reorganized the House Post Audit and Oversight Committee (the "Committee"). Speaker Flaherty named Representative, William P. Nagle, Jr., Chairman and Representative John McDonough, Vice Chairman and directed them to restaff and reconstitute the House Post Audit and Oversight Bureau. That process was completed in late 1992.

This process HOUSE COMMITTEE ON POST AUDIT AND OVERSIGHT

recommendations that are FISCAL YEAR 1993 is 1993 Annual Report of the Bureau. **ANNUAL REPORT OF THE BUREAU**

The Bureau is charged with the responsibility to oversee compliance with legislative initiatives that are achieved by the budgetary process. The Speaker of the House has directed the Bureau to comply with those mandates and to seek out waste, fraud and abuse and to propose corrective actions and legislation where appropriate.

The House Post Audit and Oversight Bureau (the "Bureau") is the legislative auditing agency that monitors, investigates and evaluates state spending and compliance with **DATE OF COMPLETION:** and appropriation mandates. **SEPTEMBER 16, 1993**

Introduction

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Statutory Authority

The Bureau was created by M.G.L., c.3, s.64. Under the provisions of this statute, the Bureau is authorized to conduct performance audits of state programs, state agencies, state authorities, and political sub-divisions of the Commonwealth. The Bureau has the authority to "examine during regular business hours; any and all records including but not limited to books, reports, accounts, vouchers, bank accounts, and money or other property of any agency of the state...". Pursuant to this statute, the Bureau at the direction of the Post Audit and Oversight Committee (the "Committee"), conducts studies and investigations, reviews reports from the state auditor, and performs analysis and issues reports as necessary.

Objectives

The mission of the Bureau is to conduct performance audits (both "economy and efficiency" and "program" audits) and investigations of state agencies, appropriations, contracts and programs to ensure conformity with legislative intent and statutory language. The Bureau's principal function is to implement legislative oversight objectives by conducting audits, investigations and studies and by reporting its findings and recommendations to the full Committee and the Legislature.

Procedures

Requests for legislative performance audits and investigations can originate from any one of a number of sources. Individual representatives and committee members can originate requests. Agency employees, unions, public interest groups, and law enforcement agencies, as well as other oversight entities such as the State Auditor and the Inspector General can originate requests for performance audits and/or investigations as well.

Upon receipt of a request for an audit, investigation, or review, the Bureau will conduct a preliminary inquiry. The Bureau utilizes performance audit methods and standards for government auditing recommended by the United States General Accounting Office. After a preliminary review of the facts and circumstances, the Bureau will make a recommendation to the Committee. The Committee will then determine if a full inquiry and report is necessary. If the Committee approves of the Bureau's recommendations, it shall direct that a complete program audit or investigation be commenced. Such authorization shall normally occur at the regularly scheduled monthly meeting of the Committee. The record of the Committee action authorizing an investigation shall remain confidential until such time as the final report is issued. At the Chairman's request, the Bureau

may brief a member who requests a preliminary review when that subject is not recommended for further action by the Committee. This briefing will include a general outline of the Bureau's preliminary findings. If an emergency occurs or particular circumstances mandate an expedited investigation or audit, such investigation or audit shall be approved by an emergency meeting of the House Post Audit and Oversight Committee.

The Bureau may also issue special reports on issues that arise during other audits or on issues that arise from routine examinations of other programs. Special reports may be issued in lieu of full examinations and may recommend that additional examinations be performed. These actions include referrals to other agencies and/or further program or contract examination by the Bureau and/or the Committee.

The Bureau may issue preliminary reports of findings and after public hearings, depositions, and/or consultations with the affected agencies, issue interim and/or final reports. Preliminary, interim, special, and final reports may specify remedial actions as well as legislative changes.

It shall be the policy of the Bureau to conduct periodic follow-ups and reviews on all agencies and authorities that have been subject to prior audit and/or examination. Such follow-ups shall review any past problems identified and all remedial actions, if any, that have been taken in accord with the Bureau's reports.

to determine what remedial measures, if any, are necessary.

It shall also be the policy of the Bureau to recommend specific actions to the House Ways and Means Committee and/or the appropriate joint committee having jurisdiction over matters which are the subject of any report and/or investigation.

recommendations developed during investigations.

The Bureau shall review all reports of the State Auditor and the Inspector General and recommend changes and/or legislative remedies where appropriate.

6. The Bureau has the power to

Subpoenas question witnesses;

The House Post Audit and Oversight Committee has the power to issue subpoenas, summon witnesses, compel testimony, and require the production of documents. The Committee may authorize the Bureau to issue subpoenas to accomplish the purposes of the Committee and the Bureau. All subpoenas issued pursuant to G.L. c. 3, s. 63 and 64 shall be signed by the Chairman of the Committee or Vice Chairman, if so authorized by the Chairman.

Powers and Duties of the Post Audit Bureau

1. Oversee the development and implementation of a Legislative Auditing program of state agencies, constitutional offices, public corporations, authorities, and county government.
2. Receive reports of the State Auditor and conduct evaluations to determine what remedial measures, if any, are necessary.
3. Undertake special studies and investigations.
4. Report to the General Court from time to time with recommendations for legislative action based on the review of State Auditor's reports or upon the findings and recommendations developed during investigations.
5. Report to the Committee and the appropriate Joint Standing Committee, any findings and recommendations affecting matters before the respective committee.
6. The Bureau has the power to:
 - a. question witnesses;
 - b. take testimony;
 - c. review and oversee the production of books, papers, documents and any other evidence in connection with any examination and review.

Fiscal 1993 Highlights

The following are some of the major actions taken by the Bureau during the 1993 fiscal year. In developing the information and reports outlined below, the Bureau oversaw the production of documents in response to more than 100 subpoenas that were issued. In addition to the written reports, the Bureau questioned more than 200 people and took statements under oath from more than 40 witnesses.

1. University of Massachusetts, School of Physical Education Mismanagement of Funds

The Committee conducted an extensive investigation into the allegations of the mismanagement of funds and conducted a full audit and examination of the financial and management practices of the School of Physical Education and the Department of Athletics at the University of Massachusetts at Amherst. The Bureau interviewed more than seventy (70) individuals and examined thousands of pages of financial records. The Committee held three public hearings and questioned six (6) individuals under oath. The Bureau questioned seven (7) other witnesses under oath at various locations. The investigation also examined procurement practices, travel procedures, inventory control and grant administration at the University.

During the course of this investigation, the Bureau discovered several matters that had potential criminal implications and accordingly referred those matters to the Attorney General's Office for appropriate action. This caused the Bureau's investigation to be suspended pending completion of the Attorney General's investigation. The Bureau will resume its examination and issue final reports upon completion the Attorney General's review.

2. State Agencies Out of State Travel

In the course of conducting several performance audits, the Bureau encountered a wide range of issues relating to out of state travel by managers and administrators. It became apparent that there was no uniform evaluation system for determining the necessity of out of state travel by the administrators of state agencies and institutions.

Some agencies sent multiple employees to conferences that were general in nature and offered no specialized training or skills. It was also determined that some employees incurred higher expenses for trips that other employees attended for substantially lower costs. In some cases, the Bureau discovered

that the Commonwealth paid for conferences that were not even attended. It appears in those cases that the travel was personal in nature.

The Bureau is currently conducting a more comprehensive investigation that will focus more extensively on out of state travel, specifically the sending of multiple employees to the same event, as well as travel that combines personal activities with state business.

3. EOTC/MBTA Interagency Agreement

In a report issued by the Bureau in June, 1993, it was discovered that substantial duplicative spending arose from an Interagency Agreement between the MBTA and the Executive Office of Transportation ("EOTC").

In several cases, EOTC and the MBTA were performing duplicative services, such as EOTC performing press related functions for the MBTA when the MBTA had a substantial Communications Department. In addition, MBTA employees performed work for EOTC while being paid by the MBTA without documentation of any transfer policy or any documents formalizing the transfer. Some of these positions remained open while the employee was at EOTC.

MBTA employees also performed other work for EOTC without payment to the MBTA for services performed. While services were duplicated inside the two Departments, additional outside contractors were brought in to perform work that MBTA and/or EOTC departments were capable of completing. A listing of the MBTA personal service contracts over \$25,000 revealed unusually high expenditures on lobbying and legal representation. The MBTA should have been able to provide most, if not all of these services without resort to the use of consultants.

The purpose of the Interagency Agreement appears to be to fund EOTC executive staff at the MBTA's expense. It remains questionable whether or not some of the work performed by EOTC is related to long term planning as the Agreement mandates. The review indicated that there were several concrete examples of EOTC's involvement in various operational activities that would have been more appropriately handled by MBTA staff. In regard to these types of activities, EOTC has gone beyond the scope of the Agreement. The language of the Agreement has continued to expand since its inception in 1975 and now appears well beyond the original statutory mandate. The current operation of this agreement not only results in duplication, but also hinders legislative and budgetary oversight of these agencies.

4. Department of Industrial Accidents
Office of Safety Grants Selection Process

The Bureau was asked to examine a \$400,000 annual grant selection process for FY'93 by which the Department of Industrial Accidents' Office of Safety provided grants to various organizations for the purpose of promoting occupational health and safety education in the work place.

The Bureau found that the grants selection process for FY'93, was fundamentally flawed, arbitrary and not supported by documentation sufficient to lead an objective reviewer to conclude that the process was informed, open and fair. The Bureau found that the process initiated in fiscal 1993 was radically altered from what had once been a highly respected and well understood process and was changed to one that was arbitrary and easily manipulated.

The Bureau recommended that language be added to the Department of Industrial Accidents' budget to ensure that the grants selection process will be administered under the direction of an autonomous board comprised, at least in part, occupational safety and health representatives from various fields. The Bureau also recommended that its examination of the Department of Industrial

Accidents be expanded to include other aspects of the Department's activities. necessary to make such a program successful and effective as an

5. Executive Office of Public Safety
Boot Camp Program

The Bureau was asked to examine the Department of Corrections ("DOC") establishment of a boot camp, at MCI Bridgewater. The Boot Camp program was established by Executive Order and did not go through the normal public hearing and comment process of a legislative initiative. The administration rushed forward with the construction of a brand new facility to house inmates for a boot camp program that had never been tried before in Massachusetts. The Bureau's review of the facility led to the initial conclusions that the Boot Camp was unnecessarily expensive, underutilized, and suffered from a lack of comprehensive planning.

The Bureau found that there were problems with the "classification system" used to determine a prisoner's eligibility for the boot camp program. In addition, the Bureau noted issues regarding an inmate's outstanding warrants and eligibility for parole as problematic.

The initial report supported the concept of a boot camp as an experimental program alternative to traditional incarceration,

however the report was critical of such a large expenditure of funds without the proper long term planning and research necessary to make such a program a successful and effective as an alternative to traditional incarceration.

6. Contract for Disparity Study

The Bureau and the Committee conducted an extensive review of EOTC's process of awarding a contract for a disparity study. EOTC had been authorized to develop a disparity study that would be used to determine whether there was a factual predicate that supported the Commonwealth's Minority Business Enterprise/Women's Business Enterprise ("MBE/WBE") programs. The Bureau's initial report found the selection process to be arbitrary, capricious, and with strong overtones of a politically motivated process. The selection process failed to give any adequate explanation for its decision to go with a company with apparent tax problems, and which was almost 250,000 higher than the low bidder. The total cost of the project was originally estimated at one million dollars.

The Bureau is continuing to monitor this contract. The Bureau and the Committee remain concerned that the final disparity report be completed in a timely and effective manner. Failure to

do so would result in serious negative impacts on the state MBE/WBE programs.

7. MWRA Sub-Committee Report

A Sub-Committee of the Post Audit Committee on the MWRA oversaw the Bureau's development of a preliminary report on cost savings and other measures that could benefit MWRA ratepayers.

The Bureau conducted an extensive review of health and safety. The Bureau did an extensive investigation that focused on lower cost alternatives including reducing the size of the treatment facility located at Deer Island. The Sub-Committee and the Bureau had extensive contact with MWRA engineers and experts in the waste water field. One of the results of the examination was an agreement to test chemical enhanced primary treatment ("CEPT") as a potential way of reducing the amount of secondary treatment that would be needed. The Committee explored this option as a way of saving construction costs and still comply with all environmental concerns and the mandates of the court ordered cleanup.

The Sub-Committee and the Bureau issued a number of preliminary recommendations, including:

- o provide grants for rate relief;
- o develop proposals designed to reduce flows of sewerage;

- o promote exploration of new technologies to limit construction costs;
- o promote programs for conservation; and
- o prioritize an expansion of coastal monitoring to ensure water quality.

8. Tewksbury State Hospital

The Bureau conducted an extensive review of health and safety issues related to the closure of Danvers State Hospital and the transfer of Department of Mental Health ("DMH") clients to Tewksbury State Hospital. The Bureau noted that the planning process and patient safety were major issues of concern as highlighted by the failure of DMH and DCPO to install a sprinkler system in a timely fashion. The current DMH plan calls for installation of the system after the DMH facilities have been completely renovated. This will not only result in unnecessary additional construction costs which will be incurred by tearing up certain portions of the facility just renovated, but may jeopardize the welfare of the DMH clients in the facility. The Bureau's report was critical of the lack of planning that led to this conversion and the rush to obtain medicaid reimbursement.

9. Housatonic Railroad Company

The Bureau was asked to conduct a preliminary examination into the performance of the Housatonic Railroad Company's ("HRRC") use

of state funds in rehabilitating the Canaan Branch rail line.

The thirty-five point nine (35.9) mile rail line runs from
Pittsfield, Massachusetts to Canaan, Connecticut.

The Commonwealth of Massachusetts, through the Executive Office
of Transportation and Construction ("EOTC"), entered into Grant
Agreements LRSA-MA-85 and LRFA-MA-91 with the Federal Rail
Administration under its Local Rail Service Assistance Act Grant
Program to assist HRRC in meeting the cost of rehabilitating the
Canaan Branch rail line. The Bureau is in the process of
determining whether HRRC has complied with all the requirements
set forth in the state grant agreements.

10. The Privatization of Essex County

The Bureau performed an extensive examination of the
Massachusetts Highway Department's ("MHD") efforts to privatize
the highway maintenance in Essex County. The initial report
issued by the Bureau was highly critical of the contract as
drafted as it failed to provide for proper oversight of functions
and delegated significant policy making and oversight to the
principal contractor. The report noted that the current effort
focused more on cosmetic maintenance such as grass cutting and
litter pick-up and less on capital preserving measures such as
crack sealing and preventive maintenance.

The Bureau's initial examination revealed that contract deadlines in major areas had not been adhered to and that in some cases specifications had been modified in the field without proper documentation. The Bureau's review found little evidence of any detailed effort to conduct a cost benefit analysis of maintenance functions or any efforts to establish a well balanced prioritization of critical maintenance activities that matched resources and programs in a cost effective manner.

The Bureau soundly disputed MHD's claim of success noting a fallacious basis of comparison to what was done previously. The Bureau also found that the structure of the contract made program auditing especially difficult. The Bureau's examination had found conscious reductions of maintenance efforts prior to privatization including failure to repair equipment, reallocation of staff and transfer of equipment. In addition, the Bureau noted the analytical problems facing an objective analysis of the contract as historical trends showed significant reductions in MHD maintenance resources both in personnel and equipment, while at the same time, MHD faced increasing responsibilities in terms of the number of lane miles and road surfaces to be maintained.

comprehensive and thorough review in light of all maintenance

11. Kennedy School Critique -

The Bureau issued a special report which critiqued a report produced by graduate students at the Kennedy School of Government, which MHD has used to substantiate its claims that the privatization effort in Essex County was a success. The Bureau critique noted that the Kennedy School report was issued before more than 60% of the contract had been performed and was based in large part on public relations statements and other materials provided by MHD. The Kennedy School report was not a performance audit, but was more of an academic discussion of privatization efforts. In addition, the authors of the report did not conduct site visits to determine if the work mandated by the contract was actually performed. substantial negative impacts

that the closing of the offices and relocating of employees had,

12. The Motorist Aid Call Box System as well. The Bureau and

The Bureau issued a preliminary report on the award of the Motorist Aid Call Box Contract. The Bureau continued with an ongoing investigation into the award of the contract. The preliminary report highlighted the deficiencies in MHD's approach to the development of the contract as well as the process by which necessary information was obtained. The report also highlighted MHD's failure to address the project in a

comprehensive and thorough manner in light of all maintenance priorities.

13. DOR District Office Closings

The Bureau issued two reports on the closing of the district offices of the Massachusetts Department of Revenue ("DOR"), and the layoff of 80 tax auditors. The Bureau's report focused on mismanagement in the agency and the substantial negative fiscal impact of these shortsighted decisions. The Bureau noted the loss of compliance resources and field presence resulted in substantially less tax revenue that would otherwise have been produced.

In addition, the Bureau detailed the substantial negative impacts that the closing of the offices and relocating of employees had, not only on productivity, but on morale as well. The Bureau and the Committee proposed budgetary language to re-open the district offices and establish minimum staffing levels of the different types of tax auditors. The Bureau also strongly recommended that the DOR give the same level of commitment and enforcement of the tax laws that was done to Child Support Enforcement and that management of DOR not pit Child Support Enforcement resources against tax enforcement resources.

Conclusion

These are the highlights of the Bureau's activities in fiscal year 1993. Several other projects commenced in fiscal 1993 are continuing and will result in additional reports and recommendations in fiscal 1994. The Bureau continues to receive additional referrals and hopes to build upon the results of the 1993 fiscal year.

