

November 30, 2012

The Honorable Edward J. Kasemeyer, Chair
Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West Wing
11 Bladen St.
Annapolis, MD 21401

The Honorable Norman H. Conway, Chairman
House Appropriations Committee
House Office Building, Room 121
6 Bladen St.
Annapolis, MD 21401

Dear Chairman Kasemeyer and Chairman Conway:

I herewith transmit, on behalf of the Department of Labor, Licensing and Regulation and the State Elevator Safety Review Board, the 2012 annual report on the implementation of the Elevator Safety Review Board Fund as required by Chapter 484 of 2008.

This report also serves to satisfy the annual reporting requirement for years 2009, 2010, and 2011. I apologize on behalf of the Department and the Board for our failure to submit the required reports for the prior three years.

Should you or any of your committee members have follow-up questions or concerns regarding the report, please do not hesitate to contact me directly. I can be reached by telephone at (410) 230-6225 or by e-mail at mvorgetts@dllr.state.md.us.

Sincerely,



Michael Vorgetts
Deputy Commissioner

cc: Leonard J. Howie, III, Secretary
Harry Loleas, Commissioner of Occupational and Professional Licensing
Steven Smitson, Assistant Commissioner
Edward Hord, Chair
Raquel Myers, Administrative Specialist
Jill Porter, Legislative Director
Erika Schissler, Committee Analyst
Joshua Watters, Committee Analyst

November 30, 2012

The Honorable Joan Carter Conway, Chair
Senate Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, 2 East Wing
11 Bladen St.
Annapolis, MD 21401

The Honorable Dereck E. Davis, Chairman
House Economic Matters Committee
House Office Building, Room 231
6 Bladen St.
Annapolis, MD 21401

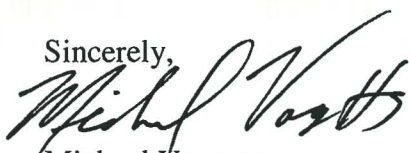
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Michael Vorgetts
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Raquel Myers, Administrative Specialist
Jill Porter, Legislative Director
Sara Fidler, Committee Analyst
Laura Atas, Committee Analyst

2012 ANNUAL REPORT ON THE IMPLEMENTATION OF THE ELEVATOR SAFETY REVIEW BOARD FUND

Chapter 484 of 2008 requires the Elevator Safety Review Board, in conjunction with the Department of Labor, Licensing and Regulation to submit a report by October 1 of each year to the Senate Budget and Taxation Committee, the Senate Finance Committee, the House Appropriations Committee, and the House Economic Matters Committee on the implementation of the Elevator Safety Review Board Fund.

This document serves as the report for years 2009 through 2012. Beginning in 2013, the Department will ensure that reports are submitted on an annual basis.

Fiscal History of the Elevator Safety Review Board

Although the board was created by Chapter 703 of 2001, the board first received an appropriation in fiscal 2009. Chapter 484 of 2008 established the Elevator Safety Review Board Fund, which includes fee revenues generated from licensing of elevator mechanics and contractors, registration of third-party qualified elevator inspectors, follow-up elevator inspections, and elevator inspections in which pre-inspection criteria have not been met.

From fiscal 2009 through 2011, the Board did not generate any licensing fee revenue because it was not issuing licenses during that time period. Therefore, revenues were generated only from the remaining three activities, which are administered by the Division of Labor and Industry (DLI) within DLLR. Due to coding errors in accounting for the revenues generated for the Board from the three nonlicensure-related sources, revenues for the Elevator Safety Review Board Fund were accidentally commingled with other revenues generated by DLI through its Safety Inspection Program and other related activities.

Overview of Accounting Errors and Comingling of Funds

After extensive consultation with representatives of the Department's Office of Budget and Financial Services (OBFS) and DLI, it is clear that the comingling of various types of funds in the Elevators Safety Review Board Fund occurred over several years due to a series of miscommunications, a lack of oversight of deposits and how those deposits were recorded in the accounting system, and turnover at OBFS.

It is clear that for several years DLI deposited boiler inspection fees and miscellaneous fine or citation revenues into the fund along with elevator fees and other revenue required by law to be deposited in this fund. Apparently DLI and OBFS officials did not have an understanding regarding which party was responsible for ensuring that the monies were separated and deposited into the correct program cost accounts, which

would result in elevator monies being directed to the newly created special fund and other monies being deposited in the State's general fund.

In calendar 2011 OBFS hired a new chief of accounting and deputy chief of accounting. The new accounting team has dedicated a significant amount of time to reviewing and analyzing the fund and the comingling of monies that occurred for several fiscal years. **Exhibit 1** shows the amount of elevator-related monies that should have been deposited into the fund and the amount of money that was due to the general fund in fiscal 2011.

Exhibit 1
Division of Labor and Industry Revenue Disposition
Fiscal 2011

	Total Received	Special Fund	General Fund
July	\$13,650	\$7,000	\$6,650
August	12,450	6,250	6,200
September	5,650	2,500	3,150
October	5,250	1,500	3,750
November	6,750	3,850	2,900
December	11,150	2,500	8,650
January	6,956	2,250	4,706
February	15,074	5,281	9,793
March	6,150	2,550	3,600
April	10,852	5,050	5,802
May	9,650	2,600	7,050
June	22,064	4,700	17,363
Total	\$125,646	\$46,031	\$79,614

Source: Department of Labor, Licensing and Regulation

Although the fund was entitled to only \$46,031 in fiscal 2011, \$125,646 was credited to the fund. Board expenditures were \$50,109 in fiscal 2011. Thus, \$75,423 was reverted to the general fund at the end of the year; this amount is slightly lower than what the general fund should have received.

Unfortunately, OBFS cannot provide a similar breakdown for fiscal 2012. Apparently, DLI's internal recordkeeping practices changed in fiscal 2012 and it is not feasible to evaluate the various records independently to produce an accounting of the monies that should have been deposited into the various funds in fiscal 2012. Despite the fact that the comingling of monies continued to occur in fiscal 2012, it is safe to assume that all of the DLI monies that should have been directed to the general fund were reverted at the end of the fiscal year because the Board began issuing licenses and, thus, generated roughly \$61,000 in licensing revenue un fiscal 2012. Total Board expenditures

were \$90,891 in fiscal 2012. According to OBFS, the Board reverted \$137,287 to the general fund at the end of fiscal 2012.

The lingering issues with proper disposition of funds have been resolved for fiscal 2013. OBFS and DLI have worked closely to develop rigorous standards and practices to ensure that monies are deposited accurately and information is shared effectively. Effective July 1, 2012, DLI has instituted a procedure requiring all deposits to be tracked carefully and entered into an internal database. Every three months DLI will issue a report to OBFS and the Division of Occupational and Professional Licensing that lists total special and general fund deposits. The first report was recently issued by DLI. OBFS advises that it evaluated the DLI report and found that the amount of revenue due to the special fund matched the amount that appeared in the Board's PCA. The remaining monies were directed to the general fund, as specified in State law.

Accounting history fiscal 2009 through 2012

Unfortunately, data is only currently available for fiscal 2011. In that year, \$46,031 was generated from registration fees for third-party elevator inspectors, fees charged for follow-up elevator inspections, and fees charged for elevator inspections in which pre-inspection criteria have not been met.

Fiscal 2013 revenue projection

Based on the limited data available, the Division projects that the fund will receive approximately \$52,000 in revenues from DLI in fiscal 2013.

Licensing totals for fiscal 2012 and projection for fiscal 2013

Exhibit 2 displays licensing totals for fiscal 2012 and projected totals for fiscal years 2013 through 2017. The Division notes that the Board is poised to undertake a major licensing initiative in this fiscal year; nearly 700 new licenses will be issued in fiscal 2013.

Exhibit 2
Historical and Projected Total Licenses
Elevator Safety Review Board
FY 2012 – 2017

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
New Mechanics	290	650	100	10	10	10
New Contractors	10	25	5	1	1	1
Renewal Mechanics	0	0	290	650	390	660
Renew Contractors	0	0	10	25	15	26
Licenses Issued	300	675	405	686	416	697

Source: Department of Labor, Licensing and Regulation

Sufficiency of the fund balance and fiscal 2012 elevator mechanic and contractor licensing revenues

Exhibit 3 displays historical and projected fiscal activity for the Board between fiscal 2010 and 2017. As mentioned previously, some information is missing between fiscal 2010 and 2012. However, the exhibit shows that the 300 licenses issued in fiscal 2012 resulted in \$61,000 in revenue in that fiscal year. Licensing revenues are expected to be significantly higher in fiscal 2013 as the bulk of individuals who are required to be licensed by the Board achieve licensed status during this fiscal year. Thus, the Division projects about \$137,500 in licensing revenue in fiscal 2013.

The fact that the majority of licensees will achieve licensed status during fiscal 2013 creates a difficult fiscal situation as the Board has a lapsing special fund. Unlike other special funds, which may accrue a fund balance, the Elevator Safety Review Board Fund may only carry over 10% of its end-of-year balance. Thus, due to the anticipated licensing renewal trends, the sufficiency of the Board revenues is less certain than it would be if the special fund were nonlapsing. Nevertheless, the Division projects that Board revenues will be sufficient to cover anticipated expenditures through fiscal 2017.

Exhibit 3
Elevator Safety Review Board Historical and Projected Fiscal Activity
Fiscal 2010 – 2017

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Beginning Balance			\$11	\$2,112	\$8,582	\$2,026	\$7,437	\$1,645
New Mechanics	0	0	\$58,000	\$130,000	\$20,000	\$2,000	\$2,000	\$2,000
New Contractors	0	0	\$3,000	\$7,500	\$1,500	\$300	\$300	\$300
Renew Mechanics	0	0	\$0	\$0	\$58,000	\$130,000	\$78,000	\$132,000
Renew Contractors	0	0	\$0	\$0	\$3,000	\$7,500	\$4,500	\$7,800
Licensing Revenues	0	0	\$61,000	\$137,500	\$82,500	\$139,800	\$84,800	\$142,100
DLI Revenues*		\$50,222	\$51,000	\$52,000	\$53,000	\$54,000	\$55,000	\$56,000
Total Revenues		\$50,222	\$112,011	\$189,500	\$135,500	\$193,800	\$139,800	\$198,100
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Expenditures	\$47,904	\$50,109	\$90,891	\$93,618	\$96,426	\$99,319	\$102,299	\$105,368
New Staff Costs**				\$10,067	\$18,811	\$20,114	\$21,049	\$22,029
Total Expenditures	\$47,904	\$50,109	\$90,891	\$103,684	\$115,237	\$119,433	\$123,348	\$127,396
Fund Balance		\$113	\$21,120	\$85,816	\$20,263	\$74,367	\$16,452	\$70,704
Reversion (90%)		\$102	\$19,008	\$77,234	\$18,236	\$66,931	\$14,807	\$63,633
Carry Over (10%)		\$11	\$2,112	\$8,582	\$2,026	\$7,437	\$1,645	\$7,070

*Reflects modest projection based on limited available information.

**The Board currently does not have an executive director. However, the Division is in the process of hiring an individual who will be responsible for the Board and four others. "New staff costs" reflects additional expenditures associated with this employee based on the portion of that person's work time that is expected to be dedicated to the Board.

Source: Department of Labor, Licensing and Regulation