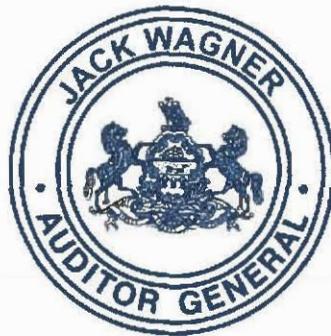


**TESTIMONY ON HOUSE BILLS 939 AND 2002**

**HOUSE GAMING OVERSIGHT COMMITTEE**



**Auditor General Jack Wagner**

**January 18, 2012**

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Department of the Auditor General  
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Good morning, Chairman Schroder, Chairwoman Youngblood and committee members.

Thank you for the opportunity to discuss these two important pieces of legislation related to the state's gaming industry. Also, I would like to thank Chairman Schroder for agreeing to move the two bills at the same time and for understanding the importance of balancing mandates with current financial constraints.

The Department of the Auditor General produces thousands of audits each year. We audit the state's 500 school districts, 650 liquor stores, 27 state correctional facilities, and 14 universities under the State System of Higher Education, as well as all state government executive branch agencies and thousands of municipal liquid fuel and pension funds, volunteer firefighters' relief associations and local government offices such as magisterial district judges that collect funds on behalf of the state.

I am proud of the record of accomplishment that the Department of the Auditor General has achieved during my seven years in office. We have never ducked the tough issues and we have taken on the subjects of greatest concern to taxpayers, such as the hidden cost of buying out school superintendent contracts ... and the millions wasted on no-bid government contracts.

I am here today to urge this committee to allow the Department of the Auditor General to be reimbursed for our audits related to the gaming industry. Currently,

the Gaming Control Board pays the State Police, Attorney General, and Department of Revenue for their oversight. This amounts to \$19 million for the State Police, \$1 million for the Attorney General, and \$9.5 million for the Department of Revenue. Our role in ensuring that Pennsylvania's gaming industry operates legally and that it provides all of the property tax revenue that has been promised to taxpayers is just as essential as other agencies of state government. In fact, our Department provides a unique perspective on the structure and effectiveness of the Board that the other oversight agencies do not focus on in their reviews. Taxpayers should not pay for these audits, the gaming industry itself should be financially accountable.

In the last few years, we have added new auditing responsibilities, including dozens of additional municipal pension plans and over 150 charter and cyber-charter schools, as well as the Pennsylvania Gaming Control Board, all of this while our staff complement has steadily shrunk due to budget constraints.

Since casino gaming became legal in Pennsylvania in 2004, the Department of the Auditor General has made it a priority to oversee the Gaming Control Board and gaming in Pennsylvania. Since 2009, we have completed two special performance audits of the board, one on the board's hiring practices and sharing of background information of gaming applications, and the second on the board's procurement process and travel expenses.

My department released its first audit of the Gaming Control Board in May 2009, in which we sought to determine whether Pennsylvanians were hired for most casino jobs, and whether there was racial and gender diversity. As of Dec. 31, 2008, the board reported that 94 percent of casino employees were state residents; 49 percent were women; and 18 percent were minorities. We also found that the

Gaming Control Board itself hired state residents and promoted diversity. In fact, 93.6 percent of board employees as of May 10, 2007, were commonwealth residents at the time of hiring. As of Dec. 31, 2008, the board reported that 44 percent of its employees were women, and 13 percent were minority employees.

Both the Gaming Control Board and the casinos hired over 90% Pennsylvania residents. Women and minorities are employed at percentages above the averages in state government.

Our special performance audit also found that there was a flaw in the gaming law with regard to the sharing of background information about casino owners and employees. Specifically, the law did not clearly define the roles and responsibilities of investigative agencies in sharing background information. This led to the awarding of a casino license that was later changed, which damaged public confidence in the Gaming Control Board and its vetting process.

Our findings highlighted a flaw in the overlapping roles of investigating agencies. Our audit noted that the law designates the Gaming Control Board's Bureau of Investigations and Enforcement as a "criminal justice agency," but the Pennsylvania State Police and the FBI do not recognize that designation and instead have said they cannot share all their information with Gaming Control Board investigators. As a result, the Gaming Control Board could be licensing casino owners and gaming employees without possessing all relevant information. Around that time, there was a pending perjury investigation of one license awardee, but charges were dropped after the licensee agreed to transfer ownership of the casino to a family member.

Our second audit, released in December 2010, found that the Gaming Control Board failed to adhere to state procurement procedures and failed to comply with

the Sunshine Act in the awarding of \$8.7 million in contracts for legal and other professional services through competitive sealed bid, emergency, and sole-source contracts.

Our review of 23 professional service contracts awarded by the Gaming Board found serious flaws, including the board's failure to hold open meetings for the awarding of contracts, and its failure to ensure that sufficient records of justification were maintained to support contracting decisions. The Sunshine Act mandates that open meetings are held for official action and deliberations regarding decisions on agency business, including the creation of a liability by contract, and the substance of such decisions must be disclosed in open meetings and outlined in meeting minutes. We found that at least 19 of 23 service contracts did not comply with the act.

In that audit, we also found that the Gaming Control Board spent excessively on travel during the three-year audit period, with spending reaching nearly \$2 million.

Among the expenditures:

- Governing board members and some top staff unnecessarily claimed meal reimbursements at two-and-one-half times more than the state's standard reimbursement rate,
- Four governing board members and a staff executive spent at least \$33,000 for a trip to Rome, and
- Governing board members did not justify their stays at expensive hotels, and received reimbursements for rooms paid for guests who traveled with the gaming officials.

We have also worked to ensure that all homeowners in Pennsylvania are receiving the property tax relief from gaming that they were promised when slots gaming became law. In February 2010, we released a special report which found that potentially hundreds of thousands of Pennsylvania homeowners are not receiving the tax relief from slots casinos revenue because the state has created a complicated, fragmented and cumbersome application process that discourages participation.

Gaming revenues fund two types of property tax relief: restricted eligibility, for low-income homeowners, mostly senior citizens, and open eligibility, for homeowners of all ages and incomes, but our report found that many property owners are not even aware that they are eligible for tax relief. It is impossible to estimate precisely how many eligible Pennsylvania homeowners have not received the property-tax relief to which they are entitled because of the fractured system. We do know that based on a review of information provided by 49 counties, at least hundreds of thousands of three million residential properties in those 49 counties had not received any tax reduction through January 2010. The primary reason as to why Pennsylvania homeowners are missing out on property tax relief is that it is not automatic; homeowners must apply for it. We found that some homeowners never received applications and some homeowners who did were confused by the one-page applications. The principal cause of confusion was the use of the antiquated words “homestead” and “farmstead,” which erroneously led some homeowners to conclude that they weren’t eligible.

We recommended in that report, and still recommend, that one single agency, such as the Department of Revenue, should be responsible for making sure that the property tax relief program operates as it was intended by the Taxpayer Relief Act

and the Pennsylvania Race Horse Development and Gaming Act so everyone gets the relief they were promised.

These audits and the special report are just the beginning of the work associated with gaming that the Department of the Auditor General will complete. I can assure this committee that, with continued monitoring, my department will keep taxpayers informed and their interests protected by reviewing the work of the Gaming Control Board.

As to the two bills under consideration by this committee, I would like to express my full support for both, and offer my thanks to Rep. Gary Day and Rep. Randy Vulakovich for sponsoring these important bills.

With regard to House Bill 2002 (Printer's Number 2746), which would require the Department of the Auditor General to audit the Gaming Control Board every two years, I truly believe that ongoing performance audits of the board are a great way to ensure that it is following the intent of the gaming law and other important laws, such as the Commonwealth Procurement Code and the Sunshine Act. We also have a responsibility to make sure that the commonwealth and taxpayers are getting their fair share of gaming revenues. As long as I am auditor general, this department will continue to make these audits a priority.

House Bill 939 (Printer's Number 1007) would allow the Department of the Auditor General to be reimbursed by the Gaming Control Board for our gaming audits. This is something I have been asking for since our first gaming audit. The Department of the Auditor General plays an important role in making sure that Pennsylvania's gaming industry operates legally and transparently, and that it provides all of the property tax relief that has been promised to taxpayers. As indicated previously, the board pays the State Police, Attorney General, and

Department of Revenue for their oversight and I would argue that our role is as important, if not more important, than those agencies when it comes to the issue of gaming, especially as the last few casinos continue to come on line. Taxpayers should not pay for our audits of the gaming industry. HB 939 would not give special treatment to the Department of the Auditor General, it would give us equal treatment with other agencies that are paid for their gaming-related work by the gaming entities.

Thank you for the opportunity to discuss my department's gaming-related work and these important pieces of legislation with your committee. I am happy to answer any questions you may have.

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