



## **ARIZONA BOARD OF FINGERPRINTING**

Mail Code 185 • Post Office Box 6129 • Phoenix, Arizona 85005-6129  
Telephone (602) 265-0135 • Fax (602) 265-6240

### **Final Minutes for Public Meeting**

Held August 17, 2012, at 9:15 a.m.

4205 North 7th Avenue, Second Floor Conference Room  
Phoenix, Arizona

#### **Board Members**

Charles Easaw, Department of Education, Chairperson  
Matthew A. Scheller, Department of Juvenile Corrections, Vice Chairperson  
Chad Campbell, Administrative Office of the Courts  
Dale Doucet, Department of Economic Security  
Kim Pipersburgh, Department of Health Services

#### **Executive Director**

Dennis Seavers

### **CALL TO ORDER AND ROLL CALL**

Mr. Easaw called the meeting to order at 10:22 a.m. The following Board members were present: Charles Easaw, Matthew A. Scheller, Chad Campbell, Dale Doucet, and Kim Pipersburgh.

Also in attendance was Dennis Seavers, Executive Director.

### **CALL TO THE PUBLIC**

Mr. Easaw made a call to the public. There were no members of the public who wished to speak.

## **APPROVAL OF MINUTES**

Mr. Scheller made a motion to approve the draft minutes from the August 3, 2012 meeting. Mr. Doucet seconded the motion, which passed, 5–0.

## **EXECUTIVE DIRECTOR'S REPORT**

### *Fiscal year 2012 budget report*

Mr. Easaw referred Board members to Mr. Seavers's August 13, 2012 report on the fiscal year (FY) 2012 budget (see Attachment 1). Mr. Easaw asked whether there was a possibility of future fund sweeps. Mr. Seavers noted that if the economy worsened or the state faced a similar budget crisis as in recent years, the Board could face additional fund sweeps. However, he believed that there was no reason to expect fund sweeps in the upcoming year.

### *Fiscal year 2012 strategic-plan report*

Mr. Easaw announced that this agenda item would be discussed at a subsequent meeting.

### *Update and discussion on Senate Bill 1136 implementation*

Mr. Seavers reported that the Board had not yet received any central-registry-exception applications.

## **ADOPTION OF BUDGET FOR FISCAL YEAR 2013**

Mr. Seavers referred Board members to his August 14, 2012 proposal for the FY 2013 budget (see Attachment 2). He said that the proposed budget reflected two priorities: (1) improving the Board's compliance with time frames for hearings, and (2) updating the Board's technology.

Mr. Easaw tabled this agenda item until August 31, 2012.

## **SUNSET HEARING AND LEGISLATION**

Mr. Easaw referred Board members to Mr. Seavers's August 13, 2012 memo on the Board's sunset hearing and the proposed response to the committee of reference (see Attachment 3).

Mr. Scheller made a motion to adopt the proposed response, and Mr. Campbell seconded. The motion passed, 5–0.

## **ELECTIONS**

Mr. Easaw referred Board members to Mr. Seavers's August 1, 2012 memo on elections (see Attachment 4).

Mr. Doucet made a motion for Mr. Easaw to continue as chairperson and Mr. Scheller to continue as vice chairperson. Ms. Pipersburgh seconded the motion, which passed 5–0.

## **ADJOURNMENT**

Ms. Pipersburgh made a motion to adjourn. The motion passed, 5–0. Mr. Easaw adjourned the meeting at 10:45 a.m.

Minutes approved on August 31, 2012

---

Dennis Seavers, Executive Director



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 13, 2012  
**SUBJECT FY 2012 budget report**

---

The agenda for the Board's August 17, 2012 meeting includes a report from the executive director on the fiscal year (FY) 2012 budget performance. To help expedite the meeting, I've prepared this memo, which summarizes the Board's budget performance in FY 2012. Attachment 1 details the Board's expenditures and revenues, with a comparison to the approved FY 2012 budget.

## **SUMMARY**

- The fund balance at the beginning of FY 2012 was \$558,765.84.
- The Board had \$937,657 in revenues.
- The Board had \$596,180.18 in expenditures. Of the expenditures, \$105,800, or 17.75%, was for legislatively mandated fund transfers. The Board's operational expenses (not included fund sweeps) were \$490,380.18.
- The fund balance at the end of FY 2012 was \$900,242.66.

## **DISCUSSION**

*Health of the Board of Fingerprinting Fund has greatly improved*

The list below shows the end-of-FY balances for the Board of Fingerprinting Fund since the end of FY 2010.

- End of FY 2010: \$181,692.06
- End of FY 2011: \$558,765.84
- End of FY 2012: \$900,242.66

Since 2010, the health of the fund has improved, in large part because the Board has continued to operate with low staffing levels since the February 2010 reduction in force. In addition, there has been a significant increase in the number of fingerprint-clearance-

card applications in the past few years, which has generated more revenue for the Board.

This healthy fund balance will allow the Board to increase its staffing resources, which will be necessary to return the Board to compliance with statutory time frames and to cope with the addition of a new function (central-registry exceptions).

*Revenues have remained constant*

Although the high number of fingerprint-clearance-card applications may be due to temporary factors—such as the bad economy and the cyclical nature of application renewals—the caseload has remained constant for two years. As a result, the Board's revenues have remained constant, a phenomenon that contrasts with the erratic revenues in previous fiscal years. (This erraticism was due to vicissitudes in the caseload of fingerprint-clearance-card applications and was not due to actions by the Board.)

*Specific areas of difference between expenditures and budget*

Attachment 1 provides a comparison of actual expenditures and revenues with the FY 2011 budget. The list below explains areas where there are notable differences in spending.

- 6299 – Other Professional & Outside Services. This category includes miscellaneous costs from external sources and consultations, such as security and database programming. The Board had anticipated making upgrades to its database, but these costs were deferred to FY 2013 because the Legislature was adding a new function to the Board (central-registry exceptions), which would require a more comprehensive review of programming costs.
- 7172 – External Communications (Long-distance, In-state) This category refers to telecommunications costs on the statewide contract. Although the actual costs were lower than budgeted, the costs were simply categorized differently during part of the fiscal year. Many of the costs instead appear under 7179 (see next bullet point).
- 7179 – Other External Communications. As indicated above, some of the anticipated costs that appeared in the Board's budgeted were categorized differently during the fiscal year. In addition, charges related to the move fell under this category. To cover the additional expenses, I made adjustments in other areas of the budget.
- 8531 – Computer Equipment (Non-capital). This category covers non-capital computer equipment. The expenditures for computer equipment were approved under 8551 but were categorized differently for accounting purposes. The additional expenditures of \$963.98 were due to an unanticipated computer purchase. This purchase was necessary after a computer was infected with a virus, and the cost of repair would have been close to the cost of a new computer.

- 8551 – EDP Equipment (Non-capital). As indicated above, expenditures that were budgeted in this category were categorized under a different accounting code.

### Attachment 1 - FY12 Budget Report

	FY12 Budget	FY12 Actual	Difference
<b>REVENUES</b>			
<b>4900 - Operating Transfers In</b>			
Prior FY Carryover	\$ 558,765.84	\$ 558,765.84	
4901 - Oper. Transfers In	\$ 858,865.00	\$ 937,657.00	\$ 78,792.00
<b>Total 4900 - Oper. Trans. In</b>	<b>\$ 1,417,630.84</b>	<b>\$ 1,496,422.84</b>	<b>\$ 78,792.00</b>
<b>TOTAL REVENUES</b>	<b>\$ 1,417,630.84</b>	<b>\$ 1,496,422.84</b>	<b>\$ 78,792.00</b>
<b>EXPENDITURES</b>			
<b>6000 - Personal Services</b>			
	\$ 241,559.50	\$ 241,494.28	\$ (65.22)
<b>6100 - Employee-related exp.</b>			
	\$ 122,212.28	\$ 123,382.67	\$ 1,170.39
<b>6200 - Prof. &amp; Outside Svcs.</b>			
6299 - Other Prof. & Out. Svcs.	\$ 9,300.00	\$ 5,471.75	\$ (3,828.25)
6521 - Motor Pool Charges	\$ 100.00	\$ -	\$ (100.00)
<b>Total 6200 - Prof. &amp; Outside Svcs.</b>	<b>\$ 9,400.00</b>	<b>\$ 5,471.75</b>	<b>\$ (3,928.25)</b>
<b>7000 - Other Operating</b>			
7110 - Insurance & Related Chgs	\$ 2,100.00	\$ 2,100.00	\$ -
7153 - Internal Svc. Data Proc.	\$ 9,750.00	\$ 9,572.36	\$ (177.64)
7172 - Ext. Comm. Long Dist.	\$ 12,912.00	\$ 5,809.49	\$ (7,102.51)
7179 - Other External Comm.	\$ 1,265.00	\$ 11,147.46	\$ 9,882.46
7221 - Rental of Land & Bldgs.	\$ 60,616.40	\$ 58,412.90	\$ (2,203.50)
7229 - Miscellaneous Rent	\$ 110.00	\$ -	\$ (110.00)
7241 - Int Acctg, Budg, Fin Svc.*	\$ 3,840.00	\$ 3,840.00	\$ -
7266 - Repair/Maint-Other Equip	\$ 1,413.48	\$ 1,534.42	\$ 120.94
7321 - Office Supplies	\$ 6,000.00	\$ 3,976.24	\$ (2,023.76)
7481 - Postage & Delivery	\$ 14,400.00	\$ 11,833.75	\$ (2,566.25)
7511 - Awards	\$ 200.00	\$ 147.56	\$ (52.44)
7541 - Books, Subscr., & Pubs.	\$ 109.00	\$ 199.00	\$ 90.00
7599 - Other Misc. Operating	\$ 650.00	\$ 320.00	\$ (330.00)
<b>Total 7000 - Other Operating</b>	<b>\$ 113,365.88</b>	<b>\$ 108,893.18</b>	<b>\$ (4,472.70)</b>
<b>8500 - Non-capital Equipment</b>			
8531 - Computer Equip. Non-cap.	\$ -	\$ 6,963.98	\$ 6,963.98
8551 - EDP Equip Non-cap. Purch.	\$ 6,000.00	\$ -	\$ (6,000.00)
8561 - Tele. Equip. - Non-cap.	\$ 300.00	\$ -	\$ (300.00)
8571 - Other Equip. - Non-cap.	\$ -	\$ 786.11	\$ 786.11
8581 - Purch. or lic. software	\$ -	\$ 3,388.21	\$ 3,388.21
8583 - PC/LAN Softw. Non-cap.	\$ 2,000.00	\$ -	\$ (2,000.00)
<b>Total 8500 - Non-capital Equip.</b>	<b>\$ 8,300.00</b>	<b>\$ 11,138.30</b>	<b>\$ 2,838.30</b>
<b>9100 - Transfers Out</b>			
9101 - Op Trans Out: Fund Sweeps	\$ 107,300.00	\$ 105,800.00	\$ (1,500.00)
<b>Total 9100 - Oper. Trans. Out</b>	<b>\$ 107,300.00</b>	<b>\$ 105,800.00</b>	<b>\$ (1,500.00)</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 602,137.66</b>	<b>\$ 596,180.18</b>	<b>\$ (5,957.48)</b>
<b>NET INCOME</b>	<b>\$ 815,493.18</b>	<b>\$ 900,242.66</b>	<b>\$ 84,749.48</b>

\* In the Board's August 19, 2011 adopted budget, this expenditure category was listed under "6211 - Bond Issuance Cost," but the expenditure was recategorized to reflect changes to the state accounting manual. The change is merely one of categorization and does not reflect a new expenditure or a change to the budgeted expenses.



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 14, 2012  
**SUBJECT FY 2013 budget proposal**

---

This memo discusses a proposed budget for fiscal year (FY) 2013 for the Board to adopt at its August 17, 2012 meeting. The memo also provides financial information to assist the Board in its deliberations about the budget.

## **SUMMARY**

- The Board should adopt a budget that includes \$576,190.58 in expenditures. Excluding funds sweeps that the Legislature required in FY 2012, this proposal represents an increase in spending by \$85,810.40 or 17.5%.
- The proposed budget projects \$937,657 in revenues. This projection assumes that DPS will receive 133,951 fingerprint-clearance-card applications in FY 2013.

## **FUND BALANCE**

As of July 31, 2012—the last date when there was an end-of-month reconciliation with AFIS (the state accounting system) data—the Board's fund balance was \$870,075.36.

## **BUDGET PROPOSAL FOR FY 2013**

Attachment 1 proposes a budget that includes \$576,190.58 in expenditures and assumes \$937,657 in revenues. Although the revenue projection is the same as revenues received last year, the proposed expenditures would increase by 17.5%.

Attachment 1 also provides a comparison of FY 2012 actual expenditures and revenues with the FY 2013 budget proposal. The list below explains areas where there are notable differences in spending between FYs 2012 and 2013.



- 6000 – Personal Services. This category refers to expenditures from wages and salaries. This category includes the biggest area of increased spending in my proposal. The increase is due to two factors.
  - As part of the governor’s personnel reform that the Legislature passed, certain employees are eligible for a temporary retention pay increase of 5% that would begin partway through the fiscal year. (The increase only lasts until the end of the fiscal year.) The proposed budget assumes that all employees will receive the increase, although currently only three employees are guaranteed the increase. (In order to receive the retention pay, the other two employees would have to agree to become uncovered.) The cost to the Board if all employees take the increase would be about \$9,056.
  - The proposal includes authorization for the executive director to hire up to one additional employee and thus would establish a new position. As the Board has seen in its performance measures, compliance with statutory time frames has been a problem, especially with the time frames for hearings. Also, the Board will be taking on a larger caseload with the addition of central-registry exceptions. This proposal would allow me to hire one administrative law judge at the current salary for that position. However, I also propose that the Board give me the flexibility to spend the money on staffing resources as needed, but not to exceed the maximum in this proposal (\$52,000 plus employment-related expenditures). This would allow me to monitor the impact of central-registry exceptions on the Board’s caseload and possibly rely instead on overtime or part-time, temporary, or contract employees.<sup>1</sup> This approach would set limits on my spending authority, and thus allow the Board to retain control over the budget, while giving me the ability to manage staffing resources in the manner best suited for the Board’s caseload.
- 6100 – Employee-Related Expenditures. This category refers to expenditures from benefits and withholdings, such as medical benefits, retirement, and Social Security. The increase in the budget proposal is for same reasons described under 6000 above.
- 6299 – Other Professional & Outside Services. This category includes miscellaneous costs from external sources and consultations, such as security, document destruction, and database programming. The proposal includes a significant increase in one-time spending for database programming, as described below.<sup>2</sup> The Board should note that these proposed costs represent high estimates; the actual costs should be lower.
  - At its July 6, 2012 meeting, the Board approved \$9,480 in spending to create a database for central-registry exceptions.

<sup>1</sup> The Board should note that if it authorizes this spending flexibility, the actual expenditures may appear in different accounting categories. For example, if I use contract employees, the spending may appear under comptroller object code 6222 rather than 6000.

<sup>2</sup> I recommend that later this year the Board consider a project to move its existing databases to web-based interfaces, since most database interfaces are web based and a different database management system would improve performance. However, that project is not included in this proposal.

- I recommend that the Board authorize \$9,520 in spending for two additional IT projects.
  - Upgrading the existing good-cause-exception database. The purpose of this project would be to improve the features in the Board's existing database and to eliminate programming bugs. (The Board had approved a similar project last year, but as indicated in the FY 2012 budget report, I delayed this project when the Legislature proposed creating central-registry exceptions.)
  - Creating a function for the Board to be able to access confidential files through a network connection or web site. (This project is similar to the one I canceled with ADOA.)
- 7221 – Rental of Land and Buildings. This category refers to rental costs for office space. The Board began a new lease in FY 2012 that was much less expensive than the previous lease.
- 7172 – External Communications (Long Distance); 7179 – Other External Communications. The decrease in spending in these two areas combined is because there were one-time telecommunications expenditures in FY 2012 related to the Board's office move.
- 7321 – Office Supplies. In FY 2012, the Board staff cut office-supply costs as much as possible. The FY 2013 proposal allows for reasonable spending amounts, although the staff will continue to limit expenditures in this area.
- 8531 – Computer Equipment (Non-capital). Last year, the Board approved replacing three computers that over eight years old. In addition, another computer crashed and would have cost almost as much to repair as to replace. For FY 2013, I recommend that the Board replace its remaining two computers, which are six years old, and one laptop for the executive director. Depending on computer costs and the technology available, this spending authorization would also allow me to procure equipment (such as a tablet or projector) that would allow the Board to have easier access to administrative records during Board hearings.
- 8581 – Purchase or license software. This category covers non-capital software expenditures. If the Board authorizes the purchase of new computer equipment, there will be associated costs to purchase standard software. In addition, I recommend that the Board approve costs for computer encryption software. If there were an instance of unauthorized access to the Board's computer equipment (such as a burglary, which the Board previously experienced), the software would protect data on the computer from being accessed. Since the Board maintains confidential data—including criminal-history information, CPS investigative data, and Social Security numbers—I believe the cost of the software (\$408.50 for five licenses) is worthwhile.

### *Revenues*

DPS and the Board typically coordinate their estimates for revenues because the projections are based on the same figure: the expected number of fingerprint-clearance-card applications. I am working with DPS on this projection, but we have not finalized it.

The revenue projection in the proposed budget may change depending on DPS's input, but the change should not be significant.

**Attachment 1 - FY13 Budget Proposal**

	FY12 Actual	FY13 Budget	Difference
<b>REVENUES</b>			
<b>4900 - Operating Transfers In</b>			
Prior FY Carryover	\$ 558,765.84	\$ 900,242.66	
4901 - Oper. Transfers In	\$ 937,657.00	\$ 937,657.00	\$ -
<b>Total 4900 - Oper. Trans. In</b>	<b>\$ 1,496,422.84</b>	<b>\$ 1,837,899.66</b>	<b>\$ -</b>
<b>TOTAL REVENUES</b>	<b>\$ 1,496,422.84</b>	<b>\$ 1,837,899.66</b>	<b>\$ -</b>
<b>EXPENDITURES</b>			
<b>6000 - Personal Services</b>			
	\$ 241,494.28	\$ 302,550.32	\$ 61,056.04
<b>6100 - Employee-related exp.</b>			
	\$ 123,382.67	\$ 154,300.66	\$ 30,917.99
<b>6200 - Prof. &amp; Outside Svcs.</b>			
6299 - Other Prof. & Out. Svcs.	\$ 5,471.75	\$ 23,200.00	\$ 17,728.25
<b>Total 6200 - Prof. &amp; Outside Svcs.</b>	<b>\$ 5,471.75</b>	<b>\$ 23,200.00</b>	<b>\$ 17,728.25</b>
<b>7000 - Other Operating</b>			
7110 - Insurance & Related Chgs	\$ 2,100.00	\$ 2,100.00	\$ -
7153 - Internal Svc. Data Proc.	\$ 9,572.36	\$ 10,000.00	\$ 427.64
7172 - Ext. Comm. Long Dist.	\$ 5,809.49		\$ (5,809.49)
7179 - Other External Comm.	\$ 11,147.46	\$ 12,838.00	\$ 1,690.54
7221 - Rental of Land & Bldgs.	\$ 58,412.90	\$ 35,991.60	\$ (22,421.30)
7241 - Int Acctg, Budg, Fin Svc.	\$ 3,840.00	\$ 3,840.00	\$ -
7266 - Repair/Maint-Other Equip	\$ 1,534.42	\$ 1,600.00	\$ 65.58
7321 - Office Supplies	\$ 3,976.24	\$ 6,000.00	\$ 2,023.76
7481 - Postage & Delivery	\$ 11,833.75	\$ 12,000.00	\$ 166.25
7511 - Awards	\$ 147.56	\$ 150.00	\$ 2.44
7541 - Books, Subscr., & Pubs.	\$ 199.00	\$ 300.00	\$ 101.00
7599 - Other Misc. Operating	\$ 320.00	\$ 320.00	\$ -
<b>Total 7000 - Other Operating</b>	<b>\$ 108,893.18</b>	<b>\$ 85,139.60</b>	<b>\$ (23,753.58)</b>
<b>8500 - Non-capital Equipment</b>			
8531 - Computer Equip. Non-cap.	\$ 6,963.98	\$ 7,000.00	\$ 36.02
8561 - Tele. Equip. - Non-cap.	\$ -	\$ 200.00	\$ 200.00
8571 - Other Equip. - Non-cap.	\$ 786.11	\$ -	\$ (786.11)
8581 - Purch. or lic. software	\$ 3,388.21	\$ 3,800.00	\$ 411.79
<b>Total 8500 - Non-capital Equip.</b>	<b>\$ 11,138.30</b>	<b>\$ 11,000.00</b>	<b>\$ (138.30)</b>
<b>9100 - Transfers Out</b>			
9101 - Op Trans Out: Fund Sweeps	\$ 105,800.00	\$ -	\$ (105,800.00)
<b>Total 9100 - Oper. Trans. Out</b>	<b>\$ 105,800.00</b>	<b>\$ -</b>	<b>\$ (105,800.00)</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 596,180.18</b>	<b>\$ 576,190.58</b>	<b>\$ (19,989.60)</b>
<b>NET INCOME</b>	<b>\$ 900,242.66</b>	<b>\$ 1,261,709.08</b>	<b>\$ 19,989.60</b>



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 13, 2012  
**SUBJECT Sunset hearing**

---

Laws 1978, Chapter 210, created a sunset review process in which the Legislature would periodically review an agency's functions to determine whether the agency should continue to exist. Under this process, an agency would automatically be eliminated unless, after the review, the Legislature passed legislation to continue the agency. (I would work with a bill sponsor to have legislation introduced next session to continue the Board.)

Under A.R.S. § 41-3013.12, the Board is scheduled to terminate on July 1, 2013, unless the Legislature continues the Board. A legislative committee that includes members from both the House and Senate will convene later this year (the hearing has not been scheduled) to consider whether to recommend that the Board be continued and, if so, for how long.

To prepare for the hearing, one of the co-chairs has asked the Board to address certain factors that the committee will consider. As the enclosed June 8, 2012 letter indicates, many of the factors are listed in statute. The response is due September 1, 2012.

I have prepared the enclosed draft response from the Board to the committee. I recommend that the Board adopt this response at its August 17, 2012 open meeting.

LINDA GRAY  
DISTRICT 10

STATE SENATOR  
Fiftieth LEGISLATURE

CAPITOL COMPLEX, SENATE BUILDING  
PHOENIX, ARIZONA 85007-2890  
PHONE: (602) 926-3376  
FAX: (602) 417-3253  
EMAIL: lgray@azleg.gov



## Arizona State Senate

Minutes, 8/17/2012  
ATTACHMENT 3

COMMITTEES:

PUBLIC SAFETY AND HUMAN  
SERVICES, CHAIR  
HEALTHCARE AND MEDICAL  
LIABILITY REFORM  
BANKING AND INSURANCE  
EDUCATION

LEGISLATIVE COUNCIL

June 8, 2012

Dennis Seavers, Executive Director  
Arizona Board of Fingerprinting  
Mail Code 185  
P.O. Box 6129  
Phoenix, AZ 85005-6129

Dear Executive Director Seavers:

The sunset review process prescribed in Title 41, Chapter 27, Arizona Revised Statutes, provides a system for the Legislature to evaluate the need to continue the existence of state agencies. During the sunset review process, an agency is reviewed by a legislative committee of reference. On completion of the sunset review, the committee of reference recommends to continue, revise, consolidate or terminate the agency.

The Joint Legislative Audit Committee has assigned the sunset review of the Board of Fingerprinting to the committee of reference comprised of members of the Senate Public Safety and Human Services Committee and the House of Representatives Military Affairs and Public Safety Committee.

Pursuant to A.R.S. § 41-2954, the committee of reference is required to consider certain sunset factors in deciding whether to recommend continuance, modification or termination of an agency. Please provide your agency's response to the factors listed below:

1. The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.
2. The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.
3. The extent to which the agency serves the entire state rather than specific interests.
4. The extent to which rules adopted by the agency are consistent with the legislative mandate.
5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.
6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.

REC'D JUN 15 2012

7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.
8. The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.
9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.
10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.
11. The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.
12. The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.
13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

Additionally, please provide written responses to the following:

1. Identify the problem or the needs that the agency is intended to address.
2. State, to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.
3. Identify any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.
4. Assess the consequences of eliminating the agency or of consolidating it with another agency.

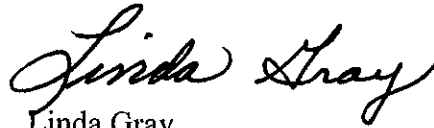
When responding to the factors above, please be aware that Laws 2011, Chapter 176, modified the questions so they are different than those you may have seen previously. In addition to responding to the factors listed above, please provide the committee of reference with copies of your most recent annual report, if applicable. Your response should be received by September 1, 2012, so we may proceed with the sunset review and schedule the required public hearing. Please submit the requested information to:

Amber Witter  
Arizona State Senate

1700 West Washington  
Phoenix, Arizona 85007

Thank you for your time and cooperation. If you have any questions, please feel free to contact me at 602-926-3376 or Amber Witter, the Senate Public Safety and Human Services Committee Research Analyst, at 602-926-3171.

Sincerely,



Linda Gray  
State Senator  
Chair, Senate Public Safety and Human Services  
Committee of Reference

5/8/12  
Attachment

cc: Representative Terri Proud, COR Co-Chair  
Charles Easaw, Chair, Board of Fingerprinting  
Elizabeth Dunfee, House MAPS Analyst

REC'D JUN 15 2012



41-2954 . Committees of reference; membership; performance review reports; hearings; recommendations; subpoena powers

A. Each standing committee of both legislative houses shall appoint a subcommittee of five members. Not more than three appointees of each house shall be of the same political party. The subcommittees shall jointly constitute a committee of reference in their respective subject matter areas.

B. After receipt of the preliminary sunset review report, the committee of reference shall hold at least one public hearing to receive testimony from the public and from the officials of the agency involved. The agency involved shall prepare a presentation for the first public meeting that addresses the elements of the written statement required by subsection F.

C. The committee of reference shall hold public hearings for the following purposes:

1. To determine the actual need of the agency to regulate or direct the particular activity.
2. To determine the extent to which the statutory requirements of the agency are necessary and are being met.
3. To receive testimony from the public as to the relationship of the agency with the public.
4. To receive testimony from the executive director or other head of the agency as to reasons for the continuation of the agency.

D. The committee of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of each agency:

1. The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.
2. The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.
3. The extent to which the agency serves the entire state rather than specific interests.
4. The extent to which rules adopted by the agency are consistent with the legislative mandate.
5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.
6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.
7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.
8. The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.
9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.
10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.
11. The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.
12. The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.
13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price

of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

E. The committee of reference shall deliver the final sunset review report of its recommendations to the committee, the president of the senate, the speaker of the house of representatives, the governor, the auditor general and the affected agency by December 1. Such recommendations shall include one of the following:

1. That the state agency be continued.
2. That the state agency be revised or consolidated.
3. That the state agency be terminated pursuant to this chapter.

F. The final sunset review report by the committee of reference shall also include a written statement prepared by the agency involved that contains:

1. An identification of the problem or the needs that the agency is intended to address.
2. A statement, to the extent practicable, in quantitative and qualitative terms, of the objectives of such agency and its anticipated accomplishments.
3. An identification of any other agencies having similar, conflicting or duplicate objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.
4. An assessment of the consequences of eliminating the agency or of consolidating it with another agency.

G. The committee shall oversee the preparation of any proposed legislation to implement the recommendations of the committees of reference and is responsible for the introduction of such legislation.

H. If an agency is continued, it is not necessary to reappoint any member of the governing board or commission of the agency. Such members are eligible to complete their original terms without reappointment or reconfirmation.

I. Each committee of reference shall have the power of legislative subpoena pursuant to chapter 7, article 4 of this title.

REC'D JUN 15 2012

## ARIZONA BOARD OF FINGERPRINTING AGENCY RESPONSE

Senate Public Safety and Human Services and House Military Affairs and Public Safety  
Committee of Reference

### SUNSET FACTORS

1. The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprises in other states.

#### *Good-cause exceptions*

In 1998, House Bill 2585 established the fingerprint clearance card system, which is jointly administered by the Arizona Department of Public Safety (DPS) and the Arizona Board of Fingerprinting (Board).<sup>1</sup> The bill was designed to address duplication of criminal background checks by multiple agencies by consolidating and standardizing the process for conducting employment- or licensure-related criminal background checks.

Before the fingerprint clearance card system was established, multiple agencies that regulated or funded similar programs had separate processes for conducting background checks. For example, a person who planned to work with juveniles might have to be cleared by both the Administrative Office of the Courts and the Arizona Department of Health Services, each of which had different criteria for background clearance.<sup>2</sup> After the fingerprint-clearance-card system was established, that person only needed to get a fingerprint clearance card, which was portable among the five agencies that required the cards.

DPS is responsible for handling applications for and issuing fingerprint clearance cards. The Board only becomes involved if the application for a fingerprint clearance card is denied, or if the card is suspended. In most cases, individuals who have been denied or had a card suspended will be eligible to request a good cause exception from the Board.

The Board's responsibility is to determine whether an applicant is rehabilitated and not a recidivist. If the Board approves the application, the person will receive a fingerprint clearance card, despite the reasons the fingerprint clearance card was originally denied or suspended. Before granting an application, the Board must consider the criteria in A.R.S. § 41-619.55(E), which lists factors such as length of time since the offense, the nature of the offense, mitigating factors, and evidence of rehabilitation (such as completion of drug treatment or counseling).

<sup>1</sup> Arizona Session Laws 1998 (Second Regular Session), Chapter 270.

<sup>2</sup> Final revised House Bill 2585 Fact Sheet from the 43rd Legislature, Second Regular Session.

### *Central-registry exceptions*

In 2012, Senate Bill 1136 created central-registry exceptions and assigned jurisdiction for them to the Board.<sup>3</sup> Under existing law, which was expanded by the legislation, certain individuals or contractors would need to have a pre-employment background check conducted on the central registry, a collection of databases maintained by the Arizona Department of Economic Security that contains information about allegations of child abuse or neglect. If a person has a substantiated allegation of child abuse or neglect, the person is initially disqualified from the relevant employment but permitted to request a central-registry exception from the Board.

In a process similar to good-cause exceptions, the Board considers central-registry exceptions by deciding whether the applicant is not a recidivist and is rehabilitated from the incident or incidences that led to the central-registry background check being denied. If approved, the applicant would be eligible to work in the regulated fields.

Central-registry exceptions have only existed since August 2, 2012, and thus represent a new function for the Board.

### *Private enterprises*

The functions that the Board fulfills—considering applications for good-cause exceptions and central-registry exceptions—do not have analogues in other states or in the private sector. Since dissemination of the primary information that the Board considers (criminal-history records and CPS investigative information) is restricted, it is improbable that the Board's basic functions could be privatized, at least not without significant public-policy changes or, in some cases, Congressional action.

#### 2. The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.

The Board has met its statutory objective and purpose and largely operated efficiently. When there have been inefficiencies, such as backlogs, the Board has taken steps to address the problem.

Like most state agencies, the Board has been negatively affected by Arizona's recent budget problems. Due to fund sweeps, the Board faced the possibility of cash-flow problems in fiscal year 2010 and reduced its staff over the course of the year by 32%. Although other agencies had similar cuts in staff, a reduction of this size is particularly damaging to a small agency. At the same time, from fiscal year 2010 to 2011, the Board's caseload increased by a third. As a result, the Board was no longer 100% compliant with statutory time frames, particularly for complex cases that required administrative hearings (which constitute a small minority of cases). Since the state's fiscal picture has improved, the Board will be increasing its staff resources to improve time-frame compliance. And even though not all cases meet the statutory time frames,

<sup>3</sup> Arizona Session Laws 2012 (Second Regular Session), Chapter 188.

the vast majority of cases are resolved quickly, often in a matter of days; most applicants have not suffered the impact of the Board's budget cuts.

3. The extent to which the agency serves the entire state rather than specific interests.

Whether a person is eligible to apply to the Board is determined by statute and not by interest group or some other criterion.

4. The extent to which rules adopted by the agency are consistent with legislative mandate.

The Board's rules are all designed to implement statutes adopted by the Legislature.

5. The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Under A.R.S. § 41-619.53(A)(2), the Board is exempt from the rulemaking requirements of the Administrative Procedures Act (APA). Nonetheless, the Board has diligently sought wide input on proposed rules and followed most of the APA's rulemaking requirements. When the Board has proposed rules, it has always contacted all stakeholders—regardless of the policy or political positions of that group—to seek input. It has normally conducted public hearings and always held public-comments periods. The Board either has adopted suggestions from the public or stated clearly and publicly its reasons for not adopting the suggestions.

6. The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.

The Board does not have the power to investigate or adjudicate complaints.

7. The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

The enabling legislation provides no such power.

8. The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.

The Board has requested legislation various times to address deficiencies. Since the Board's 2008 sunset, the only such legislation has been technical in nature.

9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.

The Board does not believe that any changes are necessary.

10. The extent to which the termination of the agency would significantly affect the public health, safety or welfare.

There are important policy reasons for the Board to exist; otherwise, state regulation would be excessively burdensome on business and citizens by preventing suitable workers from being employed in regulated fields (for more information, see number 4 under “Additional Factors” below). However, eliminating the Board would not negatively affect public health, safety, or welfare, but only if that anyone who normally could apply to the Board—applicants whose fingerprint clearance card was denied or suspended or applicants whose central-registry background check did not clear—would simply be unable to work in the regulated fields.

If the Legislature were to eliminate the fingerprint-clearance-card system or the central-registry background checks, there would be a significant risk for public safety, since most populations that require the cards or checks work with children, the elderly, or vulnerable adults.

11. The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

Although the requirements to have fingerprint clearance cards and conduct central-registry background checks are regulatory requirements, these regulations are exercised by other agencies. There is no analogue of the Board in another state.

12. The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

The Board does not have an analogue in other states. Its use of private contractors for goods and services matches the use in similar-sized Arizona state agencies.

13. The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

The Board is not aware of any unexpected negative consequences.

## ADDITIONAL FACTORS

1. Identify the problem or needs that the agency is intended to address.

### *Good-cause exceptions*

The fingerprint-clearance-card system was established to address duplication of criminal background checks by multiple agencies by consolidating and standardizing the process for conducting employment- or licensure-related criminal background checks. Before the system was established, there were various criteria among agencies for allowing individuals with criminal histories to work with vulnerable populations.

Under the current system, the conflicting criteria and overlap are eliminated by having one agency (DPS) responsible for screening out individuals with disqualifying criminal histories and another agency (the Board) responsible for making consistent decisions on whether individuals with criminal histories are rehabilitated.

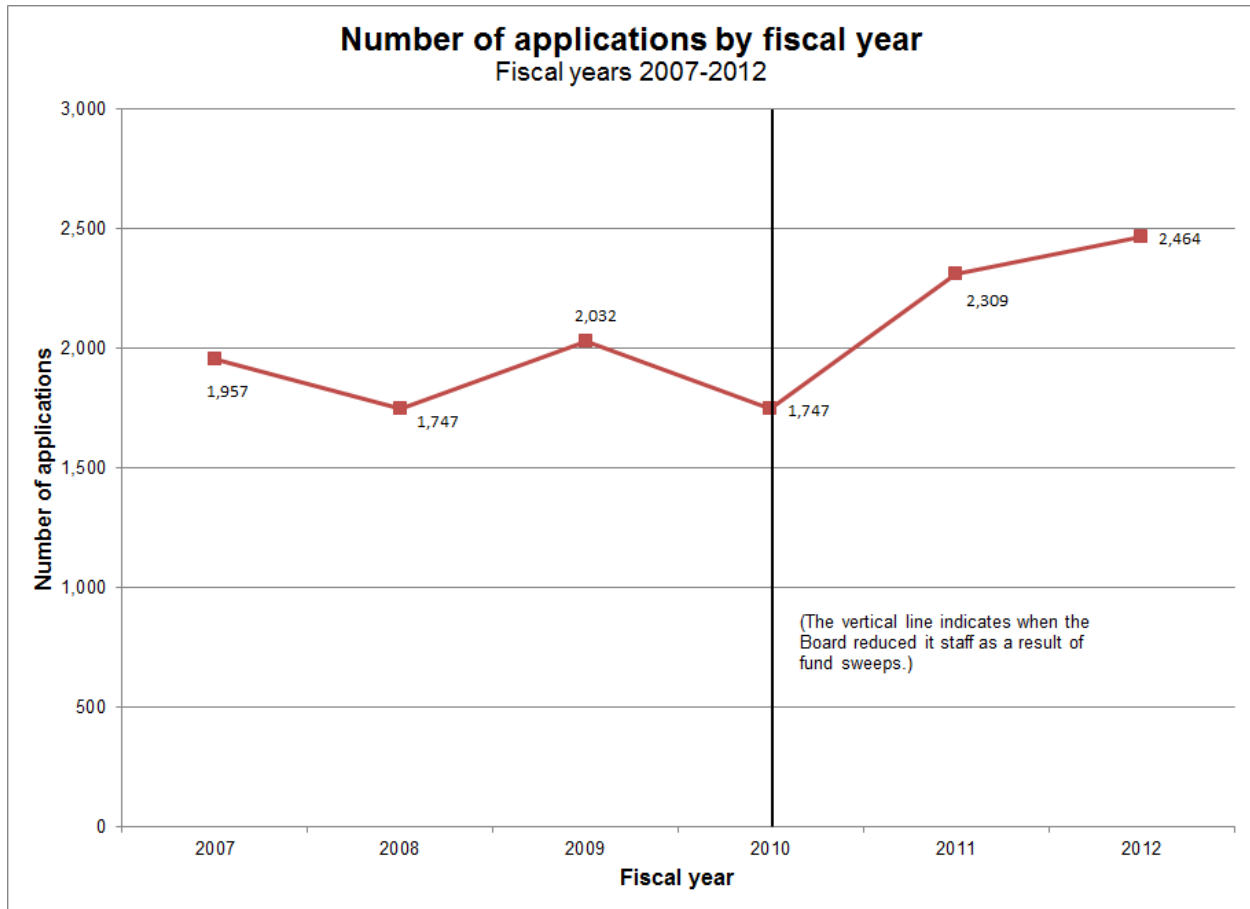
### *Central-registry exceptions*

In 2012, Senate Bill 1136 increased the number of individuals who required a central-registry background check as a condition of working with vulnerable populations. In addition, the bill addressed the problem that rehabilitated workers would otherwise be ineligible to work by requiring the Board to consider applications for central-registry exceptions. The provision of the bill that created central-registry exceptions was requested by the Arizona Association of Providers for People with Disabilities and supported by the Arizona Child Care Association.

2. State, to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.

The Board is responsible for determining good-cause exceptions and, beginning August 2, 2012, central-registry exceptions.

The chart on the next page shows the Board's increase in caseload from fiscal year 2006 to 2012. It also shows when the Board decreased its staff size in response to fund sweeps.



The Board's timeliness has been affected by the caseload increase and staff reduction. At the beginning of fiscal year 2010, all of the Board's cases complied with the time frames for holding expedited reviews<sup>4</sup> within 20 days of receiving an application and making a decision within 80 days of an administrative hearing. By the end of that fiscal year, only 18% of cases were resolved within the 20-day time frame for expedited reviews, and only 60% of cases were decided within 80 days of a hearing.

The Board was able to improve its compliance with time frames by changing some internal policies. As a result, nearly all cases (99.66% for the third quarter of fiscal year 2012) met the 20-day time frame, which meant that the vast majority of cases were being resolved in a matter of days. However, since the process for administrative

<sup>4</sup> The Board has a two-tiered process for handling applications:

- The expedited review is an initial review of the application by the Board, without the applicant being present. The purpose of the review is to quickly approve those cases where the documentation alone clearly shows rehabilitation (without needing a hearing) and to refer to hearing those cases where the applicant has not yet demonstrated rehabilitation. Most cases are resolved at an expedited review—in fiscal year 2011, 88% of cases were approved at this point in the process.
- The hearing is reserved for those cases where rehabilitation is not clear or the applicant has not met the application requirements. Few cases require a hearing, although the amount of work required to resolve the case increases significantly.



hearings is largely governed by statutes and case law, the Board has been unable to reduce the amount of time to make a decision following a hearing. Now that the state's finances have improved, the Board plans to increase staff resources to improve time-frame compliance.

Since the law creating central-registry exceptions went into effect on August 2, 2012, the Board did not have data available on those applications at the time this response was written.

3. Identify any other agencies having similar, conflicting or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.

The Board's objectives do not overlap or conflict with other agencies' objectives.

4. Assess the consequences of eliminating the agency or of consolidating it with another agency.

Eliminating the agency would have negative consequences for certain citizens and businesses by prohibiting certain potential employees from working in the fields that require fingerprint clearance cards or central-registry background checks.

Business such as real-estate agencies, human-service providers, and schools would have additional limitations on whom they can hire. Especially in rural areas, where fewer qualified personnel are available to work, these limitations could hinder a business's operations. Certain businesses, especially those that provide services to individuals with drug addictions, see a value in hiring personnel with criminal histories, as long as the employees are rehabilitated. According to some of these businesses, a rehabilitated person who has a history with drug addiction, for example, can relate to the experiences of clients and provide a model of rehabilitation and thus can be a valuable employee.

Rehabilitated citizens who are looking for work at a time of high unemployment would have job opportunities further limited if their criminal histories disqualified them from work. Rural areas in particular may have a limited number of available jobs, especially ones that pay reasonably well.

Eliminating the Board would not improve public safety, since only applicants who demonstrate rehabilitation are approved, so the impact of eliminating the Board would be to reduce the cost of a fingerprint clearance card by a negligible amount and place limitations on businesses and job seekers.



# Arizona Board of Fingerprinting Memo

TO: Board members  
FROM: Dennis Seavers  
C:  
Date: August 1, 2012  
**SUBJECT Elections**

---

Under A.R.S. § 41–619.52(B), the Board must annually elect a chairperson and vice-chairperson from among its members. (The Board may also elect “any other officers that are deemed necessary or advisable,” but the Board has never elected additional officers.)

At its August 17, 2012 meeting, the Board will elect a chairperson and vice-chairperson. This memo explains the duties of each officer and discusses how the Board should conduct its elections.

## **DUTIES OF OFFICERS**

The chairperson presides over Board meetings and hearings and sets the agendas for Board meetings (often with input from the executive director). In general, the executive director keeps the chairperson informed about issues that could affect the Board. (Board members who may be interested in the office should be aware that the executive director communicates regularly with the chairperson, usually at least a couple of times a month and sometimes more, especially during legislative sessions.)

The vice-chairperson assumes the chairperson’s duties when the chairperson is absent.

There are no restrictions on how many times a Board member may serve in an office.

## **PROCEDURES**

The Board’s statutes do not prescribe procedures for conducting elections. However, open-meeting laws prohibit secret ballots or elections conducted in executive session. Although the Board has options for conducting its elections, the most straightforward procedure would be the following, which the Board has used in previous elections.

- The Board has discussion, if necessary.
- A member makes a motion to elect a specific person as chairperson, and the motion is seconded.
- A vote is taken. If the motion passes by a majority, the person is elected chairperson.
- The procedure is repeated for the office of vice-chairperson.

In cases where the Board has elected new officers, it has been common practice for the current officers to continue their role for the remainder of the meeting and for the newly elected officers to preside at the next meeting.