

Edgecombe County ABC Board

Performance Audit Report



Alcoholic Beverage Control Commission
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ABC
COMMISSION
NORTH CAROLINA

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ABC

COMMISSION
NORTH CAROLINA

Alcoholic Beverage Control

June 18, 2018

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Moniqua S. McLean
ABC Board Auditor
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Edgecombe County ABC Board
Shelly Willingham, Chairman
Post Office Drawer 398
Tarboro, NC 27886

Dear Chairman Willingham,

We are pleased to submit this performance audit report on the Edgecombe County ABC Board. The objective of this audit was to examine existing policies, practices, and controls and to provide recommendations on methods to improve operating efficiency at the ABC Board in accordance with new legislative mandates.

The report consists of an executive summary, background information, operational findings and recommendations along with your response to our recommendations. This report will be posted on the Commission's public web site.

We would like to thank you, the ABC Board and your staff for the assistance and cooperation provided to us during the audit. Additionally, we appreciate the efforts your Board has made to comply with the new performance standards. Your continued efforts to increase profitability and reduce expenses are commendable.

If we can be of assistance in the future, please advise.

Respectfully,

Robert A. Hamilton
Administrator

Cc: North Carolina Association of ABC Boards

OBJECTIVE, PURPOSE, AND SCOPE

In addition to regular and special financial audits, G.S. 18B-705 (a) authorizes the N.C. ABC Commission to conduct performance audits of all local ABC boards in the state. Performance audits are examinations of existing operating policies, practices, controls, and activities to determine those areas in which there may be a need for improvement.

The audits are designed to ensure that all local ABC Boards comply with established performance standards pursuant to G.S. 18B-203 (a) (20). The audits' scope addresses compliance with ABC laws and rules, store appearance, operating efficiency, solvency, and customer service.

To achieve the objectives of the audit, auditors:

- Review applicable General Statutes, ABC Commission Rules, and Administrative Policies
- Review applicable reports and studies of ABC boards with similar size and geography
- Consult with specialists at the UNC School of Government
- Verify compliance with Commission and Board policies
- Verify results of previous performance audit recommendations
- Review organizational chart and job descriptions
- Review ABC board annual independent financial audits
- Visits the store(s)
- Interview key ABC board personnel.

The initial round of performance audits for the local ABC Boards concluded in 2016 and provided a comprehensive overview of the operations of the local boards. The follow-up round of performance audits now under way is designed to provide local boards with information that targets specific areas for improvement. Board activities that meet or exceed current performance standards are not included as areas recommended for corrective action and so are not included in the attached summary report and recommendations.

PROFIT PERCENTAGE TO SALES AND OPERATING COST RATIO

In 2017, the Edgecombe County ABC Board had a profit percentage of 3.8%, a 2.32% decrease over FY2016. In FY2016, the Edgecombe County ABC Board had a profit percentage to sales of 6.12%. The ABC Commission profit percentage to sales standard for ABC Boards with gross sales greater than \$2M is targeted at 6.5% or higher. Thus, the Edgecombe County ABC Board did not meet the targeted profit percentage.

As a result of Hurricane Matthew, the board received insurance and federal grant monies for recovery attempts on the business. The gain on the asset is not included in the profit percentage to sales because the board will not continue to have this income in the future as it is a one-time gain and will result in a skewed profit percentage to sales calculation. The profit percentage is lower than previous years because the board closed 1 store as a result of the natural disaster affecting the area.

The operating cost ratio for Edgecombe County ABC was 0.80 in FY2017. The ABC Commission standard for ABC boards with three or more stores is targeted at less than 0.63. Thus, the Edgecombe County ABC Board did not meet the standard.

The operating cost ratio is higher than previous years due to the increased expenses needed to re-open stores as a result of the flood. Below is a chart showing expenses and the income from operations for the previous two years.

	FY2017	FY2016
Expenses excluding Depreciation	\$866,488	\$796,538
Income (Loss) from Operations	\$180,556	\$287,029

BUDGET ANALYSIS

In reviewing the budget to actual analysis of the FY2017 financial audit, sales revenue exceeded the budgeted projections by 0.4%. Overall expenses were within budget for the same time period. The below chart shows the final budget to actual amounts and the variances.

	FY2017 Budget Projections	FY2017 Actual	Variance \$	Variance %
Sales	\$4,689,000	\$4,705,707	\$16,707	0.4%
Total Operating Expenses including Capital Outlay	\$1,093,000	\$1,026,822	\$66,178	6.4%

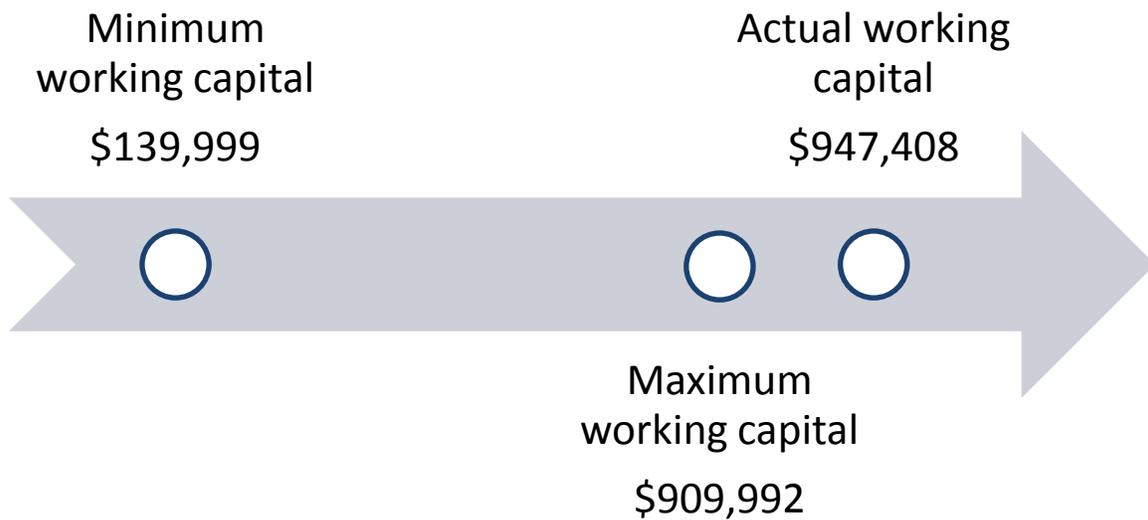
Although overall expenses were under budget, certain line item expenditures were not included in the initial budget.

WORKING CAPITAL

G.S. 18B-805 (d) allows the board to set aside a portion of the remaining gross receipts, within the limits set by the rules of the Commission, as cash to operate the ABC system.

Based on the existing rules, the Edgecombe County ABC Board is allowed to maintain a minimum working capital of \$139,999 and a maximum working capital of \$909,992. The actual working capital the board has retained is \$947,408.

The NC ABC Commission has set a working capital standard for boards with gross sales less than \$50M and greater than \$1.5M to three months of sales revenue. The board's actual working capital has exceeded the standard set by the NC ABC Commission.



Note: The board's financial audit of FY2017 computes a lower actual working capital that includes the current and long-term liabilities pertaining to the OPEB and net pension liability. The NC ABC Commission does not include the long-term liability as part of the working capital calculation.

DISTRIBUTIONS

G.S. 18B-805 (b) requires the board to pay from gross receipts all expenses, mixed beverage and bottle taxes. G.S. 18B-805 (c) requires the board to make a minimum quarterly distribution of the 3 ½% markup and .01/.05 cent bottle tax to the municipalities and county.

G.S. 18B-805 (c) (2) and (3) requires the board to distribute quarterly at least five percent (5%) of profits to law enforcement and at least seven percent (7%) of profits toward alcohol education.

S.L. 1951-711 requires the board to distribute annually the following:

- Fifteen thousand dollars (\$15,000) to the Edgecombe County Special Fund for the operation of the Town of Tarboro public libraries
- Five thousand dollars (\$5,000) to the Edgecombe County Special Fund for the operations of the Town of Rocky Mount public libraries

The remaining profits are to be distributed quarterly to the following:

- Twenty-five percent (25%) of net profits shall be paid to the municipalities within the county with ABC stores
- Six hundred twenty-five dollars (\$625) of net profits are to be distributed quarterly to each municipality in which a store is operated and the remainder of profits are to be distributed proportionately according to profits
- Remaining profits are to be distributed to the Edgecombe County General Fund.

Revenues Less Taxes and Cost of Sales FY2017	
Sales (Retail, Mixed Beverage, and Wine)	\$4,705,707
Excise Tax	\$1,034,335
Mixed Beverage Tax Combined	\$10,644
Rehabilitation Tax	\$19,468
Net Sales	\$3,641,176
Cost of Liquor Sold	\$2,560,200
Gross Profit	\$1,080,976

	FY2017 Calculations	Actual Distribution	Percentage Variance
Gross Profit (Taken from Above)	\$1,080,976		
Total Operating Expenses	\$901,707		
Income from Operations	\$179,269		
Income (Loss) Before Distribution	\$248,102		
3 ½% Minimum Distribution	\$140,141	\$248,102	
• Municipalities		• \$57,025	77%
• County		• \$171,077	
• Other County		• \$20,000	
Distributions for public libraries			
Law Enforcement	\$2,009	\$12,000	497%
Alcohol Education	\$2,813	\$ -	-

A contract between the Edgecombe County ABC Board and the Edgecombe County Sheriff's Department in effect and requires the board to distribute at least five percent (5%) in quarterly installments if profits are generated.

In addition to the law enforcement requirement, the board is required to expend at least seven percent (7%) towards alcohol education or rehabilitation purposes. The Edgecombe County ABC Board did not distribute alcohol education in FY2017.

REQUIRED ACTION

- 1. *Begin distributing toward alcohol education/rehabilitation programs as required by G.S. 18B. G.S. 18B-805 (c) (3) states that the local board shall spend, or pay to the county commissioners to spend, for the purposes stated an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining. G.S. 18B-805 (h) states that funds distributed shall be spent for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse. Any agency or person receiving funds from the county commissioners or local board shall submit an annual report to the board of county commissioners or local board from which funds were received, describing how the funds were spent.***
- 2. *All ABC Boards are required to operate within a balanced budget. ABC Boards cannot appropriate items not included in the budget. G.S. 18B-702(h) states, "Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section...Amendments to the adopted budget shall also be provided to the appointing authority and the Commission."***
- 3. *Distribute the excess of working capital, \$122,550 to the county or ask for approval from the county allowing the board to set up a capital improvement fund account for a specific capital improvement purpose. Once the approval is received, forward to the NC ABC Commission.***

STORE APPEARANCE

The ABC Board Auditor visited two out of the five locations. Note: The Princeville location is closed. The stores appeared clean, neat, and clutter-free. The shelves were full displaying a variety of product and featuring new items and bestselling products. The shelf management system followed basic guidelines of displaying premium products on top and eye-level shelves and value priced products on the lower shelves.

OPERATING AND ADMINISTRATIVE COMPLIANCE

- While inspecting stores, the ABC Auditor randomly selected approximately eighty product codes were sampled to determine if uniform pricing is displayed on the shelves. Of those selected, all were correct.
- The board's monthly minutes indicate the ABC board approved a capital improvement fund to be established. An approval from the county has not been granted.

Recommendation #3: A capital improvement fund must be approved by the appointing authority. G.S. 18B-805 (d) states, "...With the approval of the appointing authority for the board, the local board may also set aside a portion of the remaining gross receipts as a fund for specific capital improvements."

- Operational and board policies have been adopted but have not been submitted to the Commission.

Recommendation #4: As a reminder, submit policies to the NC ABC Commission prior to adoption. NCAC 15A .1102 states, "A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least 15 days prior to the date on which it is proposed that those rules or amendments are to become effective."

- In reviewing the board meeting minutes, procedures for entering into closed session were not followed.

Recommendation #5: Follow the closed session proceedings as indicated in the ABC Operations Manual. The procedure for entering into closed session is as follows:

- 1. When in open session, a motion to enter into closed session stating the specific reason is required.***
- 2. A vote is taken and if approved, the board will enter the closed session to discuss the stated topic. No vote can be taken while in closed session.***
- 3. To re-enter open session from closed session, a vote is taken and if approved, open session is resumed.***

- ABC Board meetings are not posted notifying the public of when, where, and the location in which meetings are held.

Recommendation #6: All ABC Board meetings are required to be noticed to the public. Post signage at the administrative office complex or at the Edgecombe County Administrative building.

- Two board members have not been reappointed to the board.

Recommendation #7: When an ABC board member's term has expired, they no longer have authority to vote on ABC board business. Ask the appointing authority to appoint new board members or reappoint existing board members whose terms have expired. As a reminder, board members who have been newly appointed or reappointed must complete the required ethics training within one year of appointment status.

- The board chairman receives compensation in excess of the maximum compensation of one-hundred fifty dollars (\$150.00). Other board members receive less than the maximum compensation allowed.

Recommendation #8: Seek approval from the appointing authority if compensation of board members exceeds the maximum compensation. G.S. 18B-700 (g) states, "A local board member shall receive compensation in an amount not to exceed one hundred fifty dollars (\$150.00) per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change."

- When salary adjustments for employees are approved as indicated in the board meeting minutes, board members receive pay adjustments.

Recommendation #9: Board members are not employees of the ABC system and are not to receive pay adjustments. G.S. 18B-700 (g) states "...No local board member shall receive any nonmonetary compensation or benefits unless specifically authorized in this section." Refer to above recommendation for remaining text.

- Board members receive mileage reimbursement for attending board meetings. The travel policy does not reference mileage reimbursement requirements for board members attending board meetings.

Recommendation #10: Adopt a policy that specifically defines official board business and allowing board members to receive mileage reimbursement to and from board meetings. Submit copies of the policy to the NC ABC Commission at least 15 days prior to adoption.

Edgecombe County Alcohol Beverage Control Board

Shelly Willingham
Chairman
C.B. Bunting, III
Vice Chairman
Charlie Harrell
Gleno Horne
Joe E. Eagles



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Ms. Moniqua S. McLean, NCABC Auditor
North Carolina ABC Commission
4307 Mail Service Center
Raleigh, NC 27699-4307

Dear Ms. McLean,

The Edgecombe County ABC Board would like to thank you for your time and effort put forth during our most recent audit process. There were several items of interest that we would like to point out after reviewing your findings. When referencing our working capital, you cite that amount at \$947,408 incorrectly however you demonstrate our working capital in the graph on the same page as \$840,637 which is the correct amount and within the allowable limits. On the following page when discussing our distributions you mention the town of Kenansville which is approximately two hours or 100 miles away in Duplin County and of course has nothing to do with our system. In response to your recommendations:

Recommendation #1 – Begin distributing toward alcohol education/rehabilitation programs as described by G.S. 18B-805 (c) (3). If you continue to read the statute, (3) (1) states, "This provision shall not be applicable to a local board which is subject to a local act setting a different distribution." We feel that our local act still exempts us from this requirement.

Recommendation #5 – Follow the closed session proceedings as indicated in the ABC Operations manual. We have not had the need to enter into closed session during our board meetings and therefore have never exercised the closed session option.

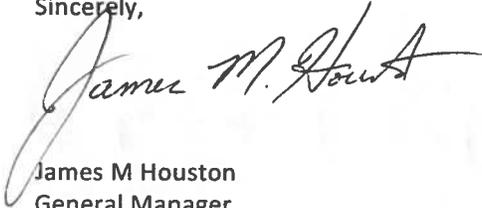
Recommendation #6 – All ABC Board meetings are required to be notified to the public. As I informed you while you were visiting us, I have brought notices to the Edgecombe County Administration building and asked them to post them in the proper areas.

Recommendation #7 – Two board members have not been reappointed, ask the appointing authority to reappoint them. Actually, the county did reappoint those board members on September 5th, 2017 but failed to notify us.

Recommendation #9 – Adopt a policy that specifically defines official board business and allowing board members to receive mileage reimbursement to and from board meetings. We have a current travel policy on file that we feel covers both board members and all employees.

I would appreciate if you could remove the incorrect information from our audit before finalizing your report and I again thank you for your time spent here in Edgecombe County.

Sincerely,

A handwritten signature in black ink that reads "James M. Houston". The signature is written in a cursive style with a large initial "J" and "H".

James M Houston
General Manager
Edgecombe County ABC Board



State of North Carolina
ALCOHOLIC BEVERAGE CONTROL COMMISSION

JAMES C. GARDNER
CHAIRMAN

4307 MAIL SERVICE CENTER
RALEIGH, NC 27699-4307

COMMISSION MEMBERS:

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GREENSBORO

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WEST JEFFERSON

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ADMINISTRATOR

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MEMORANDUM

TO: Laurie Lee
FROM: Renee C. Metz *Renee C. Metz*
Chief Counsel
DATE: October 25, 2016
RE: Interpretation of G.S. §18B-805(c)(3)

I understand there have been requests for clarification of NC Gen. Stat. §18B-805(c)(3) especially in light of a 1982 memo from an ABC Commission Hearing Officer to the Wilson County ABC Board. The relevant statutory language is:

(c) Other Statutory Distributions. - After making the distributions required by subsection (b), a local board shall make the following quarterly distributions from the remaining gross receipts:

(3) The local board shall spend, or pay to the county commissioners to spend, for the purposes stated in subsection (h), an amount set by the board which shall be at least seven percent (7%) of the gross receipts remaining after the distribution required by subdivision (1). **This provision shall not be applicable to a local board which is subject to a local act setting a different distribution.**

The highlighted sentence only applies to the distribution of funds for: "(h) Expenditure of Alcoholism Funds. - Funds distributed under subdivisions (b)(4) and (c)(3) of this section shall be spent for the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse." It does not apply to the entire distribution set forth in the local act.

If a local act has an amount set aside in its distribution formula for "the treatment of alcoholism or substance abuse, or for research or education on alcohol or substance abuse", they get to keep that distribution amount even if it is less than the seven percent in the statute. If the local act has no distribution set aside for alcoholism, they will be subject to the minimum of seven percent.

Regarding the 1982 memo to Wilson County, I cannot determine whether the author even looked at the 1937 Wilson Local Act. However, there is no distribution for alcoholism and substance abuse. After net profits, an amount is set aside for law enforcement. Whatever remains is divided 25% to municipalities with liquor stores and 75% to the County. Since there is NO distribution amount for present-day §18B-805(h), Wilson County is subject to the statutory "at least seven percent."