



STATE OF NORTH CAROLINA

INVESTIGATIVE REPORT

**NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

STATE FAIR DIVISION

RALEIGH, NORTH CAROLINA

JULY 2011

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA

STATE AUDITOR

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AUDITOR'S TRANSMITTAL

The Honorable Beverly Perdue, Governor
Mr. Steve Troxler, Commissioner of Agriculture
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to North Carolina General Statute §147-64.6(c)(16), we have completed an investigation of an allegation concerning an employee of the State Fair Division of the North Carolina Department of Agriculture and Consumer Services. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with G.S. §147-64.6 (c) (12).

Respectfully submitted,

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA
State Auditor

July 21, 2011

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INTRODUCTION

The Office of the State Auditor received a complaint regarding excessive overtime for an employee of the State Fair Division of the North Carolina Department of Agriculture and Consumer Services (Department).

To conduct our investigation of the complaint, we performed the following procedures:

- Review of applicable North Carolina General Statutes
- Review of applicable policies and procedures of the North Carolina Office of State Personnel
- Examination of relevant documents and records of the Department
- Interviews with employees of the Department's State Fair and Human Resources Divisions and the Office of State Personnel

This report presents the results of our investigation. The investigation was conducted pursuant to North Carolina General Statute §147-64.6(c) (16).

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ORGANIZATION OVERVIEW

The North Carolina Department of Agriculture and Consumer Services (Department) was created in 1877. Its mission is to provide services that promote and improve agriculture and agribusiness, protect consumers and businesses, and preserve farmland and natural resources.

The State Fair Division (Division) of the Department is responsible for the operation of the State Fairgrounds. The State Fairgrounds consist of 344 acres of land and facilities that total more than 400,000 square feet of building space. The Division administers the State Fair each October and leases the buildings and grounds to vendors and promoters for approximately 300 events throughout the year. The earnings from these events provide funding for the operation of the fairgrounds and ground improvements.

The Division conducts its operations from a facility located on the State Fairgrounds. The Division has 65 permanent employees¹ and 38 temporary employees working in administration, accounting and purchasing, events marketing and media, and maintenance. The manager of the Division reports directly to the Administration Chief Deputy Commissioner. The Administration Chief Deputy Commissioner reports directly to the Commissioner of Agriculture.

¹ Seven of these positions are currently vacant.

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FINDING AND RECOMMENDATION

THE STATE FAIR DIVISION IS PAYING THE FACILITY SALES DIRECTOR FOR EXCESSIVE AND UNJUSTIFIED OVERTIME HOURS.

Apart from overtime hours during the month of October, the Facility Sales Director's recorded overtime during the remaining 11 months of the year appears excessive and unnecessary.² In addition, management has not taken appropriate action to evaluate the need for the employee's overtime or followed through on a plan to eliminate it.

The base salary for the Facility Sales Director ranged from \$44,567 in 2007 to \$46,691 in 2010. The Facility Sales Director's time records included overtime in every month of the four years we reviewed.³ Excluding the month of October, she recorded 715 hours of overtime in 2007, 619 hours in 2008, 511 hours in 2009, and 437 hours in 2010. The corresponding gross payments for this overtime amounted to \$23,143 in 2007, \$20,547 in 2008, \$17,213 in 2009, and \$14,698 in 2010.⁴

In March 2008, the State Fair Manager hired a temporary employee to assist the Facility Sales Director. All of the temporary employee's time was devoted to tasks that were previously performed by the Facility Sales Director. The length of the temporary employee's assignment was indefinite, and it was anticipated that she would work approximately 30 hours per week. Given that the anticipated work hours per week for the temporary employee greatly exceeded the number of overtime hours being worked by the Facility Sales Director, it was reasonable to expect that the outcome of hiring the temporary employee would be the elimination of the Facility Sales Director's overtime hours, except for the month of October.

Time records for the temporary employee show that she recorded 1,437 hours in 2010, excluding overtime worked in October. During 2010, overtime hours recorded by the Facility Sales Director decreased by only 278 hours compared to 2007,⁵ again excluding the month of October. The addition of the temporary employee resulted in only a 39 percent decrease in the Facility Sales Director's overtime hours between 2007 and 2010, even though 100 percent of the temporary employee's time was devoted to assisting the Facility Sales Director.

The Facility Sales Director stated that she generally works between 50 and 60 hours per week and that overtime is necessary for after-hours meetings with potential or existing building lessees or to perform tasks without interruptions. Our interviews with the State

² The North Carolina State Fair is held over an 11-day period every October. All State Fair Division employees are expected to work overtime during the month of October to meet the demands of this seasonal event. As a result of this expectation, we have elected to exclude overtime hours and overtime pay for October from the data presented in this report.

³ The calendar years reviewed were 2007, 2008, 2009, and 2010.

⁴ To present overtime hours and overtime pay in a consistent manner throughout the four years ended December 31, 2010, several types of adjustments were required. For example, adjustments were made for the late submission of timesheets and timing differences between the Central Payroll and BEACON Payroll systems.

⁵ 2007 was used because it shows the overtime worked by the Facility Sales Director (715 hours) before the temporary employee was hired.

FINDING AND RECOMMENDATION (CONCLUDED)

Fair Manager indicated that he is generally unaware of what the Facility Sales Director is working on outside of normal business hours. With the exception of security, there is usually no one else in the State Fair administration building after normal business hours.

The State Personnel Manual provides that: “Agency heads and supervisors shall hold hours worked by the employee to the State’s established 40-hour workweek standard except in those cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activity or emergencies. It shall be a responsibility of each agency or executive head to determine that the provision of overtime pay is administered in the best interest of the State.”

Management’s insufficient monitoring of overtime hours allowed the Facility Sales Director to accumulate excessive overtime and generate additional compensation. Furthermore, the addition of the temporary employee has not proven to be an effective approach to eliminating excessive overtime. Instead, the effect of adding the temporary employee to the State Fair Division has been a net increase in the amount of State funds expended to fulfill the duties of the Facility Sales Director. (See Appendix A)

During our interview with the Facility Sales Director, she indicated that her position should be reclassified from non-exempt to exempt, but at a higher annual pay rate. Our review of the Facility Sales Director’s job description indicated that her responsibilities appeared to meet the requirements for the administrative employee exemption⁶ from the Fair Labor Standards Act (FLSA). Under this exemption, the Facility Sales Director would receive a fixed salary and would no longer receive monetary compensation for overtime. Further discussion and review of the position description with Office of State Personnel analysts provided confirmation that the position should be classified as exempt under the FLSA. The State Personnel Manual also states that, “Each agency head will recommend which employees are exempt from hours of work and overtime pay standards under the terms of exemptions.”

RECOMMENDATION

State Fair Division management should monitor employee work hours to ensure that any overtime worked is absolutely necessary and in compliance with the State’s overtime policy. In addition, the Department of Agriculture and Consumer Services should reclassify the Facility Sales Director’s position from non-exempt to exempt under the FLSA.

⁶ The specific requirements for the administrative employee exemption are set forth in Section Four of the State Personnel Manual.

APPENDIX A

FUNDS EXPENDED TO FULFILL THE DUTIES OF THE FACILITY SALES DIRECTOR

Explanation of Table Data: Overtime is expected during the month of October for all State Fair Division employees. Therefore, October overtime hours are excluded from both the expected and actual impact on total wages illustrated in the tables below to provide a valid comparison of the expected and actual impacts of hiring a temporary employee.

Table 1: Expected Impact on Total Wages after Hiring of Temporary Employee

	2007		2008		2009		2010	
	REG PAY	O/T PAY	REG PAY	O/T PAY	REG PAY	O/T PAY	REG PAY	O/T PAY
FACILITY SALES DIRECTOR	\$44,567	\$23,143	\$46,066	\$5,293	\$46,458	\$0	\$46,691	\$0
TEMPORARY EMPLOYEE			\$11,771	\$665	\$16,190	\$657	\$15,955	\$1,094
SUBTOTALS	\$44,567	\$23,143	\$57,837	\$5,958	\$62,648	\$657	\$62,646	\$1,094
TOTAL COST OF FULFILLING DUTIES OF FACILITY SALES DIRECTOR	\$67,710		\$63,795		\$63,305		\$63,740	

The reasonably expected outcome of hiring a temporary employee to assist the Facility Sales Director was the elimination of the overtime hours, with the exception of October, needed to perform the duties of the Facility Sales Director. This expected outcome would have decreased the amount expended for the duties of the Facility Sales Director position to \$63,740 for calendar year 2010, as illustrated in the above table.

Table 2: Actual Impact on Total Wages after Hiring of Temporary Employee

	2007		2008		2009		2010	
	REG PAY	O/T PAY						
FACILITY SALES DIRECTOR	\$44,567	\$23,143	\$46,066	\$20,547	\$46,458	\$17,213	\$46,691	\$14,698
TEMPORARY EMPLOYEE			\$11,771	\$665	\$16,190	\$657	\$15,955	\$1,094
SUBTOTALS	\$44,567	\$23,143	\$57,837	\$21,212	\$62,648	\$17,870	\$62,646	\$15,792
TOTAL COST OF FULFILLING DUTIES OF FACILITY SALES DIRECTOR	\$67,710		\$79,049		\$80,518		\$78,438	

The actual impact of hiring the temporary employee to assist the Facility Sales Director produced the above result. The amount expended to fulfill the duties of the Facility Sales Director's position has increased since the addition of the temporary employee. In addition to paying the Facility Sales Director's and temporary employee's regular wages, the Facility Sales Director is continuing to earn overtime pay. The total cost of fulfilling the duties of the Facility Sales Director in 2010 was \$78,438, as opposed to the expected result of \$63,740. This represents an increase of \$14,698 (23%) in the cost of fulfilling the duties of the Facility Sales Director.

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STATE AUDITOR'S NOTE TO THE DEPARTMENT'S RESPONSE

The North Carolina Department of Agriculture and Consumer Services (Department) provided a response to our investigative report that we believe is misleading. While our report did not include a finding of fraud, it did include a finding of excessive and unjustified overtime hours. As noted in our report, overtime pay decreased from \$23,143 to \$14,698 over a four-year period after the Department hired an employee to assist the Facility Sales Director. However, the Department continued to pay for overtime even though the State Fair Manager said he was generally unaware of what the Facility Sales Director was working on outside of normal business hours.

The Department contends that the sales and marketing staff at the State Fairgrounds is significantly understaffed. However, in our opinion, the Department has no basis for this argument in the absence of a comprehensive evaluation of the Facility Sales Director's work habits and relative efficiency. Thus, any increase in expenditures for staffing would be imprudent without performing this type of assessment.

In 2007, the Department's internal auditor noted in an internal memorandum that the Department paid over \$750,000 in gross overtime wages for the calendar year 2006. He also noted that the Facility Sales Director received the greatest amount of overtime compensation in 2006, specifically, \$20,463. The memorandum also included this statement: "Paid overtime is a big expense for the department since an employee in overtime status earns one and one-half times their hourly pay rate. Reflecting overtime on a timesheet and receiving compensation for it when the work time may be unnecessary and/or unsupervised raises a suspicion of fraud."

The internal auditor indicated that the high payout of overtime may have been attributable to poor time management skills and work habits by employees and relaxed work oversight by supervisors. The internal auditor also noted that employees may view overtime as a method to increase their monthly salary. The internal auditor concluded his 2007 internal memorandum by saying, "Paid overtime can become very costly for the department and as this audit reveals more costly for some divisions than others and every effort should be made to eliminate it."

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Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services

July 11, 2011

The Honorable Beth A. Wood, State Auditor
N. C. Office of the State Auditor
20601 Mail Service Center
Raleigh, NC 27699-0601

Dear Ms. Wood:

The department has given careful review to the audit of the overtime worked by the Facility Sales Director for the State Fair. We are pleased your office made no finding of fraud or improper time entry involving State funds at the State Fair. We have acted on your recommendation to make the Facility Sales Director's position exempt from overtime and we have adjusted the Facility Sales Director's compensation package by reclassifying the position. As noted in the audit report, the number of overtime hours has decreased in each of the past four years. The decrease was due to management being aware of the overtime and taking steps to reduce the number of overtime hours.

The audit report impelled us to examine the sales and marketing staff at the State Fair Division versus our primary competitor. It is clear the sales and marketing department in the State Fair Division is significantly understaffed when compared to the Raleigh Convention Center, a facility with annual revenues which are roughly equivalent to the Division's. According to the Raleigh Convention Center's web site, their sales and marketing staff consists of at least seven individuals. The State Fair Division devotes less than 1.75 FTE to sales and marketing activities outside the annual State Fair. It is our intent to re-examine our sales and marketing staffing to determine if we are staffed appropriately. Given that the State Fair Division is completely self-supported, meaning it only spends funds it generates through rentals and other receipts, any expenditure for additional staffing will need to be offset by revenue growth.

We are proud of the work performed by the Facility Sales staff. Show promoters have several venue options in the Greater Raleigh area and the fact that so many promoters renew their contracts annually with the State Fair Division is a testament to our good customer service.

We appreciate the work performed by your staff and their willingness to meet and discuss their recommendations.

Sincerely,

Steven W. Troxler
Commissioner

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ORDERING INFORMATION

Copies of this report may be obtained by contacting the:

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