

**DEPARTMENT OF PUBLIC SAFETY
SPECIAL REVIEW OF THE OFFICE OF
PIPELINE SAFETY
AUGUST 1987 THROUGH DECEMBER 1989**

SEPTEMBER 1990

**Financial Audit Division
Office of the Legislative Auditor
State of Minnesota**

90-65

SUMMARY

State of Minnesota
Office of the Legislative Auditor
Veterans Service Building • St. Paul, MN 55155
612/296-4708

DEPARTMENT OF PUBLIC SAFETY

SPECIAL REVIEW OF THE OFFICE OF PIPELINE SAFETY AUGUST 1987 THROUGH DECEMBER 1989

Public Release Date: September 19, 1990

90-65

OBJECTIVES:

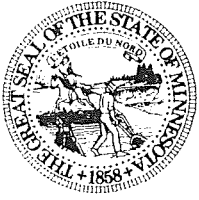
Determine whether in the Office of Pipeline Safety:

- overtime was earned, reported, and used in accordance with the appropriate bargaining agreement;
- expenses incurred by staff served a public purpose; and
- management practices were proper and in accordance with the bargaining agreements and state travel policies.

CONCLUSIONS:

- Two office staff were overpaid for some payroll and travel claims totaling \$859.
- The director has used personnel management practices which we believe are unreasonable.

Contact the Financial Audit Division for additional information.
(612) 296-1730



STATE OF MINNESOTA

OFFICE OF THE LEGISLATIVE AUDITOR

VETERANS SERVICE BUILDING, ST. PAUL, MN 55155 • 612/296-4708

JAMES R. NOBLES, LEGISLATIVE AUDITOR

Senator John E. Brandl, Chairman
Legislative Audit Commission

Members of the Legislative Audit Commission

and

Mr. Paul Tschida, Commissioner
Department of Public Safety

Audit Scope

We have conducted a special review of the personnel and travel policies of the Department of Public Safety, Office of Pipeline Safety. The review included the period August 1987 through December 1989. We initiated the review upon receiving an allegation that office staff had violated state personnel and travel regulations.

The objective of our review was to determine whether:

- overtime was earned, reported, and used in accordance with the appropriate bargaining agreement;
- expenses incurred by staff served a public purpose relating to the activities of the Office of Pipeline Safety; and
- management practices were proper and in accordance with the bargaining agreements and state travel policies.

Audit Techniques

We reviewed the director and inspectors expense reports, time sheets, and supporting documents. We also took sworn testimony from the director of the Office of Pipeline Safety, two staff, and one former staff.

Background

The Office of Pipeline Safety was established in 1987. The office is responsible for implementing a quality assurance program of gas and hazardous liquid pipeline inspection, investigation, and public education. The office inspects both intrastate and interstate gas and hazardous liquid pipelines in Minnesota.

Mr. William Barbeau is the director of the office. Six inspectors conduct all pipeline inspections. In addition, the office has two clerical positions.

Conclusions

The Office of Pipeline Safety is not being managed in accordance with state bargaining agreements and state travel policies. Mr. Barbeau has imposed unrealistic travel and overtime requirements on the staff. He has then attempted to compensate them by arbitrarily authorizing them not to report for work. Mr. Barbeau should be advised of the need to follow state procedures and the provisions of the bargaining agreements. Where the agreements provide for department discretion, the office should establish written policies which are communicated to all staff. Finally, the department should resolve the overpayment issues.

1. Two office staff were overpaid for some payroll and travel claims.

We have identified compensation given to Mr. Sweney, an inspector for the office, which we believe to be inappropriate. In addition, certain expenses paid to Mr. Barbeau and Mr. Sweney were for personal or undocumented expenses.

Mr. Barbeau approved an overtime request submitted by Steven Sweney to compensate for retroactive pay due to a promotion and expenses denied totaling \$712. Steven Sweney was promoted to a new position on November 22, 1989. He had understood that his salary increase would be retroactive to October 11, 1989. In addition, \$28 of meal expenses had been denied on expense reports. Mr. Sweney submitted a memo to Mr. Barbeau in which he calculated 34 hours of overtime would be necessary to compensate for the lost salary and additional expenses. Mr. Sweney told us that he did record at least part of the overtime on his time sheet but justified the hours as working on other projects. This is not an authorized use of overtime. The hours or compensation should be repaid by Mr. Sweney.

Mr. Barbeau's expense report for the period October 29 - November 3, 1988 included \$75.32 for phone calls. There was no documentation or explanation as to the purpose of the calls. If these cannot be documented for a business purpose, the amount of the calls in excess of that allowed by the bargaining agreement should be repaid.

Mr. Sweney and Mr. Barbeau attended the NAPSR conference in New Orleans March 27 - 30, 1989. Both stayed in New Orleans until April 2, 1989. The day the conference ended Mr. Sweney rented a car and charged the rental expenses of \$72.27 to the state. Mr. Sweney stated that the car was rented at the request of Mr. Barbeau. However, the car was used for personal purposes and should not have been reimbursed by the state. The additional expense should be repaid.

RECOMMENDATION

- The department should recover the \$859.59 overpayment from the two employees.
2. The director has used personnel management practices which are unreasonable and improper.

We have identified certain instances where improper management practices have occurred. An informal method of compensating for unrecorded overtime has been used by the office. In addition, the amount of overtime staff have been required to work appears unreasonable. Management practices of the Office of Pipeline Safety should be in accordance with the bargaining agreement and department policy.

Mr. Barbeau suggested that Steven Sweney and Ronald Wiest not report to work December 27 - 30, 1988 to compensate them for overtime worked but not earned. Their time sheets showed they were working in the office on those dates. Mr. Barbeau also suggested that Michael McGrath, Ronald Wiest, and Steven Sweney not report to work May 30 and June 30, 1989 to compensate for overtime worked. Again, the time sheets showed they worked in the office. Overtime should be granted in accordance with the provisions of the appropriate bargaining agreement. Informal use of overtime should not be permitted.

Staff are often required to travel to out-state work locations on their own time. We compared the hours reported on expense reports to the time sheets. We found that often staff would claim breakfast and evening meals because they left home before 6:00 a.m. to arrive at the work site by 8:00, or worked late, arriving home after 7:00 p.m. However, only eight hours of work was shown on the time sheet. Staff stated that because of the work load they must be at the work site for a full day's work and often work more than the eight hours. We verified this by reviewing one person's diary. Public Safety should establish a policy regarding the necessity of being at the work site at the beginning of the work day. The appropriate bargaining agreement should also be followed concerning earning overtime.

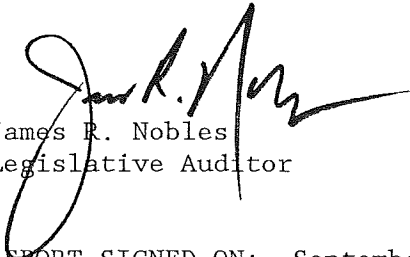
Steven Sweney vacationed in Florida February 20 - 24, 1989. However, his time sheet shows that he worked in the office that week. He told us that Mr. Barbeau authorized this to compensate for overtime worked but not reported.

RECOMMENDATION

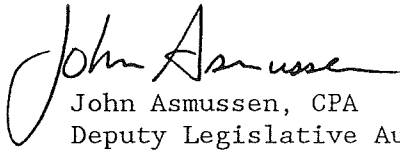
- The department must ensure that office staff are given reasonable work assignments which adhere to the terms of the state bargaining agreements.

Senator John E. Brandl, Chairman
Members of the Legislative Audit Commission
Mr. Paul Tschida, Commissioner
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This report is intended for the information of the Legislative Audit Commission and management of the Department of Public Safety. This restriction is not intended to limit the distribution of this report, which was released as a public document on September 19, 1990.



James R. Nobles
Legislative Auditor



John Asmussen, CPA
Deputy Legislative Auditor

REPORT SIGNED ON: September 12, 1990



September 5, 1990

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

James R. Nobles
Legislative Auditor
Veterans Service Building
St. Paul, Minnesota 55155

Dear Mr. Nobles:

We have reviewed your audit finds and recommendations concerning the personnel and travel policies of the Department of Public Safety, Office of Pipeline Safety. Comments on the recommendations are in the order presented in your draft report and include progress toward implementation, as well as the department's position on the practicality or feasibility of complying with certain recommendations.

FINDING NUMBER ONE: Two office staff were overpaid for some payroll and travel claims.

We have identified compensation given to Mr. Sweney, an inspector for the office, which we believe to be inappropriate. In addition, certain expenses paid to Mr. Barbeau and Mr. Sweney were for personal or undocumented expenses.

RECOMMENDATIONS: The department should recover the \$859.59 overpayment from the two employees.

RESPONSE: The Department will recover the \$712.00 that was paid to Steve Sweney as overtime. A retroactive pay adjustment will be processed by the Office of Fiscal & Administrative Services, Payroll Section to recover the \$712.00.

We have asked Mr. Barbeau to provide adequate documentation for the \$75.32 in phone calls made on a business trip. If these phone calls cannot be documented for a business purpose, the amount of the calls in excess of that allowed by the bargaining agreement will be repaid by Mr. Barbeau.

The Department will recover the \$72.27 from Mr. Sweney that was a reimbursement for the rental of a car during a conference in New Orleans. According to your audit findings, the rental car was used for both business and personal purposes. The repayment of this amount and the amount for phone charges will be processed through the Office of Fiscal & Administrative Services, Accounts Payable Section.

The Department does adhere to the travel policy of the Department of Finance. Also, the Department has an internal travel policy that is to be followed by all division and staff offices of this agency. As an example, the travel policy of this agency states that: "A rental car may be considered if business travel (other than between airport and meeting site) is required, and public transportation is clearly not adequate."

The Accounts Payable Section of this agency goes through a comprehensive pre-audit of all employee expense reports prior to processing claims for reimbursement. This provides for a high level of accuracy in the processing of employee expense reports. However, in this case, the travel documentation submitted did not provide the level of detail that was uncovered by your audit.

FINDING NUMBER TWO: The director has used personnel management practices which are unreasonable and improper.

We have identified certain instances where improper management practices have occurred. An informal method of compensating for unrecorded overtime has been used by the office. In addition, the amount of overtime staff have been required to work appears unreasonable. Management practices of the Office of Pipeline Safety should be in accordance with the bargaining agreement and department policy.

RECOMMENDATION: The department must ensure that office staff are given reasonable work assignments which adhere to the terms of the state bargaining agreements.

RESPONSE: When the Office of Pipeline Safety was created it became apparent that the time requirements for employees were going to have to be somewhat different than our experience had been with other Public Safety employees. Mr. Barbeau worked closely with the Personnel Office in determining appropriate methods for defining hours of work and overtime. The labor contract provisions covering these employees at the time the Office was created provides for a "balancing of hours" concept. Essentially this means that employees may arrange their work hours within 80 hour payroll periods which may not necessarily be according to an eight hour per day schedule. Further, employees under these labor contract provisions do not receive hour for hour overtime compensation (see attached policy memo from Labor Relations date December 23, 1981).

In the fall of 1989, the Pipeline Safety employees were reclassified as Engineers which resulted in them being placed under a different labor contract, however, the new labor contract has even more specific provisions for "payroll averaging" of overtime hours. Both systems are separate from formal compensatory time hours. To our knowledge it is common within state government to record eight hours per day on the time sheets in these instances. Further, these provisions can result in expenses being paid as stated under #2 on Page 3 of the audit findings. Since both the

Pipeline Safety managers and employees were new to state government and since a lot of time was put in by the employees to get the new program off the ground there was some confusion in proper application of labor contract provisions and state practices in terms of exactly how the payroll averaging was to be handled i.e. when should vacation accruals be utilized rather than payroll averaging hours.

Written guidelines have been implemented within the Office of Pipeline Safety which should provide for better recording of employee's time worked and utilization of hours in excess of 80 hour payroll periods.

Sincerely,



Paul J. Tschida
Commissioner
Department of Public Safety

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Personnel/Labor Relations Directors
and/or Designees

12/23/81

Craig M. Ayers
Assistant State Negotiator

296-8274

Restatement of Overtime Provisions for Employees
Covered by the MAPE Contract (General Professional Unit #214)

A number of personnel directors have contacted us regarding the most recent newsletter which MAPE is distributing to professional employees in State agencies. Because of the confusion which is developing relative to MAPE's explanation of the overtime provisions contained in Article XXVII, we are restating what was negotiated regarding overtime. Although MAPE attempted in negotiations to get hour-for-hour compensation (either in cash or compensatory time off) for hours worked over 80 in a payroll period, no changes were made in the pre-July, 1981 system for determining when overtime occurs. The language in Article XXVII, Section 5., Overtime, was negotiated with the understanding that employees whose job responsibilities normally require attendance at night meetings, travel away from the office, or meetings outside of the normal workday, would continue to work such hours without them resulting in overtime compensation. Because of the nature of professional jobs, employees are expected to work the time periods required to complete the tasks for which they are responsible. Thus, the situation existing throughout the previous contract years under the AFSCME and IMAGE agreements was not changed in the new contract with MAPE.

Overtime is only available if all the following pre-conditions have been met:

1. The assignment is a special work assignment (as identified and defined by the Appointing Authority); and
2. The special work assignment is in addition to their normal job duties (if the special work assignment is part of the normal duties of the position, it is not compensable); and
3. The employee has been granted approval by the Appointing Authority (not the Supervisor) in advance of the commencement of the work; and
4. The employee in completing the special work assignment has worked more than 80 hours in the pay period.

As before July 1, 1981, it is up to the Appointing Authorities to determine what work is a special work assignment as opposed to regular duties of the employee. We kept this safeguard because many professional employees are in positions which permit great latitude regarding when the work is to be done. To avoid problems of self-generation of overtime or inappropriate treatment of regular hours as overtime, we maintained centralized control in each agency.

Although it is acceptable under Article XXVII to permit an employee to take off part of the pay period to balance hours worked when an employee has

December 23, 1981

reached 80, you may require the employee to work more than 80 hours if the required hours are not a special work assignment in excess of his/her normal job duties.

Again, the State has not altered the existing system for authorizing overtime. Changes which were made in the new contract address how overtime is paid (cash or compensatory time off) once it is authorized by the Appointing Authority.

If you have specific questions regarding the contract language, please contact the Labor Relations Bureau staff person assigned to your agency. Thanks for your cooperation in this matter.

CA:mf

PUBLIC SAFETY
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