

Hertford ABC Board

Performance Audit Report



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ABC
COMMISSION
NORTH CAROLINA

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OBJECTIVE, PURPOSE & BACKGROUND INFORMATION

In addition to regular and special financial audits, G.S. 18B-705(a) authorizes the NC 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 audit's 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
- Verify compliance with Commission and Board policies
- Verify results of previous performance audit recommendations
- Review ABC Board annual independent financial audits
- Review ABC Board reporting and documentation reports
- Visit the store(s)
- Interview key ABC Board personnel

The Town of Hertford was originally incorporated in 1758 as the county seat for Perquimans County and first inhabited by the Yeopim tribe. The municipality is the hometown of late major league baseball (MLB) pitcher Jim “Catfish” Hunter. Disc jockey Wolfman Jack is buried in nearby Belvidere, and his son operates an entertainment company called Wolfman Jack Entertainment (WJE) based in Hertford. In 2020, the town’s population per the Census was approximately 2,133 residents with virtually no change since 2010.

Chapter 728 of the 1961 Session Laws authorized the Town of Hertford to hold an election for an ABC store. The referendum was held on August 8, 1961, and it passed 312 to 119. The first retail sale occurred on October 2, 1961. A mixed beverage election was held on November 5, 2013, and it passed 283 to 128. The Town of Hertford appoints a chairperson and two (2) additional board members to serve for three-year terms on the ABC board.

The Hertford ABC Board currently operates one (1) retail store. The board staffs approximately five (5) total employees including a general manager, finance officer, and sales associates. These include two (2) full time employees and three (3) part-time personnel. The general manager / is responsible for the daily store operations including supervising personnel, inventory management, and various retail functions. The finance officer provides the general manager/budget officer and the board with fiscal management, administrative support, and assist with routine operations of the ABC stores. Sales associate responsibilities include selling products, daily stocking, and floor upkeep & maintenance.

The last performance audit for the Hertford ABC Board occurred in 2014. The Commission audit serves as a continuous way to provide local boards with information and best practices that target areas for improvement.



OPERATIONAL OBSERVATIONS, FINDINGS, REQUIRED ACTIONS, & RECOMMENDATIONS

On Wednesday, June 22, 2022, ABC Board Program Analyst Quinn Woolard, visited the Hertford ABC Board and interviewed Jerry Lane (General Manager) and Romni Whidbee (Finance Officer). In addition, a representative from the CPA firm was in attendance facilitating year-end activities and some items were discussed on distributions. Below is a financial analysis followed by operation observations, findings, and recommendations related to the performance audit.

FINANCIAL ANALYSIS

PROFIT PERCENTAGE TO SALES & OPERATING COST RATIO

In fiscal year (FY) 2020-2021, the Hertford ABC Board had a profit percentage to sales of 6.93%. The NC ABC Commission profit to sales standards for ABC Boards with gross sales less than \$2M is 5.0%. The Hertford ABC Board's gross sales totaled \$1,549,746, which was a 15.23% over the previous fiscal year.

The operating cost ratio for the Hertford ABC Board was .65 in FY 2020-2021. The NC ABC Commission standard for ABC Boards with one or two stores and mixed beverage sales is .73 or less.

Thus, the Hertford ABC Board exceeded the profitability standards and the operating cost standards set by the NC ABC Commission. Below is a chart showing gross profit on sales and income from operations for the previous two years.

	FY2020-2021	FY2019-2020
Gross Profit on Sales	\$370,134	\$336,428
Income from Operations	\$107,472	\$85,413

Factors affecting profitability and cost include:

- Surrounding areas with other ABC Boards operating stores within a twenty (20) mile range of Hertford ABC: Chowan ABC operating one store; Pasquotank County ABC operating one store; Camden County ABC has a store operating within range.

- An ABC Board’s average cost of goods sold (COGS) is between 52% & 54% per year. The Hertford ABC Board’s cost of goods sold was approximately **53.6%** in FY 2020-2021.
 - *Mixed beverage sales were roughly 0.5% of total sales in FY-2021, and there is only one (1) current mixed beverage customer.*

BUDGET ANALYSIS

	FY 2020-2021 Budget Projections	FY2020-2021 Actual	Variance	Variance %
Sales	\$1,341,699	\$1,549,746	208,047	15.5%
Total Expenditures (to include Distributions)	\$1,342,199	\$1,556,034	(213,835)	15.9%

In reviewing the budget to actual analysis of the FY2020-2021 financial audit, actual sales revenues were over budgeted projections by 15.5%. In addition, total expenditures were also over budget by 15.9%. Overall, revenues over expenditures were reflected as (\$5,840) for the fiscal year period. The chart above shows the final budget to actual amounts and the appropriate positive or negative variances. *The board’s FY-2021 ending net position was around \$77k; the net position has remained the same over the last five (5) fiscal years.*

DISTRIBUTIONS

G.S. 18B-805 (b) requires the board to pay from gross receipts, all expenses, excise, and rehabilitation taxes. G.S. 18B-805(c)(2) requires the board to distribute at least five percent (5%) of applicable gross receipts to law enforcement and at least seven percent (7%) for alcohol education. *Before assigning these percentage distributions, G.S. 18B-805(c)(1) requires the board to first make a minimum quarterly distribution of the 3.5% markup & relevant bottle charges to certain county/municipal recipients.* Some of these specific recipients are designated by an official local enabling act (*and thus will vary*).

In FY 2020-2021, Hertford ABC made other statutory distributions totaling \$107,920 (Net profit distribution recipients received \$98,407 of this). The amount of \$349,099 in primary distributions and other taxes were paid to the NC Department of Revenue (NCDOR), NC Department of Health & Human Services (NCDHHS), and the county commissioners of Perquimans County.

The net profits are to be distributed as follows per the current local enabling act:

- One hundred percent (100%) to Hertford general fund

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. The NC ABC Commission has set a working capital standard for boards with annual gross sales greater than \$1.5M yet less than \$50M an amount equal to three (3) months of sales revenue.

Based upon the existing rules, as of June 30, 2021, the Hertford ABC Board is required to maintain a minimum working capital of \$46,179 with a maximum working capital amount of \$400,216. The Hertford ABC Board had a working capital balance of \$27,917, which falls below the Commission requirements for this section (*).

*** FY 2020-2021: Working Capital (WC) graphic**



*** ACTUAL WC**

\$27,917

**FY-2018 was the last operating period where Hertford ABC Board was above the calculated number for minimum working capital balance. Under 18B-805(d), with approval of the appointing authority for the board, the local board may set aside a portion of the remaining gross receipts as a fund for specific capital improvements whenever working capital is exceeded.*

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE

The findings for personnel, operational & administrative compliance are as follows:

- The board holds board meetings the third Monday of each month at 5:00 PM, records regular meeting minutes, and provides public notification and awareness of these meetings. The minutes provided have the conflict-of-interest disclosure statements and discussion. The meeting minutes are organized in a binder for review.
- The board has a personnel policy manual, code of ethics, and the Commission had electronic copies.
 - Due to a new Commission policy & procedure manual available, this has been forwarded to the board for consideration on potential use.
 - Signatures on the code of ethics all reflect former board members.
 - The board has a business credit card but no formal policy for authorized use is in place.
- The board exceeded original budgeted sales in FY-2021 during the month of May 2021; a budget amendment was not adopted by the board. Currently, the board exceeded FY-2022 budgeted sales in May 2022 and a budget amendment has not been adopted to date.
- The finance officer is signing checks as required per statute with the Chairman or one of the other board members as secondary signature. Invoice records for recent liquor purchases reflect them as being paid routinely inside of 30 days. Taxes and distributions are paid in a routine and timely manner. May & Place CPA firm provides quarterly oversight for the ABC board including quarterly bank reconciliation. A representative will coordinate with the GM & finance officer (FO) on adjustments for journal entries. The board uses QuickBooks for routine journal entries as well as processing payroll internally twice per month.
 - The Board experienced fraud from online hackers in late 2021. Various counterfeit checks totaling over \$30,000 were fraudulently cashed at different locations in the country. Between bank resolution and applicable insurance, the board was able to recoup a good portion of these funds. Still, the board has had to write off approximately \$13,000 in unrecoverable funds. *After consultation with bank representative, the board has started moving forward with paying liquor vendors via online banking to lessen fraud potential.*
 - The board had also explored Positive Pay as a safeguard, however the logistics involved are not feasible for the board to utilize this service.
- The general manager provides board members with monthly sales information and previous year's applicable sales. The board reviews quarterly information provided by the CPA firm to include profit & loss statements and other items of concern. Board members are heavily encouraged to use checks and balances to ensure that cash management practices are upheld; also, boards should routinely review any financial statements and recommendations provided by the CPA firm.
- Bank deposits are made normally on Mondays, Tuesdays, and Wednesdays per review of bank statements and discussion with the general manager. The GM will typically make the bank deposits. For safeguard measures and adherence to *Commission rule 15A .0905 Daily Deposits*, the board recently purchased a locked fireproof safe for integrity of funds that remain at the board at any given time.
- Liquor invoices are being signed by the finance officer, however there is no pre-audit certificate stamped or present on the orders at the time they are placed. The invoices that are received on truck days are being stamped. A stamp with disbursement approval certificate statement is available to use on checks. *The board should consider ordering checks which are pre-printed with the required disbursement statement, eliminating any further action or stamps on actual checks.*
- The board has a law enforcement contract from 2011 with the Hertford Police Department. The contract is no longer valid due to the police department being disbanded in 2021 by the town council.

PERSONNEL, OPERATIONAL & ADMINISTRATIVE COMPLIANCE (cont.)

- Law enforcement (LE) reports were being submitted routinely on the board website with regular statistics being listed until April 2021 by the Town of Hertford Police Department. However, the reports stopped when the town voted to disband the police department. The GM and Commission representative spoke with the Sheriff’s Department via phone during the field audit. The Sheriff’s Department was very helpful, providing good feedback, and all agreed that a new law enforcement contract with state Alcohol Law Enforcement (ALE) agency would be the best measure for the board going forward.
- The Hertford ABC board has been below minimum allowable amounts for working capital over the last three (3) fiscal years. The two (2) fiscal years before this (FY-2018 & FY-2017) reflected the board as being slightly above the minimum allowed on working capital. **Special note:** Within the last three (3) years, the store was remodeled, and the board currently has a bank loan with approximately \$86,000 remaining balance as of June 2022. **Over the last five (5) years, the board has also routinely made net profit distributions to the town in most cases which more than doubled the minimum calculated annual amount required by statute - Reference figure below.**

NC GENERAL STATUTE: 18B-805 (c)(1)			
Calculation of Minimum Mandatory Distribution for Net Profit to Designated Recipients		Hertford ABC Board Net profit distribution made annually by fiscal year	
<i>(Note: Referencing CPA Audit Reports)</i>			
Recipient by law: Town of Hertford		Recipient by law: Town of Hertford	
FY-2021	\$44,500	FY-2021	\$98,000
FY-2020	\$38,000	FY-2020	\$79,000
FY-2019	\$33,000	FY-2019	\$46,000
FY-2018	\$32,000	FY-2018	\$80,000
FY-2017	\$32,000	FY-2017	\$75,000

- For the most recent fiscal year of FY-2021 ending on June 30, 2021, the minimum mandatory net profit distribution to local recipient of Town of Hertford was calculated as being approximately \$44,500 in the FY-2021 CPA annual audit, and a generous \$98,000 was made in annual distributions.
- Law enforcement distributions have been paid in accordance with statute. However, over the last five (5) years or longer, alcohol education distributions have been routinely paid below minimum statute percentage requirements, referencing annual CPA audit reports.
 - Alcohol education distributions have been made to the Town of Hertford per the general manager. The board does not have any documentation from the town on how these funds were spent or if the distribution was properly utilized for alcohol education or related purposes.
- Store inventories are conducted quarterly with intermittent spot checks conducted whenever possible.
- The general manager believes that all board members and general manager and finance officer are bonded as required, however, this information will be verified with the Penn National company who carries the building casualty policy. Board members’ compensation amounts adhere properly to general statute requirements.

STORE INSIGHT & OVERVIEW

The findings for store insight & overview are as follows:

- The store was remodeled back in 2019 and is located conveniently right off US-17 Hwy. **Special note:** *A highway bypass is planned in the coming years that would require the store to relocate due to planned interchange being established on or near existing parcel of land. While there is no confirmed date, this could occur in the next three to seven years.*
- The store has a welcoming atmosphere. An awning was added to the front along with tinted windows. Warehouse space is limited yet organized well with shelving in place.
- Due to only having one mixed beverage customer who is not interested in delivery service, the board has requested an exemption with the Commission. Referencing Rule 15A . 1903 Delivery of MXB Permittee Orders.
- Besides closing on the five (5) required annual holidays and every Sunday, the board is not closed on any other days.
- The store was displaying the required Fetal Alcohol Syndrome poster required by G.S. 18B-808.
- North Carolina products have their own section as required by law and are also cross merchandised according to product category.
- Products are placed within the designated categories; premium products are found at eye-level or top shelf. Regular occurrences were found with various bottle sizes of the same products increasing appropriately from left to right. Bottles were fronted and dusted.
- Outside area surrounding the store is well-maintained and free of debris or trash.
- Security systems are in place and functional in all designated areas. *One camera has not been operating and consultation will be needed with applicable service company.*
- Sales associate interactions with customers are attentive, courteous, and all are eager to meet the needs of the customers.
- A random sample of roughly 60-70 items was selected to determine if uniform pricing is displayed. Of those selected, one item had an incorrect price listed and was immediately updated to reflect the correct price.

RECOMMENDED ACTIONS (PER STATUTES OR COMMISSION RULES)

- ABC Boards are required to operate within a balanced budget each fiscal year. Budget amendments must be approved by the board before any funds are transferred between accounts and utilized, occurring at the actual point of time an adjustment of funds is necessary. This would include the point in time during the fiscal year when the board will exceed its annual forecasted sales budget. *Ensure budget amendment copies are submitted to the ABC Commission as required per NCGS 18B-702(h), to include a final reconciliation budget amendment for the fiscal year end.*
- ABC Boards are required to maintain proper working capital in accordance with *ABC Commission Rule 15A .0902*. For the last three (3) fiscal years, the board has been below the minimum working capital. Working with the CPA firm providing quarterly oversight, the board is recommended to monitor financial statements more heavily for the board to ensure the working capital is above the minimum every year. This is easily attainable with proper oversight and some financial adjustments.
- Over the last five (5) fiscal years, the actual net profit distributions made to Town of Hertford as the sole by-law designated recipient have been well above the minimum amounts required by statute, referencing annual CPA audit calculation summaries. These calculated amounts are also referred to as the “*Minimum Mandatory Distribution*” to be made to applicable net profit distribution recipient(s). Referencing G.S. 18B-805(c)(1) for *Other Statutory Distributions*, ABC boards shall set aside the clear proceeds of 3.5% markup and additional bottle charge to be distributed as part of remaining gross receipts to recipients in the local enabling act for net profit distributions. Due to the board’s very low net position currently, debt for remodel, and making distributions well over the minimum for several years, it is highly recommended to strong monitor financial statements and coordinate with the CPA firm to ensure only the minimum mandatory distribution calculated figure is paid to the town. In summary, this will help the board become more financially stable moving forward. Also, it ensures the board can still fully meet statute requirements on net profit distributions.
- Referencing the local enabling act for the board, alcohol education distributions are to be made in accordance with G.S. 18B-805(c)(3). This distribution percentage is set as an amount of seven percent (7%) of the gross receipts remaining after the distribution required in subdivision [1] which equates to the minimum mandatory distribution under G.S. 18B-805(c)(1). For the last five (5) fiscal years, the board has only been paying five percent (5%) in alcohol education distributions. Thus, the board must ensure 7% is being paid annually. Special note: The board has been routinely paying ten percent (10%) annually in law enforcement distributions which exceeds the five percent (5%) G.S. 18B-805(c)(2) statute requirement for law enforcement. In summary, some annual adjustments can easily remedy the disproportion between alcohol education distributions & law enforcement distributions.
- Recipients of alcohol education/research funds must annually provide an annual report to the Hertford ABC Board, describing how the funds were spent [*Referencing 18B-805(h)*]. *Consider the request to obtain documentation before the funds are officially awarded or transmitted to the recipient.*
- The board needs to secure a new law enforcement contract immediately and provide a copy to the Commission *per G.S. 18B-501(f)*. Special notes: The board is advised to work with state Alcohol Law Enforcement (ALE) agency to set up a law enforcement contract. Going forward, applicable five percent (5%) law enforcement distributions that were being paid to Hertford Police Department in accordance with G.S. 18B-805(c)(2) would now start being paid to ALE.

RECOMMENDED ACTIONS (PER STATUTES OR COMMISSION RULES)

- The board has an existing code of ethics. The following are additional needed administrative actions:
 - An updated signature ratification page for the Code of Ethics should be emailed to Commission.
 - A Certificate of Accountability attestation form should be reviewed and signed by applicable personnel. A signed copy should then be emailed to Commission.
- Ensure all new policies or updated policies are submitted electronically to the Commission for recordkeeping and review per NCAC 15A .1102 Rule. *An updated template of policy & procedure manual has been provided by the Commission for board consideration on adoption. A business card policy template has been forwarded for consideration, and the board is recommended to adopt a credit card use policy.*
- Each local board member and employees designated as the general manager and finance officer of the board shall be bonded for not less than \$50,000, secured by a corporate surety, for the faithful performance of duties [*Referencing 18B-700(i)*]. **Special note:** The board needs to provide verification to the Commission that referenced board members and employees are all properly bonded by a corporate surety.
- Law enforcement reports must be submitted on the Commission's board website by the 7th of each month referencing G.S. 18B-501(f1). Reports are to include as applicable the number of arrests made for ABC law, number of agencies assisted with ABC law, and other metrics for ABC law contribution such as compliance checks and alcohol education classes presented.
- Ensure all purchase orders to include obligations evidenced by a contract or agreement requiring the payment of money, shall include or bear a certificate stating that the instrument (or order) has been pre-audited to ensure compliance with *G.S. 18B-702(m)* with a signature by the finance officer. The specific statement should read, "*This instrument has been pre audited in the manner required by G.S. 18B-702.*" **Special note:** This would be most reasonably accomplished by signing and stamping the last page of the Order Edit List from SGC inventory system *before* any liquor orders are placed with the state warehouse.

ADDITIONAL CONSIDERATIONS & GUIDANCE

- The Commission encourages ABC boards to meet monthly for the best formal oversight and review of board operations. All boards are encouraged to track and monitor board members' current appointment dates and term expiration dates. *Oaths of office documents for board members should be available at the board.* This will increase visibility and allow for seamless board member updates with the Commission. *It also allows ABC boards to easily communicate necessary reappointment dates and offer high visibility to the applicable appointing authorities involved, who may or may not be maintaining awareness.*
- The Commission encourages and requests ABC boards to routinely update the Commission's board website when applicable (*the same general online location where boards log on monthly with password to report sales on the Commission's board website*). Some key pieces of information for updating would include updated board member information such as email addresses, member appointment dates, board member compensation changes, and store location hours changes and interior and exterior pictures of new / remodeled store locations. *Alternately, ABC boards can email communicating on any applicable changes to Commission staff who are ready to assist with processing online updates.*
- ABC boards are highly encouraged to find straightforward ways to lower any recurring expenses. *A very tangible way to lower expenses is to take full advantage of monthly special purchase allowance (SPA) liquor products that routinely sell well in the store. By purchasing liquor on sale whenever possible, this will enhance the board's posture on lowering cost of goods sold (COGS).* Another way to do this is by limiting the amount of personnel travelling to conference and convention events across the state. Other ways to try to improve expenses include requesting bids annually from various vendors to get the best rates possible on financial audits, various utilities, maintenance contracts, and *credit card processing companies.*
- ABC boards are encouraged to closely review financial statements monthly, comparing with the annual budget forecast, approving budget amendments when necessary and submitting copies to the Commission.
- Cross training opportunities for personnel should be maximized to ensure solid continuity of operations occurs for ABC boards. Also, training opportunities can work well to develop store employees for increased responsibility roles and serving to make both the routine operations and employee morale stronger.
- NCAC Rule 15A .1701 requires quarterly reports be submitted for any unsaleable merchandise (breakage) and retain original copies for three (3) years. *All breakage reports should only be transmitted via email submission to the Commission; copies should not be mailed.*
- As a reminder, remove all faded posters and replace with new ones when applicable. Reach out to the Commission to provide fetal alcohol syndrome posters, NC Dept of Labor can provide wage & hour posters, and OSHA can provide some applicable federal posters if any are needed.
- ABC boards can explore additional training opportunities periodically available through the ABC Commission as well as partnering with other ABC boards on specific areas such as best retail and marketing practices. **Please reach out to and lean on the Commission when guidance or assistance is needed to support local ABC board mission and success!**