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Time to Rewrite Law Governing SEA Auditing

Recently the Allegheny County Controller revealed that she wishes to perform an audit on the City/County owned Sports and Exhibition Authority (SEA). As the County's official fiscal watchdog she wants to review its practice of distributing tickets to sporting and entertainment events held at the Authority's venues—shining a light on a practice that otherwise remains in the shadows. However, the SEA rebuffed her attempt, noting that they are a state created agency falling outside the County and City Controllers' purview. If neither the County nor City Controller cannot perform the audit then who can?

The law creating the SEA is Act 85 of 2000, "Second Class County Code—Omnibus Amendments", Article XXV-A "Sports and Exhibition Authority". Under section 2509-A, titled *Moneys of the Authority*, the process of overseeing the finances is spelled out: *Every Authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of such audit shall be delivered to the county or city creating the Authority. A concise financial statement shall be published annually at least once in a newspaper of general circulation in the county or city where the principal office of the Authority is located. If such publication is not made by the Authority, the county or city shall publish such statement at the expense of the Authority. If the Authority fails to make such an audit, then the controller, auditors or accountant designated by the county or city is hereby authorized and empowered from time to time to examine, at the expense of the Authority, the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation and affairs. The Attorney General shall have the right to examine the books, accounts and records of any Authority.*

The law seems clear. As long as the SEA annually delivers to the City and County an independent audit from a qualified certified public accountant, then the Controller does not have standing to conduct an audit. Currently on its website the SEA has available audited financial statements from 2007 to 2013. It is not quite apparent that the SEA is adhering to the law above by publishing these reports "annually at least once in a newspaper of general circulation". The website doesn't even list press releases that would announce when an audit has been completed. Moreover these statements cover just the finances ("the books, accounts, and records" mentioned above) of the SEA. As noted in the Auditor's report in the most recent statement, "Our responsibility is to express an opinion on these financial statements based on our audits...standards require that we plan and perform audits to obtain reasonable assurance about whether the financial statements are free from material misstatement." They do not cover "operation and affairs" as perhaps desired by the Controller in her effort to look into the disbursements of tickets to events.

The SEA is a state authorized and created entity formed on behalf of the City and County and the state has dictated who will perform audits and under what circumstances. But as mentioned above, the law gives the responsibility to the Authority first, and to the City and County Controllers if the Authority does not have an annual audit done by a certified accountant. The law permits the *Attorney General* to audit presumably any time he/she feels it is warranted. Interestingly, the *Auditor General* is not given legal power to conduct audits of the SEA as one would expect, that office being equipped and having the trained personnel to do the job properly. The office of the Attorney General is the state's top law enforcement officer, not an auditor. On its webpage the Attorney General's office lists as its responsibilities and duties items such as defending the Commonwealth and its agencies in a court of law but, to no one's surprise, auditing authorities is not one of them. So was the provision in Act 85 that the Attorney General would have the power to audit the SEA rather than the Auditor General—which presumably should be able to audit any agency receiving state funds—done deliberately to limit governmental scrutiny of the SEA or was it merely a typographical error?

The only people who know for sure are the Legislators who wrote and/or sponsored the language and they have not stepped forward to offer an explanation. But there is a simple fix. All it would take is for someone on the appropriate committee to offer an amendment to change the Act 85 wording to read “Auditor General” instead of “Attorney General”. To really repair the language the amendment should go further and give the County Controller and/or the City Controller, since this is a joint authority, the power to audit the SEA every three years or on an as needed basis. Surely this is not the type of change that would counter much resistance if the SEA has nothing to hide. At least one attempt to expand the powers of the City Controller had been attempted in the 2003-04 session of the Legislature when a bill was introduced (HB2007) to give the City Controller the ability to audit the SEA. The Governor at the time vetoed the bill.

In the event this proves to be too difficult, perhaps the Attorney General ought to designate someone with auditing experience, such as the Auditor General's office or even the County Controller, to perform the audit on behalf of the Attorney General's office. Not the best solution, but a possibility.

This is a matter that clearly cries out for remedial action. The SEA, as a public authority, ought to be subjected occasionally to the bright light of the Controller's office. The awarding of tickets to sporting and entertainment events to those who are politically connected can be seen as buying favors or rewarding past support. The public has a right to know whether this entity is operating completely above board. It will be interesting to see who opposes amending the Act 85 language as recommended above.

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