

**Delaware Coalition for Open Government
Virtual Board Meeting by Zoom
Tuesday, July 9, 2024**

CALL TO ORDER: John Kowalko, III, called the meeting to order at 6:36 p.m.

Pre-board Reports:

1. Minutes of June 11, 2024
2. Bank Statement of June 30, 2024
3. Treasurer's Report of June 30, 2024
4. DelCOG Agenda July 9, 2024
5. Sample statement on embezzlement from DE Unemployment Insurance Trust Fund (listed at end of minutes)
6. Letter to Legislative Leaders - 6.4.2024.pdf; AOA Letter to GA 6.4.24.pdf from the Civic League of NCC. (Listed at end of minutes.)
7. DelCOG's draft of a letter to the Inspector General at the US Department of Labor. (Listed at end of minutes.)

PRESENT: Letty Diswood, John Flaherty, Al Jackson, John Kowalko III, Coralie Pryde, Anita Rush, Cynthia Smith, Nick Wasileski.

Absent: David Breen, Sharon Kwiatkowski

DelCOG Members: Connie Merlet, John Kowalko, Sr., Warren Rosenkranz, Katherine Ward.

Meeting summary for DelCOG Monthly Board Meeting (07/09/2024)

Quick recap (AI)

The team discussed various legislative issues including concerns about stalled bills, proposed changes to corporate laws, and potential embezzlement at the Department of Labor. They also planned for upcoming annual meetings, an elected officials' reception, and the need for improved communication through formatted emails. Lastly, they addressed the resignation of a board member, the need for grant funding for legal issues, and the scheduling of the next board meeting.

Next steps (AI)

- Nick Wasileski to finalize and send letter to Federal Department of Labor Inspector General within 7 days after board review.
- Amy Roe to draft short paragraphs on SB 13 and HB 311 issues for potential letter to General Assembly.
- Katherine to contact Delaware Press Association about December 5th date for the elected officials' reception.

- John Kowalko to send email to membership asking for volunteers to help plan annual meeting and elected the officials' reception.
 - Nick to research grant opportunities for potential legal fund.
 - John Kowalko to respond to Dave Breen's resignation email and will call him.
 - Cynthia to help Katherine with planning the elected officials' reception.
 - John Kowalko to add Cynthia's executive leadership fellowship report to next meeting's agenda.
 - Cynthia to send board invitation to 4-day whistleblower event.
 - John Kowalko to call Marcel Reid to apologize about cancelled sunshine week event.
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Summary

Organization Updates and Treasurer's Report

Nick Wasileski opened the meeting, and Amy Roe discussed comments on bills, a letter to the Federal Government's Department of Labor's OIG, and a grant application. John Kowalko suggested discussing the Department of Labor embezzlement issue. Katherine provided updates on related work, and John K mentioned Dave's resignation due to personal reasons. The team discussed John's AI settings and Katherine's website progress after talking with Dave Breen. John Kowalko apologized for his delayed responsiveness due to health issues but committed to catching up, noting increased website traffic and interest in the organization. Katherine offered to assist with membership management. The June 11th meeting minutes were approved. The treasurer's report showed no checking account activity in June with a \$2,543.99 balance, and a \$7,795.54 savings account balance totaling \$10,339.53. John Kowalko planned to transfer funds from online donation account to checking within a week. Nick Wasilewski then led the Inspector General Committee report.

Senate Bill 21, Opioid Money, and OIG Updates

Nick Wasileski voiced concerns about the stalled Senate Bill 21 and the need for a more responsive government, while John indicated that the bill would be reintroduced in the next legislative session. Connie Merlet shared discussions about opioid money and potential fraud, as well as the legislator demands for a piece of the pie. The group also discussed the OIG book chapter progress and updates from the Inspector General for the City of Atlanta, Georgia. No updates were given on the FOIA and LLC committees.

Delaware Senate Bill 313 Concerns Discussed

Nick Wasileski expressed concerns about Delaware's Senate Bill 313, which proposed changes to the state's corporate law that could harm small shareholders. Professor Charles Elson, a renowned corporate law expert and supporter of Delaware's existing corporate law, opposed the bill. Nick will gather more information, and he proposed contacting the Governor to veto the bill until further research is done. Katherine suggested reaching out to Professor Elson, who previously spoke at the Delaware Press Association, for insights. All participants agreed that Elson's expertise could provide valuable information to draft a factual letter to the Governor.

Concerns Over Corporate Law Council Bill (SB 313)

John Kowalko expressed concerns about this bill introduced by the Corporate Law Council, highlighting its substantive and procedural issues. He argued that the bill could give certain shareholders undue influence and interfere with the separation of powers. John F proposed a motion to ask the governor to veto the bill and authorize Nick to draft a letter for this purpose. The motion was unanimously approved. It was noted that the governor has 60 days to sign the bill before it becomes law. Finally, there were no updates regarding the Bylaws and Procedures Committee and the website committee.

Website Discussion and Police Access

Katherine Ward and Dave Breen were arranging an initial meeting for July, with input from committee members confirming their availability. Katherine had also circulated a list of questions prepared by Dave to clarify the website's purpose and format. Additionally, John K suggested not getting into detail at that point and Katherine agreed to gather more feedback from the board. The pair also planned to follow up with Alan Henney and Walt Palmer regarding the police radio encryption issue, with a view to promoting legislation for public access to encrypted information. John K offered to meet with board members individually to prepare for the upcoming meeting.

Governor's Budget Hearings and Communication Improvements

John Flaherty informed the team that the Governor will be holding budget hearings in Dover starting in November to prepare for the fiscal year 2026-27 budget. John suggested this as a suitable platform for two unnamed individuals to present their case to the Governor's Budget Committee and lobby the legislature. Katherine showed interest in discussing this further with John, while John Kowalko emphasized the importance of attending these hearings, particularly for the OIG funding. John K also noted the need for improved communication through formatted emails and possible use of services like Mailchimp or Constant Contact, with the committee agreeing to give all website committee members access to the emails to distribute the workload. Lastly, the meeting touched on the General Assembly renovations for updates.

Legislative Expansion and Embezzlement Discussion

John Flaherty discussed the General Assembly's plan to spend \$133 million on expanding the legislative hall and building a connecting tunnel, despite concerns about the low water table potentially causing issues. He questioned whether this should be a priority, given other pressing needs in the state. The meeting then moved on to an embezzlement issue at the Department of Labor, where Nick explained that an \$181,000 theft from the Unemployment Trust Fund occurred in January 2018 but was not publicly disclosed until May 2024, prompting calls for investigations by various state bodies.

DelCOG's Position, Civic League Request, and Investigation

Nick Wasileski's update included a discussion about a letter he wrote that was adopted as DelCOG's position by John Flaherty's team, which was appreciated for its content. The team also discussed a request made by the Civic League for Newcastle County to the Public Integrity

Commission regarding potential violations of public trust. They noted a delay in feedback from the commission and agreed for Nick to send a letter to the Federal Department of Labor to oversee an investigation into an unresolved complaint against an agency, which involved potential embezzlement of federal funds. The team expressed concern about the delay and the need for public disclosure.

Annual Meetings and Elected Officials' Reception Planning

The team discussed a motion regarding a dispute and confirmed the role of the Inspector General Department of Labor in resolving it. They also planned an annual meeting and an elected officials' reception, debating whether these events should be managed by a single committee or two separate ones. John Kowalko urged the board to start planning these events, with Katherine and Letty Diswood agreeing to take on key roles, and John Flaherty offering to assist with the elected officials' reception. The team also recognized Cynthia Smith's past contributions to event planning and her offer to help with future events.

Addressing SB. 13 Bill and LLC Concerns

Amy Roe expressed concerns about the SB. 13 bill and its potential to bypass transparency requirements by allowing private meetings on financial or commercial information. She had attempted to contact Senator McBride about these issues but had not received a response. Amy also raised concerns about the University of Delaware's use of concealed beneficial ownership of subsidiary LLCs, which could lead to individuals being incarcerated for firearm possession on university property while avoiding FOIA requests. John F or K agreed on the need for clarification or exclusion of LLCs in relevant bills, and Amy offered to draft a letter to the General Assembly outlining these issues. They planned to send this letter before the next legislative session.

SB 13 Sponsorship and Annual Reception Plans

The team discussed the sponsorship of SB 13 and the upcoming Congressional election, with a focus on increasing awareness of the bill. They also considered potential legal issues arising from an embezzlement case and the need for grant funding to hire an attorney. The resignation of Dave Breen was acknowledged, and plans were made to seek his continued involvement with DelCOG. The annual elected official's reception was rescheduled to the fifth of December to avoid clashing with the holiday season.

The next board meeting was set for August 13th.

Lastly, it was requested that a document of the meeting's agenda be sent out to all members for easier notetaking.

The meeting was adjourned at 8:28 p.m.

Edited by Letty Diswood
DelCOG Secretary

AI-generated content may be inaccurate or misleading. Always check for accuracy.

Email to DelCOG board members: Statement on embezzlement from DE Unemployment insurance Trust fund.

From: delawarepress@aol.com
Sent: Monday, July 8, 2024, 7:20 PM
To: anita.rush@comcast.net; coraliepryde@gmail.com; cynthiasmi@msn.com; nextlevel.db@gmail.com; jdf0000@aol.com; johnkowalko@gmail.com; letty.diswood@verizon.net; sdkremax@comcast.net; stanjax171@gmail.com; heoltoetoe@gmail.com; cmerlet1@aol.com; billcortessd7dfl@yahoo.com
Subject: A statement on embezzlement from DE Unemployment Insurance Trust Fund

Greetings, DelCOG Board Members!

Please read the following, which can be discussed and tweaked at tomorrow night's board meeting. If approved, it will be sent to the media.

Thanks for taking a few minutes to consider the message.

Nick and Katherine

Embezzlement from Delaware Unemployment Insurance Trust Fund

The Delaware Coalition for Open Government – a nonprofit organization that promotes transparency and accountability in government – believes that it’s about time some elected and appointed Delaware officials provide forthright answers about the embezzlement problem at the Department of Labor’s Division of Unemployment Insurance Trust Fund.

“Transparency” and “trust” are the operative words here: the citizens of Delaware have the right to know how, and how well, state, and federal funds are managed by our state offices and agencies in order to have full confidence and trust in our state government.

We need more transparency because things don’t add up.

Here is a timeline of the embezzlement:

1. January 2023: Embezzlement of \$181,000 in state and federal funds occurred at the Division of Unemployment Insurance Trust Fund.
2. March 2023: The embezzlement was discovered by a Department of Labor employee.
3. April 2023: The Department of Labor reported the embezzlement to a few state offices and to the US Department of Labor’s Inspector General.
4. August 2023: Law enforcement concluded its investigation.
5. March 2024: The Division of Accounting and the Office of the Auditor of Accounts had yet to mention the embezzlement either in their 2024 written reports (published on the Office of the Auditor of Accounts website) or as a separate item, as required by the Delaware Code.
6. May 6, 2024: For more than a year, facts of the embezzlement had been kept under wraps by the Department of Labor, the Department of Finance, and the Office of the Auditor of Accounts. But when a whistleblower came forward, the embezzlement was disclosed in a May 6 WHYY news article, the first time the public and the entirety of the General Assembly learned about the crime.

7. May 29, 2024: The Delaware Coalition for Open Government requested an investigation by the General Assembly.
8. May 31, 2024: The Republican Senate Caucus called for an investigation.
9. June 4, 2024: a letter to the General Assembly, signed by the State Auditor, stated the news media had caused “misunderstandings amongst the Delaware public.”
10. June 4, 2024: A letter to the leadership of the General Assembly, signed by the Secretaries of Labor and Finance, pointed fingers at the news media for causing “confusion” by “conflating” the outside auditor’s inability to report “appropriate audit evidence” (because of deficient internal controls in the Division of Unemployment Insurance) with the failure to report a crime: the embezzlement of \$181,000.
11. June 5, 2024: The Republican House Caucus called for an investigation.
12. June 24, 2024: The Civic League for New Castle County requested an investigation by the Public Integrity Commission.

The only “misunderstanding” and “confusion” seems to be on the part of state officials who don’t seem to get the point. The news media, the members of the General Assembly, and the public clearly do understand the difference between written reports about the Unemployment Insurance Trust Fund’s deficient accounting practices and us not having been informed about embezzlement of state and federal funds.

Yes, embezzlement is a sensitive matter. Yes, time was needed for law enforcement to mount and complete an investigation. Yes, it was important to try to recoup the stolen funds. And yes, it is important to institute proper procedures to get on top of the poor internal controls and lack of proper accounting in the Division of Unemployment Insurance.

But regardless of the timeline, the actions taken, and recent calls for further investigation, two questions remain unanswered:

* Was it merely coincidental that, for more than a year after the theft was known, state officials in three separate offices – Labor, Finance, and Accounting – failed to specifically report the embezzlement of \$181,000 to the General Assembly and to the public?

* Why would state officials ignore the Delaware Code, which requires the disclosure of illegal activity? The Secretaries of Labor and Finance (appointed by and directly reporting to the Governor), and the State Auditor (elected to serve the people of Delaware) each swear or affirm the Oath of Office to act in the public interest. Yet, their failure to report the theft of funds, especially after law enforcement ended its investigation in August 2023, does not enhance the public’s confidence or trust in our state government.

With numerous calls for investigation, it seems that failure to report the embezzlement was a big mistake.

It’s time for a full accounting by all concerned, including the Secretary of Labor, the Secretary of Finance, the State Auditor, as well as the Governor, to provide a clear explanation and full disclosure of why an illegal act was not reported to all of our state legislators and to the public for more than a year. The citizens of Delaware deserve no less.

Delaware Coalition for Open Government, Board Members

Contact: John Flaherty | 302-319-1213 | jdf0000@aol.com

From: Nick Wasileski <heeltoetoe@gmail.com>

Sent: Saturday, June 29, 2024, 2:13 PM

To: DelCOG Data File; Katherine Ward; Bill Cortes; David Breen; Cynthia Smith; Al Jackson; Letty Diswood; Anita Rush; Coralie Pryde; Nick Wasileski; John Flaherty; John Kowalko III; SHARON KWIATKOWSKI; Connie Merlet; John Kowalko Jr.

Subject: DelCOG - Draft Letter to the US Dept. of Labor OIG

Follow Up Flag:

Flag Status: Flagged

Hello DelCOG Board Members,

Below is DelCOG's draft of a letter to the Inspector General at the US Department of Labor concerning the embezzlement problem at the Division of Unemployment Insurance Trust Fund.

John F. suggested that DelCOG submit a letter requesting oversight of the auditing problems at the Trust Fund.

Please read this over for any suggested changes, etc.

Obviously, the DelCOG board will have to approve this initiative in the near future.

Thanks, Nick

Draft Letter to the US Dept. of Labor OIG

To: Larry D. Turner, Inspector General

US Department of Labor

From: Delaware Coalition for Open Government (DelCOG)

About: Request for Oversight of the State of Delaware s

Division of Unemployment Insurance Trust Fund

Dear Inspector General Turner,

The Delaware Coalition for Open Government a 501(c)(3) nonprofit organization that promotes transparency and accountability in government is appealing to the OIG of the US Department of Labor for federal oversight to address the auditing and accounting problems at the Delaware Department of Labor s Division of Unemployment Insurance Trust Fund.

In early 2023, \$181,000 of federal and state funds was embezzled from the Division of Unemployment Insurance Trust Fund. In this regard, federal oversight and assessment may be needed to help ensure the Trust Funds s systemic accounting problems as described in the 2024 written reports by the Department of Finance s Division of Accounting and the Office of the Auditor of Accounts are corrected.

(References, links to written reports, statutes, and news articles are listed below.)

In addition, and based on interviews as reported by the news media, the internal auditing and accounting controls of the Division of Unemployment Insurance Trust Fund are so lax and the computer integration so ineffective, it's possible that additional acts of embezzlement have occurred and remain undiscovered.

Below, as reported in a May 6, 2024, WHYY news article, is a quotation from a Delaware state employee who describes the problems at the Division of Unemployment Insurance Trust Fund.

I'm not sure how or why they [Governor, Secretary of Finance, Secretary of Labor, and State Auditor] tried to keep it quiet other than they don't want to bring attention to the fact that everything is really screwed up [at the Division of Unemployment Insurance Trust Fund], said Laura Henderson, a tax collection manager for the state's Unemployment Insurance Office. It's really crazy there, really crazy.

<https://whyy.org/articles/delaware-state-employee-embezzlement-unemployment-trust-fund/>

Moreover, of concern is that state-government offices may not have the resources, expertise, or motivation to find additional wrongdoing, let alone to solve the auditing problems cited as "material weaknesses" and "significant deficiencies" in the January 2004 Delaware Unemployment Compensation Fund Special Report: Financial Management Within the Delaware Department of Labor Division of Unemployment Insurance.

Especially troubling is that the 2023 embezzlement never was disclosed in, or in conjunction with, the 2024 written reports by the Division of Accounting and Office of the Auditor of Accounts. The Delaware Code clearly states that illegal activity must be included in their written reports to the state agency concerned, the Governor, the General Assembly, (the members of Delaware state senate and house of representatives), the Attorney General, and the Director of the Office of Management and Budget. *
(* Written reports are available to the public on the Office of the Auditor of Accounts website.)

For more than an entire year, the 2023 embezzlement was kept secret, until the PBS WHYY news division was contacted by a whistleblower and broke the story in the May 6, 2024, news article. The inference is that Delaware state agencies intentionally may have concealed the 2023 embezzlement.

Since the Division of Unemployment Insurance Trust Fund consists partly of federal funds, it is possible that federal laws may have been broken.

DelCOG therefore requests oversight of the auditing and accounting problems at the Delaware Division of Unemployment Insurance Trust Fund by the US Department of Labor OIG.

Sincerely,

Delaware Coalition for Open Government, Board Members

References, Written Reports, Status and News Articles

2024 Written Reports that Failed to Disclose the 2023 Embezzlement

Pages vii and viii - Department of Finance Statement - Annual Comprehensive Financial Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/FY-2023-ACFR-FINAL-03262024.pdf>

Page 1 - Auditor of Accounts - Summary Annual Comprehensive Financial Report
<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/ACFR-FY23->

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Summary-032624-v3.pdf

Pages 2, 3 - Auditor of Accounts Special Report: Delaware Unemployment Compensation Fund

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/DOLUI-Final-Report.pdf>

Pages 29, 30, 31 - Independent Auditor s Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/05/FY23-Single-Audit-Final.pdf>

Pages 29, 30 - Uniform Guidance Single Audit Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/05/FY23-Single-Audit-Finalpdf>

Violations of the Delaware Code by the Office of the Auditor of Accounts and by the Department of Finance:

Filing written reports is a statutory requirement of post audits by the Office of the Auditor of Accounts to the Governor, General Assembly, and the public, including the disclosure of all illegal and unbusinesslike practices, as mandated in the Delaware Code Title 29, Chapter 29, Auditor of Accounts, 2909.

Filing written reports is a statutory requirement by the Department of Finance s Division of Accounting to the General Assembly, the Attorney General, and the Director of the Office of Management and Budget, including the disclosure of irregular, illegal, or improper financial administration or transaction, as mandated in the Delaware Code Title 29, Chapter 83, Department of Finance, Division of Accounting, 8304.

News Media Articles

<https://whyy.org/articles/delaware-state-employee-embezzlement-unemployment-trust-fund/>

<https://delawarebusinessnow.com/2024/05/my-take-time-for-a-state-labor-department-overhaul/>

<https://whyy.org/articles/delaware-unemployment-theft-embezzlement-michael-brittingham/>

<https://whyy.org/articles/delaware-nonprofit-oversight-hearings-theft-taxpayer-funds/>

<https://whyy.org/articles/inspector-general-office-delaware-bill/>

<https://www.delawareonline.com/story/news/2024/05/30/delaware-department-of-labor-embezzlement-investigation-open-government/73906255007/>

<https://www.delawareonline.com/story/news/local/2024/05/31/unauditable-delaware-unemployment-fund-risks-risk-experts-say/73911635007/>

<https://delawarebusinesstimes.com/news/viewpoints/vwpt-report-embezzlement-unemployment-insurance/>

<https://www.delawareonline.com/story/news/2024/05/31/unemployment-insurance-administrator-michael-brittingham-delaware-embezzlement-of-unemployment-fund/739195350>

<https://www.delawareonline.com/story/news/2024/06/07/delaware-promises-full-report-on-unemployment-insurance-theft-in-july/73997276007/>

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<https://baytodaynews.com/stories/delaware-lawmakers-open-government-advocates-call-for-answers-on-2023-unemployment-fund,136982>

<https://why.org/articles/delaware-state-employee-embezzlement-lawmakers-transparency/#:~:text=Delaware's%20General%20Assembly%20is%20considering,unemployment%20insurance%20fund%20in%202023.>

<https://www.capegazette.com/article/republicans-want-answers-missing-180000/276468>

<https://www.delawarepublic.org/politics-government/2024-06-10/gop-legislative-leadership-calls-for-investigation-into-department-of-labor-embezzlement-case>

<https://delawarebusinesstimes.com/news/vwpt-delaware-inspector-general/>

https://www.coastalpoint.com/opinion/letters/representatives-ask-for-investigation/article_ef26800e-29aa-11ef-9b7d-f7df58bf658f.html

https://www.coastalpoint.com/opinion/letters/representatives-ask-for-investigation/article_ef26800e-29aa-11ef-9b7d-f7df58bf658f.html