



COMMONWEALTH of VIRGINIA

Hal E. Greer
Director

Joint Legislative Audit and Review Commission
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Richmond, VA 23219

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JLARC Meeting – Minutes

October 11, 2016

Attending

JLARC Members:

Delegate Robert Orrock, Chairman; Senator Thomas K. Norment, Vice-Chairman; Delegate M. Kirkland Cox, Senator Emmett Hanger, Senator Janet Howell, Delegate Chris Jones, Delegate R. Steven Landes, Senator Ryan McDougle, Delegate John M. O'Bannon, Delegate Kenneth Plum, Senator Frank Ruff, Delegate Lionell Spruill, Ms. Martha Mavredes, Ex Officio.

JLARC Staff:

Hal Greer, Director; Nathalie Molliet-Ribet, Senior Associate Director; Justin Brown, Associate Director; Kimberly Sarte, Assistant Director; Lauren Axselle, Erik Beecroft, Sarah Berday-Sacks, Jamie Bitz, Susan Bond, Drew Dickinson, Kathy DuVall, Nicole Gaffen, Nick Galvin, Maria Garnett, Mark Gribbin, Nia Harrison, Paula Lambert, Jeff Lunardi, Liana Major, Bridget Marcek, Joe McMahan, Ellen Miller, Jordan Paschal, Nathan Skreslet, Tracey Smith, Nichelle Williams, Christine Wolfe.

Others:

Scott Kudlas (Department of Environmental Quality: Director, Office of Water Supply); Mark Widdowson, Glenn Moglen (Virginia Tech professors and researchers of ground and surface water); Stephen Schoenholtz (Director, Virginia Water Resource Research Center at Virginia Tech); Doug Powell (James City Service Authority); Matthew Wells (WestRock); Andrea Wortzel and Shannon Varner (Troutman Sanders); Robert Bohannon (Hunton & Williams); Mark Rubin (Executive Director, Virginia Center for Consensus Building at VCU); Mark Smith (George Mason University); Phil Leone (Virginia Tech); Marty Farber and Scott Meacham (Division of Legislative Services); Sandra Gill (Department of General Services); Sarah Herzog, Jason Powell, and Adam Rosatelli (Senate Finance Committee staff); Tony Maggio (House Appropriations Committee staff); Michael Martz (Richmond Times Dispatch); Travis Fain (Daily Press); Alana Austin (NBC29 WVIR Charlottesville); Anne Marie Morgan (Virginia Public Radio).

The meeting was called to order at 10:04 a.m. by Delegate Orrock, Chairman. Delegate Orrock recognized Hal Greer, JLARC staff Director, who provided the Commission with a brief overview of the meeting agenda and noted that one of the projectors in Senate Room A was not working properly. Mr. Greer then provided some brief remarks regarding the *Effectiveness of Virginia's Water Resource Planning and Management* report. Subsequently, Mr. Greer introduced Justin Brown, Associate Director,

who oversaw the work of the study team for the water resources study. Mr. Brown also provided the Commission with some brief remarks regarding the report and thanked the researchers at the Virginia Water Resources Research Center at Virginia Tech for their modeling work for the report. Mr. Brown then introduced Jamie Bitz, the project leader for the study, who presented the Commission with a briefing of the *Effectiveness of Virginia's Water Resource Planning and Management* report.

Mr. Bitz responded to several questions from the Commission throughout his presentation. Delegate Orrock asked if the team could provide the Commission with additional information regarding how other states use regional water planning to lower costs and avoid conflicts among localities. Mr. Bitz mentioned that the report includes an appendix about how other states do this, including which activities are mandated through statute or regulations. Delegate Orrock also asked why two-thirds of public water stakeholders had either not heard of the state water resource plan or had not looked at the plan. Mr. Bitz explained that the team received some reasons for this through the survey. Delegate Orrock asked if the team could provide this additional information to the Commission so they may develop recommendations related to this. Mr. Bitz agreed to provide the Commission any additional information the team had on how other states facilitate regional approaches and how to ensure people are aware of and use the plans that are developed. Delegate O'Bannon commented that the survey response rates are included in the report (Appendix B) and noted that the 25% survey response rate is an indicator that the state water resource plan hasn't been a big focus.

Senator Norment commented that James City County worked for many years to site a reservoir and spent millions of dollars in the process, but was not successful. He then stated that the eastern part of the state often lacks regional cooperation and regionalism is not currently incentivized. Delegate O'Bannon said that a reservoir in Cumberland County is currently being shared with neighboring counties.

Senator Norment then asked if ongoing monitoring of withdrawals is based on actual water usage. Mr. Bitz stated that this question is addressed later in his presentation. Delegate Orrock asked about the relative costs of injecting treated water into the aquifer vs. just piping it directly to users. Mr. Brown commented that the report wasn't necessarily endorsing the injection project and that is the type of question an effective planning process should make sure is fully addressed.

Senator Norment stated that the costs of the aquifer injection project are significant. He asked if Hampton Roads Sanitation District is considering additional sources of revenue, and what other sources of financing may be available. Mr. Bitz explained that there, for example, could be a fee imposed on all who use the aquifer, but it would need to be determined exactly who would pay this fee and how much it would be. Delegate O'Bannon commented that if the aquifer is replenished, it would also address the land subsidence problem.

Delegate Spruill noted that there has been a decrease in the water supply while there is discussion of charging a higher fee. He asked what DEQ is trying to accomplish by doing this. Mr. Bitz explained that as of now, there is no charge to use the water. Delegate Spruill then asked if there is a threat somewhere that the aquifer is running out. Delegate Orrock explained that aquifer use is not sustainable and there is the need to find additional ways to meet the demands.

Senator McDougle asked what the impact on sustainability would be if either the West Point or Franklin Mills were closed. Mr. Bitz said that DEQ would need to model this impact, but it would eventually increase the aquifer levels in those areas. Senator McDougle asked if this modeling should be done and Mr. Bitz indicated this would make sense. Senator McDougle asked if alternatives, such

as desalinization, were more feasible at one mill over the other. Mr. Bitz agreed to see if the team had additional information on this topic and if so, would provide it to the Commission.

Delegate Landes asked if businesses are taking more water than they actually need. Mr. Bitz said it is very difficult to know if a user is taking more than they need. Senator Norment asked if the water consumption numbers presented represent actual or permitted consumption. Mr. Bitz indicated that the numbers presented are based on actual consumption.

Delegate Spruill asked about the length of permits. Mr. Bitz explained that permits are for 10 years, but the information in the report regarding the permitted withdrawal amounts actually used is based on a five-year period. Delegate Spruill asked how much it costs to obtain a permit permits. Mr. Bitz explained that users pay a permit fee between \$600 to \$6,000 but do not pay for water usage. Delegate O'Bannon asked about grandfathering, which had not been discussed yet. Mr. Bitz explained that this is done for surface water (addressed later in the presentation), not ground water.

Senator Ruff stated rather than increase fees, if a company does not use their permitted amount within a specified period of time, then perhaps the state could take the permitted, but unused, amount. Mr. Bitz said that DEQ has the authority to reduce permitted amounts if a user is using less than 60% of their total permitted amount, but that this provision has not been used. Delegate Orrock asked if DEQ issues permits based on actual or total permitted usage. Mr. Bitz indicated that DEQ permits are based on total permitted usage.

Senator McDougle asked about whether the proposed limits on permitted amounts would affect all users. Mr. Brown said that limits in the report would only apply to large, permitted users.

Delegate Jones asked about the actual vs. permitted withdrawal amounts for International Paper and West Rock. Christine Wolfe indicated that in 2013, International Paper was permitted for up to 20 million gallons per day and used 9 million gallons per day. She then said that West Rock was permitted for up to 23 million gallons per day and used 20 million gallons per day.

Senator Howell asked about the report recommendations for more regional planning and how this would be funded. Mr. Brown commented that over the long term, regional planning should cost less. In small areas of the state, DEQ could have a more robust state role to provide resources to small localities. The report includes a recommendation for DEQ to determine how much additional this would cost.

Delegate O'Bannon asked if the team looked at whether any other states take the economic benefit approach highlighted as an option. Mr. Bitz indicated that the report includes an appendix with the states that have groundwater user fees. Mr. Bitz agreed to provide the Commission with any additional information the team had about states considering the economic benefits in return for the use of water. Mr. Brown noted that most states probably charged to raise revenue for water supply projects or other purposes, and that few states fully accounted for the net benefits as contemplated in the option.

Delegate Orrock asked how frequently DEQ updates their modeling. Mr. Bitz explained that there has only been one effort to model the state's surface water. Going forward, DEQ's modeling would be updated every five years.

Delegate Cox commented that the GoVirginia effort includes regional incentives and other grants for efficiencies throughout the state. This is a model that could be used to incentivize regions.

Mr. Brown stated that incentive funding, whatever the funding mechanism, can have a positive impact on collaboration.

At the conclusion of Mr. Bitz's presentation, Delegate Orrock requested a motion to receive the report and authorize printing. A motion was made by Delegate O'Bannon and was seconded by multiple Commission members. There being no objections, the motion was approved unanimously by the Commission. Subsequently, Senator Hanger commented that the General Assembly will need to be mindful of the political challenges associated with some of the topics addressed in the report.

Mr. Greer then turned the meeting over to Kimberly Sarte, Assistant Director for Ongoing Oversight and Fiscal Analysis, who presented a briefing of the *State Spending: 2016 Update* report. Ms. Sarte responded to a few questions from the Commission during her presentation. Delegate Cox commented that the general funds are what the General Assembly can control and that Medicaid is a large cost driver of budget growth over time. He also said that non-general funds include a lot of pass-through funding. Delegate Cox then asked if the team had a state-by-state comparison of general funds after adjusting for population growth and inflation. Ms. Sarte indicated that the team can look into this and follow-up with the Commission. Delegate O'Bannon asked about the general fund vs. non-general fund breakdown of the 13% growth in the total budget after adjusting for population growth and inflation. Ms. Sarte explained that the tables listing the agencies or programs with the most growth in general funds and non-general funds show the major drivers in budget growth over time. Delegate Landes asked why the Department of Corrections appeared in the top 10 agencies with the highest growth amount in general fund appropriations. Ms. Sarte explained that part of this growth was due to the Department of Correctional Enterprises being transferred into DOC during the 10-year period, but the majority of DOC's budget growth was a result of increased medical costs to treat inmates.

At the conclusion of Ms. Sarte's presentation, Delegate Orrock requested the Commission's approval to receive the report and authorize printing. There being no verbal objections, the request was approved unanimously by the Commission.

Lastly, Mr. Greer announced that the next Commission meeting is scheduled for Monday, November 14, 2016, which will include presentations on the findings and recommendations from the report on VEDP and from the Secretary of Veterans and Defense Affairs.

There being no further business, the Commission rose at 11:54 a.m.

Approved by: Hal E. Greer
Hal E. Greer, Director

Date: 10/19/16

Prepared by: Paula C. Lambert
Paula C. Lambert
Manager, Fiscal and Administrative Services &
Senior Legislative Analyst