



# COMMONWEALTH of VIRGINIA

*Hal E. Greer*  
*Director*

*Joint Legislative Audit and Review Commission*  
*201 North 9<sup>th</sup> Street, General Assembly Building, Suite 1100*  
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JLARC Meeting – November 14, 2016

MINUTES

Attending

JLARC Members:

Delegate Robert Orrock, Chairman; Delegate David B. Albo, Delegate M. Kirkland Cox, Senator Emmett Hanger, Senator Janet Howell, Delegate Chris Jones, Delegate R. Steven Landes, Delegate James P. Massie, Senator Thomas K. Norment, Delegate John M. O'Bannon, Delegate Kenneth Plum, Senator Frank Ruff, Delegate Lionell Spruill, Ms. Martha Mavredes, Ex Officio.

JLARC Staff:

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

Others:

Delegate Kathy Byron; John Harvey, Secretary of Veterans and Defense Affairs; Nathalie Molliet-Ribet, Deputy Secretary of Education (former Senior Associate Director, JLARC); Alex Thorup (Virginia Economic Development Partnership); Dan Clemente (Chairman, VEDP Board of Directors); John Newby, Steven Combs, Betty Ann Liddell (Department of Veterans Services); Robert Vaughn, Anne Oman, David Reynolds (House Appropriations Committee Staff); Charles Kennington (Senate Finance Committee Staff); Mark Vucci, Lisa Wallmeyer (Division of Legislative Services); Khaki LaRiviere (Office of the Governor); Brett Vassey (Virginia Manufacturers Association); Phil Leone (Virginia Tech); Ann Marie Morgan and Saraya Wintersmith (Virginia Public Radio); Michael Martz (Richmond Times Dispatch).

The meeting was called to order at 10:00 a.m. by Delegate Orrock, Chairman. Delegate Orrock then recognized Delegate Cox who provided some opening remarks about the Virginia Economic Development Partnership (VEDP) report. Delegate Cox stated that the report is the most devastating, critical report that he has received in his tenure as a JLARC member. He further stated that the report demonstrates the biggest failure of a state agency that he is aware of. Mr. Hal Greer, JLARC staff Director, thanked Delegate Cox for his remarks and agreed that there has been quite a bit of disfunction at VEDP. Delegate Orrock stated that the report emphasizes the importance of having JLARC as a legislative oversight agency.

Delegate Orrock then recognized Mr. Greer who provided the Commission with a brief overview of the meeting agenda and announced a staff departure (Nathalie Molliet-Ribet, now the Deputy Secretary of Education) and a staff promotion (Tracey Smith, now an Associate Director at JLARC). Delegate Orrock congratulated both Ms. Molliet-Ribet and Ms. Smith.

Delegate Jones then provided the Commission with a brief summary of the JLARC Economic Development Subcommittee meeting that was held on Thursday, November 10. He explained that the subcommittee discussed a measured approach to evaluating the effectiveness of tax credits and incentive grants, as well as a four- to six-year rotation schedule for reporting on the effectiveness of the incentives. Delegate Jones said that the subcommittee will report to the full Commission as work is received from JLARC staff.

Mr. Greer then provided the Commission with some brief remarks about the VEDP report. He also directed the Commission's attention to Appendix G of the report, which includes VEDP's response letter and the JLARC staff response and assessment of VEDP's reported status of each report recommendation. Mr. Greer stated that VEDP's response to many of the recommendations is misleading and that many of the report recommendations have not yet been addressed by VEDP. Mr. Greer then introduced Drew Dickinson, the project leader for the VEDP study, who provided the Commission with a presentation on the *Management and Accountability of the Virginia Economic Development Partnership* report.

Mr. Dickinson responded to several questions from the Commission throughout his presentation. Delegate Orrock asked if VEDP staff salaries are set by the board of directors. Mr. Dickinson explained that VEDP staff salaries are determined by the CEO and that the board of directors sets the CEO's salary. Delegate Orrock asked how much the VEDP CEO makes. Mr. Dickinson stated that the previous CEO made \$279,000 in 2014, which is the year the team used to benchmark against salaries of similar positions in other states.

Delegate Cox asked why VEDP did an organizational review but did not inform its board of directors. Mr. Dickinson said that the review included some personally identifiable information, but this could have been discussed in a closed session. Delegate Orrock asked if the organizational reviews were requested by the board. Mr. Dickinson stated that the board did not vote on all three organizational reviews and that some reviews were requested unilaterally by VEDP management. Delegate Landes asked if certain board members were notified about these reviews and which members were involved with the external consultants. Mr. Dickinson explained that the executive committee members were involved in some aspects of the reviews and others involved certain board members. Delegate Jones stated that he heard recently that the board members were not in the loop on the agency's reorganization. He asked if the board members requested this information but were denied. He then explained that VRS went through a similar situation over 20 years ago and there were a lot of organizational issues at the time that resulted in a structural reconfiguration of the agency. Delegate Jones said that he cannot imagine how the board of directors would not be aware of what has been going on at VEDP.

Senator Norment asked if the team talked to any individual board members after coming to some conclusions about the research findings. Mr. Dickinson stated that the team talked to 10 board members. Senator Norment asked if the board members had an expression of surprise or outrage once they were made aware of the findings. Mr. Greer stated that the team did not share the report findings with the board members that were interviewed; instead, the team asked them questions that were focused more on their role as a board member. Senator Howell said that this was a devastating report, but it needs to be put into context. She said that these problems are not solely a result of VEDP, as there are at least 80 other economic development entities throughout the Commonwealth so they should look at the whole economic landscape.

Delegate Spruill asked if the team knows the nature of the conversations between the VEDP board members. Mr. Dickinson responded that this is not known because the team only attended the board meetings that coincided with the study timeline.

Delegate Landes stated that the report indicates that VEDP employees are highly paid individuals that are not coming into work on time. Mr. Dickinson stated that this is the case with some VEDP employees and it is very concerning. Delegate Massie pointed out that 52 percent of VEDP's expenditures were on marketing and export staff, and asked if VEDP marketing staff are always paid a salary or if they also receive performance bonuses. Mr. Dickinson replied that VEDP marketing staff have received performance bonuses in the past and indicated that VEDP has the authority to pay bonuses to its staff. Delegate Massie asked what percentage of employee total compensation comes from performance bonuses for VEDP staff. Mr. Dickinson stated that this is a relatively small percentage. Delegate Massie then asked if this is comparable to how other states pay their economic development marketing staff (high salary and small bonuses), according to IEDC. Mr. Dickinson responded that performance-based pay was not something the team focused on in its research of other state entities similar to VEDP, but that the team could look into the matter. Delegate Cox asked how VEDP could even measure performance, given the data integrity issues identified by JLARC.

Delegate Cox expressed concern with the VEDP staff quote on page 22 of the report: "For the most part, [our manager] doesn't care how we spend our time." Delegate Jones stated that the JLARC study likely prompted the reorganization at VEDP, but asked what the board was doing the last four-five years. He asked if the team interviewed board members and asked whether they feel their role is to serve as an advisory or a supervisory board. Mr. Dickinson said that until two years ago, the board was perfunctory. Delegate Jones said that it sounds like the board did not have enough information to make decisions. Delegate Spruill asked if the board can be removed. Delegate Plum asked why VEDP was established as an authority, rather than an executive branch state agency. Mr. Dickinson explained that VEDP was established as an authority in 1995 by the General Assembly to provide them with more flexibility and autonomy.

Delegate Orrock reminded the Commission that it will vote to receive the report and authorize printing after the staff presentation; the Commission will not vote to make changes to the report. He asked the Commission members to ask questions for clarification or for information that warrants additional research by the staff.

Delegate Landes asked if cabinet secretaries on the VEDP board of directors have attended board meetings regularly, if they were aware of the issues at VEDP, and how involved they were with coordination efforts. Mr. Dickinson said that the team did not look at the meeting attendance of each secretary, but that the team can look back at the board meeting minutes and provide the Commission with this additional information.

Delegate Orrock asked if VEDP maintains a log with the number of inquiries it receives or if this information is not tracked as well. Mr. Dickinson explained that VEDP tracks very structured inquiries that it receives, but it does not track the number of businesses that call them with questions.

Delegate Jones asked how much money was spent on "VEDP-assisted projects" that were brought to VEDP versus identified by VEDP. Delegate Jones said that VEDP asks for money to secure big businesses, specifically for the VJIP and VEDIG programs. Mr. Dickinson stated that VEDP's data did not allow the team to determine this. He then said that many regional and local economic developers indicated that the primary reason they bring a project to VEDP is because of the state incentive grants. Senator Norment asked if the team had any sense that VEDP needed to overstate its marketing efforts as a result of the Governor's administration. Mr. Dickinson said that

he is unable to answer this question because VEDP has not been transparent enough on the reporting of its performance measures.

Delegate Cox asked if VEDP's Trade division has siloed itself because of the problems in the rest of the organization. Mr. Dickinson stated that management problems were driving this. Delegate Landes asked if the team looked at information from the Trade division regarding why agriculture promotion had to be handled by the Virginia Department of Agriculture and Consumer Services instead of VEDP. Mr. Dickinson said that the team did not receive any information from Trade about this, but the team did look at how other states do this: 34 other states have a separate Trade entity for agriculture. Delegate Landes asked if the current situation with VEDP's Trade division is because of management issues in the agency. Mr. Dickinson said that there has been a lack of prioritization at VEDP with regard to international trade.

Delegate Jones asked who was in the room, leadership or VEDP board of directors members, in 2011 when VEDP research staff raised concerns regarding the lack of due diligence procedures. Mr. Dickinson said that the team can try to get additional information on this for the Commission.

Delegate Jones asked for Mr. Dickinson to confirm that performance requirements for Commonwealth's Development Opportunity Fund (COF) projects were stated in the performance agreements but that VEDP has not been enforcing these requirements of companies. Mr. Dickinson confirmed that this is correct. Delegate Orrock asked if there is a requirement that businesses have to post a bond if they are not meeting their performance requirements. Mr. Dickinson said that the team is not aware of such a requirement. Delegate Landes questioned the jobs and capital investment numbers that are reported by the Governor given that this information has not been verified by VEDP. Mr. Dickinson indicated that it is his understanding that much of the data reported by the Governor comes from VEDP.

Delegate Orrock asked if there was any evidence that certain VEDP staff were less diligent than others in seeking repayment. Mr. Dickinson indicated that no one person is responsible for the lack of due diligence procedures at VEDP. Delegate Orrock asked if there are any gift reporting requirements for VEDP staff and said that the lack of these requirements leaves the COF grant program wide open for criminal activity. He asked if there were any indications that criminal activity has occurred, such as VEDP employees being given country club memberships. Mr. Dickinson stated that the team did not come across any information in its research suggesting that this type of activity has occurred. Delegate Jones asked about the structure at VEDP for decisions to not seek repayment. Mr. Dickinson stated that there has been no structure at VEDP for these decisions.

Delegate Jones asked if the lack of minimum board member qualifications applies to the citizen appointed board of directors members. He also asked if prior secretaries of commerce and trade have played an active role in board meetings, and whether they have requested additional materials or just taken the information provided by VEDP staff at face value. Mr. Dickinson stated that the lack of minimum qualifications applies to citizen appointed board members. He also said there has been some involvement by prior ex-officio board members, but he was unclear on the extent of the involvement of each ex-officio board member. Delegate Orrock asked if the team can review the board meeting minutes to determine if the Secretary of Commerce and Trade (or another individual representing the Secretary) consistently attended VEDP board meetings. Mr. Dickinson said the team can provide this additional information to the Commission. Senator Norment asked if the board meeting minutes reflect who was in attendance. Mr. Dickinson stated that the team has this information back to 2010. Delegate Orrock then questioned the usefulness of the board's self-evaluation survey results, particularly given that the board has not been involved or engaged. Mr. Dickinson responded that completing self-evaluation surveys is a common practice among effective boards.

Delegate O'Bannon said that one of the worst things is the culture and pattern over many years at VEDP. He said that a lot of supervisory boards have received money over time and there has been inconsistency in boards. He asked if having an internal auditor will be enough to fix the problems at VEDP. He also asked if board members should be required to complete formal training. Martha Mavredes, the Auditor of Public Accounts (APA), stated that higher education board members are required to go through formal training. She also stated that having an internal auditor will help, but board member training may also be necessary in order for them to have a clearer understanding of their role. Delegate Jones asked if the APA would have access to information reported by an internal auditor at VEDP. Ms. Mavredes confirmed that the APA would have access to this information.

Delegate Albo provided an example where two companies that were looking to move out of Maryland were referred to VEDP to talk to about the incentives available to new businesses locating to Virginia. He said that VEDP provided the companies with a list of several other state agencies to contact, and that the companies eventually gave up trying to determine what incentives they could apply for because the decentralized process became too frustrating. He emphasized that the companies would have created high paying jobs.

Delegate O'Bannon asked if other states have a board that systematically coordinates economic development activities across state, regional, and local entities. Mr. Dickinson stated that South Carolina has a coordinating economic development council. Delegate Orrock asked if any states have more authority under the secretary of commerce and trade. Mr. Dickinson said that Georgia's economic development entities are much more centralized than Virginia, and many are under Georgia's Department of Economic Development.

Senator Howell asked if there has been any indication that there has been a geographic bias in terms of the attention VEDP places in certain areas. She said she has heard VEDP only focuses on rural areas, and doesn't focus on areas like northern Virginia. Mr. Dickinson stated that it is difficult for us to understand how VEDP has prioritized its efforts given its lack of a structured process to do so.

Delegate Massie asked about the level of cooperation from VEDP and board members during JLARC's study. Mr. Dickinson said that all VEDP staff and board members were very cooperative throughout the study and that they provided all information requested by the team.

Delegate Plum stated that the Code of Virginia language is vague regarding VEDP's powers and duties. He questioned why VEDP was established as an independent authority in 1995 and whether the General Assembly should consider converting VEDP to a state government agency.

Delegate Landes stated that he hopes JLARC staff can provide the Commission with a prioritized list of the more immediate recommended actions for the General Assembly to consider. He also asked whether other states have a legislative accountability or oversight function to ensure that money spent on economic development and incentives gets to actual projects, jobs, and capital investment.

Senator Hanger stated that most of the report recommendations seem reasonable. He said that the VEDP board of directors has been engaging more in the last year, so he would not want the General Assembly to do anything that would be counter-productive. Senator Hanger also stated that the APA conducted a clean audit of VEDP in 2014. He asked if the scope of the audit was more narrow than the management practices described in the JLARC report. Ms. Mavredes stated that the APA is solely trying to ascertain whether there are any issues with the agency's financial management

practices. She stated that the APA has not been looking at VEDP's grant programs in detail. Senator Hanger stated that the scope of the APA audits may need to be expanded.

Delegate Jones asked the Commission members to consider the proper role of economic development in Virginia to enhance the state's competitiveness. He said that the problems identified in the JLARC report are not going to be fixed overnight. He further stated that the JLARC subcommittee on economic development has the authority to address the issues identified in the report and there needs to be accountability of the incentive grant programs. He commented that there is a lot of work to do and the General Assembly needs to determine how to configure economic development in the Commonwealth. He stated that he agrees with the JLARC recommendation that the legislature should withhold funding from VEDP until the issues identified in the report have been addressed.

At the conclusion of Mr. Dickinson's presentation, Delegate Orrock stated that the report will be adopted by the Commission without objection. There being no objections, the motion was approved unanimously by the Commission.

Subsequently, Mr. Greer provided some brief remarks regarding the report of the Virginia Veteran Family Support (VVFS) Program Working Group. Mr. Greer then introduced Secretary John Harvey who provided the Commission with a presentation on the working group mandate, background information on the VVFS program, the working group activities, the VVFS program goal and purpose, and recommendations for the General Assembly to consider. At the conclusion of Secretary Harvey's presentation, Delegate Orrock stated that this was an update for the Commission and no action is required at this time.

Lastly, Mr. Greer provided a brief presentation of the status of JLARC recommendations for legislative action and highlighted recommendations to strengthen oversight of high-risk contracts and to strengthen the board of workforce development to improve coordination statewide. At the conclusion of Mr. Greer's presentation, Delegate Orrock stated that this presentation was for informational purposes and no action is required by the Commission at this time.

There being no further business, the Commission adjourned at 12:12 p.m.

[Note: The next JLARC meeting is scheduled for Monday, December 12, 2016, which will include JLARC staff presentations on: managing costs in Virginia's Medicaid program, spending on the K-12 standards of quality, and VRS oversight.]

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

Date: 11/17/16

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