

JLARC Meeting: October 10, 2017

Minutes

Attending

JLARC Members:

Delegate Robert Orrock, Chairman; Delegate Betsy B. Carr; Delegate M. Kirkland Cox, Senator Emmett Hanger, Senator Janet Howell, Delegate R. Steven Landes, Delegate James P. Massie, Senator Ryan McDougle, Senator Thomas K. Norment, Delegate John M. O'Bannon, Delegate Kenneth Plum, Ms. Martha Mavredes, Ex Officio.

JLARC Staff:

Hal Greer, Director; Justin Brown, Senior Associate Director; Tracey Smith, Associate Director; Kimberly Sarte, Associate Director; Kate Agnelli; Lauren Axelle, Erik Beecroft, Sarah Berday-Sacks, Jamie Bitz, Danielle Childress, Drew Dickinson, Kathy DuVall, Nick Galvin, Maria Garnett, Mark Gribbin, Paula Lambert, Jeff Lunardi, Liana Major, Bridget Marcek, Joe McMahon, Ellen Miller, Jordan Paschal, Ellie Rigsby, Nathan Skreslet, Brittany Utz, Christine Wolfe.

Others:

Delegate Lee Ware; David Paylor, Neil Zahradka, Angela Jenkins, Valerie Thompson, Christina Wood, and Brandon Bull (Department of Environmental Quality); Tyla Matteson (Sierra Club); Matt Wells (WestRock); Robert Crockett (Advantus Strategies); Chris Pomeroy (AquaLaw); Michael McEvoy (Western Virginia Water Authority); Thomas Miller (a private citizen); Dan Wolf (VITA); Joe Flores (Deputy Secretary of Health and Human Resources); Nathalie Molliet-Ribet (Deputy Secretary of Education); Mike Westfall (Office of the State Inspector General, Acting Director); Ellen Marie Hess (Virginia Employment Commission, Director); Jason Powell (Senate Finance Committee staff); David Reynolds (House Appropriations Committee staff); Mark Smith (George Mason University); Phil Leone (Virginia Tech); Ashley Colvin (Department of Planning and Budget); Michael Martz (Richmond Times Dispatch); Anne Marie Morgan, Saraya Wintersmith, Mallory Noe-Payne (Virginia Public Radio).

The meeting was called to order at 10:03 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. Mr. Greer then introduced Justin Brown, Senior Associate Director, who summarized four study resolutions drafted by JLARC staff, per the Commission's request, on the following topics: (1) Office of the State Inspector General (OSIG), (2) Virginia Employment Commission, (3) Office of the Attorney General, and the (4) Department of Game and Inland Fisheries (DGIF). Mr. Brown answered several questions from the Commission.

Senator McDougle commented that one of the concerns with OSIG has been its focus on hiring accountants. He asked if this study would include a review of the skillsets of the individuals hired at OSIG. Mr. Brown said that this could be included in the study. Delegate Orrock asked if the VEC study would examine the relationship between VEC and the Virginia Community College System, as well as how other state employment agencies operate. Mr. Brown said that JLARC's 2014 study of workforce development examined VEC's relationship with VCCS, but this could be included in the study of VEC. Senator McDougle asked that the study of DGIF examine whether the agency is appropriately using its law enforcement authority. Delegate Orrock said that it would also be useful to understand how the operations and funding of other state DGIFs compare to Virginia. Delegate O'Bannon asked that the Attorney General study look into whether other states have a Medicaid fraud unit included in their Attorney General's office like Virginia does.

At the conclusion of the discussion, Mr. Brown proposed that JLARC staff complete four studies in 2018 (Department of Elections, Department of Professional & Occupational Regulation, rising inmate health care costs, and foster care & adoption) and another four studies in 2019 (Office of the State Inspector General, Virginia Employment Commission, Office of Attorney General, Department of Game & Inland Fisheries). Subsequently, Delegate Orrock stated that the Commission will approve the four study resolutions by general consensus. There being no objections, the study resolutions were approved unanimously by the Commission. Mr. Greer asked the Commission members to contact him within the month if they have any changes to the proposed order of completion for the studies that have been approved.

Land Application of Biosolids and Industrial Residuals

Next, Mr. Greer provided the Commission with some brief remarks about the *Land Application of Biosolids and Industrial Residuals* report then introduced Mark Gribbin, the project leader for the study, who provided the Commission with a presentation on the report. Mr. Gribbin responded to several questions from the Commission throughout his presentation.

Delegate Orrock noted that Commission members have heard testimony from citizens and physicians indicating a connection between land application of biosolids and industrial residuals and the diagnoses of chronic health issues. Delegate Orrock asked if the team found any evidence of this connection in their research. Mr. Gribbin responded that most literature looks at what contaminants exist in biosolids and industrial residuals and what health impacts those contaminants could have if people are exposed. He explained that there is little research, such as epidemiological studies, that look at the actual health outcomes.

Senator Norment asked if the team uncovered empirical data or documentation about health outcomes and if this would be covered later in the presentation. Mr. Gribbin indicated that he would address this later in the presentation when he discusses the health risks. Mr. Gribbin later indicated that two epidemiological studies have examined the connection between land application of biosolids and health outcomes. The first, and most

comprehensive, study found no connection between land application and human health, while the second study did find a potential connection.

Delegate Carr asked how many inspections were conducted and how many major violations were found. Mr. Gribbin responded that 12,000 inspections have been conducted since 2008, and less than one percent of those inspections uncovered a major violation.

Senator Norment asked if the team discovered specific instances of health issues caused by land application of biosolids and industrial residuals. Mr. Gribbin indicated that some citizens the team spoke with had health problems that they attributed to land application. Senator Norment then asked if the team found any evidence of water contamination from biosolids and industrial residuals in aquifers. Mr. Gribbin responded that the team did not find evidence of this. He explained that the main studies cited in the water contamination risk assessment sampled from shallow groundwater sources and found little to no evidence of contamination. He then said that if these shallow sites are not contaminated, it is unlikely that deeper groundwater features would be. Senator Norment asked if citizens that the team spoke with indicated any concerns about leaching and water quality, particularly in aquifers. Mr. Gribbin responded that water quality is a concern mentioned by citizens statewide, and was mentioned in some of JLARC's conversations with concerned citizens.

Senator Norment asked what constitutes a "major violation" found at an inspection. Mr. Gribbin indicated that DEQ may have a threshold for what is considered a major violation, although he was unsure of what that threshold is exactly. He gave several examples from recent years of instances that led to a warning letter or notice of violation including: repeated minor violations and a truck accident that led to a spill of biosolids on a public road.

Senator Norment asked if the citizen complaints were geographically concentrated. Mr. Gribbin indicated that the number of complaint was relatively small and did not appear to be concentrated in any one locality or small group of localities. Delegate O'Bannon indicated that all 32 local health districts have an epidemiologist as well and asked if the team spoke with local health districts during the course of the study. Mr. Gribbin responded that the team did not speak with local health districts, but indicated that they are not collecting data on biosolids-related illnesses, which is why the team is suggesting that the Virginia Department of Health conduct a pilot epidemiological study of whether land application of biosolids causes human health problems.

Delegate Orrock followed up by suggesting that a recommendation may be to have physicians report diagnoses they believe to be related to land application to local health districts. Mr. Gribbin noted that individuals with health concerns may request extended setback distances from their homes be incorporated into biosolids and industrial residuals permits. He said that in some cases, the individual or their physician has been able to advocate for a setback even greater than the standard extended setback. Delegate O'Bannon indicated that physicians are already required to report communicable diseases to the local health district. Justin Brown noted that the team looked into several different types of

epidemiological study designs that the Virginia Department of Health could conduct. One idea for a study was a retrospective analysis that would look at actual health data and link it to biosolids activity in that way.

Senator Norment asked if DEQ or land appliers are notified when citizen health complaints are made. Mr. Gribbin responded that the complaints are raised to DEQ, especially if a permit is being issued. He said that complaints can also result in direct interaction between the citizen and land applier or farmer. Senator Norment followed up by asking if the individual farmer or land applier is notified by DEQ of specific health concerns. Neil Zahradka from DEQ indicated that individual farmers or land appliers are notified about the reported concerns.

Delegate Landes indicated that while the current recommendation for a pilot study includes a cost of \$50,000, it is likely that more money would be needed later to complete a full study. He asked if the team gave any thought to looking at the health outcomes of farmers or land appliers, or individuals that work at wastewater treatment facilities. Mr. Gribbin responded that he was unsure of whether VDH collects data on this. He explained that there is some research that shows higher exposure for individuals working with these materials, but there was not much work done specifically with land appliers. He said that one of the epidemiological studies (completed by Dorne) studied health effects in farm families. Mr. Gribbin also noted that more routine study of health effects would require more funding.

Delegate Plum asked Mr. Gribbin to repeat his comments on synthetic gypsum and the potential risk of high mercury levels. Mr. Gribbin reiterated that synthetic gypsum can have high levels of mercury. It may not, but because nearly seven percent of land applied materials are synthetic gypsum and VDACS does not have a chemical analysis on file, this warranted some concern. Mr. Gribbin noted that the team considered having a separate recommendation to address the lack of documentation of synthetic gypsum, but felt that recommending annual testing and verification for all materials, including synthetic gypsum, was sufficient.

At the conclusion of the Commission's questions, Delegate Orrock stated that the Commission will approve the *Land Application of Biosolids and Industrial Residuals* report by general consensus. There being no objections, the report was approved unanimously by the Commission.

State Spending: 2017 Update

Mr. Greer then introduced Kimberly Sarte who provided the Commission with a presentation of the *State Spending: 2017 Update* report. Ms. Sarte responded to several questions from the Commission throughout his presentation.

Senator Norment commented that several colleges and universities experienced growth within their degree programs and made efforts to accept more in-state students and provide additional financial aid in 2007. He asked if these factors attributed to the growth in

spending experienced by higher education institutions. Ms. Sarte stated that most of the growth was due to increased tuition and fees over the 10-year period. Senator Norment then asked about what is included in higher education auxiliary enterprises. Ms. Sarte explained that this includes dining, housing, athletic, and parking facilities for students. Senator Norment asked if this growth in spending is driven by the market demand because the colleges and universities are competing with one another for students. Ms. Sarte stated that this was the case and reminded the Commission that this was one of the topics covered in JLARC's 2013-2014 higher education report series. Delegate Cox commented that the General Assembly has addressed several of the higher education recommendations, including placing a cap on athletic fees paid by students. Justin Brown stated that there are still several other higher education related recommendations that could be addressed by the legislature. Delegate Landes stated that the results of higher education reform will not be evident until the next five- or ten-year look-back period.

Delegate Landes asked if the team looked at whether other states are experiencing similar growth in their Medicaid program. Ms. Sarte stated that JLARC's 2016 Medicaid report addressed many of the cost drivers of the Medicaid program. Jeff Lunardi, project leader for the Medicaid study, stated that the growth of Virginia's Medicaid program is in line compared to the growth in other states, but staff can provide additional information to the Commission, if needed. Delegate O'Bannon said that the General Assembly did benefit from JLARC's 2016 Medicaid study. He noted that while the Medicaid program accounted for 60 percent of total general fund budget growth, it also accounted for 19 percent of the FY17 total state budget.

Delegate Massie stated that Virginia used to outperform the nation economically, whereas now it now lags the nation, which has resulted in additional costs for Virginia over time. He also said that the current Medicaid program experienced almost \$2 billion of general fund growth over the last 10 years and is squeezing out spending on other programs in the state.

Senator Hanger asked if the team has the ability to look at the last four to five years of appropriation data. Ms. Sarte said that the statute requires JLARC to look at a 10-year period, but that the team has the historical data needed to examine more recent years. Senator Hanger stated that it would be helpful to see recent trends by state agency and program, such as Medicaid.

At the conclusion of Ms. Sarte's presentation, Delegate Orrock stated that the Commission will approve the *State Spending: 2017 Update* report by general consensus. There being no objections, the report was approved unanimously by the Commission.

Lastly, Mr. Greer announced that the next Commission meeting is scheduled for November 13, 2017, which will include a presentation on the findings and recommendations from the reports on state employee compensation and economic development incentives. He also reminded the Commission that the economic development subcommittee will meet at 8:30 a.m. on November 13th.

There being no further business, the Commission rose at 11:23 a.m.

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

Date: 10/23/17

Prepared by: Paula Lambert
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