

### **Review of the Office of Attorney General**

WHEREAS, the Office of Attorney General (OAG) serves as the state's legal counsel; has responsibility for prosecuting certain types of criminal cases, including violations of alcohol beverage control, elections, child pornography, and environmental laws; and is responsible for collection of the state's debt; and

WHEREAS, the OAG's Division of Consumer Counsel is the state's clearinghouse for the receipt, evaluation, and referral of consumer protection complaints; and

WHEREAS, in FY17 the OAG received appropriations of \$30.1 million, two-thirds of which were general funds, and the remainder of which were special and federal trust funds; and

WHEREAS, the OAG has received substantial amounts in proceeds from asset forfeiture and expended these funds for a variety of purposes outside the state's budget process with minimal legislative oversight; and

WHEREAS, the OAG has unilaterally authorized staff salary increases; and

WHEREAS, the OAG has the authority to appoint private attorneys and special counsel if it is determined that it is impracticable or uneconomical for the office to provide required legal service, but concerns have been raised about whether this authority has been exercised properly; and

WHEREAS, in a recent review of state contracting by the Joint Legislative Audit and Review Commission (JLARC), only 21 percent of agency procurement staff reported seeking assistance from the OAG in developing contracts, and the OAG reported not having the capacity to review the substantive provisions of state contracts; and

WHEREAS, the JLARC review of state contracting concluded that the OAG should assume a stronger role in reviewing agency contracts to improve the state's protections against contract-related risks; and

WHEREAS, the Medicaid Fraud Control Unit, which is housed within the OAG and charged with policing provider fraud in the Medicaid program, has grown over time with relatively little supervision, and has devoted a substantial portion of its resources to national pharmaceutical cases, potentially at the expense of local provider fraud cases; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to review the operations and performance of the OAG. In conducting its study, staff shall (i) evaluate the allocation and expenditure of forfeiture and other non-general funds; (ii) examine the process for authorization of staff pay increases; (iii) examine the process for the retention of private attorneys and special counsel; (iv) evaluate the adequacy of legal assistance provided in the development of state contracts; (v) assess whether the OAG has adequate resources and expertise to efficiently and

effectively serve as the state's legal counsel; (vi) evaluate the performance of the Medicaid Fraud Control Unit and compare the unit to similar units in other states; (vii) evaluate the performance of the Division of Consumer Counsel; (viii) make recommendations as necessary; and (ix) review other issues as warranted.

All agencies of the Commonwealth shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of state agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to this statutory authority.

JLARC staff shall complete their work and submit a report of findings and recommendations to the Commission by December 10, 2019.