



REVIEW OF AUDIT OVERSIGHT AND PROVISIONS OF SUPERVISORY ENTITIES

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Auditor of Public Accounts
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AUDIT SUMMARY

We have reviewed the legislative process for the creation and oversight provisions of supervisory entities. This report describes the scope and results of our review. Based on our review, we found:

- there has been no change in the legislative process to create and oversee supervisory entities since our last review performed in 1999;
- the statutory language creating the entities regarding reporting requirements and oversight authority is not consistent;
- there is no complete list of supervisory entities to enable effective monitoring of audit and reporting compliance; and
- specific statutory language does not exist to require authorities, boards, commissions, and other political subdivisions to report suspected fraud to state officials.

We recommend the General Assembly consider studying the process for creating supervisory entities and creating legislation for clarity and consistency in the creation, monitoring, and oversight of these entities.

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BACKGROUND

The General Assembly has created numerous authorities, boards, and commissions through either general or special laws. These entities have control over a wide spectrum of activities and have varying degrees of control over either themselves or other entities. These entities act in various capacities ranging from advisors to state or local government executives on single topics, to boards having the ability to operate and control activities with millions of dollars in revenue.

In 1999 the Joint Legislative Audit and Review Commission (JLARC) requested that the Auditor of Public Accounts (APA) review the audit and oversight provisions of authorities. During the 1999 review, the APA gained an understanding of the process used to create authorities and compiled a listing of authorities, boards, and commissions created by general law in the Code of Virginia and special law through the Acts of Assembly. Based on the Code of Virginia definitions in Section 2.2-2100 Classification of executive branch boards, commissions and councils, the APA classified each entity on the compiled list as either a supervisory, policy, or advisory entity.

The focus of the 1999 review did not include advisory or policy entities. As the title indicates, advisory entities provide citizen or expert information to either an elected official or group, an agency head or local government appointed official, or another body. Typically, the group or individual receiving advice is not under obligation to act on the advice or expert opinion. Policy entities provide guidance or direction to the same types of groups or individuals, although these groups or individuals must use this guidance in implementing programs. Neither advisory nor policy entities typically directly control any funds. The 1999 review focused solely on supervisory entities, but only those that were not considered a state agency or department since such entities are subject to audit or oversight by the APA and JLARC.

The APA's report on this subject, titled [Review of Audit and Oversight Provisions of Supervisory Entities](#), indicated that the Commonwealth of Virginia had no consistent policy governing the audit and oversight of supervisory entities and that neither the General Assembly nor local governments had the ability to exercise an independent review of the entities after their creation, without either the entity's permission or a change in its enabling legislation.

The 1999 report included the following recommendations.

Recommendation 1 - The General Assembly may wish to study the process for creating supervisory entities to achieve greater consistency and to set minimum standards for basic powers to conduct general business operations. This study should consider methods to incorporate these provisions into existing enabling legislation for all entities regardless of the process for their original creation.

Recommendation 2 - The General Assembly may wish to consider requiring a state agency to monitor the creation of state and local authorities, boards, and commissions. This agency would maintain a comprehensive listing of supervisory entities created under general law. Additionally, local governments would report the creation of any additional entities by local ordinances.

Recommendation 3 - For state supervisory organizations, not directly part of the State governmental organizational structure, the General Assembly may wish to examine and develop consistent audit and oversight provisions for all entities and groups of entities. These provisions should provide guidance for incorporating these guidelines in future legislation.

Recommendation 4 - The General Assembly may wish to consider allowing all state supervisory entities to be subject to a review by the Joint Legislative Audit and Review Commission and the Auditor of Public Accounts.

Recommendation 5 - The General Assembly may wish to permit the governing body or bodies creating the supervisory entity to have the power to perform or authorize limited reviews or other oversight activities.

Recommendation 6 - The General Assembly may wish to study whether a local government creating a supervisory entity should have the power to dissolve the entity, under what conditions could they dissolve the entity, and the responsibility the government or governments would assume for the assets and liabilities upon dissolution.

OBJECTIVES AND SCOPE OF THE CURRENT REVIEW

The APA continues to receive inquiries about the audit and reporting requirements for authorities, commissions, districts, and other political subdivisions. We believe the questions arise from inconsistent legislation for the creation and oversight of these entities. We have noted that some entities are unaware of their reporting requirements and; therefore, have not had an audit for an extended period of time. Other entities may have limited operations and decide that the audit costs outweigh the intended benefit. It is important to understand the magnitude of these various entities and determine their pattern of reporting. In addition, there is an increased risk for loss and misappropriation of funds based on the current economic climate and the Commonwealth needs to improve its ability to provide guidance and oversight to minimize this risk.

The purpose of this review is to:

- evaluate changes made to the legislative process in response to the APA's recommendations from the 1999 report,
- accumulate a list of governmental entities in Virginia, other than localities, and
- to evaluate these entities' compliance with reporting requirements.

Just as the 1999 review did, the current review focused solely on supervisory entities that are not considered a state agency or department since such entities are already subject to audit or oversight by the APA and JLARC.

METHODOLOGY

We researched the Code of Virginia and the Acts of Assembly to determine whether there has been any change in the legislative process to create and oversee the authorities, commissions, districts, and other political subdivisions. Based on research within the various categories of authorities and other political subdivisions, we expanded the APA's initial list of entities. We used the accumulated list of entities to evaluate compliance with reporting to the APA (see the [Appendix](#) at the end of this report for a list of the supervisory entity categories).

FINDINGS

Based on our review of the current general and special laws, we believe there has been no change in the legislative process to create and oversee supervisory entities. The legislative process to create an entity continues to respond to a request to create the specific entity and concentrates on the purpose, powers, and need for that particular entity rather than using a standard process to create similar entities. In addition, there are still no consistent, minimum, or standard requirements governing audit or other oversight activity.

The Code of Virginia Section 30-140 requires that certain authorities, commissions, districts, and other political subdivisions file an annual audit report with the APA, excluding those entities whose governing body members are elected by popular vote and those entities whose financial transactions do not exceed \$25,000 in any given fiscal year. The APA has historically performed limited monitoring of the compliance of these authorities and other political subdivisions primarily due to the lack of available information on the existing entities. The APA has accumulated a list of the authorities and other political subdivisions based on the entities' self-compliance and past report submission. The current APA monitoring list has approximately 700 individual entities including 270 within categories where it is not clear whether they are required to report to the APA (see the Appendix at the end of this report for a list of the supervisory entity categories). The majority of these entities have not submitted reports to the APA. The current statute does not include any penalty or other oversight action to motivate them to report.

To determine the types of entities that are required to report in accordance with Section 30-140 of the Code of Virginia, the APA interpreted the statutory language for creating the different types of supervisory entities. Based on the APA's interpretation, the entities that are required to report include those where the statutory description indicates they are a "political subdivision"; there is a requirement to submit an audit report to the APA; or they are subject to an audit by the APA or their representative.

Even with these specific descriptions, the APA's list of individual authorities and other political subdivisions is still incomplete. Local governing bodies are allowed to create supervisory entities, but they are not required to report or register these organizations with the Commonwealth; therefore, the APA has no way of determining who should or should not report. Also, the local government that creates the entity may establish an audit requirement, but this is not consistent.

The APA periodically receives inquiries regarding the reporting requirements and oversight authority for various supervisory entities. Sometimes it is difficult to respond because the statutory language creating the entities is not consistent with similar entities or does not clearly address these areas. Additionally, some entities are not aware of the specific audit and reporting requirements and may go for an extended time without having an audit. For other entities, the APA may determine they have very limited current activity and there is no longer a need for their existence. The current legislation does not address who has the power to dissolve an entity and what conditions would prompt this action.

Additionally, Section 30-138 of the Code of Virginia directs reporting to the APA, the State Inspector General, and the Superintendent of State Police upon discovery of circumstances suggesting a reasonable possibility that a fraudulent transaction has occurred involving funds or property under the control of any state department, court, officer, board, commission, institution or other agency of the Commonwealth, including local constitutional officers and appointed officials exercising the powers of elected constitutional officers, as to which one or more officers or employees of state or local government may be party thereto. Confusion exists as to whether political subdivisions that are boards or commissions are supposed to report under this statute.

RECOMMENDATIONS

Our review resulted in the following recommendations.

Recommendation 1 – The General Assembly may wish to study the process for creating supervisory entities to achieve greater consistency and to set minimum standards for basic powers to conduct general business operations. This study should consider methods to incorporate these provisions into existing enabling legislation for all entities regardless of the process for their original creation.

Recommendation 2 – The General Assembly may wish to consider requiring a state agency to monitor the creation of state and local authorities, boards, and commissions. This agency would maintain a comprehensive listing of supervisory entities created under general law. Additionally, local governments would report the creation of any additional entities by local ordinances.

Recommendation 3 – For supervisory organizations not directly part of the State governmental organizational structure, the General Assembly may wish to examine and develop consistent audit and oversight provisions for all entities and groups of entities. These provisions should provide guidance for incorporating these guidelines in future legislation.

Recommendation 4 – The General Assembly may wish to permit or require the governing body or bodies creating the supervisory entity to have the power to perform or authorize limited reviews or other oversight activities.

Recommendation 5 – The General Assembly may wish to study whether a local government creating a supervisory entity should have the power to dissolve the entity, under what conditions could they

dissolve the entity, and the responsibility the government or governments would assume for the assets and liabilities upon dissolution.

Recommendation 6 - The General Assembly may wish to clarify whether authorities, boards, commissions and other political subdivisions are required to report suspected fraud under Section 30-138 of the Code of Virginia.



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February 2, 2015

The Honorable Terence R. McAuliffe
Governor of Virginia

The Honorable John C. Watkins
Chairman, Joint Legislative Audit
and Review Commission

We have reviewed the audit and oversight provisions for supervisory entities having independent powers as political subdivisions as a follow up to our 1999 report on this subject, titled *Review of Audit and Oversight Provisions of Supervisory Entities*.

As noted in the 1999 report, the Commonwealth of Virginia has no consistent policy governing the audit and oversight of supervisory entities. For some supervisory entities, neither the General Assembly nor local governments have the ability to exercise an independent review after their creation without either the entity's permission or a change in their enabling legislation.

This report includes recommendations the General Assembly may wish to consider to improve oversight and governance of supervisory entities.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

LJH/clj

APPENDIX A

LIST OF SUPERVISORY ENTITIES THAT MAY BE REQUIRED TO REPORT TO THE APA

Name or Category	Authority (<u>Code of Virginia</u> or Other)	Required to Report to APA?
Alexandria Historical Restoration and Preservation Commission	Acts of Assembly	Yes
Alleghany Highlands Economic Development Authority	15.2-6200 et seq.	Yes
Authorities for Development of Former Federal Areas	15.2-6300 et seq.	Yes
Buchanan County Housing Development Corporation	Acts of Assembly	Yes
Buchanan County Tourist Train Development Authority	15.2-6700 et seq.	Yes
BVU Authority	15.2-7200 et seq.	Yes
Chesapeake Port Authority	Acts of Assembly	Yes
Chesterfield County Toll Road Authority	Acts of Assembly	Yes
Community Development Authority	15.2-5152 et seq.	Yes
Eastern Virginia Medical School	Acts of Assembly	Yes
Electric Authorities	15.2-5400 et seq.	Yes
George Washington Toll Road Authority	Acts of Assembly	Yes
Hampton Roads Sanitation District Commission	Acts of Assembly	Yes
Hampton Roads Sports Facility Authority	15.2-5900 et seq.	Yes
Hampton Roads Transportation Accountability Commission	33.2-2600 et seq.	Yes
Hospital Authorities	15.2-5300 et seq.	Yes
Industrial Development and Revenue Bond Act	15.2-4900 et seq.	Yes
Municipal and County Airports and Other Air Navigation Facilities	5.1-31 et seq.	Yes
New River Valley Emergency Communications Regional Authority	Acts of Assembly	Yes
Northern Virginia Transportation Authority	33.2-2500 et seq.	Yes
Peninsula Ports Authority of Virginia	Acts of Assembly	Yes
Planning District Commissions	15.2-4200 et seq.	Yes
Portsmouth Port and Industrial Commission	Acts of Assembly	Yes
Public Recreation Facilities Authorities	15.2-5600 et seq.	Yes
Rappahannock River Basin Commission	62.1-69.25 et seq.	Yes
Redevelopment and Housing Authorities	36-1 et seq.	Yes
Richmond Metropolitan Transportation Authority	33.2-2900 et seq.	Yes
Roanoke Higher Education Authority	23-231.13 et seq.	Yes
Soil and Water Conservation Districts	10.1-500 et seq.	Yes
Southside Virginia Tourism Development Authority	15.2-5509 et seq.	Yes
Southwest Virginia Health Authority	15.2-5368 et seq.	Yes
Tourism Development Authority for the LENOWISCO and Cumberland Plateau Planning District Commissions	15.2-5500 et seq.	Yes

Name or Category	Authority (<u>Code of Virginia</u> or Other)	Required to Report to APA?
Tourist Train Development Authority	15.2-6550 et seq.	Yes
Virginia Baseball Stadium Authority	15.2-5800 et seq.	Yes
Virginia Coalfield Economic Development Authority	15.2-6000 et seq.	Yes
Virginia Naval Museum Authority	Acts of Assembly	Yes
Virginia Recreational Facilities Authority	10.1-1600 et seq.	Yes
Virginia Regional Industrial Facility Authorities	15.2-6400 et seq.	Yes
Virginia Water and Waste Authorities	15.2-5100 et seq.	Yes
Williamsburg Area Transit Authority	15.2-6800 et seq.	Yes
Area Agencies on Aging	51.5-135 et seq.	Unknown
Behavioral Health Authorities	37.2-600 et seq.	Unknown
Chesapeake Bay Commission	30-240 et seq.	Unknown
Community Service Boards	37.2-500 et seq.	Unknown
Criminal Justice Training Academies	15.2-1747 et seq.	Unknown
Eastern Shore Water Access Authority	15.2-7400 et seq.	Unknown
Educational Facilities Authority	23-30.39 et seq.	Unknown
Hospital or Health Care Commissions	15.2-5200 et seq.	Unknown
Hotel Roanoke Conference Center Commission	Acts of Assembly	Unknown
Jail Authorities	53.1-95.2 et seq.	Unknown
Library Boards	42.1-33 et seq.	Unknown
Local Correctional Facilities	53.1-68 et seq.	Unknown
Local Social Service Boards	63.2-300 et seq.	Unknown
Metropolitan Washington Airports Authority	5.1-152 et seq.	Unknown
Middle Peninsula Chesapeake Bay Public Access Authority	15.2-6600 et seq.	Unknown
Mosquito Control Districts	32.1-187 et seq.	Unknown
Northern Neck Chesapeake Bay Public Access Authority	15.2-6626 et seq.	Unknown
Park Authorities	15.2-5700 et seq.	Unknown
Parking Authorities Act	Acts of Assembly	Unknown
Potomac River Basin Commission of Virginia	62.1-64 et seq.	Unknown
Regional Jails or Jail Farms	53.1-105 et seq.	Unknown
Regional Juvenile Detention Commissions	16.1-315 et seq.	Unknown
Richmond Ambulance Authority	Acts of Assembly	Unknown
Sanitary Districts	21-113 et seq.	Unknown
Southwest Regional Recreation Authority	15.2-6016 et seq.	Unknown
Transportation District Act of 1964	33.2-1900 et seq.	Unknown
Virginia Wireless Service Authorities	15.2-543.1 et seq.	Unknown
Washington Metropolitan Area Transit Authority	Acts of Assembly	Unknown