

# Regulation of Administrative Agencies

REPORT OF THE  
VIRGINIA ADVISORY LEGISLATIVE COUNCIL  
TO  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY OF VIRGINIA



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## REPORT OF THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

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RICHMOND, VIRGINIA, *January 24, 1950.*

To: HONORABLE JOHN S. BATTLE, *Governor of Virginia*  
and  
THE GENERAL ASSEMBLY OF VIRGINIA:

On July 12, 1949, Honorable Wm. M. Tuck, then Governor of Virginia, requested the Council to make a study of the regulation of administrative agencies. The pertinent portion of his communication to the Council requesting this study is as follows:

A special committee on Administrative Law of the Virginia State Bar Association has for some years been giving study to the question of improvement in the procedure of State administrative agencies in this Commonwealth. This matter was given consideration during the 1942 and 1944 sessions of the General Assembly, and this matter was dealt with to some extent by the General Assembly by the passage of the Administrative Agencies Act, Chapter 160, Acts of 1944, which applies to fourteen semi-private licensing agencies.

Since the passage of the Federal Administrative Procedure Act by Congress, which became law on June 11, 1946, which applies to all the more important Federal Administrative agencies, the subject has received increased attention by Committees of the American Bar Association and of State Bar Associations.

At the annual meeting of the Virginia State Bar Association in Roanoke in 1947 the Association adopted resolutions as recommended by its special committee on Administrative Law, recommending to the General Assembly the enactment of suitable legislation which would extend, in principle, to all administrative agencies of the Commonwealth (except the State Corporation Commission), having rule-making power or the power to issue, withhold, suspend or revoke licenses to engage in any

trade, profession or business, or to enter orders or rulings affecting private property rights or business practices the same regulatory requirements as to procedure, hearing, and judicial review contained in Chapter 160, Acts of 1944, with respect to the agencies therein specifically referred to. No action was taken on the above resolution, probably because of the unusual congestion of legislation on the calendar of the 1948 General Assembly.

This subject was likewise considered by the Virginia State Bar Association at its 1948 meeting and the following resolution was adopted:

“BE IT RESOLVED that the Virginia State Bar Association approves the Report of its Special Committee on Administrative Law this day presented to this meeting of the Association, and hereby authorizes and directs said Committee, in cooperation with the Committee on Legislation and Law Reform, to confer with the Governor of Virginia and urge him to refer the recommendations of this Association’s Special Committee on Administrative Law, with respect to improvement of practice and procedure before State Administrative agencies, to the Virginia Advisory Legislative Council with the request that the Council report on this matter to the next General Assembly.”

The 1947 and 1948 Reports of the Special Committees on Administrative Law of the Virginia State Bar Association have been brought to my attention by that Committee with the request that I refer the recommendations of the Association to the Virginia Advisory Legislative Council and request the Council to report on this matter to the next General Assembly.

The Report of the Special Committee on Administrative Law of the Virginia State Bar Association indicates that there are at least 70 administrative agencies of the Commonwealth issuing orders, licenses or taking other action affecting property rights of the citizens of the Commonwealth, and that there is marked lack of uniformity in the procedure prescribed. I am convinced that in view of the increasing complexity of business and government, this subject has become one of substantial public interest and may be further dealt with to the best advantage by the General Assembly after study has been made of it by the Council. I am, therefore, referring this matter to the Council for its consideration and report to the next General Assembly.

For your convenience, I am enclosing herewith a copy of the 1947 and 1948 Reports of the Virginia Bar Association's Special Committee on Administrative Law above referred to.

Pursuant to this request, the Council began immediate consideration of this matter. Due to the shortness of time and the complexity of such a study, the Council decided that it would conduct the study itself without referring it to a committee of the Council to make the initial investigation and report.

Accordingly, the Council began consideration of this request. Copies of the administrative agencies acts of many states were obtained, and practices thereunder were reviewed. All agencies of the State having the rule-making power and which are not subject to the Commission on Administrative Agencies were requested to furnish copies of their rules and regulations to the Council; a tremendous mass of material was received from this source. A synopsis of the statutes of Virginia conferring the rule-making power on various agencies was prepared and carefully studied by the Council. The operations of the Commission on Administrative Agencies and its effect upon the agencies under its control were reviewed in order to determine if this method of regulation could be extended to all agencies of the State.

Two public hearings were held by the Council on this matter, and all agencies of the State, members of the public, and interested parties were requested to attend. The heads of several State departments appeared at these hearings, either personally or by representative. The Virginia State Bar Association was represented by two gentlemen, who made detailed recommendations to the Council. The suggestions received from these sources have been of great assistance.

The Council has carefully studied the material available to it, has reviewed the practices of the agencies, and sought, throughout its study, to develop measures which would remedy the situation referred to it in the letter from the Governor without, at the same time, hindering activities which are necessary.

The Council has not been able to agree upon the measures that should be recommended for adoption. Many proposals were considered which involved both the scope and the extent of statutory regulation. In the time available to it the Council was unable to reach agreement as to the most desirable approach. This was so despite the fact that the Council placed this study on its agenda at numerous meetings as a special and continuing matter.

The Council believes that the best interests of all concerned would be served by the passage of a resolution directing the Council to continue its study of this matter and to report thereon to the Governor and General Assembly in advance of the session of 1952. A resolution providing for a continuation of the study is attached to this report.

The Council wishes to thank the many persons and groups who assisted it during the course of its study.

Respectfully submitted,

M. M. LONG, *Chairman*

W. R. BROADDUS, JR.

PAUL CROCKETT

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MOSBY G. PERROW, JR.

SENATE JOINT RESOLUTION

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Directing the Virginia Advisory Legislative Council to make a study of the Administrative Agencies.

Whereas, there is marked lack of uniformity in the procedure prescribed for those agencies of the State having the rule-making power in the issuance of orders, licenses or taking of action affecting property rights of the citizens of the Commonwealth; and

Whereas, this matter should be further studied to determine what action, if any, should be taken by the General Assembly; Now, Therefore,

Be it Resolved by the Senate, the House of Delegates concurring, that the Virginia Advisory Legislative Council is directed to make a study and report to the Governor and General Assembly not later than October one, nineteen hundred fifty-one on the following matter: the procedure prescribed for administrative agencies of the State relative to issuing orders, licenses or taking other action affecting property rights of the citizens of this Commonwealth. The Council shall accompany its report and recommendations with drafts of such legislation as it deems appropriate to carry its recommendations into effect.