

MATTERS PERTAINING TO PER DIEM COMPENSATION

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL**

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA



SD 6,1968

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1967

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REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, October 5, 1967

To:

HONORABLE MILLS E. GODWIN, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The General Assembly, at its 1966 Regular Session, directed the Virginia Advisory Legislative Council to conduct a study and render a report on matters relating to per diem compensation for members of State boards and commissions.

A copy of the resolution embodying the General Assembly's directive follows:

SENATE JOINT RESOLUTION NO. 16

Directing the Virginia Advisory Legislative Council to make a study and report on matters relating to per diem compensation for members of State boards and commissions.

Whereas, many public spirited citizens of the Commonwealth serve as members of various State boards and commissions; and

Whereas, the amount of per diem compensation paid for days on which these individuals are engaged in the performance of their duties as such members, which was established for the members of many such boards and commissions has in some cases become unrealistic with the passage of time, and there is a wide disparity, among the respective boards and commissions, as to the amount of per diem compensation, in that the amount of such compensation for several boards and commissions has been increased in recent years but has not been increased for others, and in the case of certain boards and commissions there is no provision for the payment of such compensation; now, therefore, be it

Resolved by the Senate of Virginia, the House of Delegates concurring, That the Virginia Advisory Legislative Council is hereby directed to make a study and report upon the provisions, and lack of same, for the payment of per diem compensation to the members of the various State boards and commissions, with the view of achieving a greater uniformity in such provisions and bringing the amount of such compensation up to figures more compatible with present conditions. All agencies of the State shall assist the Council in its study. The Council shall complete its study and make its report to the Governor and General Assembly not later than October one, nineteen hundred sixty-seven.

The Council appointed Dr. J. D. Hagood of Clover, member of the Senate and the Council, to serve as Chairman of a Committee to make the preliminary study and Report.

The following individuals accepted the Council's invitation to serve on the Committee: Lloyd C. Bird, member of the Senate, Chesterfield County; William M. Lightsey, member of the House, Arlington County;

Charles L. McCormick, III, Attorney at Law, Halifax; James W. Roberts, member of the House, Norfolk; W. Roy Smith, member of the House, Petersburg; and C. H. Taylor, Executive Vice-President and Secretary, Virginia Manufacturers Association, Richmond.

Colonel Roberts was elected Vice-Chairman of the Committee. G. M. Lapsley and Daniel E. Bray, Jr., served as Secretary and Recording Secretary, respectively, to the Committee.

The Committee discussed the problem of varying per diem payments at several meetings and conducted a public hearing in Richmond to which all concerned were invited to express opinions and render recommendations concerning the subject matter; it had the benefit of an extensive compilation of statistical data prepared in response to a questionnaire to all State boards, committees and commissions; and it reviewed the various statutes pertaining to the subject matter. We express our appreciation to the several agencies which assisted in the study and especially to Honorable John W. Garber, Director, Division of Personnel, with whom the Committee had several consultations. We especially thank the members of the Committee for the contribution of their time and knowledge toward the study of this complex subject.

The Committee concluded its study and submitted a report containing its findings to the Council. The Council has reviewed the report of the Committee and has reached the conclusions and makes the recommendation hereinafter set forth.

Summary of Conclusions and Recommendation

We subscribe to the general principle that public service by citizens should be without regard to monetary reward. We believe, however, that citizens so serving should be reimbursed for their personal expenses incurred. Per diem, where paid, should not be regarded as compensation for services rendered but as reimbursement for out-of-pocket expenses beyond those compensable under present practices and for the necessary inconvenience experienced when busy people must take time from their personal affairs to devote to their duties as members of boards, commissions and like public groups.

The activities of the various boards and commissions are so varied, and the demands in time and effort so different that no uniform standard can be established. We accordingly recommend no change in the policies previously established with respect to the payment of per diems to members of State boards and commissions.

We point out, however, that as to the examining boards for professions and occupations, the situation is somewhat different. Such services require time and effort to an extent not generally required of other boards and commissions and a more liberal policy as to compensation for such service appears to be justified.

In some instances it is obvious that professional, scientific, technical or other expertise is required for the proper discharge of the functions of State agencies. Where this is true, it is our belief that the situation should be dealt with by the retention of properly qualified consultants and their services should be paid for on the basis of what they are worth. However, when consultant services are performed by State employees, this should be reviewed very carefully both by the employing agency and the authorities of the agency or institution by whom the consultant is employed.

Background

Before proceeding to a discussion of our conclusions and recommendation, we submit some relevant findings and observations.

A statistical analysis of the questionnaires sent to the various boards, committees and commissions was based on the biennium 1964-1966; and the various organizations were questioned as to the average attendance, the number of meetings conducted during the period, and an estimated cost expended for per diem. The Committee arbitrarily divided the various organizations into eight basic groups: Examining Boards, 22 in number; College Boards and Institutional Boards, 35 in number; Policy Making Boards, 45 in number; State Agency or Administrative Boards and Commissions, 21 in number; Advisory Boards and Commissions, 23 in number; Study Commissions and Council Committees, 33 in number; miscellaneous boards, committees and commissions, 30 in number; and finally, local boards, reference to which is made throughout the Code of Virginia. However, the appointment to and compensation of these are strictly local matters, and the number of these could not be determined.

Analysis of Questionnaire

- I. Number of boards, committees and commissions (exclusive of college, institutional, local and study committees and commissions)—141; number of members—852.
- II. Number of study commissions, Council Committees, local, regional, college or institutional boards—68; number of members (exclusive of local)—689.
- III. Number of inactive boards or commissions—10; membership—81.
- IV. Number of persons who might be affected by a uniform per diem policy (based on 141 boards)—852; study commissions, etc.—689; total—1,541.
- V. Persons serving without per diem—1,110; persons currently paid per diem—431.
- VI. Range in amount of per diem—(141 boards, etc.)

<i>Number</i>	<i>Rate (in dollars)</i>
65	0
17	10
23	15
15	20
14	25
1	30
5	35
1	40

- VII. Number of meetings (141 boards)—800.
- VIII. The amount spent for per diem—\$107,804.
(Boards not heard from—32 (including 10 inactive).)

Situation in Other States

In addition to the questionnaire sent to the various boards, committees and commissions in the State, the staff inquired of the practices in other

states, comparable to Virginia in size and population. Excerpts from four of the replies are set forth:

“It would seem in glancing over our statutory provisions dealing with per diem compensation of State Board and Commission members that our provisions also reflect a considerable variance in compensation between boards or commissions having similar functions. There is no uniformity and in some instances, there is a wide divergency between per diem with the range extending from actual expenses only to \$50 per day plus actual expenses while attending to board business. . . . This wide range of difference in per diem may be due to the fact that these boards were created at different times and in some cases the statutes have not been updated to take into consideration the meagerness of the compensation.”

“Compensation of State Board and Commission members in our State is not controlled by any uniform policy or law. Compensation is set by the statute creating each board or commission. Per diem expenses range from nothing to \$35 per day plus travel expenses. The per diem compensation most frequently mentioned in the statute is \$25 per day plus necessary travel expenses.”

“Please be advised that we do not have here any uniform per diem and that there is a great variance between the per diems paid to various boards, etc. The range begins at about \$10 per day and goes up to a high of \$100.

“We have no statute setting any policy in this matter, and the per diem has been set by the legislation over the years without any rhyme or reason.”

“We, too, find per diems a problem and haven’t yet devised a logical system of compensation.

“Per diems are not uniform, but some effort is being made to achieve uniformity within comparable categories. They are set by statute and are established by the sections of the statute setting forth the composition and powers and duties of the agency. Some such statute sections provide that the Committee receive no compensation, others provide that it receive expenses only or travel expenses, while other sections provide for both per diem and expenses . . . State offices and employees shall be reimbursed for actual and necessary travel expenses incurred in the discharge of their duties.

“Per diems provided in the statutes range from \$10 to \$50 (only one agency receives \$50) with the most frequently occurring per diem being \$25. One agency pays \$100 per year and expenses to its members.”

From the above, it is evident that the situation is not peculiar to Virginia and a satisfactory solution has not been generally found.

Reasons for Recommendation

The philosophy of the Commonwealth of Virginia has generally been that contributions of time, energy and service to the State by citizens through serving on boards, committees and commissions have been in the realm of public service. Such service is not employment, and it would be impossible to measure the value of an individual member’s contribution in terms relevant to any compensation plan. An arbitrary evaluation based upon the personal income of an individual member, that is, what it actually costs him to serve, would obviously be of such wide divergency that any attempt at such a basis would be futile. Additionally, the wide differ-

ences in duties, time requirements and the like would render any attempt at uniformity of compensation inequitable.

People seek appointment to State boards and commissions for different reasons, but primarily because of great interest in or knowledge of the subject of the agency's jurisdiction. Membership on institutional boards, college boards, policy making boards of agencies, and commissions appointed by the Governor is much sought after and prestige inures to the recipient of the appointment. Irrespective of the nature of the board, committee or commission, all are alike in that there is the offer of opportunity for public service which most citizens seek. It is inconceivable to us that the amount or rate of compensation for serving on a board and the like could often be a determining factor in the mind of one invited to serve.

We recognize that oftentimes occupational or professional competence is required particularly where the board or commission is involved in technical matters. We do not, however, feel that one serving on such a board should expect to be compensated at the level of his normal earning capacity. This would be prohibitively expensive in many, if not all cases.

On the other hand, however, we recognize that in most cases public service on such boards and commissions does involve inconvenience and in many cases financial sacrifice. It is our observation that very few persons who are reimbursed for traveling expenses by the Commonwealth of Virginia, especially those who drive their own automobiles and thus save the State the considerable expense of maintaining larger motor pools, are able actually to "break even". For these reasons we are not opposed to the allowance of modest per diem payments where the legislature has seen fit to allow them. But we are not advocating uniformity in amount. Just as we have pointed out that the earning power of the individual board member cannot be used as a basis for estimating the value of his service to the State, so do we feel that no outside agency is in a position to say, as between the several boards and commissions, that one is making a larger contribution to the welfare of the State than is another, or that all should be treated just the same. This is a matter for the General Assembly to determine as to each individual agency which it establishes.

This is particularly true as to the examining boards for professions and occupations which are set up in Title 54 of the Code of Virginia. These boards police the activities of practitioners of different groups ranging from the learned professions to the recently regulated occupations such as barbering and professional hairdressing. These several boards have a common purpose, that of assuring protection of the public by limiting the privilege of practice to persons who are qualified in their respective fields; however, the extent of their activities varies. Some of the boards rely on tests prepared by national organizations and graded by such organizations, the function of the examining board being limited to supervising the giving of the examination and a review of the results of the grading which is done on the basis of the contract with the board. Others prepare the questions and grade the papers as well as supervising the actual examinations. In still other cases, supervision by the examining board of actual or simulated performance of acts associated with practice is required. Therefore, we feel that with regard to certain of the examining boards, higher levels of compensation than the average may be justified.

It is obvious that within the broad spectrum of the operations of the modern State government, there are many times when the advice and assistance of highly trained persons of widely recognized competence in special fields may be desirable or imperative. It obviously is not economically feasible to have such persons on the payrolls of State agencies who

would need them only infrequently. In addition, the limited range of compensation permitted by a reasonable State personnel policy would make the securing of such talent on an employment basis impossible. When such a situation arises, we feel that it should be met, not by an unrealistic per diem allowance in the hope of persuading such individuals in effect to donate their services but by retention of persons with the necessary expertise on a consultant basis with the State paying adequate compensation for the value of the services received.

Sometimes, however, it has been found that one State department, institution or agency may have personnel in its employ who can furnish invaluable service on a short-term basis to meet peculiar needs of another State agency. Where this is true, it would appear that the situation should be handled by an interagency arrangement whereby the using agency would reimburse the furnishing agency for the services of its personnel, if the situation is not such that the service can be provided without charge. In any event, when individuals who are already State employees are retained by other State departments or agencies on a consultant basis at a compensation in addition to their regular salaries, we feel that the arrangements should be carefully scrutinized both by the employing agency and by the agency by whom the consultant is regularly employed to insure that the proposed retention is fully justified.

Respectfully submitted,

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