

**THE CREATION OF AN ENVIRONMENTAL
PROTECTION AGENCY**

**REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL**

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA



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COMMONWEALTH OF VIRGINIA
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THE CREATION OF AN ENVIRONMENTAL PROTECTION AGENCY

Report of The Virginia Advisory Legislative Council

Richmond, Virginia
January, 1972

To: HONORABLE LINWOOD HOLTON, *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

I. INTRODUCTION

In Virginia today, there are several agencies and subagencies charged with the duty of regulating, controlling and preventing the pollution of the environment. Because there is evidence of overlapping of duties and duplication of efforts of these agencies, the General Assembly directed the Virginia Advisory Legislative Council to study the matter and determine the desirability of creating one central agency to regulate and control all types of environmental pollution. This directive, House Joint Resolution No. 35 follows:

HOUSE JOINT RESOLUTION NO. 35

Directing the Virginia Advisory Legislative Council to study the desirability of establishing a single State agency to regulate and control all environmental pollution.

Whereas, water, air and thermal pollution and the disposal of solid wastes are among the more critical problems facing the Commonwealth today; and

Whereas, these problems will be magnified many times as the population increases; and

Whereas, there are several State regulatory agencies and many subagencies or departments that are charged with regulating and controlling environmental pollution; and

Whereas, in many cases there is an overlapping of territories and duties of these regulatory agencies and subagencies; now,

Resolved by the House of Delegates, the Senate concurring, That the General Assembly directs the Virginia Advisory Legislative Council to conduct a study of the desirability of establishing a single agency which will be empowered to regulate and control all types of environmental pollution.

The Council may examine the laws of other jurisdictions relevant to the area, and every agency of the State shall assist the Council in its study.

The Council shall conclude its investigation and submit its report and any recommended legislative changes to the Governor and the General Assembly no later than December one, nineteen hundred seventy-one.

Pursuant to this Resolution, the Council selected Lewis A. McMurrin, Jr., of Newport News, one of its members, to serve as Chairman of the Committee to make this study and report. The following other Council members were

selected to serve on the Committee with Mr. McMurrin: Russell M. Carneal, Williamsburg; James M. Thomson, Alexandria; James C. Turk, Radford; Edward E. Willey, Richmond.

The Virginia Advisory Legislative Council and the Division of Statutory Research and Drafting made staff and facilities available to carry out this study, Robert B. Cousins, Jr. and Arthur H. Horwitz being assigned as counsel to assist the members and the study committee.

The Committee met and heard from representatives of the following agencies and organizations: the Department of Health, the Air Pollution Control Board, the State Water Control Board, the Division of Water Resources, the Department of Conservation and Economic Development, the Marine Resources Commission, the Virginia Institute of Marine Science, the Governor's Council on the Environment, the Attorney General's Office, and the Virginia Manufacturers Association. There was agreement among the representatives that problems do exist as a result of several agencies being responsible for various phases of environmental pollution; however, there was little agreement as to what the problems were and how to solve them. After due deliberation and research, the Council now makes its report.

II. RECOMMENDATIONS

A. The study should be continued until both the Governor's Council on the Environment and the Solid Wastes Disposal Commission make their final reports. Also, pending federal legislation should be acted upon before the Council makes its final recommendations.

B. Some administrative action should be taken to prevent the overlapping of duties by further delineation of the specific areas of responsibility of the State agencies presently involved with preventing and controlling environmental pollution.

III. REASONS FOR RECOMMENDATIONS

A. The Governor's Council on the Environment has been studying whether or not a centralized agency would be the most efficient method to deal with environmental pollution in Virginia; and if so, what power it should have and what method of administrative organization should be employed. The Governor's Council on the Environment presented to the Committee a most informative booklet entitled "The State of Virginia's Environment." This booklet, which lists the Council's recommendations, serves as another indication of the magnitude of the problems involving the Commonwealth's natural resources. Members of the Committee were favorably impressed with the booklet and noted areas which need further study by the Committee before final recommendations are made.

The Governor's Management Study has recommended the merger of the Water Control Board and the Division of Water Resources of the Department of Conservation and Economic Development. Existing overlapping of duties of State agencies in the area of water pollution might be eliminated by effectuation of this recommendation.

At this time, the Solid Wastes Disposal Commission is engaged in the study of problems of solid wastes, a seriously underestimated area of environmental concern. The Commission is seeking to recommend the best methods of disposal and will not report until November of 1972. This report would aid the members of the Council in making its final recommendations.

The Department of Health now operates locally in every political subdivision in the Commonwealth of Virginia. Studies should be made with regard to possible use of Department of Health personnel in the localities for pollution control duties.

On the federal level, there is proposed legislation known as the "Muskie Bill" which has already passed the United States Senate without one dissenting vote. If passed, this legislation will place stringent requirements and guidelines upon the state governments to prevent and control pollution of the environment. The Council feels any recommendations made in light of such proposed legislation would be premature in that any changes made now could possibly be overridden by federal law.

Members of the Council do not wish to give the appearance of waiting to follow directives of the federal government before Virginia enacts legislation. In fact, the Commonwealth has taken a lead in environmental protection; water pollution legislation was enacted in 1946, two years before federal legislation was enacted, and air pollution restrictions were passed in 1966, also prior to federal legislation. However, in this instance, the Committee recognizes the importance and far-reaching effects of this proposed federal legislation. It would seem more expeditious to work within the scope of this bill rather than to have it supersede prior State legislation.

B. It is the feeling of the Council that some administrative action could be taken which would eliminate, at least temporarily, some duplication and overlapping of duties by State agencies involved with environmental pollution by clarifying the responsibilities of these agencies. Better communication and continued cooperation among these agencies should also be encouraged. The Council urges the Governor and the agencies to continue to explore new methods for achieving such cooperation and communication.

Worthy of study is the establishment of a Division of Environmental Quality with an Air Quality Control Board and a Water Resources and Quality Control Board in the Department of Conservation and Economic Development. To this later could be added a Solid Waste Disposal Board. Another possibility could be a Division of Environmental Quality in the State Health Department. This would insure the use of local health personnel.

IV. CONCLUSION

The VALC Committee studying environmental pollution has only begun investigating this problem. It has become apparent that further study will be necessary in order to recommend the best possible solutions to the pollution problems facing the Commonwealth. In light of current activities on the federal and state levels that may directly affect any proposed legislation, the Council recommends an extension of time to make its report.

Respectfully submitted,
LEWIS A. MCMURRAN, *Chairman*
RUSSELL M. CARNEAL
JAMES M. THOMSON
JAMES C. TURK
EDWARD E. WILLEY

Respectfully submitted,
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* Henry E. Howell, Jr., was inaugurated as Lieutenant Governor December 21, 1971 and vacated his Senate seat. Accordingly he did not sign this report.