

**REPORT OF THE
COMMISSION ON THE LEGISLATIVE PROCESS
To
THE GOVERNOR
And
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 28

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1972

MEMBERS OF THE COMMISSION

JOHN WARREN COOKE, *Chairman*

HUNTER B. ANDREWS

DON E. EARMAN

ROBERT C. FITZGERALD

ROBERT R. GWATHMEY, III

HENRY E. HOWELL, JR.

LEWIS A. McMURRAN, JR.

WILLIAM V. RAWLINGS

J. LEWIS RAWLS, JR.

A. H. RICHARDSON

JAMES M. THOMSON

STAFF

JOHN B. BOATWRIGHT, JR.

WILDMAN S. KINCHELOE, JR.

JOHN A. BANKS, JR.

L. WILLIS ROBERTSON

ROBERT B. COUSINS, JR.

LAURENS SARTORIS

KATHERINE L. GOOLSBY

G. WILLIAM WHITE, JR.

ARTHUR H. HORWITZ

ROGER C. WILEY, JR.

Report of the
COMMISSION ON THE LEGISLATIVE PROCESS
to
The General Assembly of Virginia

Richmond, Virginia
March 9, 1972

To: The General Assembly of Virginia

The Commission on the Legislative Process was originally created by Senate Joint Resolution No. 20 of the 1968 Session of the General Assembly. The value of the work of the Commission was affirmed by the continuation of the Commission in the 1970 Session of the General Assembly under House Joint Resolution No. 24, which is as follows:

HOUSE JOINT RESOLUTION NO. 24

Whereas, the Commission on the Legislative Process has initiated a comprehensive review of facilities and procedures pertinent to the efficient operations of the General Assembly; and

Whereas, the pending amendment of the Constitution, the need for evaluation of the effectiveness of office facilities provided for the 1970 General Assembly and for further study of the matter of facilities, and the desirability of further study of the legislative process, all constitute good reasons for continuing the Commission; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Commission on the Legislative Process be continued. The Commission shall be composed of eleven members, appointed as follows: The President of the Senate and three persons appointed by him, at least two of whom shall be from the membership of the Senate; and the Speaker of the House and six persons appointed by him, at least five of whom shall be from the membership of the House. The members so appointed shall elect, from their number a chairman and a vice-chairman.

The Commission shall continue its study of the legislative process in Virginia. The Commission shall consider, but not be limited to consideration of, the following matters: (1) proper revisions in the statutes and rules governing the legislative process if the Constitution be amended as proposed; (2) facilities for the Legislature including review of the proper development of the Capitol Square complex, in cooperation with the Public Buildings Commission and the Legislature Offices Facilities Commission; and (3) other matters relevant to physical facilities of the Legislature, staff assistance for legislators and procedures for the processing of legislation.

Members of the Commission shall receive the compensation provided by law for members of legislative committees and be reimbursed for their actual expenses. In addition, the Commission is hereby authorized to expend a sum sufficient, estimated at twenty-five thousand dollars, from the contingent fund of the General Assembly to defray any cost of conducting the study, which cost shall include the employment of such personnel as it deems desirable.

The Commission shall complete its study and make a report containing its findings and recommendations to the members of the General Assembly not later than November fifteen, nineteen hundred seventy-one. All agencies of the State shall cooperate with and assist the Commission in its study. The Director of the Division of Statutory Research and Drafting shall serve as secretary of the Commission.

Since the adoption of this resolution, substantial tools for the improvement of the efficiency of the work of the General Assembly have been provided by the adoption of the revised Constitution. Some of these tools were employed by the General Assembly in the Special Session of 1971.

The thrust of this report will therefore be directed toward what means may be employed now to make the work of the General Assembly more productive and how best its time may be utilized.

SUMMARY OF RECOMMENDATIONS

The Commission recommends:

1. Constitutional Implementation

(a) The provisions of section 7, Article 4, of the Constitution, relating to legislative continuity should be implemented by the two Houses.

(b) The Auditing Committees of the Houses should be eliminated, and the parallel statutes repealed or amended.

(c) The rules of the Houses should be amended to implement the constitutional changes.

2. Facilitation of the Legislative Process.

(a) Carry-over legislation. (See (a) above)

(b) Section 30-19.1 of the Code, which limits the time for the introduction of charter and special forms of local government bills, should be amended to shorten the time for introduction from ten to seven days.

(c) Section 30-29 which provides for the appointment of members of the Virginia Advisory Legislative Council, should be amended to correct the now existing ambiguity in the statute respecting the lengths of members' terms, which should remain two years.

(d) Bills and resolutions creating study commissions should be carefully reviewed as to scope and subject matter by the rules committees of the Houses, in order that the reporting time is sufficient to ensure a proper completion of the study.

(e) In referring the names of persons who are judicial or commission candidates to committees the same practice should be adhered to in each house.

(f) The time which each house will consider only bills of the other house should be extended from nine to ten days before adjournment, with a three day limit for consideration by the house of origin.

(g) The time for introduction of resolutions of a nature other than those which are merely procedural should be fixed at ten days before adjournment with a three day limit for consideration by the house of origin.

(h) Orientation meetings should be held for the benefit of new members prior to the commencement of the session after the election of members, such meetings to be held at such time and place as each house decides.

(i) Beginning with the 1973 session, present bill books should be replaced by looseleaf binders.

(j) The Commission on the Legislative Process should be continued.

Other Matters

(a) The Auditor of Public Accounts should be required to submit unaudited reports of the State's revenues and expenditures for the preceding fiscal year to the General Assembly within ninety days after the end of the fiscal year.

(b) If the practice of providing the President of the Senate with a full-time secretary is continued, the Speaker of the House of Delegates should also be so provided.

(c) An appropriation of two hundred fifty thousand dollars should be provided to employ architects to prepare plans for the necessary buildings to provide ample committee rooms, office space and related facilities for the General Assembly and the members thereof.

(d) The fiscal services answerable and available to the General Assembly should be strengthened and enlarged in order to provide the members with continuing information on the financial situation of the State.

(e) The major committees should be provided with permanent counsel and clerks.

(f) The printing facilities which are maintained by a number of agencies should be reviewed with view to reducing the number, and perhaps making more printing facilities available to the General Assembly without additional cost.

(g) The Division of Statutory Research and Drafting should prepare a digest of each report which is made to the General Assembly pursuant to a resolution directing such study and report.

(h) The computer services available to the General Assembly should be expanded and broadened as more experience becomes available in the use of this equipment for legislative purposes.

DISCUSSION OF RECOMMENDATIONS

1. Constitutional Implementation

(a) The provisions of section 7, Article 4, of the Constitution, relating to legislative continuity should be implemented by Joint Resolution of the Houses.

The work of the Virginia Advisory Legislative Council has increased to the point that it is strained to carry out its duties. In addition, there has been a great growth in the number of other study commissions. If the bill carry-over process is adopted, many bills of a controversial nature may now be retained by the legislative committee to which they were assigned for study between sessions of the legislature. Thus, the committee would be in a position to report on the bill to the session in the odd-numbered year if it be so advised. This would eliminate the necessity of having an entirely different group of people studying a matter, requiring a report to the Governor and the General Assembly, the preparation of new legislation for introduction, and more than likely, the referral of the same subject matter to the same committee where the process would begin all over again.

(b) The Auditing Committee of the houses should be eliminated, and the parallel statutes relating to such committees repealed or amended.

The Auditing Committee of both houses are relatively inactive. The recommendations of the Commission on Constitutional Revision pointed out that the former provision of the Constitution requiring these committees was unnecessary housekeeping detail and should be eliminated. Under the revised Constitution the Auditor has been placed under the legislative branch rather than the executive. As a substitute for the auditing committees the Commission recommends that (a) under "Other Matters" of this report be adopted, which will require the auditor to submit unaudited reports within ninety days after the close of the fiscal year. This is in accord with good business practices employed by private corporations, and should provide the General Assembly with the information which it should have. If the auditor does not have sufficient staff to carry out this recommendation, such staff should be provided him.

(c) *Rules*—The rules of the houses should be amended to implement the constitutional changes. A separate study commission studying the Rules of the Senate has already proposed many changes therein. These rules conform to the revised Constitution. The rules of the House of Delegates require a few minor housekeeping changes.

The Commission recommends against the permissible change eliminating the requirement that bills be read by title on three different calendar days and recommends the continuation of this practice. To do this at this time would be too radical a departure from present practice.

2. Facilitation of the Legislative Process.

(a) Carry-over legislation

Carry-over legislation is discussed above in 1(a).

(b) Section 30-19.1 of the Code, which limits the time for the introduction of charter and special forms of local government bills, should be amended to shorten the time for introduction from ten to seven days.

Charters and optional form of county government bills occupy a great deal of time during the early days of each legislative session. In the main, these bills are non-controversial, and should be acted on at the earliest time.

Members of the General Assembly are enjoined to encourage their constituent local governments to have their public hearings early, have these measures prepared, and present them to the member whom they wish to handle the legislation early enough so that these measures may be drafted and prefiled. If this is done, much time of the legislature will be preserved for more controversial matters.

(c) Section 30-29 now provides for the appointment of members of the Virginia Advisory Legislative Council to be made ninety days after the commencement of each *regular* session of the General Assembly. Since annual sessions are now required by the Constitution, the statute at its present posture seems to require annual appointments. The statute should be amended to require appointments to be made ninety days after the commencement of each regular session in the even-numbered years in order to preserve the *status quo*. Legislation to implement this recommendation is appended to this report.

(d) Recommendation 2(d) is self-explanatory.

(e) Recommendation 2(e) is self-explanatory.

(f) The time which each house will only consider bills from the other house should be extended from nine to ten days before adjournment, with a three day limit for consideration by the house of origin.

(g) The time of introduction of resolutions of a nature other than those merely procedural should be fixed at ten days before adjournment with a three

day limit for consideration by the house of origin. This recommendation is self-explanatory.

(h) Orientation or briefing meetings should be held for the benefit of new members prior to the commencement of the session after the election of members, such meetings to be held at such time and place as each house should decide. This is self-explanatory, and at the present time is being carried into practice.

(i) Beginning with the 1973 session, present bill books should be replaced by looseleaf binders.

The present system of binding bills is awkward and toward the end of a session it is not unusual for a bill book to be quite thick. The method of using looseleaf binders has been used for profit in a number of other states. We believe their use will be much more convenient for the members of the General Assembly and the staff.

(j) The Commission on Legislative Process should be carried on for the purposes of continuing the review of the need for additional legislative facilities, continuing the investigation of methods to improve staffing in the legislative process, and to study such other related matters as may come to its attention.

The work of this Commission is never finished. As technical and administrative innovations develop, such should be examined with the view towards their use by the General Assembly in a continued effort to improve the legislative process.

Other Matters

(a) The Auditor of Public Accounts should be required to submit unaudited reports to the General Assembly within ninety days after the end of the fiscal year. That is when the General Assembly members need the data. The possibility of major errors is remote. The Auditor of Public Accounts makes a careful and detailed audit of the fiscal records of each State agency and this is an invaluable document. However, due to the time required to make the audit and printing delays the report is out of date by the time it is received. An up-to-date report, even though it would not be wholly accurate, would be of great value to the members, particularly in keeping up with the revenue and expenditure patterns of the State and of its several agencies. Accordingly, the Auditor of Public Accounts, who is elected by the General Assembly, should within forty-five days after the close of the fiscal year report to the General Assembly, setting out the balances available in each of the State agencies together with their expenditures in the preceding fiscal year, and other relevant information, all on an unaudited basis.

(b) If the practice of providing the President of the Senate with a full-time secretary is continued, the Speaker of the House of Delegates should also be so provided.

In recent years, the practice has evolved of providing the President of the Senate with a full-time secretary, paid from the contingent fund of the Senate. The Speaker of the House of Delegates is provided with a secretary only during sessions of the General Assembly. The Speaker is required to handle a voluminous amount of correspondence and other work between sessions, and currently has been absorbing this expense from the funds allocated him by statute.

It might well be added that when the General Assembly acted to raise the compensation for members of the General Assembly following the recommendation of this Commission, that recommendation being as follows:

That the expense allowance of Legislators be increased so that the average annual compensation be approximately five thousand dollars (\$5,000.00), an amount sufficient to assist in offsetting the actual expenses involved in holding the office.

To further implement this recommendation, the General Assembly, in the Special Session of 1971, raised the compensation of the President of the Senate and the Speaker of the House of Delegates to \$10,525 each annually, and the other members of the General Assembly to \$5475. (§ 14.1-17.1) The Commission wishes to emphasize that the reason for the increase in compensation of these officers and members was for the purpose of offsetting the increasing cost of the privilege of serving the Commonwealth, and not as extra income for members of the General Assembly.

(c) Every member of the General Assembly knows the need for more space in which the committees can meet and hold hearings and to provide office space for the members, committee staffs and other personnel needed in connection with the operations of the General Assembly. Such space should be convenient to the place at which the General Assembly meets. We have been to a number of states in which a variety of approaches have been tried; in some, office space was provided in nearby buildings; in others, a new building was built and space provided for the two houses, committee rooms, and office space for the members. There is no probability that the work of the General Assembly will diminish but on the contrary we can confidently expect it to increase. Planning must begin now with the preparation of plans and specifications for a new building in which to house the General Assembly and to meet its related requirements. The further this is delayed the more it will cost and the work of the General Assembly will be further hindered.

(d) In Virginia for many years the Governor prepared the budget and submitted it to the General Assembly. The committees in charge of reviewing the budget relied upon the services of the same individuals who prepared the budget. We think the time is long overdue when the General Assembly must have its own fiscal staff not only to assist it during sessions of the legislature but to keep constantly advised as to developments in State revenues and expenditures, and sending periodic and concise reports to the membership. No member can afford to take the time day in and day out throughout the year to keep abreast of these matters. Until this is done we will have to rely on the limited services we now have available which are good but need strengthening immediately.

(e) Under the new Constitution bills introduced at the session occurring in an even numbered year can be carried forward to the succeeding session in the odd numbered year. This is referred to as legislative continuity and is intended to permit committees to hold meetings between sessions of the General Assembly and to act upon legislation referred to the committee but which has not been disposed of. For this change to become effective, the major committees must secure a permanent counsel and clerical staff. We have relied upon employing staffs and counsel for the session only but this will have to be changed to meet new conditions.

(f) We were impressed with the printing facilities which the legislature of some states have for legislative printing. We have learned that a number of State agencies have well-equipped printing facilities for use in putting forth various publications. We suggest that a careful review be made of the duplication and printing facilities of these agencies with a view to having the needed facilities made available to the General Assembly.

(g) So many reports are being made to the General Assembly by various groups created by a resolution directing a study of a particular subject that members cannot keep abreast of them by reading unless they give up some

other duty. The number of reports is further complicated by the great size of some of them. These reports can be more useful to the members of the General Assembly if a digest of each is prepared and furnished the General Assembly; the Division of Statutory Research and Drafting should be charged with this duty.

(h) From a limited beginning at the 1970 Session of the General Assembly the use of the computer to provide legislative information had grown materially. The computer has demonstrated its capability as a means of providing current information involving legislative developments affecting any one or more bills. There are other areas in the legislative field in which the computer can be of great value. Some states have gone to legislative drafting by computer. This requires expensive equipment and a number of other related requirements such as space, printing facilities and other services. Efforts should be made to make the computer legislative bill service more and more useful; attention should continue to be focused on the possibility of adding drafting by computer as soon as the necessary space and other requirements can be met.

CONCLUSION

The practice which was recommended in the 1970 report of the Commission to authorize certain members of the General Assembly to attend inter-state and regional conferences has proved invaluable. This practice should be continued. Individual members of the Commission and other members of the legislature have attended several conferences of the nature referred to and found them to be helpful and informative.

This Commission visited other states during the course of its study and held very helpful conferences with the staff members of the legislatures in three other states.

In the course of many Commission meetings in the preparation of these recommendations, much valuable assistance was given to the Commission by Ben D. Lacy, former Clerk of the Senate, Louise O'C. Lucas, Clerk of the Senate, George R. Rich, Clerk of the House of Delegates, and H. Douglas Hamner, Director of the Division of Engineering and Buildings. We express our appreciation to these individuals for that help.

John B. Boatwright, Jr., Director of the Division of Statutory Research and Drafting, served as secretary to the Commission and G. William White, Jr., of the Division, served as Staff Attorney.

Respectfully submitted,
JOHN WARREN COOKE, CHAIRMAN
HUNTER B. ANDREWS
DON E. EARMAN
ROBERT C. FITZGERALD
ROBERT R. GWATHMEY, III
HENRY E. HOWELL, JR.
LEWIS A. MC MURRAN, JR.
WILLIAM V. RAWLINGS
J. LEWIS RAWLS, JR.
A. H. RICHARDSON
JAMES M. THOMSON



HENRY E. HOWELL, JR.
LIEUTENANT GOVERNOR

COMMONWEALTH OF VIRGINIA
LIEUTENANT GOVERNOR'S OFFICE
RICHMOND

April 7, 1972

SUPPLEMENT TO THE REPORT OF THE
COMMISSION ON THE LEGISLATIVE PROCESS

To: The General Assembly of Virginia

The undersigned did not become a member of the Commission on the Legislative Process until after he took the oath of office as Lieutenant Governor in December of 1971.

He wishes to recognize the substantial work done through the years by the Commission and to supplement its report with the following suggestions for consideration:

The House of Delegates and the Senate of Virginia should pass the necessary rules to permit the filing of a bill by a legislator at any time between sessions.

As soon as practicable a rule should be adopted that will require Charter bills and bills of limited effect to be

filed in ample time for the appropriate Committees to consider and report non-controversial bills prior to the first official day of a particular legislative session.

Likewise, the non-controversial legislation that is submitted by the various State Agencies should be required to be filed in time for the Standing Committees to meet and consider them before the formal opening of the General Assembly.

Only by handling non-controversial bills in this manner will the General Assembly be able to give due deliberation to the significant and far reaching legislation that confronts it in these times of change and challenge. It is submitted that we must find a way to dispose of this type of legislation promptly, if we are to have the type of deliberative and high quality legislation that the people of Virginia require.

We recommend that we follow the procedure used in other states for providing the members of the General Assembly with an objective digest of the bills that are introduced.

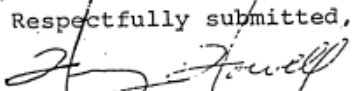
We are pleased and impressed with the commitment of many members of the Commission to insure that adequate and sufficient quarters are provided for the General Assembly in the future.

We are pleased with the first steps toward furnishing the members of the General Assembly the necessary staff and we endorse a continuing recognition of the ever increasing burdens and work load assigned to our Division of Statutory Research and Drafting so that we may see that the Division is adequately financed and housed. Its present limited quarters is just one evidence of the inadequacy of the legislative space that exists in our historic Capitol, which was first occupied in about 1786 and had two wings added in 1905.

We are hopeful that time and commitment will permit us to produce and formulate plans for consideration by all of the relevant and appropriate parties that must be involved in the final decisions.

I am confident that working together we will not only make Virginia's legislative process better, but that we can make it the best.

H:c

Respectfully submitted,

Henry Howell

