

**SUMMARY REPORT OF  
THE JOINT LEGISLATIVE  
AUDIT AND REVIEW COMMISSION ON**

# **Organization of the Executive Branch in Virginia**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **House Document No. 44**

**COMMONWEALTH OF VIRGINIA  
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## PREFACE

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House Joint Resolution 33 of the 1982 General Assembly directed the Joint Legislative Audit and Review Commission to "study the organization of the executive branch for the purpose of determining the most efficient and effective structure". The resolution expressed concern regarding the number and independent status of executive agencies. However, debates and discussions surrounding passage of the resolution indicated that there was also significant legislative interest in a reassessment of the secretarial system of executive leadership in the Commonwealth and the role of boards and commissions.

An interim report outlining areas of inquiry, research approach, and preliminary findings was issued in December 1982. Subsequently, House Joint Resolution 6 was enacted by the 1983 General Assembly, which continued the study through 1983.

This summary report is the last in a series of four reports on executive branch structure issued by the Commission. It provides a comprehensive synthesis of the preceding reports and highlights each principal finding and associated recommendation. The companion volumes in this series are entitled 1) **An Assessment of the Secretarial System in the Commonwealth of Virginia**, (2) **An Assessment of the Role of Boards and Commissions in the Executive Branch of Virginia**, and (3) **An Assessment of Structural Targets in the Executive Branch of Virginia**.

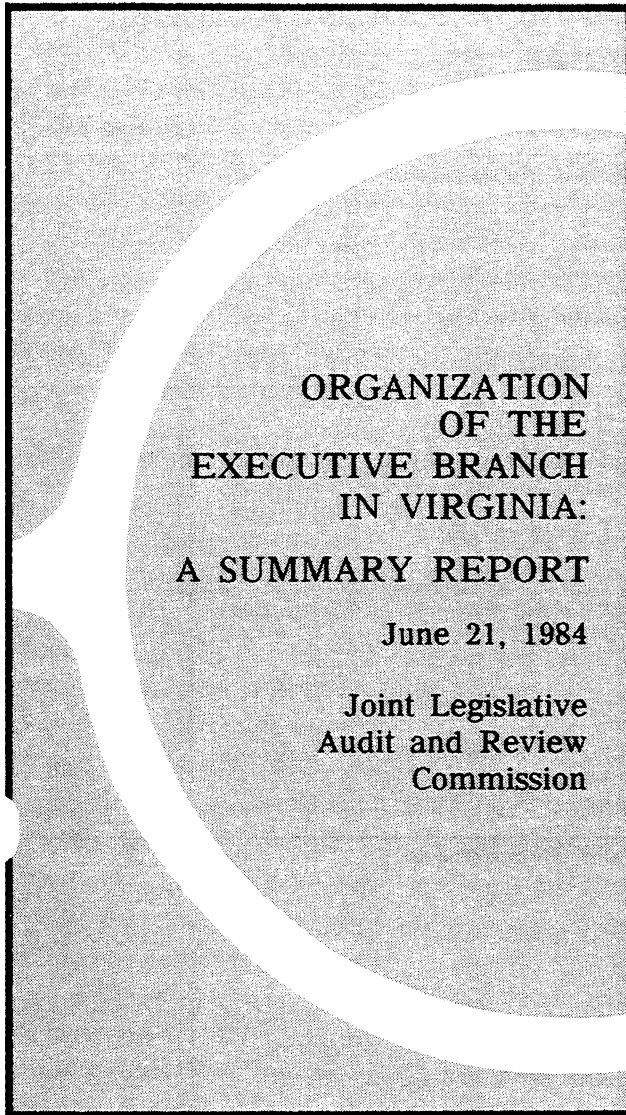
An important feature of this summary is a statement of the actions taken to date on each recommendation, including all legislative actions taken during the 1984 General Assembly session. Since the executive branch of government has been substantially reshaped as a result of these actions, a revised organization chart has been prepared and included on page 36 of this report to illustrate the resulting structural arrangements.

On behalf of the Commission staff, I wish to acknowledge the cooperation and assistance of the Governor's staff and secretaries, as well as the directors and staff of each State agency which provided information for the reports.



Ray D. Pethtel  
Director





House Joint Resolution 33 of the 1982 General Assembly directed the Joint Legislative Audit and Review Commission (JLARC) to "study the organizational structure of the executive branch for the purpose of determining the most efficient and effective structure." An interim report, published in January 1983, outlined areas of inquiry, the research approach, and preliminary findings.

House Joint Resolution 6, passed by the 1983 General Assembly, extended the study. Three reports, addressing the major components of the executive branch, were published in January 1984.

- *An Assessment of the Secretarial System in the Commonwealth of Virginia;*
- *An Assessment of the Role of Boards and Commissions in the Executive Branch of Virginia;*
- *An Assessment of Structural Targets in the Executive Branch of Virginia.*

This summary document is an overview and synthesis of these JLARC reports, and provides an update, where appropriate, on the status of the recommendations.

The principal findings and recommendations in JLARC's reports constituted a blueprint for action presented, in conjunction with the Governor's reorganization proposals, for the consideration of the 1984 session of the General Assembly. The General Assembly and the Governor are the principal architects of structural change.

JLARC and the Chief Executive conducted independent assessments of the organization of State government. The two staffs cooperated fully at important points in the process. The JLARC schedule, for example, was advanced to accommodate the Governor's request to report in preliminary form to his September Conference on Critical Reevaluation of State Government. The cooperation was beneficial to both parties in gauging reaction and fine-tuning proposals.

Certainly, there is no one perfect way to organize government, nor is there necessarily consensus on what arrangements are most efficient and effective. Of primary importance is clearly focusing accountability for management of State government.

In its review, JLARC took an aggressive, structural approach, recognizing that decision makers would be likely to consider additional questions which might affect final outcomes. Such questions potentially include:

- What do we want to accomplish?
- What do we want to emphasize?
- Is it politically feasible?
- What are the historical precedents?
- What are the fiscal constraints and opportunities?

As recorded in this summary, the Legislature considered a wide range of reorganization bills during the 1984 session; most were adopted in whole or in part. Other proposals require further consideration and may properly become part of the agenda for the next legislative session. Table 1 provides an overview of the recommendations in the three previous JLARC reports, an update on the status of most recommendations, and an index to the discussion of each recommendation in this summary report.

### **Historical Concerns**

As of July 1983, the executive branch was composed of:

- 85 independent administrative agencies;
- 79 dependent agencies and institutions such as community colleges, correctional facilities, and mental health institutions;

Table 1

## Overview of JLARC's Government Structure Recommendations

JLARC Recommendation	Status of Action	Page Numbers In This Report
<b>Report: "An Assessment of the Secretarial System in the Commonwealth of Virginia"</b>		
(1) Retain secretarial system.		7
(2) Clarify secretarial authority and mission.	Implemented by HB 815.	7-8
(3) Separate administration and finance secretariats.	Implemented by HB 815.	8-10
(4) Appoint full-time director for budget agency.	Director appointed.	10
(5) Resolve status of chief of staff.	Resolved by SB 384.	10-11
(6) Create special assistant for education instead of secretariat.	HB 815 maintains distinctions between education and other secretariats.	11
(7) Realign energy and military programs under appropriate secretariats.	Implemented by SB 328.	11-12
(8) Eliminate transportation secretariat.	HB 815 merges transportation with public safety.	11-12
(9) Create Secretary of Commerce and Transportation.		12
(10) Create Secretary of Cultural and Natural Resources.		12
(11) Provide deputies for secretaries; create central agency for secretarial staffing.	HB 147 calls for study of executive management staff activities.	12-13
<b>Report: "An Assessment of the Role of Boards and Commissions in the Executive Branch of Virginia"</b>		
(12) Establish categories of boards.		15-16
(13) Repeal supervisory authority of 16 boards.		16
(14) Modify supervisory authority of five boards.		17
(15) Delete personnel authority of certain boards.	Implemented by HB 680 and HB 681.	17
(16) Limit budget approval to supervisory boards.		17-18
(17) Define monitoring responsibilities.		18
(18) Clarify lines of accountability.	Implemented by HB 815.	18-19
(19) Define "citizen member" category.	Implemented by HB 683.	19
(20) Contain board meeting costs.		19
(21) Consolidate or eliminate boards where appropriate.	HB 813, HB 25, SB 33, and SB 328 eliminate five boards.	19
(22) Authorize and limit gubernatorial task forces.	Implemented by HB 684.	19-20
<b>Report: "An Assessment of Structural Targets in the Executive Branch of Virginia"</b>		
(23) Consolidate or support small agencies.	HJR 147 calls for a study by the Governor.	21
(24) Conform sub-state boundaries.	Under study by budget agency.	21
(25) Adopt standard agency nomenclature.	Implemented by HB 682 and HJR 162.	21
(26) Refine State's computerized budget system.	Efforts under way by budget agency.	22
(27) Codify certain agencies.	Implemented by SB 113 and HB 685.	22

## JLARC Recommendation

## Status of Action

Page Numbers  
In This Report

(28) Centralize debt collection.		22
(29) Assess transfer of State Police computer operation.		22-23
(30) Co-locate analytic sections of two agencies.	HJR 147 calls for a study by the Governor.	23
(31) Realign Commonwealth Data Base under budget agency.	Transfer authorized by Governor.	23
(32) Transfer DMV's revenue forecasting unit.		23
(33) Create Department of Economic Development.	SB 328 creates department.	23-24
(34) Consolidate product promotion.	Implemented by SB 328.	24
(35) Merge administration of historic sites.	Implemented by SB 328.	24
(36) Create Department of Environmental Regulation.	HJR 147 calls for a study by the Governor.	25
(37) Consolidate conservation activities.	SB 328 creates Department of Conservation and Historic Resources.	25
(38) Create Department of Game and Inland and Marine Fisheries.		25
(39) Consolidate product inspection.	HJR 147 calls for a study by the Governor.	25-26
(40) Consolidate worksite inspection.		26
(41) Create Department of Commerce and Health Regulatory Boards.		26
(42) Assess consolidation of student financial assistance.	Under study.	26-27
(43) Realign and support Division of Volunteerism.	HJR 147 calls for study of small agency support.	27
(44) Eliminate duplication between volunteerism agencies.	Memorandum of understanding drafted.	27
(45) Co-locate visual and other rehabilitative services.		27
(46) Assess transfer of certain functions of Department of Visually Handicapped.	SB 383 realigns Title XX and auxiliary grant programs under Department of Social Services.	28
(47) Co-locate social services for aged and others.		28
(48) Realign Governor's Employment and Training Division under another secretariat.	HJR 147 calls for a study by the Governor.	28
(49) Create Department of Advocacy Agencies.	HJR 147 calls for a study of small agencies.	28
(50) Consolidate regulation of health-related facilities.	HJR 147 calls for a study by the Governor.	28-29
(51) Assess independent status of Rehabilitative School Authority.	Under study.	29
(52) Designate Central Garage a working capital fund and realign.	Working capital fund approved.	29
(53) Consolidate administration of aircraft.	Negotiations under way.	29
(54) Centralize specified responsibilities for radioactive materials.	Implemented by HB 813.	29-30
(55) Realign Department of Military Affairs under public safety.	Implemented by HB 815.	30
(56) Realign emergency services and energy activities under another secretariat.	Implemented by HB 815.	30

- 222 collegial bodies such as the boards of visitors of institutions of higher education and other supervisory, policy, and advisory boards;
- 11 political subdivisions such as the State Education Assistance Authority. (While the subdivisions in most cases are created independently to provide financing mechanisms, some level of coordination with them is necessary);
- 10 independent leadership offices including the offices of the three elected officials and the seven persons who serve as the Governor's secretaries.

Concerns regarding the size, complexity and cost of State government are not new in Virginia. Increased demand for governmental services over the years has been paralleled by growth in the number of State agencies and activities. This growth has brought with it numerous attempts since the 1920's to make the structure of State government manageable.

Proposals for full-scale reorganization to reduce the size of the structure were never totally adopted. However, the Governor's capacity to manage the myriad of government services and administrative processes was strengthened in several ways. In 1972, agencies with similar missions were realigned in broad functional areas under the direction of six Governor's secretaries. An ongoing initiative has been centralizing and improving management functions such as planning, budgeting, personnel, and purchasing.

While these steps have contributed to the efficiency of government, several concerns were apparent at the initiation of this study. The secretarial system had evolved from a primarily coordinative role to a managerial and policy-making role, raising concerns about the concentration of executive authority in the Governor and secretaries. This compounded long-term concerns regarding the role of citizen boards within a professionally managed and efficiently structured executive branch. Additional organizational concerns were the overall number of agencies and the blurring of distinctions among functional areas of government and among agencies.

### **Legislative Responsibilities for Executive Branch Structure**

Organizational restructuring to address such concerns is clearly a legislative prerogative. The *Constitution of Virginia* reserves organizational powers to the General Assembly:

- Article III states that the "legislative, executive, and judicial departments shall be

separate and distinct, so that none exercise the powers properly belonging to the others, nor any person exercise the power of more than one of them at the same time; provided, however, administrative agencies may be created by the General Assembly with such authority and duties as the General Assembly may prescribe."

- Article V states that "the functions, powers, and duties of the administrative departments and divisions and of the agencies of the Commonwealth within the legislative and executive branches may be prescribed by law."
- Article IV cautions that "the omission in this Constitution of specific grants of authority... shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy...."

Although ultimate authority for executive branch reorganization is vested in the Legislature, the General Assembly also authorizes the Governor, through the Executive Reorganization Act (Title 2.1, Chapter 1.1 of the *Code of Virginia*) to initiate proposals for its consideration. The General Assembly is in no way constrained, however, from taking independent action to reorganize the executive branch.

The Act specifies legislative intent for organizational restructuring as follows:

- Promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business.
- Reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of State government.
- Increase the efficiency of the operations of State government to the fullest extent practicable.
- Group, coordinate, and consolidate agencies and functions of State government, as nearly as may be, according to major purposes.
- Reduce the number of agencies by consolidating those having similar functions under a single head, and abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the State government.
- Eliminate overlapping and duplication of effort.

### **JLARC Review and Proposed Organization**

The JLARC studies took into account both historical concerns and legislative parameters for reorganization. The overall goal was to achieve an efficient and effective structure with appropriate



assignment of responsibilities within the management hierarchy. Methods were directed toward three specific objectives:

1. to review the organizational structure of the executive branch in terms of its agencies, programs, and activities, in order to identify areas of duplication, fragmentation, or inappropriate alignment.
2. to assess the structure and relationships of executive direction as intended by the Legislature, and as implemented by the previous and current Governors, Governor's secretaries, agency heads, and citizen boards.
3. to present options and recommendations for restructuring the executive branch to achieve legislative objectives for an effectively and efficiently organized structure.

This comprehensive approach included assessment of the more than 1,238 different agency activities as well as a review of the superstructure for executive direction – comprised of the Governor, secretaries, boards, and agency directors. A number of approaches were used to gather data for analysis:

- A comprehensive computer and verification analysis of the 1,238 activities of executive agencies entered in the State's program budgeting system. This analysis enabled staff to identify duplicated, fragmented, or

inappropriately aligned activities and structures.

- Two written surveys, one of board chairpersons and another of a representative sample of board members. The surveys were intended to provide information on the activities and orientations of the 68 boards which are concerned with the overall operations of an executive agency.
- A systematic review of previous legislative and executive studies to identify historic concerns.
- Interviews with the Governor's secretaries and staff in many State agencies.
- A systematic review of the *Code of Virginia*, the *Constitution of Virginia*, and commentaries on the *Constitution* to identify agencies and other entities created by statute and principles of fundamental law in the Commonwealth.

### **Proposed Blueprint for Action**

JLARC found that the executive branch is logically organized in a manner consistent with the management needs of the Commonwealth. Nevertheless, the three reports have called for significant actions to address areas of imbalance or inefficiency. The recommendations are explained in the following chapters of this report, which specifically address the secretarial system, boards and commissions, and structural targets.



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## II. THE SECRETARIAL SYSTEM IN VIRGINIA

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The secretarial system was created to strengthen management control over the executive branch. A structure for providing high-level policy direction and coordination was seen as preferable to the piecemeal consolidation or reorganization of agencies which had occurred in the past. The system currently consists of six secretaries who are each responsible for overseeing the agencies within a functional area of government. Creation of the system, nevertheless, gave rise to concerns regarding potentially excessive concentration of executive power and the appropriate assignment of responsibilities among government entities.

Therefore, the structure and role of the system should be periodically assessed. Currently various relationships require clarification and balance. These include authority of the General Assembly and Governor; the responsibilities spelled out in statute for agency heads and boards; and the management responsibilities, structure, and staffing of the secretarial system.

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### ROLE AND RESPONSIBILITIES

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The system's role and responsibilities have evolved over time. Secretaries now carry out important coordinative, budgetary, and monitoring activities. However, the value of high-level management could be enhanced if there were less ambiguity regarding the continued need for the system, and its authority and mission.

### Continued Need for the Secretarial System

There is no question that the State requires efficient management of its resources. The number of State agencies may be reduced through consolidation or other measures. However, the role of State government in the federal system and the responsibilities of State agencies can be expected to increase.

Although executive power has become more concentrated in the Commonwealth, this is not incompatible with the direction established by the General Assembly to provide more cohesive direction to the functional areas of government. The secretarial system appears to offer a reasonable structural format to maintain the integrity of the individual agencies that carry out programs while providing this direction. The balance of authority between the Governor and the General Assembly does not appear to have been seriously impaired. The General Assembly still has responsibility for confirming appointments and prescribing the structure, responsibilities, and broad

policies of executive entities.

There is no evidence that it would be desirable to return to a system where all program-related agencies report directly to the Governor. Nor does it appear necessary to undertake massive reorganization to adopt a cabinet system, in which the heads of a relatively few, large, multi-purpose agencies also serve as advisors to the Governor. The question of whether or not some other system of policy advisement would work better is not possible to answer.

*Staff Recommendation (1): The General Assembly should retain the secretarial system with its management-coordination orientation.*

*Status of Action: As noted under subsequent recommendations, the responsibilities of the secretaries have been clarified and reaffirmed by action of the 1984 General Assembly.*

### Clarification of Authority and Mission

Since 1972 the management role and responsibilities of the secretaries have been significantly strengthened through a major statutory revision and successive executive orders. The Governors have made use of their flexibility in executive orders both to define statutory provisions and to delegate additional responsibilities of their own.

*Evolution of Management Orientation.* Initially, the secretarial positions were established in statute, and the Governor was authorized to delegate any of his management functions. Early executive orders provided for a coordinative or staff role with limited authority over agencies. In fact, the State Commission on Governmental Management expressed concern that the authority of the secretaries was so limited that the management role envisioned for them was not being achieved. They appeared to be serving in a collegial sense, which undermined the intended focus on functional areas.

Between 1974 and 1976, statutory revisions provided the Governor and secretaries, for the first time, with explicit authority to establish policies for agencies and to resolve conflicts between agencies. This responsibility was clearly not regarded as inherent in the constitutional provisions vesting chief executive powers in the Governor or requiring the Governor to "take care that the laws be faithfully executed." It had to be specified in statute by the General Assembly.

Also, for the first time, secretaries' responsibilities were specified in statute to include compiling program budgets for their respective

functional areas. The General Assembly made an important distinction, however. The powers and duties of the Secretary of Education were differentiated from the others. This secretary may provide coordination and develop alternative budget proposals. (The full range of statutory and delegated responsibilities is shown in Table 2).

*Authority to Hold Agencies Accountable.*

Despite statutory changes to make the responsibilities of the secretaries more explicit, there is ambiguity in the relationship of secretaries and agency directors. To some degree, this reflects ambiguity in the role of the Governor. The executive authority of the Governor is not sufficiently defined in the *Constitution* to close off debate about its scope and nature, but must be determined in conjunction with consideration of tradition and statutory assignment of responsibility.

The General Assembly has not chosen to make explicit in statute the authority of the Governor or his secretaries to hold agency heads responsible for their performance. Nevertheless, this responsibility has been informally exercised by Governors and delegated to each secretary by executive order. Because this responsibility is a critical management component, it would be desirable at this time to specify it in statute. The Secretary of Education should be excepted, however, because of unique constitutional and statutory circumstances regarding educational entities.

It should be clearly stated in statute that the mission of the secretarial system is to provide overall policy direction and to monitor performance of a functional area of government. However, the responsibility for operating an agency and administering its programs should remain clearly vested in the appointed and confirmed agency head or supervisory board.

***Staff Recommendation (2): The General Assembly should clarify the mission of the secretarial system and the authority of the Governor and secretaries, with the exception of the Secretary of Education, to hold agency heads accountable for fiscal, administrative, and program performance.***

*Status of Action: HB 815 provided the secretaries with the recommended authority.*

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## SECRETARIAL STRUCTURE

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Changing circumstances require periodic reassessment of the secretarial structure to ensure that it continues to serve the purpose for which it was created. Described as it appeared in July 1983, the secretarial system in practice consists of seven statutory positions in the chain of command

between the Governor and executive branch agencies. The six secretaries and the Assistant Secretary for Financial Policy report to the Governor. An eighth position – chief of staff – introduced by executive order in June of 1983 serves in a position between the secretaries and the Governor.

The structure was assessed according to the following criteria:

- (1) Agencies in the functional area should serve reasonably related purposes;
- (2) Agencies require the supervision of a secretary;
- (3) A secretary should have a reasonable span of control and workload;
- (4) The Governor requires independent coordination and advice regarding the governmental function; and
- (5) Structural arrangements ought to be enduring, not convenient, expedient, or based solely on the abilities of the incumbent.

Based on these criteria, five modifications are proposed for the secretarial system. The result would be:

- separate secretaries for administration and finance;
- a full-time director for the Department of Planning and Budget;
- a policy coordinator for education instead of a secretary;
- a chief of staff positioned in the Governor's Office rather than in the chain of command between the Governor and the secretaries;
- a Secretary of Commerce and Transportation, and elimination of the separate transportation secretariat; and
- a Secretary of Natural and Cultural Resources.

## Administration and Finance Secretariat

Organizational arrangements in the administration and finance secretariat contradict statutory assignment of responsibility and create confusion because they have not been enduring. This is a critical problem, because the secretariat encompasses agencies responsible for planning, budget, and personnel functions that are important to the overall management of State government. They are important also to the support of line agencies and other secretariats.

The Secretary of Administration and Finance is statutorily designated as deputy personnel and budget officer of the Commonwealth and is vested with responsibility for overseeing all staff agencies. In practice, however, supervision of fiscal agencies has been delegated to the Assistant Secretary for Financial Policy. This position receives a secretarial-level salary, approved by the General

## Powers And Duties Of The Governor's Secretaries As Specified In The Code

Power or Duty	Secretary					
	A&F	C&R	ED	HR	PS	TR
Subject to direction and supervision of the Governor	●	●	●	●	●	●
Agencies shall exercise their respective powers and duties in accordance with general policy established by the Governor or the appropriate Secretary acting on his behalf	●	●		●	●	●
Resolve administrative, jurisdictional, or policy conflicts between assigned agencies (unless the Governor expressly reserves such a power for himself)	●	●	●	●	●	●
Direct the formulation of a comprehensive program budget for his office and agencies	●	●		●	●	●
Transmit agency reports to Governor	●	●		●	●	●
Provide policy direction for programs involving more than a single agency			●			
Direct the preparation of alternative policies, plans, and budgets for education			●			
Direct the formulation of a comprehensive program budget for cultural affairs			●			
Coordinate and present the Statewide Transportation Plan						●
Oversee financial policy development	○					
Coordinate the financial activities of the several public authorities, agencies, and institutions issuing bonds	○					
Establish specified insurance plans	●					
Serve as deputy personnel officer	●					
Serve as deputy planning and budget officer	●					

○ Assigned to the Assistant Secretary for Financial Policy

● Assigned to Secretary

## Powers And Duties Delegated By Executive Order

Power or Duty	Secretary					
	A&F	C&R	ED	HR	PS	TR
Provide general policy direction to agencies	✓	●	●	●	●	●
Resolve administrative, jurisdictional, policy, program, or operational conflicts among agencies	✓	●	●	●	●	●
Hold assigned agency heads accountable for the administrative, fiscal and program performance of their agencies		●	●	●	●	●
Transmit reports to the Governor	✓	●	●	●	●	●
Examine the organization of agencies and recommend changes		●	●	●	●	●
Transmit recommendations required by statute of State agencies to the Governor		●	●	●	●	●
Direct, for the Governor's consideration, the formulation of comprehensive policies, plans, and budgets	✓	●	●	⊖	●	●
Direct, for the Governor's consideration, the preparation of alternative policies, plans, and budgets for education	✓			⊕		
Coordinate assigned agencies activities with other entities		●	●	●	●	●
Take specific actions, or sign documents in the Governor's stead, as specified in Executive Order		●○	●	●	●	●
Coordinate communications with the Federal government and governments of other states			●	●	●	●
Implement policies for legislative coordination		○	●	●	●	●
Employ personnel and contract for consulting services as required and subject to available funds		●○	●	●	●	●
Direct the administration of the State government planning and budget process	✓	●				
Direct the administration of the State government personnel system	✓	●				
Resolve conflicts among and between secretarial areas which may arise concerning any actions delegated to the Secretaries		●				
Develop revenue forecasts and provide advice on matters of finance to Governor and other secretaries		○				
Oversee financial policy development and coordinate financial activities of public entities issuing bonds	✓	○				
Serve as a member of Treasury Board		○				
Develop and operate a legislative coordination process		○				
Ensure that the legislative coordination process is implemented.		●	●	●	●	●
Serve on the Central Car Pool Committee as Chairman						●

⊖ Responsibility limited to non-institutional programs

○ Assigned to the Assistant Secretary for Financial Policy

⊕ Responsibility includes institutional programs

● Assigned to Secretary

✓ Provision which clarifies or comes straight from statute.

Assembly, and directly reports to the Governor. These organizational changes have occurred, in part, because of the apparent desire of recent governors to have a more direct relationship with the budget function, the heavy workload of the secretariat, and the dissimilar missions of agencies.

The workload of the secretariat appears to warrant two secretaries. Creating a separate Secretary of Finance and a separate Secretary of Administration would continue the strong relationship of the budget function with the Governor. It would also strengthen the program area secretaries. There is now implicit dominance of the administration and finance secretariat over the program secretariats that has been derived by combining administrative and budgetary authority in one secretariat.

Agencies assigned to the Secretary of Finance should include only agencies with budget and fiscal policy orientations. Concurrently, the administration secretariat would take on a new and important function. Staff support for the secretarial system in areas of policy research, general information gathering, and evaluation would be provided by the proposed Department of Analytical and Administrative Services located within the administration secretariat.

**Staff Recommendation (3):** *The General Assembly should eliminate the current administration and finance secretariat and create a separate Secretary of Administration and a Secretary of Finance. Agencies should be aligned under the two secretariats in the following manner.*

#### Administration

Department of Computer Services  
Department of General Services  
Department of Management Analysis and Systems Development  
Department of Personnel and Training  
Office of Employee Relations Counselors  
Compensation Board  
Department of Telecommunications  
Secretary of the Commonwealth - Division of Records  
Division of Volunteerism  
State Board of Elections  
Commission on Local Government  
Office of Commonwealth - Federal Relations  
Department of Analytical and Administrative Services (New)

#### Finance

Department of Accounts  
Department of the Treasury  
Department of Planning and Budget (with new revenue estimating unit)  
Virginia Supplemental Retirement System  
Department of Taxation

*(Plus approximately 6 public authorities with financial orientations)*

*Status of Action: HB 815 creates separate administration and finance secretariats.*

## **Management of the Department of Planning and Budget**

An additional organizational and management problem in the administration and finance secretariat relates to the responsibilities of the Assistant Secretary for Financial Policy. Currently, the Assistant Secretary also serves as the Director of the Department of Planning and Budget. While both positions are related to financial matters, the orientation and responsibilities of each are different. The Assistant Secretary must necessarily be oriented toward issues related to financial policy. The Director of DPB has as a primary orientation the efficient and effective operation of the Department.

A large and complex agency entrusted with the critical functions of DPB needs the attention of a full-time director. Moreover, line agencies and other central agencies should be able to perceive the secretarial level as having an impartial overview of relationships and issues.

**Staff Recommendation (4):** *The Governor should appoint a full-time director for the Department of Planning and Budget.*

*Status of Action: Effective July 1, 1984, a full-time director will be appointed in accordance with the budgetary provisions in Section 4-6.01 of the 1984-86 Appropriations Act.*

## **Chief of Staff**

Many of the functions of the administration and finance secretariat are shared by the Governor's chief of staff, who is not confirmed by the General Assembly. Executive Order 36 declares and confirms the Governor's Senior Executive Assistant as having budgeting, personnel, and planning authority. This order raises legal as well as policy questions. Moreover, the perception of hierarchical authority of this staff position is further reinforced by the Senior Executive Assistant's position as head of an *ad hoc* committee to oversee the budget process. The group adds another level to the complex budget process, and reportedly has the last word at each stage. Some secretaries participate but others do not.

Assigning such powers to an individual who is not confirmed by the General Assembly has potential to abrogate the Legislature's approval prerogative and the statutorily assigned responsibilities of the Secretary of Administration and Finance. Moreover, it does not conform with

the delegation of powers statute, which authorizes the Governor to delegate functions vested in him by law *only* to a secretary or other officer in the executive branch who is required to be confirmed by the General Assembly.

The Governor's Office indicates that the intent of the order is not to delegate authority but to clarify relationships. The order was issued upon informal consultation with the Attorney General. The authority is intended to apply only to the Governor's Office, and new language is being prepared to make this clear.

Nevertheless, designating a trusted assistant as chief of staff can provide a focal point for leadership within an administration. If a Governor wishes to organize on the basis of Executive Order 36, he or she should request that the General Assembly establish a chief of staff position which is confirmed, or submit an amendment to the delegation of powers statute to identify other individuals eligible for delegation. For the present, however, Executive Order 36 stands in conflict with statute.

**Staff Recommendation (5):** *The Governor should rescind Executive order Number 36 that establishes the Governor's Senior Executive Assistant as chief of staff with budgetary, personnel, and planning authority.*

**Status of Action:** *SB 384 resolves the problem by authorizing the Governor to appoint a chief of staff and providing for confirmation of the appointment by the General Assembly.*

## **Education Secretariat**

The unique aspects of education governance in the Commonwealth indicate that the Secretary of Education is expected to serve in a policy development and advisory role. The General Assembly appears not to have intended a managerial role for the position. Nevertheless, by executive order the management orientation of the secretarial position has been increased and made similar to that of other secretaries. This status is incompatible with the important statutory distinctions made by the General Assembly in the powers and duties of this secretariat.

Statutory distinctions for the secretariat include:

- no authority to develop a comprehensive program budget for the functional area; instead there is authority to develop alternative proposals;
- no authority to transmit agency reports;
- omission of language included for other secretaries, requiring agencies to operate in accordance with the policies of the Governor and secretary; and
- no listing of boards of visitors under the secretary's jurisdiction.

These distinctions are further supported by the unique status of boards within the secretariat and the discrete assignment of budgetary responsibilities. The Board of Education is constitutionally established, and the boards of visitors of higher education institutions are, by statute, subject to the control of the General Assembly. Additionally, while the Governor is authorized to prepare a program budget, the secretary is only authorized to prepare alternatives. For colleges and universities, the State Council of Higher Education sets fiscal guidelines and formulas and comments on budgets to the Governor and General Assembly.

It appears questionable for executive orders to be used to make positions equivalent that are differentiated by the General Assembly. As one of the highest priorities of State government, however, education should receive vigorous attention from an executive official with direct access to the Governor.

**Staff Recommendation (6):** *The General Assembly should eliminate the position of Secretary of Education and create the position of Special Assistant for Education in the Governor's Office. For the present, executive orders should be brought into conformance with statute.*

**Status of Action:** *HB 815 maintains the distinctions between the uniform responsibilities assigned to other secretaries and those assigned in existing statute to the Secretary of Education.*

## **Transportation Secretariat**

Two circumstances warrant a close look at the need for a separate transportation secretariat. First, the Department of Highways and Transportation is the major agency in the secretariat. It is managed by a Commission which has extensive powers in planning, policy development, and oversight. These powers duplicate those of the Secretary.

Second, several agencies have purposes that are closely related to the public safety and commerce secretariats. The missions of the Department of Military Affairs and the Office of Emergency and Energy Services are more related to public safety than transportation, and should be realigned within the public safety secretariat.

The remaining four agencies – the Virginia Port Authority, Department of Aviation, Division of Motor Vehicles, and the Department of Highways and Transportation – do not constitute a large enough span of control to require a secretariat. They could be linked with commerce-oriented agencies.

Because there is a strong relationship between strengthening the transportation infrastructure and economic development, a combined Secretariat for Commerce and Transportation should be created. Combining transportation and commerce, however,

is dependent upon separation of commerce and resources. Otherwise, the workload would be unmanageable, and too many important functions would be grouped together.

*Staff Recommendation (7): The General Assembly should separate the emergency and energy divisions of the Office of Emergency and Energy Services (OEES), and transfer the Energy Division to the secretariat with oversight of conservation activities. The Governor should transfer the Department of Military Affairs and the emergency response activities of the OEES to the public safety secretariat.*

*Status of Action: SB 328 transfers the energy division to a new department in the commerce secretariat. The other agencies were transferred to the public safety area by HB 815.*

*Staff Recommendation (8): The General Assembly should eliminate the transportation secretariat.*

*Status of Action: HB 815 merges the transportation secretariat with the public safety secretariat.*

### **Commerce and Resources Secretariat**

Restructuring and dividing this secretariat could reduce the secretary's span of control and focus attention on discrete program areas. The secretariat is composed of 19 independent agencies and 104 other entities, many of them collegial bodies with oversight, policy, or advisory roles. Consolidation of agencies and activities can serve to make the secretariat more manageable in terms of numbers of agencies and activities. However, the secretary still must balance competing commercial and natural resource needs. These functions are often not inherently compatible and are hotly debated by interest groups of various types.

A secretary responsible for conserving the State's natural and historic heritage would have a different orientation than a secretary committed to maximum economic development. However, there is a strong relationship between economic development and strengthening the transportation infrastructure. These interests could be encompassed in one secretariat.

*Staff Recommendation (9): The General Assembly should create a Secretary of Commerce and Transportation and align the following agencies under this secretariat:*

*Department of Housing and Community Development  
Department of Labor and Industry  
Division of Industrial Development  
State Office of Minority Business Enterprise  
Virginia Marine Products Commission*

*Milk Commission  
Department of Agriculture and Consumer Services  
Department of Commerce  
Virginia Employment Commission  
Governor's Employment and Training Division  
Department of Aviation  
Department of Highways and Transportation  
Division of Motor Vehicles (could be assigned to Administration or Finance, also)  
Virginia Port Authority*

*Staff Recommendation (10): The General Assembly should create a Secretary of Natural and Cultural Resources and align the following agencies within this secretariat:*

*Air Pollution Control Board  
State Water Control Board  
Virginia Historic Landmarks Commission  
Virginia Soil and Water Conservation Commission  
Jamestown - Yorktown Foundation  
Virginia State Library  
Virginia Marine Resources Commission  
Gunston Hall  
Commission of Game and Inland Fisheries  
Department of Conservation and Economic Development  
Council on the Environment  
Science Museum of Virginia  
Virginia Museum of Fine Arts  
Commission for the Arts*

*Status of Action: The size and complexity of the commerce and resources secretariat have been addressed through several actions consolidating agencies, as discussed in chapter four.*

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## **STAFFING THE SECRETARIAL SYSTEM**

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Secretaries may require support from direct and indirect staff. Resources assigned to the system should be commensurate with the role and responsibilities of the Governor's high-level assistants. The number and structure of staff resources may reflect factors such as the purpose to be served and the level of objectivity and accessibility desired.

### **Current Staff Resources**

For 1982, a conservative estimate of staff resources available to the secretaries was 64 positions. In addition to the 26 direct staff, including the secretaries, the figure represents 38 FTEs of line agency and consultant personnel who worked on secretarial projects during a ten-month period. Almost \$2.5 million in direct and indirect



staffing costs were incurred.

The full extent of supplemental staff available to meet secretarial needs is not generally recognized. While supplemental staffing is permissible, the General Assembly has required monitoring of temporary personnel transfers to ensure that approved staff levels for executive agencies are not bypassed. Personnel transferred for a two-week period or more must be reported. However, supplemental staff almost always remain in agencies, and their time is not regularly recorded.

Generally, secretaries use personnel from line agencies to conduct studies and provide information required by the secretary or the General Assembly. Central agency staff are used for budget and management-related purposes. Major sources of secretarial support are the Department of Management Analysis and Systems Development, the Department of Planning and Budget, and agencies within secretariats that have broad coordinative missions, such as the Council on the Environment and the Department of Criminal Justice Services.

### **Future Staffing Potential**

Creating a central staff office to provide support to the secretariats could accomplish several purposes. Of primary importance, it would address the programmatic needs of the secretaries independently of the fiscally-oriented support provided by the Department of Planning and Budget. It would also co-locate currently fragmented

evaluative activities, particularly the research, evaluation, and policy sections of DPB, the management consulting section of the Department of Management Analysis and Systems Development, and the Office of the Internal Auditor. The secretaries would gain equitable access to permanent, professional staff, and could rely on a full-time director for management and quality assurance.

The agency could also be structured to address the problem of inefficient duplication of support functions in small agencies. A separate division of the department could perform payroll, accounting, and other administrative overhead functions for the 21 small agencies with fewer than 20 employees each. Such agencies are disproportionately burdened by administrative responsibilities which divert the time of program-oriented staff.

***Staff Recommendation (11): The General Assembly should place at least one deputy secretary position in each secretariat and create a central staff agency within the administration secretariat.***

*Status of Action: Section 4-7.01(c) of the 1984-86 Appropriations Act provides estimates rather than absolute maximums for employment of secretarial staff to allow the Governor flexibility. HB 147 directs the Governor to study the most appropriate alignment of executive management staff activities and logistical support for small State agencies.*



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### III. BOARDS AND COMMISSIONS

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The Commonwealth has a strong tradition of citizen participation on boards. Collegial bodies designated as "boards," "commissions," or "councils" are associated with almost every administrative agency of the executive branch.

Within the structure of government, boards are placed between their respective agencies and the Governor's secretaries. Most boards predate the secretarial system, and statutes do not address the role of boards in this hierarchy. This circumstance, coupled with strong emphasis on professional management, has at times made unclear the authority of boards for agency operations and executive direction.

Board responsibilities may include providing supervision or advice to agencies and implementing quasi-judicial or quasi-legislative functions. JLARC's review focused on 68 boards with an agency-wide purview. Each was selected because its breadth of authority places it in a position to significantly influence an agency's operations and to exercise policy and oversight responsibilities that parallel those of the secretaries

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#### BOARD RESPONSIBILITY FOR AGENCY OPERATIONS

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Over time, the appropriate extent of boards' operational authority over agencies has been a source of concern. Boards have been variously perceived as not exercising their full prerogatives or as interfering with the operational responsibilities of agency heads. Nevertheless, JLARC found that boards generally carry out their activities at a level consistent with broadly defined categories of supervisory, policy, and advisory authority. Problems that occur relate, in part, to insufficient definition or ambiguous assignment of responsibility.

#### Assessment of Levels of Involvement

Within each category of board, individual boards exceed or fall short of exercising the appropriate level of authority. JLARC classified boards based upon the assignment in the *Code of Virginia* of specific responsibilities. Forty-five of the 68 boards have a charge to supervise an agency or its programs. Thirteen boards, traditionally labelled policy boards, carry out a range of quasi-legislative or judicial responsibilities that do not constitute agency supervision, and ten boards are clearly limited to advising an agency.

Systematic comparison of the three types of boards, as shown in Figure 1, involved scoring each board's participation in key functions that control

the operations of agencies: personnel, budgeting, policy-making, and monitoring. Each board's score was calculated based on the chairperson's responses to survey questions. Boards could, for example, receive a total score of 20 in budgeting: A board that received fiscal trend data and reviewed, modified, and approved initial and final budgets was determined to be more involved in budgeting than a board that only reviewed the budget for information purposes.

Similar distinctions were made for other functions. A board's level of involvement in monitoring was determined by the type of information it received and the action taken. A board that set both broad policy goals and more narrow budgetary and administrative guidelines was determined to be more involved in policy-making than a board involved only on one policy level. A board that appointed or evaluated personnel was determined to be more involved than a board that only received information on personnel changes.

#### Definition of Board Authority and Responsibility

Differences in levels of board involvement relate, in part, to the absence in the *Code* of uniformly specified or defined responsibilities for types of boards. Some diversity may be necessary to enable boards to achieve unique purposes. However, imprecise assignment of responsibility leads to divergent interpretations of authority among boards and agency directors.

It is not always clear, for example, whether final authority rests with the board or agency director for budget or personnel decisions or for establishing day-to-day operational policy. In practice, boards interpret vaguely worded statutes as authorizing extensive budget activity. Conversely, they do not fully implement language regarding personnel authority.

This problem could be addressed for all boards through enactment of statutory criteria that define when a board is needed and the circumstances that require a limited versus an agency-wide purview and advisory, policy, or supervisory authority. To the extent possible, uniformly defined responsibilities might be established for categories of boards.

Three categories could be defined as follows:

- *Supervisory boards* are the entities responsible for agency operations, including the employment and supervision of personnel and approval of the budget. These boards appoint the agency director and ensure that the agency director complies with all board

and statutory directives.

- *Policy boards* may be specifically charged by statute to develop policies and regulations. Specific functions of the board may include rate setting, distributing federal funds, and adjudicating regulatory or statutory violations, but each power is to be enumerated by law.
- *Advisory boards* provide advice and comment from knowledgeable citizens when agencies develop public policies. They also articulate the concerns of particular populations. This type of board should be created if policies are closely circumscribed by State and federal laws and regulations, or if the board is not intended to serve a rule-making purpose.

The criteria would provide benchmarks for determining board compliance with legislative intent and the continuing need for an assigned level of authority. New and existing boards could be aligned according to the operational role they are expected to serve.

***Staff Recommendation (12): The General Assembly should adopt statutory language to clearly establish criteria for determining the need for a board, its level of authority, and complementary responsibilities consistent with the level of authority. Specific categories of boards should be created, and each board should be assigned to one of the categories.***

### **Classification of Existing Boards**

The statutory level of authority currently assigned to some boards may require reconsideration. Key factors should be the actual activities of boards, management needs of agencies, and statutory provisions.

**Supervisory Boards.** Supervisory authority implies that a board is ultimately responsible for all agency decisions and accountable for fulfillment of the agency's mandates. This places tremendous responsibility on the shoulders of a part-time lay board. Not surprisingly, some boards with such authority actually function more like policy boards and carry out only allocation, rule-making, and adjudicatory activities. They do not fully serve as the operating heads of their agencies.

A key determinant of a supervisory role appears to be a board's authority to appoint the agency director. Boards that appoint the chief operating officer are most clearly accountable for the selected individual's performance. In these instances, the board serves as the governing body, and is clearly expected to serve as the corporate supervisory "agency head" to ensure that the director and staff fully implement board and statutory directives. Twenty-six boards, including the 15 higher education boards of visitors, currently

appoint the agency director or university president.

However, in 1978 the supervisory role of some boards became unclear. At that time, the General Assembly authorized the Governor, rather than boards, to appoint agency directors, with some exceptions. Language was retained in the *Code* regarding the supervisory role of boards that no longer had direct control over the management prerogatives of the director.

Clarification of the supervisory or operational authority of boards should take into account the appointment status of boards. Only those boards that appoint the director are clearly supervisory. Their responsibilities should include approval of budgetary and personnel decisions.

The following amendments to the general responsibilities of boards, commissions, and institutions in Title 9 of the *Code of Virginia* would accomplish this purpose:

#### General Authority of Boards and Agency Directors.

- A. Notwithstanding any provision of law to the contrary, the agency administrator of each executive branch agency shall have the following general powers and duties except those directors in 2.1-41.2 that are appointed by their respective boards and the Board of Education:
1. To supervise and manage the department or agency;
  2. To employ such personnel as may be necessary subject to Chapter 10 of Title 2.1 and within the limits of appropriations made therefore by the General Assembly;
  3. To prepare, approve and submit all budget requests for appropriations and be responsible for all expenditures pursuant to an appropriation.
- B. No provision in Section A shall restrict any other specific or general powers and duties of executive branch boards granted by law.

***Staff Recommendation (13): The General Assembly should repeal supervisory authority for 16 boards and continue such authority only for the higher education boards of visitors, boards that by law appoint the administrative head of the agency, and the Board of Education. These boards are:***

***State Board of Elections  
Commission for Local Government  
State Milk Commission  
Board of Directors, Virginia Truck and Ornamentals Research Station  
Virginia Public Telecommunications Board  
Board of Agriculture and Consumer Services  
State Air Pollution Control Board***

*Highway and Transportation Commission*  
*Marine Resources Commission*  
*State Library Board*  
*Virginia Historic Landmarks Commission*  
*Virginia Commission for the Arts*  
*Board of the Rehabilitative School Authority*  
*Virginia Fire Commission*  
*State Water Control Board*  
*Virginia Council for the Deaf*

*Policy and Advisory Boards with Potential for Change.* Two policy boards, the Board of Commerce and Commission of Health Regulatory Boards, primarily have statutory authority to make recommendations to the agency, Governor, or General Assembly. Consequently, these two boards should be redesignated as advisory boards to clearly establish limits on the exercise of their authority.

A third policy board, the Board of Housing and Community Development, has more limited powers than other policy boards, but more authority than advisory boards. Regulatory responsibilities currently split between the agency director and the board should be consolidated in one or the other, and the board should be categorized accordingly.

Two advisory boards, the Board of Military Affairs and the Board of Visitors of Gunston Hall, have been inactive. The Board of Military Affairs should be eliminated. If conditions in the deed of Gunston Hall prevent elimination of the board, it should take a more active role in advising the Governor on the management of Gunston Hall.

***Staff Recommendation (14): The General Assembly should clarify or modify the level of authority for five additional boards. These boards are:***

*Board of Commerce*  
*Commission of Health Regulatory Boards*  
*Board of Housing and Community Development*  
*Board of Military Affairs*  
*Board of Visitors of Gunston Hall*

### **Accountability for Personnel and Budget**

Personnel and budgeting are critical aspects of agency operations. Responsibility for these functions needs to be clearly assigned to the board or agency director in order to fix accountability. However, in some cases personnel authority is split between the board and director, and the extent of budget authority is unclear.

*Personnel.* When the Governor appoints the director but the board has authority to appoint other personnel within the agency, the management hierarchy and reporting within agencies can be unclear. Prior to 1978, many boards

had statutory authority to hire the director and all agency personnel. Then, through enactment of § 2.1-41.2 of the *Code of Virginia*, the Governor rather than the board was authorized to employ the director. Language authorizing the board to employ other personnel, however, remains in effect for ten boards.

Because few boards currently exercise their authority to employ personnel, a change in statutory authority would cause little dislocation now. Such action is necessary, however, to prevent future participation by boards in an administrative decision that should reside with the agency director.

***Staff Recommendation (15): The General Assembly should delete the personnel employment authority of the boards that do not appoint the agency director. These boards are:***

*State Air Pollution Control Board*  
*Virginia Commission for the Arts*  
*State Board of Elections*  
*Virginia Historic Landmarks Commission*  
*Board of the Rehabilitative School Authority*  
*Virginia Soil and Water Conservation Commission*  
*State Water Control Board*  
*State Library Board*  
*Commission on Local Government*  
*State Milk Commission*

*Status of Action: HB 680 amends the Code to eliminate the personnel authority of each board. HB 681 establishes the principle in statute that the administrator of each executive branch agency shall be responsible for employing agency personnel. Excepted are administrators that by law are appointed by their respective boards.*

*Budget.* Statutes for only seven of the 68 boards contain clear and specific references to budget responsibilities. Although accountability for budget preparation and final approval is not clear, 39 boards broadly interpret *Code* language as authorizing approval of the agency's budget. The fact that all boards do not assume this authority illustrates an inconsistent understanding of budget responsibilities.

When a board is the operating head of an agency and appoints the director, it should also have explicit statutory authority to approve the budget. In all other instances the agency director should be responsible for preparing, submitting and approving the final budget request in accordance with the Governor's and secretaries' directives. However, all boards should review their agencies' budgets in order to understand the fiscal consequences of their policy decisions or preferences.

*Staff Recommendation (16): The General Assembly should specifically charge supervisory boards that have authority to appoint the agency director with the authority to approve agency budget requests. All other boards should be authorized only to review agencies' budgets.*

## **Policy Direction and Performance Monitoring**

Citizen boards serve an important purpose in representing the public interest during policy formulation and in monitoring the achievement of an agency's mission. Nevertheless, the General Assembly has been concerned that some boards become overly involved in administrative detail to the detriment of their policy and oversight roles. JLARC found that boards are involved to varying degrees in administrative matters, often work interactively with agency staff on policy matters, and in some cases, receive limited information on agency performance.

Some board policy and monitoring responsibilities have been specified in statute. For example, individual boards are concerned with issues of water supply and quality, continuity of care for the mentally ill and mentally retarded, and public transportation. Such specific assignments can clarify board and agency understanding of responsibilities and promote cooperation. Benefits can be derived, therefore, by more frequent use of this mechanism.

*Staff Recommendation (17): The General Assembly should specifically define the areas of policy or agency operations that should be monitored by a board in those instances where a board is expected to serve in an oversight capacity.*

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## **ROLE OF BOARDS IN EXECUTIVE DIRECTION**

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Citizen participation on boards can bring fresh perspectives and expertise to dealing with governmental issues. However, effective citizen involvement requires clear understanding of reporting relationships within the chain of command and the appropriate boundaries for agency, board, and secretarial action. Additional considerations are the extent to which specific types of representation for boards should be specified in statute, and the potential need for limitations on task forces.

### **Unclear Reporting Relationships**

Statutes do not address the authority of the Governor's secretaries with respect to boards. However, in recent administrations, the secretaries

have been authorized through executive order to exercise their powers and duties over agency heads "and their respective collegial bodies".

Responses to the JLARC survey of board chairpersons indicate, however, that boards are uncertain about their reporting relationship to the secretaries. Apparently unaware of the executive orders, only 12 of the 68 boards indicated that they report directly to the secretary.

The General Assembly could greatly clarify reporting relationships by adopting the definition of supervisory boards used in this report. A supervisory board that appoints the agency director would be classified as the operating head of the agency. The board, rather than the agency director, would report to the secretary. In all other instances: (1) boards would be accountable to the secretaries only for responsibilities specified for them in statute or executive order; and (2) the agency director, appointed by the Governor, would report to the secretary on matters related to the overall performance of the agency.

### **Bounds of Authority**

It is not unusual for several levels of government to have responsibility for key management processes. However, the potential for problems arises when the distinction between two governmental entities is not clearly delineated or generally understood. The functioning of the executive agreement process, initiated in the fall of 1982, illustrates such problems between the secretaries and some boards.

Each executive agreement was developed and signed by the Governor, the respective secretary, and the agency director. The agreements were used as a management tool to communicate policy objectives, implementation plans, and performance criteria. Boards were generally not included in this process. Supervisory boards, however, have broad authority that warrants direct involvement, and other boards can serve a useful advisory function.

This problem is symptomatic of the broader issue of governmental accountability. The agreements apparently focused on agency directors because they were viewed as directly accountable to the Governor for their performance. In some cases, however, the board is the operating head of an agency. Moreover, as discussed in Chapter Two, the authority of the Governor and secretaries regarding agencies needs to be clarified and made explicit.

Should boards be made accountable to the secretary, the unique aspects of education governance would necessitate an exception. The Board of Education has constitutional status, and the boards of higher education are designated in statute as "subject at all times to the control of the General Assembly".

**Staff Recommendation (18):** *The General Assembly should ensure that the Governor (or by delegation, the respective secretary) is clearly responsible for holding agency directors or, under certain circumstances, supervisory boards accountable for the discharge of their powers and duties, except the institutions and agencies responsible for primary, secondary, and higher education.*

*Status of Action:* HR 815 provided the Governor and secretaries with the recommended authority.

### **Citizen Role**

The perspective that individual board members bring to a board is an important determinant of the concerns that will be voiced in board deliberations. Board members primarily fulfill their mission by participating in board meetings. Most members do not formally engage in other liaison activities such as meeting with the public, local officials, or community groups. It is important, therefore, that the necessary and relevant interests and affiliations are represented in individual members of the board. A particular concern nationwide has been establishing citizen membership on professional-oriented boards.

In Virginia, approximately 100 of the 1,990 executive branch board positions identified in this study are required to be filled by the unique category of "citizen" members. When a citizen member requirement is attached to a board position, the General Assembly appears to be attempting to balance professional and non-professional perspectives, or at least to encourage advice from individuals with backgrounds and affiliations other than those which are professionally related. However, with the exception of §54-1.18.1 of the *Code of Virginia*, which applies only to members on professional regulatory boards, no statutory provision defines a citizen member.

**Staff Recommendation (19):** *The General Assembly should define the unique category of "citizen" board member in statute to exclude individuals with affiliations related to the purpose of a board.*

*Status of Action:* HB 683 establishes criteria for filling board positions designated for citizen members, consumers, and representatives of the public.

*Cost of Citizen Input.* Agency costs of more than \$800,000 during calendar year 1982 can be directly attributed to the support of the 68 major boards. Cost items include: per diem reimbursements, meals, lodging, travel, rental of meeting facilities, postage, and supplies. This total represents a conservative estimate of board costs,

because indirect expenses for research, information, and other staff support activities are not recorded.

The cost of public participation in State government is not high compared with the \$6 billion cost to operate State government during a year. Agency directors and board chairpersons report, however, that some efficiencies could be achieved by changing the frequency, duration, and location of board meetings. Moreover, the need for a board may change with time, allowing cost savings through consolidation or elimination of unnecessary boards.

**Staff Recommendation (20):** *To the extent possible, agencies and their boards should take steps to contain the direct and indirect costs of board meetings.*

**Staff Recommendation (21):** *Whenever applicable, the Governor and General Assembly should consolidate or eliminate boards to reduce the overall size, complexity, and cost of State government.*

*Status of Action:* HB 813, HB 25, SB 33, and SB 328 eliminate five boards. HB 817 (proposed but not passed) would have merged two others.

### **Use of Task Forces**

Although most collegial bodies are created in statute by the General Assembly, a unique category of board is created by executive order of the Governor. Often these are short-term task forces established to advise the Governor on particular issues, although some have longer-term missions. They focus attention and a broad base of expertise on issues such as the economic outlook for Virginia, federal block grants, and physical fitness.

The creation of advisory bodies does not appear to be outside a Governor's authority. Fourteen collegial bodies have been created by the current Governor during his two years in office. Over an eight-year span, the two previous Governors created a total of six. However, greater attention to the context and staffing of task forces could avoid unnecessary proliferation of government entities and duplication of functions.

In many cases the charges of these bodies are related to the responsibilities of a number of existing State agencies. The Commission on Block Grants, for example, is responsible for reviewing the financial impact of federal block grant programs in Virginia. It reviews the current delivery of human service and education programs, and works with the Governor's secretaries, the General Assembly, and Virginia's Congressional delegation to forward block grant concerns to Washington. Entities with related functions include the Departments of Planning and Budget, Social Services, Mental Health and Mental Retardation,

Rehabilitative Services, the Office of Commonwealth-Federal Relations, and the Governor's secretaries.

Staff support to bodies created by executive order is usually provided by State agencies or entities. For example, the Block Grant Commission was supported by staff in the Office of the Secretary of Human Resources during 1982. The Governor's Commission on Virginia's Future is currently receiving 4 FTE in support from the Institute of Government at the University of Virginia and from other sources.

The General Assembly may wish to review this area because:

- (1) the responsibilities of the bodies can and do overlap with responsibilities assigned by the General Assembly to State agencies and the

Governor's secretaries, and  
(2) staff support is provided by State agencies.

***Staff Recommendation (22): The General Assembly may wish to explore and specify in statute the extent to which task forces may be created, their duration, and the appropriate use of staff support from State agencies.***

*Status of Action: HB 864 requires task forces to be termed Commissions and established for no more than one year with a one-year extension. At six-month intervals, the Governor must report to the Senate Finance and House Appropriations Committees on the amount, cost, and source of staff support for each Commission.*



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## IV. STRUCTURE OF STATE GOVERNMENT

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Agencies are grouped within functional areas based on the similarity of their missions. Such groupings can enhance coordination for budget, policy, and other management purposes. It is a logical and basically sound arrangement for agencies that are called upon to carry out a myriad of activities.

Nevertheless, JLARC identified six concerns that affect or cut across the entire executive branch structure. In addition, there are 33 specific problems or targets of duplicated, fragmented, or misaligned activities. Addressing these problems could increase the efficiency and effectiveness of the structure and reduce the number of free-standing, independent agencies by about 15 percent. Because the approach to this study was structural, however, no attempt was made to judge the worthiness, performance, or political status of agencies or entities.

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### CROSS-CUTTING CONCERNS

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Agencies have been created or extended as service needs have been perceived. As a consequence, the executive branch has grown, due in part to the proliferation of small agencies and geographically dispersed regional offices. Programmatic and administrative costs are associated with growth, and inconsistent use of nomenclature and program budgeting codes contributes to structural complexity.

#### **Excessive Size**

A total of 85 independent and 79 dependent agencies comprise the executive branch. Management problems associated with the overall number of agencies have been cited in numerous studies, and in fact, the secretarial system was created to gain management control over a burgeoning executive branch. Still, secretarial span of control in some instances appears to be too large. And contrary to a commonly held belief, the federal government seldom requires states to create "separate and single" agencies to carry out federal programs.

Twenty-one of the independent agencies have fewer than 20 employees each. Most of these small agencies focus on a single purpose or client group. Many are disproportionately burdened by administrative responsibilities which divert the time of program-oriented staff. In addition, the agencies may lack sufficient clerical and other support services which are feasible for larger agencies because of their size.

*Staff Recommendation (23): The General Assembly and the Governor should take steps to modify the organizational structure of small agencies by consolidating those with missions similar to other agencies and providing administrative assistance to others which should remain separate.*

*Status of Action: HB 147 directs the Governor to report to the 1985 session on support services for agencies with fewer than 25 employees.*

Currently, there are at least 77 different configurations for agencies' regional boundaries. This situation has led to two problems. First, agencies do not often co-locate their offices and may incur unnecessary costs. Over 700 office complexes are located outside of the City of Richmond in 212 cities and towns. Second, it is unnecessarily difficult to identify those who must be involved in cross-agency cooperation within regions.

*Staff Recommendation (24): The General Assembly should (a) direct the Department of Planning and Budget to devise a system of sub-state boundaries and (b) require agencies to conform to it. However, procedures should be established to grant a minimum number of exceptions to agencies whose districts require unique boundaries.*

*Status of Action: The Department of Planning and Budget is currently studying sub-state boundaries of State agencies.*

#### **Inconsistent Use of Nomenclature and Program Budget Codes**

State agencies and other entities have 33 different titles, which often have little relationship to their status and level of authority. For example, in some instances, "division" may refer to an organizational subunit within an agency. In other instances, an entire agency may be called a "division." "Council," "board," and "commission" may all refer to a freestanding agency and may not distinguish between the agency and its collegial body.

*Staff Recommendation (25): The General Assembly should adopt a standard nomenclature system to name State agencies and entities.*

*Status of Action: HB 682 defined a standard nomenclature system for State entities, and HJR 162 established an implementing mechanism.*

PROBUD, the State's computerized budgeting system, is a useful analytical tool that could benefit from further refinements. The system is intended to record each agency's expenditures in mutually exclusive activities such as land management or environmental regulation. However, inconsistencies with the codes and in their use make program and subprogram expenditures and instances of duplicated, fragmented, and misaligned activities difficult to identify.

**Staff Recommendation (26):** *The General Assembly should (a) direct the Department of Planning and Budget to continue refining the PROBUD system so that differences in programs and subprograms are more accurately reflected and (b) require agencies to use codes in a consistent manner.*

*Status of Action: The Department of Planning and Budget has under way efforts to refine the PROBUD system.*

## **Creation of Agencies By Executive Order**

Article V of the Constitution of Virginia requires executive agencies to be created by action of the General Assembly. Nevertheless, two entities which function as administrative agencies were created by the Governor through executive orders: the Governor's Employment and Training Division, which administers the new Job Training Partnership Act; and the State Advocacy Office for the Developmentally Disabled, which assists developmentally disabled clients with problems not addressed by particular State agencies.

The Governor is designated by federal law as the State official to operationalize these programs. However, as noted in a 1978 opinion of the Attorney General, federal law cannot override the State constitutional requirement for legislative creation of agencies.

**Staff Recommendation (27):** *The Governor should propose to the General Assembly enabling legislation for the Advocacy Office for the Developmentally Disabled, Governor's Employment and Training Division, and any other executive agency created without specific legislative action.*

*Status of Action: SB 113 and HB 685 codify these agencies.*

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## **SPECIFIC STRUCTURAL TARGETS**

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Consistent with previous reorganization studies and the Executive Reorganization Act, the following characteristics of a sound executive branch structure guided this review:

- (1) to the extent possible, agencies with similar missions should be located in the same functional area;
- (2) the functions of government should be carried out by the fewest agencies possible;
- (3) related activities should be consolidated into new or existing agencies with related missions;
- (4) duplicative activities and programs should be consolidated or eliminated; and
- (5) new or existing agencies should be manageable in size.

Recognizing that some agencies or functions may require special placement, additional considerations were also applied.

Although targets involve over 57 agencies throughout the executive branch, they are concentrated in the Human Resources and Commerce and Resources areas. A type of problem such as service support may involve more than one target and extend across agencies and secretarial areas. Each problem area is described in the following sections of this chapter.

### **Administrative and Central Support Services**

The two targets in this area deal with fragmented responsibility for debt collection and data processing.

**Debt Collection.** As of March 1983, over \$300 million was owed to State agencies by individuals whose accounts were 120 days past due. Agencies are directed to refer uncollectable debts to the Attorney General's office for legal action. In addition, the Setoff Debt Collection Act requires notification of the Department of Taxation so that delinquent debts may be withheld from tax refunds. Under this arrangement, claimant agencies do not have a single State agency for referral of debts. Multiple agencies are still involved in debt collection. A few agencies rely solely on private collection agencies, and others lack the resources for exhaustive collection efforts.

**Staff Recommendation (28):** *The responsibility for collecting delinquent debts owed by individuals to State agencies should be centralized under the Attorney General or the Department of Taxation.*

**Computer Services.** The Department of Computer Services (DCS) operates four centralized

computer centers in Richmond. When DCS was created in 1978, almost all agencies (except some universities) consolidated their computer operations into DCS. The Department of State Police continues to operate the only major data processing facility that is not part of the State system.

**Staff Recommendation (29):** *The transfer of the Department of State Police computer operations to the Department of Computer Services should be assessed further.*

### **Research and Evaluation Activities**

A comprehensive data base and analytical capabilities are important to the efficient and effective management of State government. However, as indicated by the three targets in this problem area, data collection, revenue forecasting, and program evaluation are fragmented within the administration and finance secretariat. An additional component is misaligned in the transportation secretariat.

*Research and Evaluation.* The Management Consulting Division of the Department of Management Analysis and Systems Development (MASD) and the evaluation section of the Department of Planning and Budget (DPB) evaluate State agencies and their programs at the request of the Governor, the secretaries, and/or agencies.

MASD evaluates the organizational structures and management practices of State agencies, while DPB is charged with evaluating program performance. However, it is difficult to evaluate an agency's program without looking at the management of the agency. Currently, there is no single source within the executive branch for comprehensive program review. Neither is there a unified source of program information and technical support for the Governor's secretaries.

**Staff Recommendation (30):** *The evaluation section of the Department of Planning and Budget and the Management Consulting Division of the Department of Management Analysis and Systems Development should be co-located in a new Department of Analytical and Administrative Services.*

*Status of Action:* HJR 47 directs the Governor to study and report on this problem to the 1985 Session.

#### *Data Collection and Revenue Estimation.*

Duplication and fragmentation in data collection and revenue forecasting make it difficult for State agencies to locate the source for the data they need, and inhibit development of a comprehensive State data center. The Department of Taxation (DOT) and the Department of Planning and Budget (DPB) maintain extensive information systems with

similar content. In addition, the responsibility for revenue forecasting is split among several agencies, and DPB – which is the primary user of the general revenue forecasts for budget purposes – does not develop them.

DOT collects, stores and analyzes extensive data related to economic and natural resources in a system called the Commonwealth Data Base. The system is used by agencies concerned with natural resources, and by DOT to support econometric models used to help forecast the State's general revenues.

DPB is also heavily involved in the maintenance of general interest data systems and in forecasting. DPB is directed by statute to collect and disseminate data on the social, economic, physical, and governmental condition of the State. The agency acts as the State's data center, compiles special fund forecasts, and uses DOT's forecasts of general funds to develop the budget for the Commonwealth.

**Staff Recommendation (31):** *The Department of Taxation's revenue estimating activities and the Commonwealth Data Base should be transferred to the Department of Planning and Budget. (An independent revenue forecasting capacity could be established in the legislative branch to maintain a system of checks and balances.)*

*Status of Action:* The Governor has authorized transfer of the Commonwealth Data Base from DOT to DPB as of July 1, 1984.

In addition to the agencies which furnish DPB with their own forecasts, several other entities have broad revenue forecasting responsibilities. The Division of Motor Vehicles (DMV) has been assigned the lead role in developing the highway maintenance and construction fund forecast, which includes revenues from the motor fuel tax, sales and use taxes, and registration fees. Moreover, DMV receives federal funds forecasts of the Department of Highways and Transportation and the road tax receipt estimates of the State Corporation Commission to carry out its forecasting responsibilities.

**Staff Recommendation (32):** *The Division of Motor Vehicles' revenue forecasting unit should also be transferred to the Department of Planning and Budget.*

### **Economic Development**

Industrial development and product promotion are key elements in a state's strategies for economic development. However, these two areas are identified as structural targets because of excessive fragmentation among agencies that develop information, make contacts, and provide technical

assistance to accomplish related goals. Many states have consolidated their economic development activities under one agency.

*Industrial Development.* Four separate agencies in the commerce and resources secretariat are involved in supporting increases in the number and scope of State businesses. A fifth agency is in the transportation secretariat. Each agency carries out similar activities that would benefit from coordination and improved client access:

- The Division of Industrial Development encourages businesses to locate or expand in Virginia and helps State manufacturers to establish export markets abroad;
- With funds from the Division of Industrial Development, the Industrial Training Division of the Virginia Community College System provides basic training, retraining, and instructor training services which are requested for the employees of new and expanding industries in Virginia;
- The Office of Minority Business Enterprise promotes the growth and development of minority and small businesses;
- The Division of Tourism within the Department of Conservation and Economic Development encourages the tourist industry through its advertising and research efforts;
- The Virginia Port Authority, located in the Transportation secretariat, carries out part of its mission by promoting domestic and foreign use of Virginia's ports.

***Staff Recommendation (33): The Division of Tourism, Division of Industrial Development, the State Office of Minority Business Enterprise, and the Industrial Training Division of the Virginia Community College System should be merged to create a new Department of Economic Development. The port promotion activities of the Virginia Port Authority could also be considered for inclusion.***

*Status of Action: SB 328 created a Department of Economic Development which includes the Divisions of Tourism and Industrial Development.*

*Product Promotion.* The Department of Agriculture and Consumer Services promotes Virginia agricultural commodities. It also provides administrative support to product commissions which are established by statute within the department. Maintaining the nine separately-constituted commissions (three with their own staff) can result in uneven or duplicative education, research, and promotion activities for Virginia products. Furthermore, a completely separate agency, the Virginia Marine Products Commission, plans and carries out similar activities

relative to finfish and shellfish harvested from the State's waters.

***Staff Recommendation (34): The Virginia Marine Products Commission should be merged with the Department of Agriculture and Consumer Services. If the State decides to continue specific product promotion as part of its mission, the Department should also assume the functions of the individual product commissions.***

*Status Action: SB 328 administratively merges the Marine Products Commission with the Department of Agriculture and Consumer Services.*

## **Recreational and Historic Planning**

State operation of recreational and historic sites assures their preservation for future generations. But excessive costs may be incurred when each site is supported by a small independent agency carrying out similar planning and administrative functions. The Parks and Recreation Division of the Department of Conservation and Economic Development, and four other entities, operate historic attractions. Two additional entities have responsibility for the preservation of historic and other sites – the Virginia Historic Landmarks Commission and the Virginia Outdoors Foundation.

Administrative merger could achieve more uniform management and promotion of attractions and reduce administrative overhead and the number of independent agencies. To maximize benefits, the deeds for Gunston Hall and the James Monroe Museum and Library should be reviewed to facilitate inclusion of these sites to the extent consistent with administrative provisions.

***Staff Recommendation (35): The entities which manage and/or preserve historic sites and attractions (Virginia Historic Landmarks Commission, Virginia Outdoor Foundation, Division of Parks and Recreation of the Department of Conservation and Economic Development, Jamestown-Yorktown Foundation, Gunston Hall, James Monroe Museum and Library, and Virginia War Memorial Commission) should be administratively merged. These entities should be brought together in a proposed Department of Parks and Historic Preservation. If this agency is not established, the entities which manage sites should be merged under the Division of Parks and Recreation in the Department of Conservation and Economic Development. The Virginia Historic Landmarks Commission and the attached Virginia Outdoors Foundation should be placed in a separate division of the Department.***

*Status of Action: HB 328 created a Department of Conservation and Historic Resources.*

## Resource Planning and Regulation

Virginia is one of four states which have not co-located environmental regulatory activities for air, water, and solid and hazardous wastes under one agency. Further fragmentation involves soil conservation and boating regulation.

*Environmental Regulation.* Fragmentation extends beyond the commerce and resources secretariat to include activities assigned to the Department of Health in the human resources secretariat.

Within the commerce and resources secretariat, the following agencies carry out related or similar activities:

- The State Water Control Board (SWCB) promulgates water quality regulations, issues permits to discharge wastewater, plans and manages the use of groundwater supplies, and monitors and enforces water quality standards;
- The Air Pollution Control Board adopts regulations, develops plans, and monitors and enforces air quality standards to ensure that certain levels of air quality are achieved and maintained;
- The Division of Mined Land Reclamation within the Department of Conservation and Economic Development develops and enforces mining operation regulations;
- The Council on the Environment is required to develop broad environmental plans, research and draft position papers on environmental issues, and review environmental impact reports;

The Council on the Environment is also responsible for coordinating the planning, services, and multiple permit procedures of the other environmental agencies. Coordination could be more effective if all environmental regulation agencies worked together under a single department. Currently, however, key functions are implemented in another secretariat.

Four units in the State Department of Health's Office of Health Protection and Environmental Management are involved in environmental regulation. The Bureau of Wastewater Engineering carries out activities similar to those of the SWCB in the regulation of wastewater treatment facilities. The Bureau of Toxic Substances Information registers businesses which use or produce toxic substances. The Bureaus of Solid Waste and Hazardous Waste develop plans, provide technical assistance, inspect sites, take enforcement actions, and issue permits for the operation of sanitary landfills and the handling of hazardous waste.

***Staff Recommendation (36): The State Water Control Board, Air Pollution Control Board, Division of Mined Land Reclamation of the Department of Conservation and Economic***

***Development, Council on the Environment, and the State Department of Health's regulation of wastewater treatment facilities, Bureau of Toxic Substances Information, and Bureaus of Solid and Hazardous Wastes should be merged into a new Department of Environmental Regulation.***

*Status of Action: HJR 147 directs the Governor to study and report on this issue to the 1985 Session.*

*Conservation.* Several agencies share a common goal of managing and preserving the land resources of the Commonwealth. Their basic supportive and technical assistance activities appear to be very similar. The Soil and Water Conservation Commission provides financial and technical assistance to local conservation districts. Within the Department of Conservation and Economic Development, the Division of Forestry provides assistance to protect and develop forests, the Division of Litter Control helps localities establish litter programs, and the Commission on the Conservation and Development of Public Beaches provides financial and technical assistance to localities to halt shoreline erosion.

***Staff Recommendation (37): The Soil and Water Conservation Commission should be merged with the Department of Conservation and Economic Development. If a new Department of Conservation is created, the Soil and Water Conservation Commission and the conservation activities of the Department of Conservation and Economic Development could be brought together under this department.***

*Status of Action: SB 328 created a Department of Conservation and Historic Resources which encompasses these agencies.*

*Boating Regulation.* The Marine Resources Commission enforces small boating laws on the marine waters of the State, and the Commission of Game and Inland Fisheries enforces boating laws on all waters of the State, both inland and marine. Each agency has an administrative structure to support personnel that patrol the waters – sometimes the same waters.

***Staff Recommendation (38): The Virginia Marine Resources Commission and the Commission of Game and Inland Fisheries should be brought together to create a new Department of Game and Inland and Marine Fisheries.***

## Regulation of Products, Worksites, and Occupations

When responsibility for similar types of regulation is unnecessarily fragmented among

agencies, the result can be excessive costs, administrative duplication, poor communication, and multiple intrusions into businesses. The State Department of Health currently carries out three product regulation activities that are shared with or similar to activities of the Department of Agriculture and Consumer services. A worksite regulation activity is shared with the Department of Labor and Industry. Regulation of professions and occupations is split between two agencies, the Department of Commerce and the Department of Health Regulatory Boards.

*Product Inspection.* The Department of Health (SDH) and Department of Agriculture and Consumer Services (DACS) both issue permits, inspect processing plants, and analyze samples to ensure that milk products are safe for human consumption. Under some circumstances, inspections are done by one of the agencies alone. For example, although DACS usually inspects frozen dessert and ice cream processing facilities, SDH will make the inspection if the facility also contains a Grade A milk plant.

Fragmentation also exists between DACS and SDH in the inspection of seafood processing plants. SDH is responsible for shellfish and crabmeat processing plants, DACS for finfish processing plants. If a plant handles both products, each agency's inspectors observe conditions only in designated production sections.

SDH also regulates bedding and upholstered furniture. This area of regulation differs from other SDH functions, but is similar to the consumer product functions of DACS. SDH issues licenses to persons who manufacture or reupholster bedding or upholstered furniture, or process or sell filling materials. Permits are also issued to persons who sanitize or sterilize these items.

***Staff Recommendation (39): The following three activities of the Department of Health should be transferred to the Department of Agriculture and Consumer Services: milk and milk product inspection, inspection of seafood processing plants, and bedding and upholstered furniture regulation.***

*Status of Action: HJR 147 directs the Governor to study and report on this issue to the 1985 Session.*

*Worksite Inspections.* SDH also shares responsibility for issuing citations, conducting training seminars, and inspecting worksites with the Department of Labor and Industry (DLI). SDH enters businesses to check for health hazards such as excessive noise and asbestos. DLI enters the same businesses to check for safety-related hazards such as a lack of a proper guard on a machine.

***Staff Recommendation (40): Worksite inspection responsibilities currently divided between the Department of Labor and Industry and the Department of Health should be transferred to the Department of Labor and Industry.***

#### *Occupational and Professional Regulation.*

Virginia is the only state with two agencies whose sole purpose is to provide administrative support to boards that regulate practitioners of occupations and professions. The Department of Health Regulatory Boards and the Department of Commerce administer the application and licensure process and receive and investigate complaints against practitioners.

The Department of Health Regulatory Boards is oriented to health care professionals, and the Department of Commerce is oriented to commercial practitioners. However, this distinction is not consistent. The latter also regulates allied health professionals such as audiologists. In 1983, the General Assembly realigned some boards between the two agencies, acting upon a JLARC recommendation in the report, *The Occupational and Professional Regulatory System in Virginia*.

***Staff Recommendation (41): The Department of Health Regulatory Boards and Department of Commerce should be brought together to form a new Department of Commerce and Health Regulatory Boards.***

## **Financial Assistance for Higher Education**

Administration of financial assistance to students attending institutions of higher education is fragmented among two administrative agencies and two political subdivisions. This situation duplicates administrative costs and requires parents and students to seek financial assistance from multiple sources.

The State Council of Higher Education for Virginia administers the College Scholarship Assistance Program, the Tuition Assistance Grant Program, and the Eastern Shore Tuition Assistance Program. The State Education Assistance Authority is the guarantor, recordkeeper, and collector of all guaranteed loans made to Virginia residents who are enrolled in post-secondary education and vocational institutions anywhere in the United States. The Virginia Education Loan Authority issues bonds to establish a loan pool, and in turn makes loans to students who wish to attend higher education institutions. An advisory committee to the State Board of Health gives annual scholarships to students in nursing and dental hygiene programs.

*Staff Recommendation (42): The feasibility of combining the two political subdivisions with student financial assistance orientations (the State Education Assistance Authority and the Virginia Education Loan Authority) with the grant and scholarship programs of the State Council of Higher Education and State Department of Health should be studied.*

*Status of Action: At the request of the Secretary of Education, SEAA and VELA are analyzing their relationship.*

### **Volunteer Service Support**

Volunteers can augment services that are currently provided at State expense. However, the Division of Volunteerism may be misaligned in the human resources secretariat because all State agencies are potential beneficiaries of the Division's services. In fact, until 1979 volunteer promotion was carried out within the administration and finance secretariat.

Additionally, the Division and the Center for Volunteer Development at Virginia Polytechnic Institute and State University may be duplicating some activities. The Center encourages faculty and staff at Virginia institutions of higher education to become involved in volunteerism, and provides technical assistance through the university's extension division to volunteers from local groups and from State agencies. Although the Center started with total grant funding, State funding has progressively increased since the first year, and grant funds will soon terminate entirely.

*Staff Recommendation (43): The Division of Volunteerism should be realigned under the Secretary of Administration and Finance, and provisions should be made to provide administrative support to the division. This recommendation would be adopted if Volunteerism is viewed as an administrative or central service agency. If viewed as a human resources agency, it would be co-located under the Department of Advocacy Agencies recommended in recommendation 49.*

*Status of Action: HJR 147 directs the Governor to study support services for State agencies with fewer than 25 employees and report the findings to the 1985 General Assembly.*

*Staff Recommendation (44): A non-structural solution of the problem of duplication between the Division of Volunteerism and the Center for Volunteer Development of Virginia Polytechnic Institute and State University has been proposed in a separate JLARC report. (Senate Document 6, The Virginia Division of Volunteerism,*

*December 1983). That report recommended either (1) requiring a more specific memorandum of understanding to clearly specify the responsibilities of each agency and/or (2) restricting activities of the Center to those consistent with the University's extension mission and limiting the Center's non-State sources. Therefore, a structural solution is not being proposed in this report.*

*Status of Action: The division and the center are negotiating a more specific memorandum of understanding.*

### **Rehabilitative, Social, and Financial Services**

Duplication and fragmentation of services among human resource agencies create service delivery as well as administrative problems and costs. Problems of nationwide concern include client difficulty in accessing services, and the limited ability of discrete agencies to address a client's overall needs. Administrative issues involve duplicative eligibility, contracting, and reporting processes. Such problems occur in the provision and planning for rehabilitative, social, financial, and advocacy services in Virginia.

*Rehabilitative Services.* The State maintains two separate agencies in order to provide rehabilitative services to the blind independently of similar services provided to other disabled clients. Interagency coordination is addressed through a service agreement between the Department for the Visually Handicapped and the Department of Rehabilitative Services. Generally, the degree of visual or physical impairment determines the assignment of a client to an agency, although multiply handicapped clients may deal with both agencies.

Although federal regulations allow state agencies to establish a separate agency to provide services to the blind, this is not required. According to the Federal Rehabilitative Services Administration, specific organizational structure is not as important as development of a separate plan to rehabilitate the blind. Approximately 22 states have established distinct units within larger agencies to deliver visually handicapped services. Approximately 18 states have organizational structures that merge visually handicapped services with other services. Ten states appear to have established separate and single agencies for the blind and visually handicapped.

*Staff Recommendation (45): The Department for the Visually Handicapped should be moved as a separate program division into the Department of Rehabilitative Services. (Further study of individual functions should also be undertaken as stated in recommendation 46).*

*Social Services and Financial Assistance.* DVH also splits administration of Title XX social services and auxiliary grant programs with the Department of Social Services. Under Title XX, similar administrative activities are carried out by each department to provide services to visually handicapped and sighted clients, respectively. Local welfare departments are reimbursed for purchasing social services such as counseling, day care, companion services, and transportation. The two departments also develop a Title XX plan, monitor service delivery, and review local budgets and records.

Auxiliary grants are State and local monies paid to persons whose federal supplemental security income (SSI) payments are not sufficient to cover their needs. DVH and DSS developed policies and procedures and reimburse local welfare departments, which directly administer the grants to sighted people in homes for adults and to qualified blind persons.

DVH also operates a library service for the blind in Richmond and eight subregional "mini-libraries". In most other states, library services for the blind are operated by the state library agency or the education department.

***Staff Recommendation (46): A merger of the Title XX, auxiliary grant, and library functions of the Department for the Visually Handicapped with the Department of Social Services and Virginia State Library, respectively, should be assessed further.***

*Status of Action: SB 383 realigns Title XX and auxiliary grant functions with the Department of Social Services.*

*Services to the Elderly.* Similar duplication and fragmentation exist in providing services for the elderly. This concern involves the Virginia Department for the Aging (VDFA) and the Department of Social Services (DSS).

Under the federal Older Americans Act, VDFA purchases and supervises services for non-indigents who are 60 years of age or older. The services, which include legal aid, escort, health, and chore services, are provided by local area agencies on aging. Under the Title XX program, DSS administers similar types of services to the elderly who are indigent.

In other states, services to the elderly are organizationally aligned in a number of ways, including: units of a large human service or other agency (22 states), freestanding administrative agencies (9 states), independent boards outside the executive branch (8 states), and entities within the Governor's Office (5 states).

***Staff Recommendation (47): The Department for the Aging should be moved into the Department of Social Services as a separate program division.***

*Employment Services.* The Governor's Employment and Training Division prepares individuals for entry into the labor force. The division is currently located in the human resources area. However, the major employment services agency, the Virginia Employment Commission, is located with other economic development agencies in the commerce and resources area.

***Staff Recommendation (48): The Governor's Employment and Training Division should be transferred to the commerce and resources secretariat from the human resources secretariat.***

*Status of Action: HJR 147 directs the Governor to study location of training activities and report to the 1985 Session.*

*Social Services Planning and Advocacy.* Several agencies in the human resources area are primarily advocates for groups such as women, children, the deaf, and the developmentally disabled. The agencies help to ensure that services are being provided by other agencies. They collect data, write reports, disseminate information and evaluate services. Each small agency provides its own administrative support. Staff sizes range from one to 16 employees.

Maintaining the agencies separately may detract from their capacity to carry out mandated responsibilities and unnecessarily duplicate administrative structures. None of the agencies is prohibited by federal mandate from co-location. Although by federal law the Advocacy Office for the Developmentally Disabled must remain independent of service-providing agencies, it is not restricted from consolidation with other advocacy functions.

***Staff Recommendation (49): The four small advocacy agencies under the Secretary of Human Resources (Commission on the Status of Women, Division for Children, Advocacy Office for the Developmentally Disabled, and Council for the Deaf) should be co-located together to form a new Department of Advocacy Agencies. If the Commission on Indians should become a staffed agency, it would also be included here. If a decision is made to retain the Division of Volunteerism as a human resources agency, it should be established here.***

*Status of Action: HJR 147 directs the Governor to study provision of support services to small agencies*



including the advocacy agencies mentioned in the recommendation.

Three agencies in the human resources secretariat and one in the education secretariat license and inspect public facilities such as nursing homes, group homes, and hospitals. Oversight by the State is intended to ensure that the facilities are fit for human habitation. Technically similar activities are carried out by each agency, regardless of the type of facility or client population.

The State Department of Health (SDH) has the largest role. SDH regulates hospitals, nursing homes, home health agencies, and other public facilities. Key activities include issuing licenses, training inspectors, conducting inspections, and providing consultative services. In some cases, SDH and the Department of Social Services (DSS) have jurisdiction over the same facility. For example, SDH inspects the nursing home component and DDS inspects the home for adults component if both are contained within the same facility.

The Department of Mental Health and Mental Retardation regulates community mental health centers, group homes, and other facilities which provide care to the mentally ill, mentally retarded, and substance abusers. The Department of Education regulates private schools for the handicapped.

**Staff Recommendation (50):** *The regulation of health-related public facilities carried out by the Departments of Social Services, Mental Health and Mental Retardation, and Education should be merged under the Department of Health.*

*Status of Action:* HJR 147 directs the Governor to study this issue and report to the 1985 Session.

## **Education of Inmates**

The Rehabilitative School Authority is an independent agency which provides academic and vocational training to juvenile and adult inmates of correctional institutions and field units. Personnel of the authority must work continually with the Department of Corrections' staff to coordinate instructional schedules, provide security, and assign inmates to classes. This is the only instance where the State has created a separate educational agency for an institutionalized population.

**Staff Recommendation (51):** *The status of the Rehabilitative School Authority as an independent agency should be considered during the forthcoming JLARC study on the Rehabilitative School Authority and the Department of Corrections.*

*Status of Action:* The study is under way and the findings will be reported to the 1986 session.

## **Transportation**

Vehicle and air transportation services for government personnel appear to be misaligned in one case and duplicative in other cases.

**Vehicle Support.** The Central Garage Car Pool provides vehicles to State employees when necessary for their official duties. The central garage is inappropriately aligned, however, under the Department of Highways and Transportation. Most activities which support the operations of other State agencies are located under the Secretary of Administration and Finance, many within a multi-purpose support agency – the Department of General Services. A related problem addressed in two previous JLARC reports is the need for the Central Garage to be designated as a working capital fund – an accounting mechanism that should be set up when an agency provides goods or services to other State agencies.

**Staff Recommendation (52):** *The Central Garage should be transferred from the Department of Highways and Transportation to the Department of General Services and efforts continued to designate it as a working capital fund.*

*Status of Action:* The Joint Legislative Audit and Review Commission approved initiation of a working capital fund effective July 1, 1984.

**Aviation.** Four separate State agencies are spending funds to own, operate, and maintain five aircraft in Richmond. The Department of Aviation owns and operates two aircraft, and operates a third one that is owned by the Governor's Office. In addition, the Department of Highways and Transportation and the Commission of Game and Inland Fisheries each own and operate an airplane based at Richmond's Byrd Airport.

The number of airplanes and flight staff in Richmond may be higher than would be necessary if the agencies pooled their resources. The Department of Aviation has the greatest role in using planes for programmatic activities and transporting State personnel.

**Staff Recommendation (53):** *The Department of Aviation should take over the administration, operation, and maintenance of the aircraft hangared in Richmond and owned by the Department of Highways and Transportation, the Commission of Game and Inland Fisheries, and the Governor's Office.*

*Status of Action:* The Secretary of Transportation and the agencies are developing appropriate plans.

## **Hazardous Materials**

Because oversight of radioactive materials is currently divided, coordinative problems may occur in the case of an emergency. Companies that ship

radioactive substances and equipment must register with the State Department of Health. However, they must also contact the Office of Emergency and Energy Services (OEES) before they transport materials through Virginia. If notification does not occur, OEES and local officials will not be aware that an accident involves radioactive substances and may not respond appropriately.

OEES is responsible for approving transport routes and notifying local authorities when shipments will be transported through their jurisdictions. Localities may call OEES for on-site assistance. Centralizing responsibility in OEES for registering shippers as well as responding to emergencies could facilitate a rapid and informed response.

**Staff Recommendation (54):** Responsibility for registering shippers of radioactive materials and responding to emergencies involving radioactive materials should be transferred from the State Department of Health to the State Office of Emergency and Energy Services.

*Status of Action:* HB 813 implements this recommendation.

## **Emergency Response and Defense Activities**

A primary purpose for establishing functional areas for Virginia's State government was to provide oversight and coordination of agencies with similar missions. Nevertheless, the missions of two agencies, the Department of Military Affairs and the Office of Emergency and Energy Services, are more related to other areas of State government than to the transportation area where they are currently assigned.

**Military Affairs.** The Department of Military Affairs trains, manages, and supervises the State Air and Army National Guard; maintains its armories, training sites, and shops; and provides security for its weapons and munitions. In time of a national emergency, certain units can be mobilized for active duty. During a natural disaster or other emergency, the department provides aid to localities. All these functions are related to public safety. In case of an emergency, close coordination would be needed with the State Police, currently located in the public safety area.

**Staff Recommendation (55):** The Department of Military Affairs should be transferred from the transportation secretariat to the public safety secretariat.

*Status of Action:* HB 815 locates the department in the combined public safety/transportation secretariat.

**Emergency and Energy Services.** The Office of Emergency and Energy Services helps localities and

State agencies design emergency plans and set up emergency training programs. It evaluates and provides financial assistance for local emergency programs. During an emergency, the office coordinates the responses of local, State, and federal agencies. To promote energy conservation, the energy division provides conservation services and programs to commercial and residential consumers and technical assistance to local governments. Neither emergency planning nor energy conservation appear to have a common mission with other transportation agencies.

**Staff Recommendation (56):** The emergency services functions of the State Office of Emergency and Energy Services (OEES) should be transferred from the transportation secretariat to the public safety secretariat. The Energy Division of the OEES should be transferred to the commerce and resources secretariat. If the proposed Department of Conservation is not established, the division should be merged with the Department of Conservation and Economic Development.

*Status of Action:* SB 328 transfers the Energy Division to a new Department of Mines, Minerals, and Energy. HB 815 locates the Office of Emergency Services in the public safety/transportation secretariat.

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## **NET EFFECTS OF STRUCTURAL PROPOSALS**

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Adoption of these recommendations would result in important changes in the structure of the executive branch. For example, the integrity of secretarial areas would be strengthened by realigning those agencies that do not share common missions with other agencies in their areas. The total number of independent executive agencies would be reduced from 85 to 72 and would include the following new or renamed agencies:

- Department of Analytical and Administrative Services
- Department of Advocacy Agencies
- Department of Parks and Historic Preservation
- Department of Conservation
- Department of Environmental Regulation
- Department of Game and Inland and Marine Fisheries
- Department of Economic Development
- Department of Commerce and Health
- Regulatory Boards

And, depending upon the final proposals decided upon to implement each recommendation, cost differences from \$1,474,474 to \$1,653,239 or higher could be realized in staffing costs alone.

If all the recommendations from the three JLARC reports were implemented, the executive branch would be organized as shown in Table 3.

Table 3

## Proposed Organization of the Executive Branch into Secretariats

### Administration (13)

Department of Telecommunications  
 Department of Computer Services  
 Department of General Services  
 Department of Systems Development  
 Department of Personnel and Training  
 Department of Employee Relations Counselors  
 Secretary of the Commonwealth - Division of Records  
 Department of Volunteerism  
 Department of Elections  
 Department on Local Government  
 Department of Commonwealth - Federal Relations  
 Department of Analytical and Administrative Services  
 Department of Compensation

### Commerce and Transportation (12)

Department of Housing and Community Development  
 Department of Labor and Industry  
 Department of Economic Development  
 Department of Milk Regulation  
 Department of Agriculture and Consumer Services  
 Department of Commerce and Health Regulatory Boards  
 Department of Employment Services  
 Department of Employment Training  
 Department of Aviation  
 Department of Highways and Transportation  
 Division of Motor Vehicles (could also be assigned to administration or finance)  
 Department of Ports

### Finance (5)

Department of the Treasury  
 Department of Planning and Budget (with new revenue estimating unit)  
 Virginia Supplemental Retirement System  
 Department of Taxation (possibly in administration secretariat)  
 Department of Accounts  
 (Plus approximately 6 public authorities with financial orientations)

### Human Resources (6)

Department of Health  
 Department of Mental Health and Mental Retardation  
 Department of Rehabilitative Services  
 Department of Social Services  
 Department of Health Services Cost Review  
 Department of Advocacy Agencies

### Natural and Cultural Resources (8)

Department of Game and Inland and Marine Fisheries  
 Department of Conservation  
 Department of Environmental Regulation  
 Department of Parks and Historic Preservation  
 Virginia State Library  
 Science Museum of Virginia  
 Virginia Museum of Fine Arts  
 Commission for the Arts

### Public Safety (9)

Department for Commonwealth's Attorneys' Services and Training  
 Department of Alcoholic Beverage Control  
 Department of Corrections  
 Department of State Police  
 Department of Criminal Justice Services  
 Rehabilitative School Department  
 Department of Fire Programs  
 Department of Military Affairs  
 Department of Emergency Services

**NOTE:** This table reflects the composition of secretariats assuming implementation of all recommendations in the JLARC structure reports.



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## V. NEXT STEPS IN REORGANIZATION

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Executive branch reorganization received significant attention during the 1984 General Assembly session. The three JLARC reports served their intended purposes as sources of information and as a blueprint for legislative action.

Written responses to the three draft reports were received from the Governor's secretaries, 66 agencies and institutions of higher education, and 58 other individuals. Because of their volume, the responses could not be included as part of this summary report. They are, however, available for review upon request at the offices of JLARC, Suite 1100, 910 Capitol Street, Richmond, Virginia.

The Commission authorized the printing and subsequent distribution of the reports to each legislative member. The Commission also authorized continued cooperation between its staff and that of the Governor. Such cooperation involved the sharing of information, clarification of recommendations, and discussions of draft legislation.

Acting as individuals, some Commission members sponsored key administration bills that were consistent with JLARC proposals and also introduced several bills addressing additional reorganization issues.

Actions taken by the General Assembly have the potential for significantly improving the effectiveness and efficiency of the secretarial system, boards and commissions, and the organization of the executive branch. The secretarial system was retained, and responsibilities and authority regarding agency performance were clarified. Actions taken to restructure the system addressed the workload within secretariats and the integrity of functional areas of government. Concerns regarding the status of the Governor's chief of staff were resolved by legislation enabling the position and providing for confirmation.

Legislation pertaining to boards established criteria for *ad hoc* task forces and defined the unique positions reserved for "citizen members" or "representatives of the public" on some boards. Many actions addressed the structure and alignment of agencies. The basic thrust was to reduce the overall number of agencies, merge agencies and/or activities with similar missions, establish standard nomenclature, and conform regional boundaries.

Reorganization, however, is a continuous process that serves to adapt government to changing conditions. Previous studies have greatly influenced the current structure of State government and the extensive legislative and executive evaluations carried out during the 1982-84 biennium. Although these evaluations have already resulted in

numerous actions, specific proposals are pending for consideration during the 1985 session. Others may be addressed at a future time.

The Governor was requested in House Joint Resolution 147 to study the most suitable alignment of the following programs and report to the 1985 session of the General Assembly on:

1. employment and training activities provided by the Virginia Employment Commission, Governor's Employment and Training Division, Department of Labor and Industry, Division of Industrial Development, Virginia Community College System, Department of Rehabilitative Services, and Department of Social Services. The analysis will also determine the proper secretarial assignment in either Education, Commerce and Resources, or Human Resources;
2. resources planning and coordination activities in the Council on the Environment; water quality resource management and regulatory activities in the State Water Control Board; water quality management, waste water engineering, and toxic substance, solid waste, and hazardous waste control activities in the Department of Health; and air management activities in the State Air Pollution Control Board;
3. agriculture service and regulatory activities which consist of agricultural products promotion activities in the Department of Agriculture and Consumer Services, Virginia Agricultural Foundation, and the individual product commissions; milk regulation activities in the Department of Agriculture and Consumer Services, Department of Health, and Milk Commission; seafood and bedding regulation activities in the Department of Health; and farm activities in Chippokes Plantation Farm;
4. budgeting, accounting, purchasing, and logistical support services for approximately 60 State agencies with fewer than 25 employees;
5. regulation of residential facilities and day programs by the Department of Health, Department of Social Services, Department of Mental Health and Mental Retardation, Department of Education, and Department of Corrections; and
6. executive management staff activities involved in personnel, evaluation, auditing, budgeting and policy planning.

The three JLARC reports are now pending before a subcommittee of the Commission. Several

areas of reorganization were reserved by the subcommittee for consideration in the coming year. The subcommittee was also charged with monitoring reorganization activity during the legislative session and recommending any further Commission action in subsequent sessions.

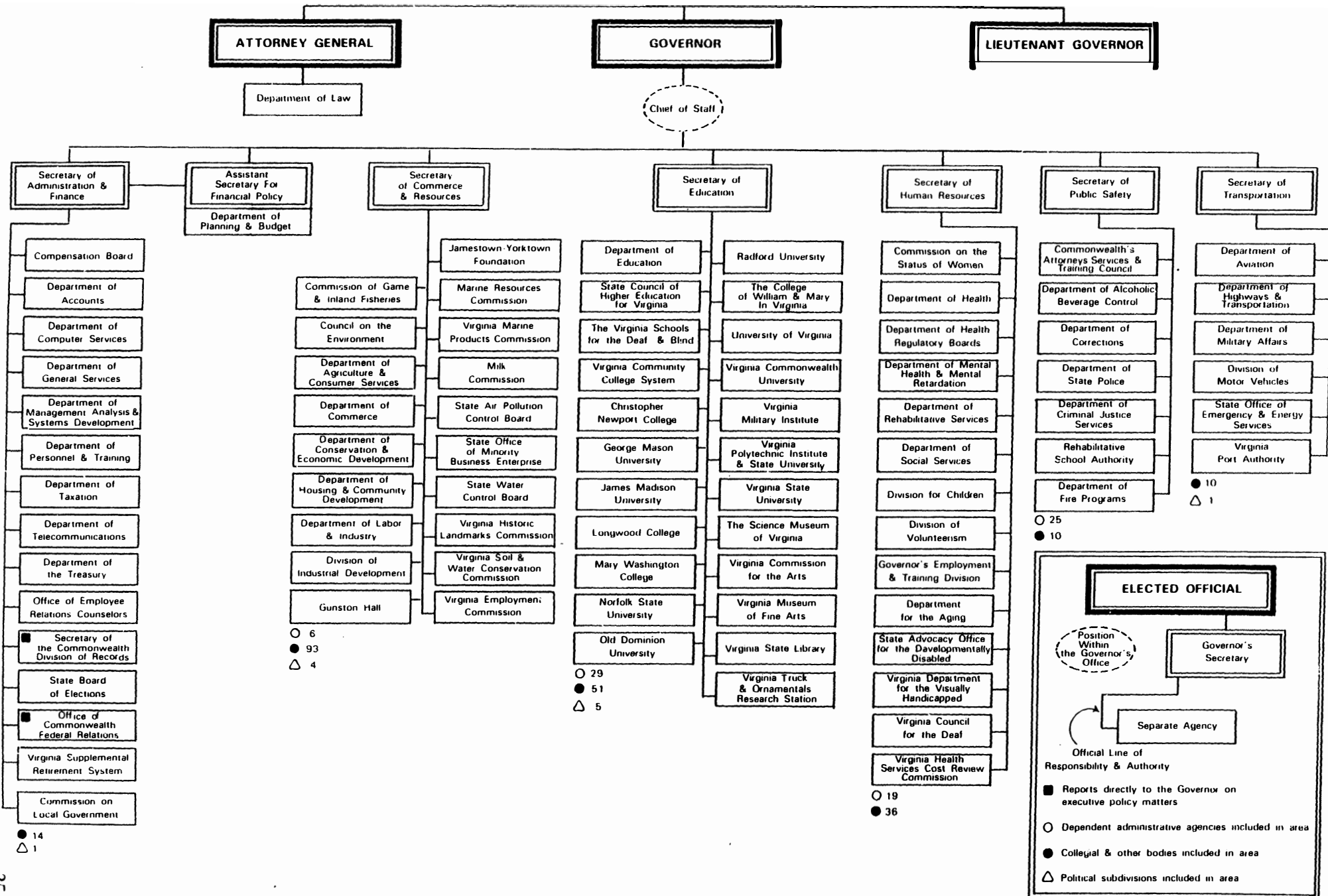
Since the publication of the JLARC reports, many changes have been implemented in the organization of the executive branch, and others

are currently under way. Some changes are direct results of JLARC's analyses and recommendations, and others are initiatives that grew out of the Governor's reorganization study.

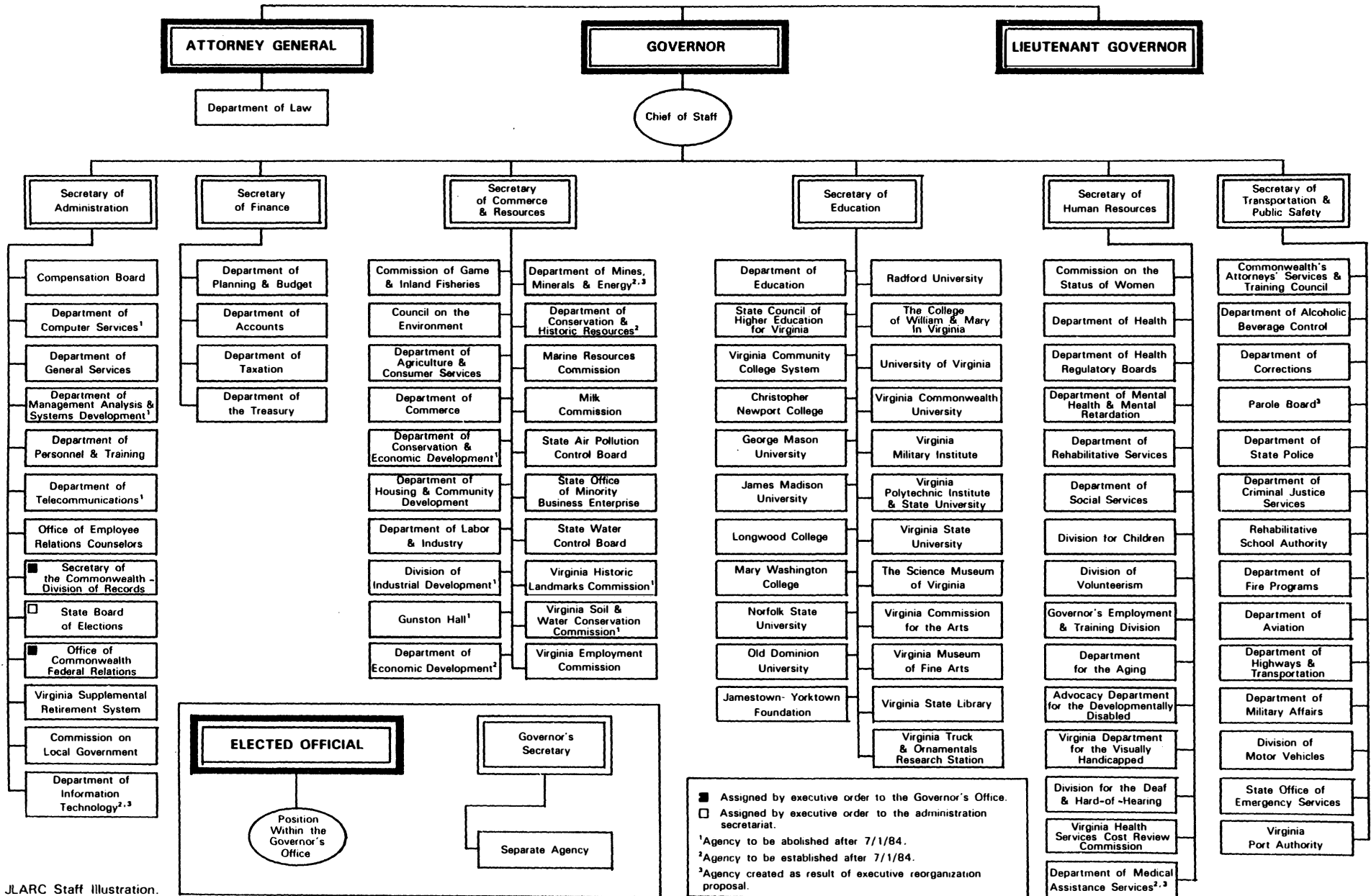
These changes are illustrated in the two figures which follow. Figure 1 illustrates the organization of the executive branch as it was on July 1, 1983. Figure 2 shows the new organization (as of July 1, 1984) being implemented.

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# Organization of the Executive Branch Before July 1, 1984



# Organization of the Executive Branch as of July 1, 1984





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