



COMMONWEALTH of VIRGINIA

Philip A. Leone
Director


Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building, Capitol Square
Richmond, Virginia 23219

(804) 786-1258

December 9, 2009

MEMORANDUM

TO: Members, Joint Legislative Audit and Review Commission

FROM: Glen S. Tittermary, Deputy Director 

SUBJECT: Topic Selection

As you will recall, at our last topic selection meeting we asked the members of the Commission to rank the proposed study topics so that we could establish priorities for the studies to be completed. Based on those rankings we have drafted the attached Commission resolution for your review. We will discuss the resolution at 9:30 a.m. on December 14 and make any necessary modifications. The Commission will then need to adopt the final resolution at its full meeting.

Also attached is a letter from Delegate Morgan asking that the Commission reconsider the ranking of the proposed seafood industry study topic, which was ranked in the second priority group. Delegate Morgan is unable to attend the December 14 meeting, but he asks that we consider placing a higher priority on the seafood study and revise the resolution setting the study schedule.

Attachments



DRAFT

COMMONWEALTH of VIRGINIA

Joint Legislative Audit and Review Commission

A Resolution of the Joint Legislative Audit and Review Commission directing staff to study selected programs and agencies of State government.

WHEREAS, the Joint Legislative Audit and Review Commission is authorized by §30-58.1 of the *Code of Virginia* to direct staff to study the operations, practices, and duties of State agencies and,

WHEREAS, the Commission is authorized by §30-66 of the *Code of Virginia* to select the functional areas to be reviewed by staff under the provisions of the Program Review and Evaluation Act, now, therefore, be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff are directed to complete the following studies in the order of priority as listed below as staff and other resources become available:

First Priority

Review of the Department of Alcoholic Beverage Control
Opportunities for Regional Cooperation in Government Services
Cost Efficiency at State Colleges and Universities
Budget Impacts on Institutional and Community Corrections
Organization of Virginia's System of Courts

Second Priority

Review of the Tobacco Indemnification and Community Revitalization Commission
Review of the Department of Motor Vehicles
Review of the Department of State Police
Economic Potential of Virginia's Seafood Industry

Third Priority

Organization and Administration of State Museums
Food Safety and Security in Virginia

Studies directed by Joint Resolution of the General Assembly or by the Appropriation Act shall have first priority in the assignment of staff and other resources and shall be completed as scheduled by the General Assembly.

Staff shall report the findings and recommendation of the studies authorized by this Resolution to the Governor and the General Assembly.

NOV 30 2009



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

HARVEY B. MORGAN
POST OFFICE BOX 949
GLOUCESTER, VIRGINIA 23061

NINETY-EIGHTH DISTRICT

COMMITTEE ASSIGNMENTS:
AGRICULTURE, CHESAPEAKE AND
NATURAL RESOURCES (CHAIRMAN)
APPROPRIATIONS
COMMERCE AND LABOR

November 22, 2009

Mr. Philip A. Leone, Director
Joint Legislative Audit and Review Commission
PO Box 406
Richmond, VA 23219

Dear Phil:

I will be unable to attend the JLARC meeting on December 14th but write as an advocate for the seafood industry to encourage the Commission to reconsider and keep the seafood study on the docket and in the spotlight.

A thriving seafood industry is a critical component of Virginia's economy. I am attaching comments from various experts in the field since some Commission members live outside the Bay area and may not be familiar with the difficulties the industry faces.

As this information is reviewed, please consider the significance of the seafood industry and its impact on Virginia's economy. I appreciate the Commission's consideration and encourage the members to grant this study the priority it deserves.

Sincerely,

A handwritten signature in black ink, appearing to read "Harvey B. Morgan".

Harvey B. Morgan

Attachments (4)

From: Virginia Marine Resources Commission, Steven G. Bowman, Commissioner; Jack Travelstead

1) **Loss of H2B Migrant Workers.** Virginia seafood processors have faced a great loss of reliable workers for their processing houses in recent years. Crab processors have especially been hard hit. For example, Graham and Rollins, the largest crab processor in the state, usually hires over 100 migrant workers each year. Last year they could hire only 20. Obviously federal law effects this process, but a study of its severity here in Virginia might improve our chances of seeing this problem solved.

2) **Importation of Cheap Foreign Seafood:** This is especially a problem in the crab fishery. Foreign crab meat from Viet Nam, Mexico, South America, and elsewhere is sold into this country at prices cheaper than our native product. As a result at least one of our largest crab processors has moved his operation to Central America, resulting in a loss of jobs and wages for Virginians.

3) **Private Uses of Public Baylor Oyster Grounds.** Many members of Virginia's oyster and clam aquaculture industry claim that the amount of available ground for leasing for aquaculture purposes is dwindling significantly. As a result they favor a redefining of the boundaries of public Baylor bottomlands in order to make more grounds available for their private use. Breaking Baylor has never been a popular subject, but now may be the time to study whether we need to protect all of the existing Baylor grounds. Given the states' inability to restore all of Baylor, private industry might perform the job for us. Nevertheless, breaking Baylor will not be a popular subject with most watermen.

4) **Creation of Aquaculture Zones:** More than one study has proclaimed that the solution to Bay Fishery Restoration is through the promotion of aquaculture. Moving fisherman away from harvesting wild stocks of fish and shellfish and towards fish farming has proven successful everywhere in the world except in the United States. He time is right for Virginia to examine how it might better promote aquaculture and provide incentives to fishermen to involve themselves in this endeavor. Some watermen have suggested the creation of aquaculture zones out of existing Baylor ground. These areas would be made available only to watermen for aquaculture enterprises. Again we are talking about breaking Baylor, but in this instance, the watermen may support it.

5) **Promotion of Aquaculture Hatcheries:** One of the biggest limiting factors for aquaculture in Virginia is the lack of hatchery production. While there has been a small increase in the number of oyster and clam hatcheries in recent years, their production of oyster and clam seed is not sufficient to meet private industry needs and state restoration needs. Questions that should be investigated include: should the state promote public/private hatchery partnerships? How can the state promote private hatcheries? Can hatcheries provide jobs for watermen?

6) **Proclamation Authority for the Commissioner:** While VMRC enjoys an exemption from the APA process and can manage fisheries generally on a very timely basis, there are times when our regulatory process cannot respond to emergency situations without the calling a special meeting of the full Commission. These special meetings can be avoided by granting the Commissioner proclamation authority, subject to review by the full commission at its next available meeting. North Carolina provides its Agency head with such authority and its appear to work well. For example, last weeks storm resulted in the great loss of crab pots and fishermen have asked for an extension of the crabbing season which closes on Friday, in order to retrieve their lost pots. The season however cannot be extended by the Commissioner alone, but requires a vote of the full Commission, which does not meet until the following week. By then a decision to extend the season would be too late.

FROM THE VIRGINIA SEAFOOD COUNCIL

Problems facing Virginia seafood industry:

Virginia seafood industry has experienced a continuing economic decline over the past decade.

There is a scarcity of the resource in many species.

Water quality is one major factor in the loss of resource in both the oyster and crab industries. There is a serious need for more focus on Bay cleanup.

Decreasing production forces elimination of jobs.

Watermen are leaving the water to seek more secure jobs and few young persons are becoming working watermen.

American workforce declines opportunities to do laborious jobs in the industry and temporary foreign workers need to be recruited.

Federal Department of Labor and the Immigration and Naturalization Service make the process of recruiting temporary foreign workers exceedingly difficult and expensive.

The State of Virginia rejected the opportunity to introduce a new oyster species into the Bay.

Oyster industry needs financial support to continue experimenting with new and innovative methods of growing native oysters.

Oyster industry need technical help and practical scientific applications from state research institutions to assist with these efforts.

The crab industry continues to cooperate with managed closings and large sanctuaries to restore female crabs to the Bay.

Crab resource fluctuates and is unpredictable.

Technical assistance from research institutions is needed in crab industry.

Foreign crabmeat is flooding the market and the Virginia crab industry cannot compete financially with the imports.

Federal agencies, insensitive to the economic needs of the seafood industry, recommend and/or impose onerous regulations.

The off-shore industry is moving rapidly to large New England conglomerates; scallop landings have been the most economically valuable segment of the seafood industry to Virginia in recent years.

Important facts about Virginia seafood industry:

Virginia seafood industry ranks fourth in the nation in seafood landings.

Dockside value of harvests was \$95,000,000 in 2008.

Economic value to Virginia is approximately \$20,000,000 annually.

More than 11,000 Virginians work full or part time in the seafood industry.

Seafood is an important part of the Virginia tourism industry; people come to Virginia to eat fresh seafood.

Seafood is equally important as a part of the Virginia culture and heritage.

Virginia Institute of Marine Science
School of Marine Science

November 23, 2009

The Honorable Harvey B. Morgan
Virginia House of Delegates
P.O. Box 949
Gloucester, VA 23061

RE: Proposed JLARC study topic: Economic Potential of Virginia's Seafood Industry

Dear Delegate Morgan:

The Virginia Institute of Marine Science (VIMS) was founded to provide the research needed to support a diverse and sustainable seafood industry. VIMS continues to fill this need and operates in a collegial partnership with members of the seafood industry, regulatory and oversight agencies, and localities to provide direct science-based support towards this goal. The seafood industry has a long history in Virginia waters and much has been learned about the marine and estuarine species that support product supply, industry structure and development, harvesting and growing techniques, post-harvest product development, and impact to the Commonwealth's economy. However, a critical and comprehensive analysis of the seafood industry has never been attempted.

The proposal before JLARC, *Economic Potential of Virginia's Seafood Industry*, would satisfy this timely need. From the perspective of VIMS and our mandated mission, the results of this study would provide us with a wealth of base information that can guide and support our future research and advisory efforts. The economic and environmental landscape of the Chesapeake Bay has changed over time, and recently has been dramatically altered from an economic perspective. This study is a logical approach towards understanding the current dynamics of the industry, its demographic character, and its product base; and is necessary to aid industry members, and their scientific advisers, in developing workable strategies within the new economy.

The interfacing of public trust habitats and living resources with harvest and culture-based private industries can result in complex situations that are both difficult to manage (by both industry and the Commonwealth) and challenging to plan for industrial growth and sustainability. Because of these necessary public-private interactions, the principles of reasonable environmental and economic development policies would suggest that this study is a sound investment that would well serve the greater interests of the Commonwealth.

Please contact me if you have any further questions.

Sincerely,



John T. Wells

Delegate Harvey Morgan

From: "Ken Smith" <ken@ksmithre.com>
To: <hmorgan2008@3bubbas.com>
Sent: Monday, November 23, 2009 4:02 PM
Subject: 1 page bullet point comments for JLARC

Dear Harvey,

Listed below are some of the complaints Virginia's watermen have against VMRC and therefore ask that the fishery management division be investigated, if not the entire agency.

- Have violated Article 11 Section 3 of the State Constitution by giving authority of the Baylor ground to an entity other than the people of the state.
- Unjustly closed the crab dredge fishery costly watermen over \$25,000 in legal expenses and a livelihood that has a 100 plus year history that the General Assembly in previous years called a lucrative fishery that must be preserved.
- Continue to discriminate among user groups (crab dredging fishery) in violation of Virginia Code § 28.2-203.
- Continue to violate Virginia Code § 28.2-203 by not developing management plans that achieve optimum yield, have not done social-economical studies, have increased regulatory burdens, and others.
- Making regulations without scientific data.
- Failure to suggest measures to assure water quality as mandated by Virginia Code § 28.2-203.1, Blue crab fishery management plan.
- In further violation of Virginia Code § 28.2-203.1 by not taking measures to enhance crab habitat and nursery areas and have not made recommended legislative changes necessary to implement the plan as also mandated.
- Approximately 30 new regulations have been implemented on Virginia's crabbers in the last 16 years – the fishery has not improved.
- Seldom take the advice or present the advice to the commission of the advisory panels made up of members of the seafood industry.
- Use untrained staff in the harvest of finfish, shellfish, and crabs whereas regulations are made in accordance to staffs catch.
- In 11 of the last 18 years the data from the winter crab survey has been in complete contradiction. The exploitation rate of crabs in relationship to the following year's abundance is inconsistent.
- Associated commissioners are lacking any practical experience or applied knowledge in seafood matters.
- The agency has become a police force and lost the relationship between waterman and the inspector.

Thank you for the opportunity to express some of the waterman's concerns.

Sincerely,
 Ken

Ken Smith, President
 Virginia State Waterman's Association
www.virginiawaterman.org
 804-366-2325