



Impact of JLARC Studies

May 2007

The 2007 General Assembly and several executive branch agencies took significant action in response to the study recommendations reported in 2006 by the Joint Legislative Audit and Review Commission (JLARC).

EVALUATION OF CHILDREN'S RESIDENTIAL SERVICES DELIVERED THROUGH THE COMPREHENSIVE SERVICES ACT

In 2006, JLARC staff were directed to evaluate the administration of the Comprehensive Services Act because of concerns about the adequacy of regulations protecting children's safety in residential facilities and rising program costs. The study found that Virginia's regulatory environment does not appear to adequately protect the health and safety of children in residential facilities. In addition, residential services produce mixed outcomes. Although many residential providers reported exceeding minimum regulatory requirements, the report recommended stronger standards be established to ensure that all facilities would provide a level of care sufficient to promote child safety and positive outcomes.

The report also concluded that addressing gaps in the availability of community-based services and foster families could yield substantial cost savings to the State while allowing more children to be served in their homes and communities. In addition, the report recommended improving access to information about residential services in order to better control rates. Finally, a greater investment in local program administration was recommended to address children's needs in the most cost-effective manner.

Actions

A task force was convened by the Secretary of Health and Human Resources in January 2007 to review the adequacy of regulations pertaining to children's residential facilities. While still subject to approval by the relevant boards and to public comment, proposed revisions to the regulations listed below address several areas of concern raised in the study:

- Strengthening staff-child ratios from 1:10 to 1:8,
- Increasing educational and experience requirements for key facility staff,

- Increasing initial and ongoing training requirements for facility staff,
- Raising the minimum age for child care workers from 18 to 21,
- Imposing application fees (\$500 initial, \$100 renewal) to be used for training of facility and agency staff,
- Requiring providers to evaluate the quality of their programs, and
- Sharing information about residential providers with placing agencies.

In addition, funding was allocated to increase the stipend paid to foster families by 13 percent. Increasing compensation was recommended in the report as a means to partially address the recruitment and retention issues that have constrained the availability of foster families.

FOLLOW-UP REPORT: CUSTODY RELINQUISHMENT AND THE COMPREHENSIVE SERVICES ACT

Upon completion of the 2006 report on the Comprehensive Services Act (CSA), JLARC staff were directed to evaluate the fiscal impact associated with a recent opinion on custody relinquishment issued by the Attorney General. During their review, staff found that the issue of custody relinquishment stemmed primarily from a State policy that appears to have no legal basis and, in fact, is inconsistent with Virginia law. This policy prescribes that children who are at risk of foster care placement can not receive residential care or services extending beyond six months. The practical effect of this policy was that in many Virginia localities, families in need of these services have to either place their child in foster care or forego services. In addition, staff determined that approximately 20 percent of localities are not using Foster Care Prevention CSA funding to serve children who were a threat to themselves or others, even though this population is identified as mandated for services in the *Code of Virginia*.

Actions

Within a few weeks of the report's release, a revised policy addressing all major concerns described in the report was communicated to local stakeholders in order to restore compliance with State law. The revised policy states that

- children eligible for Foster Care Prevention funding have access to a full array of services required to meet their needs,

including residential services, without their families having to place them in foster care;

- the duration of services is to be based on children's needs and is no longer limited to six months; and
- eligible children whose condition or behavior poses a threat to themselves or others are mandated to receive services.

These policy changes will have significant impact on Virginia's children and families. The revised policy should eliminate the need for parents to relinquish their child's custody or enter into non-custodial agreements for the sole purpose of accessing services. Moreover, children who are currently unserved because their parents declined to relinquish custody will now be able to access the services they need.

IMPACT OF REGULATIONS ON VIRGINIA'S MANUFACTURING SECTOR

SJR 360 (2005) directed JLARC staff to study the comparative burden of environmental, economic, workplace, and tax regulations on Virginia's manufacturing companies. The study used two approaches to estimate the cost to Virginia's manufacturers of complying with federal and State regulations in 2005. The first approach included direct costs and resulted in cost-of-compliance estimates of around \$1 billion. The second approach included direct costs and other types of costs, resulting in estimates as high as \$3.49 billion. The study concluded that federal regulations are the primary driver of regulatory costs in Virginia. Furthermore, Virginia's regulations are not the main cause of job loss in the manufacturing sector that has occurred not only in Virginia, but also in other states and other industrialized nations. Also, during the course of the review, Virginia manufacturers identified several regulatory issues of concern, including the machinery and tools tax and the State's approach to workforce planning and development for the technical skill set manufacturers require

Actions

The 2007 General Assembly addressed some of the concerns identified by Virginia manufacturers through the following legislation:

- SB 1151 (Wagner) and HB 2181 (Marshall, Nixon, Purkey), which standardized the treatment of idle machinery under the machinery and tools tax. The legislation exempts idle machinery from local taxation when the local commissioner of revenue is notified of the machinery being idle by April 1

of the tax year. This will reduce the amount of machinery and tools tax that some manufacturers pay.

- HB 2039 (Hamilton), which created a technical diploma with requirements to be established by the Board of Education. The legislation provides a specific, technical path for high school students that may encourage more students to choose careers in technical occupations that are critical to manufacturers' operations.

EVALUATION OF UNDERGROUND ELECTRIC TRANSMISSION LINES IN VIRGINIA

HJR 100 (2006) directed JLARC to study the criteria and policies used by the State Corporation Commission (SCC) in evaluating the feasibility of placing high-voltage electric transmission lines underground. The study resulted from concerns that the SCC is not fully considering all relevant factors, including the extent to which underground lines could “mitigate many of the detrimental effects arising from the construction and location of overhead transmission lines” and the impact on property values.

The study concluded that while technologies are available to place transmission lines underground, the SCC has rarely supported the use of underground lines primarily due to their higher cost and concerns about their reliability. Underground lines have typically been used in Virginia when land values are high because they require smaller rights-of-way. The study also found that underground lines have been used in cases where a lack of coordination between the utility and local government resulted in difficulty obtaining the right-of-way necessary for an overhead line.

The study identified areas for improvement in the process used to plan for and approve transmission lines in Virginia. A review of transmission line cases heard by the SCC indicates that the SCC rarely conducts an independent evaluation of the analysis used by the utility to justify the need for the line and its proposed method of construction.

Actions

The 2007 General Assembly adopted HB 2614 (May), HB 3031 (Marshall, R.G.), and SB 1362 (Colgan), which implement four recommendations from the JLARC report. HB 2614 requires the SCC to verify the utility’s analyses used to justify a new line and its proposed method of installation, and to provide a digital geographic information system (GIS) map of the proposed line. HB 3031 requires greater coordination between utilities and localities, including the provision of information by utilities about planned

lines and the inclusion of electrical utility needs in local comprehensive planning. SB 1362 clarifies ambiguous statutory language regarding the SCC's need to review underground lines.

REVIEW OF VIRGINIA'S GENERAL FUND REVENUE FORECASTING PROCESS

In response to problems identified in mid-2006, the Chairman of the House Appropriations Committee requested JLARC staff to review the process used to forecast Virginia's general fund revenue. Concerns included the need for greater transparency in the forecasting process and acceptance of the forecast itself, as well as the potential for increased involvement by the legislative branch.

In a November 2006 briefing, JLARC staff noted that Virginia's recent one-year forecasts have been more accurate than those of the federal government. However, Virginia's forecasting error exceeds the 50-state average forecast error since 2001 and ranks high among the 50 states (between 4th- and 16th-highest during fiscal years 2004 through 2006). Other states employ a variety of forecasting processes, from exclusively executive-branch to reliance on outside consultants, with varying degrees of legislative involvement.

Action

JLARC staff identified five actions to strengthen the overall forecasting process. The next iteration of the forecasting process will not begin until the fall of 2007, so it is too soon to determine the status of most of the recommendations. One recommendation has been implemented, however, with the January 2007 publication on the Secretary of Finance's website of information which is provided to the Governor's Advisory Council on Revenue Estimates. Publication of this information that explains the context and background of the forecast helps address concerns about transparency and acceptance.

ASSESSMENT OF REIMBURSEMENT RATES FOR MEDICAID HOME AND COMMUNITY-BASED SERVICES

In 2005, JLARC conducted a review of the adequacy of Medicaid reimbursement rates for home and community-based services. The study found that reimbursement rates have not risen at the rate of inflation, reimbursement rates for many services are lower in Virginia than in other states, and many of the rates do not allow providers to pay a competitive or living wage to direct-care staff. Options were identified for increasing Medicaid reimbursement rates, including adjusting rates for inflation and rebasing the rates for

some services, applying a Northern Virginia rate adjustment for mental retardation and developmentally disabled services, and assessing the rate structure for mental retardation and developmentally disabled services.

Actions

The 2007 General Assembly amended the Appropriation Act to include funding for a 15 percent rate differential for Medicaid home and community-based mental retardation, developmentally disabled and day support waiver services provided in Northern Virginia.

PERFORMANCE AND OVERSIGHT OF VIRGINIA'S SMALL COMMUNITY DRINKING WATER SYSTEMS

As a result of concerns about the quality and affordability of drinking water provided to customers of Virginia's small community water systems, the 2006 General Assembly directed JLARC to assess the effectiveness of the regulatory framework overseeing the quality and cost of drinking water. The report identified the technical, financial, and managerial challenges facing small water system operators and made recommendations focused on identifying and eliminating chronically noncompliant water systems, strengthening the enforcement options available to the Virginia Department of Health, and increasing coordination of the State's regulatory agencies.

Actions

In order to strengthen the regulatory abilities of the Virginia Department of Health's Office of Drinking Water, the 2007 General Assembly enacted SB 998 (Houck) and HB 2366 (Scott, E.T.), defining chronically noncompliant water systems, and directed the Board of Health to promulgate regulations for the implementation of a program to identify and eliminate such systems. In addition, this legislation enhanced the ability of localities to acquire these chronically noncompliant water systems.

OPERATION AND PERFORMANCE OF VIRGINIA'S SOCIAL SERVICES SYSTEM

House Joint Resolution 193 of the 2004 General Assembly directed JLARC staff to study the operation and performance of the Commonwealth's social services system. The study found that Virginia's locally-administered system allows local departments to tailor program strategies and operations to meet local needs and develop key relationships with other local organizations, such as

the court system. However, the study found several issues that needed attention.

Local governments were providing an increased share of administrative funding and some departments had imbalances between the administrative funds they received and the caseload they managed. In addition, the system faced human resource challenges with a growing number of directors eligible to retire and difficulties recruiting and retaining staff. While some aspects of the information technology that supports the social services system appeared to have improved, planning and oversight for a high-risk, large-scale IT system were questionable. The study also found weaknesses in the supervision and support the State provided to local departments, especially in aspects of strategic management. Furthermore, the State regional structure had contributed to weak communication and oversight of local departments. The study recommended changes to address these issues and others, as well as a task force to develop a comprehensive improvement plan.

Actions

Since completion of the study in 2005, the social services system has made progress on a number of the issues noted above. While there are still recommendations not yet fully addressed, the State DSS has reported taking the following actions in 2006:

- Provided local departments with an annual financial statement.
- Entered into a contract with a company to develop workload measures designed to help the State and local departments assess their caseloads and funds needed to manage them.
- Hired a new director of human resources management who is working with the Virginia League of Social Services Executives and others to prepare for the pending retirement of local directors and other key staff. In January, a pilot program, the Virginia Social Services Leadership Academy, was launched to prepare 30 emerging leaders to lead local departments and take other positions of leadership.
- Withdrew its proposal for a high-risk, large-scale IT system and instead is working on a series of lower-risk, smaller IT projects.
- Hired a lead strategic planner, who is charged with improving strategic management capabilities. Several initiatives are underway, including developing new performance indicators to

provide more useful information to manage programs and local departments.

- Implemented a new regional structure that is working to provide special consultation to local departments in financial management, training, and performance recognition or improvement. Several regional managers also have been added.

EQUITY AND EFFICIENCY OF HIGHWAY CONSTRUCTION AND TRANSIT FUNDING

The existing system for the allocation of highway construction funds in Virginia is based on an antiquated and arbitrary road classification system that is not directly related to the functional purpose of roads and does not reflect major changes in the federal funding structures. The 2002 JLARC report *Equity and Efficiency of Highway Construction and Transit Funding* found that as a result of this classification, funds are not allocated to a system of roads of statewide significance, roads with different functional purposes have to compete for the same allocation of construction funds, and funding decisions are not being made by the appropriate decision makers. The report recommended that the outdated administrative system be replaced by a system that classifies roads based on their functional purpose.

Actions

In 2007, the General Assembly passed HB 3202. While primarily addressing issues of transportation funding, language in the bill directed the Virginia Department of Transportation (VDOT) to re-assign the State's primary, secondary, and urban system of roads, to the maximum degree practicable, based solely on a functional classification prior to January 1, 2009. Other recommendations for improving program management and increasing the role of public transit included in the report have been implemented by VDOT, including development of an objective highway needs assessment and creation of an office of intermodal transportation.