

A PRELIMINARY REVIEW

OF THE

WEST VIRGINIA LABOR-MANAGEMENT

COUNCIL

PE 94-02-02

The West Virginia Labor-Management Council

The West Virginia Labor-Management Council (the Council) was created to improve labor-management relations in West Virginia and publicize those improvements in order to enhance economic growth, by attracting new business and encouraging expansion of existing industry.

Areas of Concern

The Legislative Auditor's Office has five major areas of concern with the functioning, or lack thereof, of the Labor-Management Council:

- 1) The Council has failed to meet its statutory requirements.
 - a) The Council has not met four times per year as required by statute, which has caused them, at a minimum, to appear ineffective. (see page 3 and Appendix A).
 - b) The functions of the Council appear to be performed by the West Virginia Development Office and the local Labor-Management Committees (see page 3-4).
- 2) Fiscal records of the Council are indistinguishable from Development project funds (see page 6).
- 3) Administrative records for 1989, 1991, and 1992 are not available (see page 3).
- 4) The Council does not have a director (see page 3-5).
- 5) Four appointments to the voting membership of the Council have not been filled following member's resignations. The ex-officio membership listed in the statute includes representatives from boards that no longer exist or have been replaced by successor agencies. (see page 5 and Appendix B).

Recommendations

- 1) We recommend that the West Virginia Labor-Management Council be terminated and that all of its statutory duties and responsibilities be formally transferred to the West Virginia Development Office. The local Labor-Management Committees should be continued under the guidance and financial assistance of the Development Office. The West Virginia Labor-Management Council does not serve a separate useful purpose, since the functions and goals have been achieved by the West Virginia Development Office and the local Labor-Management Committees.
- 2) If the West Virginia Labor-Management Council is continued:
 - a) The Legislature should appropriate funds for a director and staff, and for Council activities. This budget should be separate from the West Virginia Development Office budget;
 - b) The Legislature should reduce the membership and establish a statutory meeting schedule. These changes may improve attendance; and,
 - c) The Legislature should monitor the activities of the Council for a period of two years following these changes to substantiate the effectiveness of the Council.

THE LABOR-MANAGEMENT COUNCIL

Purpose and Functions of the Labor-Management Council

The West Virginia Labor-Management Council, created by the Acts of the 1977 Legislature, West Virginia Code, Chapter 5B, Article 4, was originated to assist in improving labor-management relations in the state. In addition, the Council was to publicize improvements in the work climate to create a positive image of West Virginia, thereby, attracting new businesses and encouraging expansion of existing industry. The statute requires the Council to:

- 1) Conduct seminars to educate labor and management about the benefits of cooperative relations;
- 2) Establish and sponsor forums, including an annual state conference to enhance dialogue between labor and management;
- 3) Develop a resource network of experts to resolve disputes between the two groups;
- 4) Compile and publicize information about the state's work force, including case studies about successful business operations, and;
- 5) Sponsor and provide assistance to regional labor-management advisory committees.

The West Virginia Labor-Management Council has failed to meet its statutory requirements. This failure is at least partially due to the lack of participation by the Council members. This problem was cited in the 1983 performance audit conducted by the Legislative Auditor's Office and continues to exist. The statute requires the Council to meet four times a year. In the 11 years, since the completion of the last audit, 44 meetings should have occurred. However, according to available Council minutes, the Council met with a quorum on only six occasions (13.6%). The Council met on May 25, 1993 then did not meet again until May 12, 1994. The files containing Council minutes and any other activities for 1989, 1991, and 1992 have been misplaced. Thus, we were unable to conduct a full review of Labor-Management Council activity. (For a Summary of the May 12, 1994 meeting minutes see Appendix C.)

When the Council did meet with a full quorum, nothing appeared to be accomplished. Meanwhile, the activities credited to the Labor-Management Council were actually performed by staff of the West Virginia Development office, which has a statutory responsibility to "... enhance economic growth and development through the development of a comprehensive economic development strategy for West Virginia."(West Virginia Code 5B-2-3)

The 1993 Development Office accomplishments, which were suppose to be performed by the Labor-Management Council include:

- Four local area labor management councils received support: Parkersburg-Marietta, Huntington Area, Northern West Virginia (Delta 6), and Southern West Virginia Center for Labor-Management Initiatives, located in Bluefield. A \$50,000 grant to local labor management councils was requested and disbursed by the Development office. An Appalachian Region Commission Grant(ARC) supported the Bluefield Initiative.

- Co-sponsored, with Appalachian Regional Commission, West Virginia Graduate College, Union Carbide, and Southern Center for Labor-Management Initiatives, the 1993 Labor-Management Partnership Conference on May 24-25, 1993.
- Assisted Governor Caperton in hosting the Joint Industrial Labor-Management Council's Annual meeting held August 29 through September 1.
- Currently working with West Virginia University to publish case studies of successful labor-management relations in West Virginia. The case study was paid for by Development funds.

In addition, the local area Labor-Management Committees have been very active in promoting good labor-management relations by offering various training/communication workshops, creating networks for assistance in resolving disputes, offering research and planning assistance, and working with local media to publicize the cooperative labor-management successes.

History of the Labor-Management Council

The Council was originally housed and staffed by the Division of Labor. In 1986, it was moved to the Governor's Office of Community and Industrial Development (now the West Virginia Development Office).

In 1987 the line-item appropriation for the Council was removed and the Council became dependent on general appropriations through the Development Office budget. With this change in funding came additional duties for the director of the Council, specifically, the daily operations for the federally funded Jobs Training Partnership Act (JTPA). Responsibility of JTPA was replaced by the state funded Governor's Guaranteed Work Force Program in 1991. Staff also assisted in the "Buy West Virginia" program, which is now the West Virginia First program.¹ The unit administering all of these programs, along with the Labor-Management Council became the Division of Service to Business and Industry. The name was later changed to the Division of Training and Technology Development, but has now become the Division of Business and Industry Development within the West Virginia Development Office (the Development Office). Although the director and staff have attempted to keep the activities separate, the Development Office has essentially absorbed the Labor-Management Council.

Organizational Structure

The Council is composed of 26 members from different areas of the state. The Commissioner of Labor, the Commissioner of Employment Programs, the State Superintendent of Schools, a representative from the now defunct Board of Regents. In addition, the Council includes

¹The Governor's Guaranteed Work Force Program provides necessary training to new employees of companies locating or expanding in West Virginia. These companies must guarantee at least 10 new jobs within the first year. The West Virginia First Program encourages economic growth by promoting the various products and services offered by in-state companies.

one representative each from the Economic Development Authority and the Economic Development Board, who are non-voting members. In recent years the representative from the Economic Development Authority has been replaced by the Secretary of Commerce, Labor, and Environmental Resources. (The Economic Development Board no longer exists.) Furthermore, the Council for Community and Economic Development, its successor entity, has not had an appointment made to the Labor-Management Council.

The other 20 members of the Council are appointed by the Governor with the advice and consent of the Senate. Appointments must include one president of a state university, one president of a state college, and two representatives from the state secondary school system. Most of the other appointments are leaders in the area of labor or management within the state. Four appointments are needed to replace members, who have resigned this year. (See Appendix B).

The last director resigned in December 1993. Since that time, the Director of the Business and Industry Development for the West Virginia Development Office has been assigned to implement the work of the Council as acting director. Clerical support is also provided by the Development Office.

Funding

The Council has not received appropriations from the Legislature since 1987. Instead, the Development Office has provided staff, office space, and supplies. Separate accounts exist for all of the different programs managed in the Business and Industry Development unit, including the Labor-Management Advisory Council, but the records are combined with other Development Office records. The Regional Labor-Management Councils and other activities listed in this report have been funded by grants from the Governor's Office.

Compensation

The members of the Council are not compensated for their services, but are reimbursed for "reasonable and necessary expenses." (West Virginia Code B-4-5)

APPENDIX A
 RECORD OF
LABOR-MANAGEMENT COUNCIL MEETINGS

<u>Meeting Dates</u>	<u># of Council Members in Attendance</u>
January 5, 1984	11 members
July 6, 1984	10 members
February 20, 1985	10 members
July 24, 1986	9 members
December 10, 1986	15 members
September 23, 1987	13 members
July 8, 1987	No attendance record.
September 24, 1987	13 members
March 17, 1988	7 members
September 26, 1988	During Statewide Conference, no attendance record.
June 7, 1988	11 members
NO RECORDS FOR 1989	
March 21, 1990	16 members
May 16, 1990	10 members
June 21, 1990	16 members
NO RECORDS FOR 1991 & 1992	
April 23, 1993	12 members
May 25, 1993	12 members
May 12, 1994	15 members

*Meetings held with a quorum are in bold print.

APPENDIX B

WEST VIRGINIA LABOR-MANAGEMENT COUNCIL MEMBERS

<u>MEMBER</u>	<u>HOMETOWN</u>	<u>TERM EXPIRATION</u>
Acord, Everett (Resigned) United Mine Workers #29	Beckley	6-30-96
Benson, Steve WV Education Assoc.	Charleston	6-30-94
Bish, Walter Weirton Steel Corp.	Weirton	6-30-96
Bowen, James United Steelworkers #23	Wheeling	6-30-97
Bucklew, Dr. Neil West Virginia University	Morgantown	6-30-96
Burdiss, Mike** United Mine Workers	Charleston	6-30-93
Cerra, James (Chair) Mid-Ohio Valley Industrial Council	Charleston	6-30-95
Davis, James Bell Atlantic of WV	Charleston	6-30-96
Fisher, E. Allen (Resigned) WV State Building and Construction Trades Council	Charleston	6-30-95
Hale, Judy WV Federation of Teachers, AFL-CIO	Charleston	6-30-94
Harris, Elaine Communications Workers of America	St. Albans	6-30-95
Wetzel, Harvey WV Laborers' District Council	Charleston	6-30-96
Houghton, Jim Alloys International, Inc.	Charleston	6-30-96
Lipscomb, Mike Union Carbide Corp.	South Charleston	6-30-97

Marion, Grover Joint Industrial Labor- Management Council, Teamsters, AFL-CIO	Marmet	6-30-96
Miller, Dennis FMC Corporation	Nitro	6-30-95
Moore, Robert Bluefield State College	Bluefield	6-30-97
Powell, Joseph WV Labor Federation AFL-CIO	Charleston	6-30-97
Scherder, Daniel (Resigned) Eastern Associated Coal	Charleston	6-30-97
Marockie, Dr. Henry WV Dept. of Education State School Superintendent	Charleston	Ex-officio
Gillooly, Tom Acting Cabinet Secretary, Dept. of Commerce, Labor, & Env. Resources (Position ceases to exist 7-1-94)	Charleston	Ex-officio
Richardson, Andrew Commissioner WV Bureau of Employment Programs	Charleston	Ex-officio
Leary, Shelby Commissioner WV Division of Labor	Charleston	Ex-officio

** Term has expired

APPENDIX C

SUMMARY OF MAY 12, 1994 COUNCIL MEETING

The Council met on May 12, 1994 with 15 members in attendance, which constituted a quorum. The Council decided to:

1. Form a sub-committee of four members to assist Acting-Director Rodney Phillips in the preparation of a presentation to the Joint Committee on Government Operations;
2. To meet with the Governor to discuss the fate of the Council, urge his support, and request at least \$50,000 funding to support the local Labor-Management Committees and other specific "human resources side of economic development" projects;
3. Hire an executive director with experience in labor-management relations by September 1, if funding allows, and;
4. Discuss having regularly scheduled meetings. No date for the next meeting was decided.

APPENDIX D

PURPOSE AND AUTHORITY FOR THE PRELIMINARY PERFORMANCE REVIEW

This preliminary performance review of the Labor-Management Council was conducted in accordance with the West Virginia Sunset Law, Chapter 4, Article 10, Section 11 of the West Virginia Code, as amended. This preliminary performance review is intended to assist the Joint Committee on Government Operations in making one of five recommendations according to Chapter 4, Article 10, Section 12 of the West Virginia Code, as amended. These recommendations include:

1. The department, agency, or board be terminated as scheduled;
2. The department, agency, or board be continued and reestablished;
3. The department, agency or board by continued and reestablished, but the statutes governing it be amended in specific ways to correct ineffective or discriminatory practices and procedures, burdensome rules and regulations, lack of protection of the public interest, overlapping of jurisdiction with other governmental entities, unwarranted exercise of authority either in law or any other deficiencies;
4. A performance audit be performed on a department, agency or board on which a preliminary review has been completed; or
5. The department, agency, or board be continued for a period of time not to exceed one year for the purpose of completing a performance audit.

APPENDIX E
SCOPE AND METHODOLOGY
FOR THE PRELIMINARY PERFORMANCE REVIEW

A preliminary performance review is defined in Chapter 4, Article 10, Section 3 of the West Virginia Code, as amended, as follows:

"To determine the goals and objectives of a department, agency, or board; and to determine the extent to which plan of a department, agency, or board has met or meeting those goals and objectives."

The criteria for a preliminary performance review are set forth in Chapter 4, Article 10, Section 11 of the West Virginia Code, as amended, as follows:

- (1) If the board or agency was created to solve a problem or provide a service.
- (2) If the problem has been solved or the service has been provided.
- (3) The extent to which past board or agency activities and accomplishments, current projects and operations, and planned activities and goals for the future are or have been effective.
- (4) The extent to which there would be significant and discernible adverse effects on the public health, safety, or welfare if the board or agency were abolished.
- (5) Whether or not the board or agency operates in a sound fiscal manner.

The preliminary performance review of the Labor-Management Council covers the period July 1, 1983 through May 30, 1994; however, the review concentrated on the activities and fiscal concerns from 1987 through 1994. This preliminary performance review of the Commission follows Generally Accepted Government Auditing Standards (GAGAS, 1988 Revision). Which apply to government organizations, programs, activities, and functions.

Information compiled in this report has been acquired from the West Virginia Code, minutes of meetings of the Council, annual reports, fiscal records, the 1983 Performance Audit, and personal interviews with staff of the Development office.

