



ICA Reporting Requirements That Have Not Been Fulfilled: A Big Problem

Talk about a turbulent couple of months. First, the Intergovernmental Cooperation Authority (ICA or oversight board) for Cities of the Second Class, i.e., Pittsburgh, saw the appointment of three new board members by three elected officials charged with making appointments to the oversight board after an unconscionably long delay (see *Policy Brief Volume 15, Number 56* for explanation). In short order, with all five legally required appointees in place, the board voted to terminate the employment of the executive director effective May 31. The termination followed an investigative report by the Tribune Review of the status of financial records of the oversight board that found serious problems with record and document preservation. An investigation by the District Attorney's office is underway and a forensic audit will be conducted by the Auditor General.

Meanwhile, legislative reforms of the ICA, including one proposed by members of the Allegheny County delegation, are being discussed. Among the reforms recommended include keeping copies of records from at least four up to seven years, keeping the oversight board website in working order and with available information (the website is currently "under construction" and has been for some time), identifying a process for releasing gaming money that the oversight board by statute intercepts and then delivers to the City for specified uses, and lastly, for filing monthly financial reports, ledgers, contracts, and allocations of gaming money to the City with the Department of Community and Economic Development who will then compile an annual report with the General Assembly.

The report filing proposals would create a third annual reporting requirement for the oversight board. It is noteworthy that one very important legally mandated report filing in place since the creation of the oversight board has apparently been overlooked or ignored by the ICA.

Here is the issue. The statute that created the oversight board (Act 11 of 2004) in Section 203(b)(4) calls for an annual report on "...the city's financial condition and the authority's progress with respect to restoring the financial stability of assisted cities and achieving balanced budgets for assisted cities". That requirement speaks to the condition of the City of Pittsburgh and what the ICA is doing to get it back to financial health.

Secondly, and crucially for this discussion, Section 207 of Act 11 calls for the ICA to file "a signed annual report" that describes the finances of the ICA itself. The section states:

"The authority shall file a signed annual report with the chairperson and the minority chairperson of the Appropriations Committee of the Senate and chairperson and the minority chairperson of the Appropriations Committee of the House of Representatives,

which shall make provisions for the accounting of revenues and expenses. The authority shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public accountant, and a copy of his audit report shall be attached to and be made a part of the authority's annual report. A concise financial statement shall be published annually in the Pennsylvania Bulletin."

Three things are mentioned in the quoted section; one, an annual report showing the financials of the oversight board, two, an independent audit of the oversight board along with it, and three, a concise financial statement in the Pennsylvania Bulletin. The Bulletin is described on its website as "the Commonwealth's official gazette for information and rulemaking".

Taking the three items separately; first, we contacted the majority and minority chairs of the Appropriations Committees in both chambers of the General Assembly to see if they had records of the reports and/or copies. Two of the four offices replied. One had nothing on hand related to this requirement. One had not received reports in some time and had requested them directly from the oversight board last year, and received two. Those two reports were shared with the Institute. However, they appear to be the 203(b)(4) reports rather than the reports mandated in section 207, since they were addressed to parties other than the Appropriations' Committees and reflected more of a narrative about the City's finances rather than the ICA's. The other two offices have not responded as of this writing.

Second, if there are no reports that may or may not mean that the independent audit requirement was met. One of the reports forwarded to us did contain a link to an independent audit of the oversight board finances covering two years (FY12 and FY13). The management letter included with the audit ends its discussion by saying, "*we do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance*". Of course this language should have been a red flag to the ICA board. Not having "sufficient evidence to express and opinion or provide assurance is clearly a major problem that should have prompted many questions from board members—assuming they saw the audit.

It is entirely possible that other audits have been completed since the inception of the ICA, but they do not appear to be on hand with the committees named in the statute that by law should be receiving them annually along with the annual report.

Finally, a search of the website of the Pennsylvania Bulletin, a function of the Legislative Reference Bureau of the General Assembly, found no record of concise financial statements as mandated by the Act. A search of the website using "intergovernmental cooperation authority" did find records dating back to 1996 (except for 2003) for the Pennsylvania Intergovernmental Cooperation Authority (PICA), the oversight agency for Philadelphia. The creating legislation for PICA contains virtually the same language and requirements of Act 11 in its Section 207.

Several conversations with staff at the Bulletin confirm there are no records of submissions for the ICA reporting requirement. There are references to the ICA in a Pennsylvania Bulletin notice on legalized gaming (dated June 21, 2014) and two notices on enactment of the oversight board legislation (dated January 23 and February 27 of 2004) but nothing related to financial statements.

So the ICA apparently never submitted the Section 207 reports and audits to the Appropriations Committees, and only one of the two offices that responded to us seemed interested enough to

inquire about the status of reporting. And the ICA never submitted legally mandatory notices to the PA Bulletin. Lastly, the Appropriations Committees are empowered by Act 11, Section 206(d) such that they "...have the right at any time to examine the books, accounts, and records of the authority". It appears that power has not been exercised to any meaningful extent, if at all.

Obviously, this ICA debacle will elicit calls for reforms. Let us offer a few. First of all, each legislative chamber should have a staff who do nothing but keep track of the authorities and other special purpose entities created by the state to ensure that all requirements are being met and that reports coming to the Legislature do so in a thorough and timely manner. It is not enough to say "we thought the reports were going to DCED or some other department". And committees receiving the reports ought to read them and send appropriate comments back to the entity submitting the reports.

Second, all elected officials making appointments to authorities should expect and/or demand full financial accounting and work product reports from their appointees. After all, the Commonwealth and the appointing elected officials are ultimately responsible for and accountable for the entities they create and the conduct of the persons they appoint.

Third, everyone appointed to an authority board should receive and be expected to read the legislation that created the authority including amendments, if there are any. Board members should know what the explicit purpose of the authority is, its responsibilities, accountabilities and all its reporting requirements. Board members should expect or demand to see regular financial reports and read all audits carefully. Indeed, each authority board should appoint an auditing committee that would meet with the authority's auditor from time to time to clarify any issues or to get explanations of negative comments in the management letter.

Any authority that handles money should hire a bookkeeper or, if too small to hire a full time person, contract with a bookkeeper to keep the accounts, prepare professional quality financial reports and maintain records of transactions for at least five years.

These are things that should have already been done in the case of the ICA, but it would be a good thing for the Legislature to adopt far more strenuous oversight and follow up for all the authorities it has created in order to prevent such occurrences in the future.

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