



Who is Watching the Watchers?

Three weeks ago, we reported on the abject failure of the Intergovernmental Cooperation Authority (ICA) to comply with the financial reporting requirements set out in the law that established the Authority, Act 11 of 2004. Under Section 207, the ICA is mandated to file annual financial reports and audits with the majority and minority chairs of the Senate and House Appropriations Committees and publish a concise financial statement in the Pennsylvania Bulletin. Through calls made to the chairpersons' offices it was learned that annual financial reports had not been filed, and one audit dating to 2012-13 was discovered after a committee asked for it. An exhaustive search of the PA Bulletin records found that no ICA financial statements were ever published in it as required by law.

Now with a criminal investigation underway by the Allegheny County DA and a forensic audit about to take place, several legislators have decided to recommend passage of a bill that will address the problems at the ICA in an effort to prevent further poor management. The proposed legislation was summarized in newspaper articles and was referred to the Senate's Community, Economic and Recreational Development Committee on May 2nd.

Several sections of Act 11 would be amended under the proposal, including the aforementioned Section 207 (the annual report and audit would be due by December 31st, roughly six months following the conclusion of the ICA's fiscal year) and Section 203(b)(4)(i) which currently requires a detailed report on the City's financial health, adds words such as "clearly, contain, disclose, and include". Thus, this language as an amendment would be redundant. It does add that the report would have to document and account for gaming money intercepted by the ICA under the provisions of Act 71 of 2004, and, if gaming money is being withheld, what the City must do to receive it.

Some proposals are innocuous and common sense such as maintaining a website and requiring records to be kept and safeguarded. The proposed legislation would add language to Section 203(b) of Act 11 ("Specific Duties") to "establish and maintain a publicly accessible website" that has intergovernmental cooperation agreements between the ICA and the City, annual reports, audits, and contracts and to adopt a "records retention policy" that is similar to that of the Commonwealth's Office of Administration.

The proposal would also make the ICA subject to a state statute on procurement, would set up procedures on how the ICA delivers gaming money to the City, and adds additional language on the life span of the ICA.

Unfortunately, the problems at the ICA arose for two main reasons that are not addressed forthrightly by the proposed bill. First, the ICA board members, for whatever reason, failed to learn what the Authority's reporting requirements were or simply chose to ignore them, instead depending on the Executive Director to handle required reporting as part of his duties and apparently doing nothing or very little to ensure that he was doing it. Second, the Appropriations Committee chairs evidently were not aware of the requirement that the ICA was to file annual financial statements and audits with them. In any event, they did not receive them. Somehow, the Pennsylvania Intergovernmental Cooperation Authority, the oversight board for Philadelphia, managed to meet the same reporting requirements the ICA was supposed to satisfy.

The question is that with all the Committee chairs have to do, would they have taken time to read and analyze ICA financial reports and audits? Further, who has the responsibility to make sure that the provisions of the ICA legislation (or any authority creating legislation) are being carried out if not those named in the statute creating the authorities? Who knew or should have known that the ICA was to file a financial report every year in the PA Bulletin? According to the people at the Bulletin it would have been ICA's responsibility. In other words, what is the point of putting these reporting requirements into the legislation if they are not enforced? The ICA is a creature of the state and the state should be responsible for monitoring its behavior as the law mandates and with tools provided in the law.

A report forwarded to us from the House Appropriations Committee did contain a link to a single 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 and to the Appropriations Committees if they had bothered to read it. Not having "sufficient evidence to express an opinion or provide assurance" is clearly a major problem that should have prompted probing and pointed questions from board members.

Management letters for a clean audit will contain language such as, "We encountered no difficulties in performing the audit" and "we found authoritative guidance for all transactions". At a minimum board members and other monitors of the finances of an organization ought to expect a statement such as the following, "In our opinion the financial statements in this audit report present fairly, in all material respects, the financial condition of this organization and conform to accepted accounting practices."

A board member never wants to read an auditor's management letter that says "we cannot express an opinion or provide assurance about the information because limited procedures do not provide sufficient evidence to express an opinion or offer any

assurance.” That should have caused the board to order an immediate and complete overhaul of accounting, bookkeeping and records management practices until a reputable accounting firm or auditor verified that compliance with standard and best practices had been achieved. And this was three years ago and it is reasonable to conclude that apparently no actions were taken to address the problems because the 2014 audit by a different firm was still asking hard questions about procedures and records.

Clearly there were serious problems with accounting and finances at the ICA that should have been known about and acted on by the board years ago. However, according to news accounts only one board member challenged the bookkeeping and financial transactions but unfortunately all those attempts to get reforms were rebuffed or ignored by the rest of the board.

Three weeks ago we recommended some real changes that ought to be in place to prevent the situation at the ICA from recurring or happening at other authorities. Mostly, they consist of requiring board members to know what the laws governing the authority mandate in terms of reporting to the state and ensuring that those reports are produced and filed. It would be a very good thing for the Legislature to create a special staff that keeps track of all the state created agencies that have board appointments and reporting requirements to make sure those reports get completed on a timely basis and are read by people who are knowledgeable about financial reports and audits.

Finally, elected officials who appoint people to boards ought to insist that financial reports and audits be sent to their offices and that a staff member go over them to look for potential problems and raise pertinent questions. Many of these authorities are powerful and can have major impacts on the lives of Pennsylvanians. Their financial and accounting practices should be monitored and they need to be held accountable by the state and the people who appoint the board members.

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