



MARYLAND GENERAL ASSEMBLY
JOINT AUDIT COMMITTEE

August 21, 2006

The Honorable Brian R. Moe
P. O. Box 1175
Laurel, Maryland 20725

Dear Delegate Moe:

We received the June 14, 2006 letter in which you and 39 members from the Montgomery and Prince George's Counties House Delegations requested that the Joint Audit Committee initiate an audit of the Washington Suburban Sanitary Commission (WSSC). In that letter, the Legislative Auditor was requested to examine five specific facets of WSSC's personnel, procurement, administrative, and fiscal practices.

The committee understands your concerns and appreciates your desire for greater accountability over WSSC operations. However, after careful deliberation of the issues identified in the request and after consultation with the Office of Legislative Audits (OLA), the committee has concluded that OLA would not be the appropriate organization to conduct this audit for several reasons. OLA is responsible for auditing State agencies and those entities which receive State funds. Although created by State law, WSSC is not a State agency nor does it receive State funds.

Furthermore, the Maryland General Assembly has oversight responsibilities for OLA as well as the resolution of the related audit report findings. Approval of your request would result in OLA auditing an entity that is not accountable to State government. In this regard, OLA previously conducted a special review of WSSC and issued a report on August 26, 1994, regarding concerns raised over certain debt service and operating costs. Although the report included numerous recommendations, there was an apparent lack of any management actions taken as a result of this review.

If the House delegations believe an audit or examination is warranted, and this concern is shared by the two respective local governments, other mechanisms exist to achieve the desired oversight. The committee notes that State law provides both the Montgomery County and Prince George's County governments with significant powers to monitor WSSC operations and ultimately effect meaningful change, including both the appointment of commissioners and budget approval. Perhaps more importantly, State law grants both the respective county executives and county councils the authority at any time to audit and examine the books and records of WSSC (Article 29, §4-101(d) of the Annotated Code of Maryland).

Unlike the scope of the legislative auditors' 1994 review, some of the specific issues you listed extend beyond the normal scope of an OLA examination and would be more appropriately addressed through consultants with specialized expertise. Consultants may be needed to accomplish the following objectives:

The Honorable Brian R. Moe
August 21, 2006
Page 2

- the adoption of fiscal policies to prevent rate increases and layoffs;
- the effectiveness of the Office of the General Manager in providing effective management, etc.; and
- the adoption of policies to promote employee morale.

Of the remaining issues, by an "Advice of Counsel" dated April 21, 2006, the Office of the Attorney General addressed one of the issues and advised that WSSC's decision to abolish approximately 80 merit system positions in its Information Technology department and to offer employees occupying those positions the opportunity to apply for contractual positions in the restructured department was not contrary to Article 29, §11-102 of the Annotated Code of Maryland and did not violate due process or other constitutional requirements. Regarding the issue relating to a review of WSSC minority employment records, the JAC feels that, while not conclusive, employment statistics available from WSSC's web site do not appear to indicate a current obvious pattern of discrimination against minorities. In regard to the final issue, while an audit for compliance with personnel policies and practices could be conducted, we do not believe OLA should be utilized for this purpose.

The committee also notes that if the effectiveness of certain operational areas is of a concern, one method to discern WSSC success would be through the implementation and monitoring of performance measures. Over the past several years, the Governmental Accounting Standards Board (GASB) has begun to address the desirability of governmental entities reporting service efforts and accomplishments to stakeholders. A number of recommended performance indicators have already been identified by GASB for the water and wastewater treatment service industry. The local governments should be in a position to work with WSSC in establishing these and/or other performance indicators that best measure operational areas.

We trust this letter is responsive to the concerns raised.

Sincerely,



Senator Nathaniel J. McFadden
Chairman



Delegate Charles Barkley
Chairman

NJM:CB/DKT/jaw

cc: President Thomas V. Mike Miller, Jr.
Speaker Michael E. Busch
Joint Audit Committee Members
Members of Montgomery and Prince George's County House Delegations
Mr. Andrew D. Bruhart, WSSC General Manager
WSSC Commissioners
Mr. Karl S. Aro
Mr. Warren G. Deschenaux
Mr. Bruce A. Myers