

00-064

COUNTIES, CITIES AND TOWNS: GOVERNING BODIES OF LOCALITIES.

Louisa County Board of Supervisors may set maximum annual compensation after January 1 and before July 1 in years 2001 and 2003 for staggered-term board members elected or reelected on November 8, 2001, and November 4, 2003; to become effective after January 1 in years 2002 and 2004, respectively.

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You ask when the Louisa County Board of Supervisors may increase the annual compensation for board members, considering the recent amendment to § 15.2-1414.2 of the *Code of Virginia*.¹

You relate that the Louisa County Board of Supervisors consists of seven board members, three of whom will be elected or reelected on November 8, 2001, and four to be elected or reelected on November 4, 2003. You believe that any consideration for an increase in compensation for the board must occur between January 1 and June 30 in a year in which at least forty percent of the members are to be elected. You conclude that, based on the number of board members, at least forty percent will be elected in any year that an election of the board is held. Consequently, it is your opinion² that the earliest the board of supervisors may consider an increase in compensation is January 2001. The date such increase would become effective is January 2002.

The first paragraph of § 15.2-1414.2 provides:

The annual compensation to be allowed each member of the board of supervisors of a county shall be determined by the board of supervisors of such county but such compensation shall not be more than a maximum determined in the following manner. Prior to July 1 of the year in which members of the board of supervisors are to be elected or, if the board is elected for staggered terms, of any year in which at least forty percent of the members of the board are to be elected, the current board, by a recorded vote of a majority present, *shall* set a maximum annual

compensation which will become effective as of January 1 of the next year. [Emphasis added.]

The use of the word "shall" in a statute generally implies that the General Assembly intends its terms to be mandatory, rather than permissive or directive.³

You advise that the county board is elected for staggered terms. Consequently, § 15.2-1414.2 permits the supervisors to set a maximum annual compensation "[p]rior to July 1 of the year in which ... at least forty percent of the members of the board are to be elected." Furthermore, such increase in annual compensation for board members will not "become effective [until] January 1 of the next year."⁴

Several rules of statutory construction apply to your request. "[T]he plain, obvious, and rational meaning of a statute is always to be preferred to any curious, narrow, or strained construction."⁵ In addition, statutes should not be construed to frustrate their purpose.⁶ "[T]ake the words as written' and give them their plain meaning."⁷ Finally, when a statute creates a specific grant of authority, the authority exists only to the extent specifically granted in the statute.⁸

You advise that three board members, which is more than forty percent of the board, will be elected or reelected on November 8, 2001, and four members will be elected or reelected on November 4, 2003. Therefore, it is my opinion that § 15.2-1414.2 permits the Louisa County Board of Supervisors to set a maximum annual compensation after January 1, 2001, and before July 1, 2001. In addition, the board may also set a maximum annual compensation after January 1, 2003, and before July 1, 2003. Furthermore, I am of the opinion that such annual compensation increases would become effective after January 1, 2002, and 2004, respectively.

¹See 2000 Va. Acts ch. 299, at 428.

²Any request by a county attorney for an opinion from the Attorney General "shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions." Section 2.1-118.

³See *Andrews v. Shepherd*, 201 Va. 412, 414-15, 111 S.E.2d 279, 281-82 (1959); see also *Schmidt v. City of Richmond*, 206 Va. 211, 218, 142 S.E.2d 573, 578 (1965); Op. Va. Att'y Gen.: 1998 at 56, 58; 1996 at 178, 178; 1991 at 238, 240; 1989 at 250, 251-52; 1985-1986 at 133, 134.

⁴Section 15.2-1414.2.

⁵Turner v. Commonwealth, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983).

⁶See 1982-1983 Op. Va. Att'y Gen. 309, 311 (illogical result frustrates purpose of statute).

⁷Birdsong Peanut Co. v. Cowling, 8 Va. App. 274, 277, 381 S.E.2d 24, 26 (1989) (quoting Brown v. Lukhard, 229 Va. 316, 321, 330 S.E.2d 84, 87 (1985)), *quoted in* Adkins v. Com., 27 Va. App. 166, 169, 497 S.E.2d 896, 897 (1998).

⁸See 2A Norman J. Singer, Sutherland Statutory Construction § 47.23 (5th ed. 1992 & Supp. 1999); Op. Va. Att'y Gen.: 1992 at 145, 146; 1989 at 252, 253; 1980-1981 at 209, 209-10.