

**01-012**

**ELECTIONS: CAMPAIGN FUNDRAISING; LEGISLATIVE SESSIONS.**

**Legislator's receipt of campaign contribution in check form on January 9, 2001, amounts to acceptance of contribution prior to commencement of 2001 Session of General Assembly and is lawful.**

The Honorable H. Morgan Griffith  
Member, House of Delegates  
February 8, 2001

You ask whether § 24.2-940 of the *Code of Virginia* prohibits the deposit of a campaign contribution during a regular session of the General Assembly when such contribution is received by a member of the General Assembly prior to commencement of the session.

You advise that you received a campaign contribution in the form of a check on January 9, 2001, prior to commencement of the 2001 regular session of the General Assembly.<sup>1</sup> You further advise that you were unable to access your account at a bank in Salem, Virginia, to deposit the check. You ask for guidance as to the legality of depositing the check, during or after the 2001 session, or whether you should return the check.

Section 24.2-940(A) provides:

No member of the General Assembly ... and no campaign committee of a member of the General Assembly ... shall solicit or accept a contribution for the campaign committee of any member of the General Assembly ..., from any person or political committee on and after the first day of a regular session of the General Assembly through adjournment sine die of that session.

The use of the word "shall" in a statute ordinarily implies that the provisions are mandatory.<sup>2</sup> Section 24.2-940(D) defines "solicit," as used in the statute, to mean a "request [for] a contribution, orally or in writing, but shall not include a request for support of a candidate or his position on an issue." Section 24.2-901 of the Campaign Finance Disclosure Act defines "contribution" as "money ... of any amount, ... given ... or in any other way provided to a candidate." There is no definition in the elections laws, however, for the term "accept" as used in § 24.2-940(A). Consequently, unless a contrary legislative intent is manifest, words used

in a statute should be given their common, ordinary and accepted meanings in use at the time of the statute.<sup>3</sup> The term "accept" means "to receive with consent (something given or offered)[;] assent to the receipt of."<sup>4</sup>

The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature.<sup>5</sup> Analysis of legislative intent includes appraisal of the subject matter and purpose of the statute, in addition to its express terms.<sup>6</sup> The purpose underlying a statute's enactment is particularly significant in construing it.<sup>7</sup> Moreover, statutes should not be interpreted in ways that produce absurd or irrational consequences.<sup>8</sup>

A "check" is "[a] draft signed by the maker or drawer, drawn on a bank, payable on demand, and unlimited in negotiability."<sup>9</sup> A "draft" is "[a]n unconditional written order signed by one person ... directing another person ... to pay a certain sum of money on demand."<sup>10</sup> You state that you received the campaign contribution in the form of a check before the first day of the 2001 Session of the General Assembly. It is my opinion that you accepted the campaign contribution in the form of a check at the time you received the check. The check merely represents the unconditional written order of the campaign contributor directing his bank to pay a certain sum of money to you on demand. Consequently, I am also of the opinion that § 24.2-940(A) does not apply to the campaign contribution at issue, and that you may deposit the check during or after the legislative session, or you may return the check.

<sup>1</sup>The first day of the 2001 Session of the General Assembly was January 10, 2001, the second Wednesday in January. See Va. Const. art. IV, § 6 (mandating that General Assembly meet once a year on second Wednesday in January).

<sup>2</sup>See *Andrews v. Shepherd*, 201 Va. 412, 414, 111 S.E.2d 279, 281 (1959) (noting that "shall" is word of command, used in connection with mandate); see also *Schmidt v. City of Richmond*, 206 Va. 211, 218, 142 S.E.2d 573, 578 (1965) (noting that "shall" generally indicates procedures are intended to be mandatory, imperative or limited); Op. Va. Att'y Gen.: 1997 at 16, 17; 1996 at 20, 21; 1991 at 126, 126, and opinions cited therein; *id.* at 127, 129, and opinions cited therein.

<sup>3</sup>See *Commonwealth v. Orange-Madison Coop.*, 220 Va. 655, 658, 261 S.E.2d 532, 533-34 (1980) (noting that, in absence of statutory definition, statutory term is given its ordinary meaning, given context in which it is used); Op. Va. Att'y Gen.: 1995 at 289, 290; 1991 at 296, 298; 1990 at 233, 234.

<sup>4</sup>Webster's Third New International Dictionary of the English Language Unabridged 10 (1993).

<sup>5</sup>See *Turner v. Commonwealth*, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983).

<sup>6</sup>*Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 222 S.E.2d 793 (1976).

<sup>7</sup>VEPCO v. Prince William Co., 226 Va. 382, 388, 309 S.E.2d 308, 311 (1983).

<sup>8</sup>McFadden v. McNorton, 193 Va. 455, 461, 69 S.E.2d 445, 449 (1952); see Op. Va. Att'y Gen.: 1993 at 192, 196; 1991 at 5, 7; 1986-1987 at 307, 308.

<sup>9</sup>Black's Law Dictionary 230 (7<sup>th</sup> ed. 1999).

<sup>10</sup>*Id.* at 508.

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