

02-140

COUNTIES, CITIES AND TOWNS: VIRGINIA COALFIELD ECONOMIC DEVELOPMENT AUTHORITY — INDUSTRIAL DEVELOPMENT AND REVENUE BOND ACT.

Authority may pledge funds as collateral for line of credit or loan or grant funds to Dickenson County Industrial Development Authority for purchase of machinery and tools or real estate of medical facility, which qualifies as 'authority facility' under Act, provided contemplated use of funds furthers public purpose of Authority; may not make pledge, loan or grant to IDA to fund operating expenses of medical facility.

The Honorable Clarence E. Phillips
Member, House of Delegates
November 27, 2002

I am responding to your request for an official advisory opinion pursuant to § 2.2-505 of the *Code of Virginia*.

Issues Presented

You ask whether the Virginia Coalfield Economic Development Authority may pledge collateral for a line of credit to be used by the Dickenson County Industrial Development Authority to purchase the hard assets and real estate of the Dickenson County Medical Center.¹ You next ask whether the economic development authority may utilize its funds in the form of a loan or grant to the industrial development authority for the purchase of the assets and real estate of the medical center. You also ask whether the funds of the economic development authority may be pledged to the industrial development authority for operating expenses of the medical center.

Response

It is my opinion that § 15.2-6011 authorizes the Virginia Coalfield Economic Development Authority to pledge its funds as collateral for a line of credit to the Dickenson County Industrial Development Authority for the purchase of machinery and tools or real estate of a medical facility, which qualifies as an "authority facilit[y]" as defined in § 15.2-4902. It is also my opinion that § 15.2-6011 authorizes the Authority to loan or grant funds to the industrial development authority for the purchase of machinery and tools or real estate of a medical facility, which qualifies as an "authority facilit[y]" as defined

in § 15.2-4902. In both cases, the Virginia Coalfield Economic Development Authority may pledge its funds and make a loan or grant, for any of the purposes enumerated in § 15.2-6011, provided the Authority makes an independent legislative determination that the contemplated use of the funds furthers its public purposes. Finally, it is my opinion that § 15.2-6011 does not authorize the Authority to make a pledge, loan or grant to the Dickenson County Industrial Development Authority to fund the operating expenses of a medical facility.

Applicable Law and Discussion

Chapter 60 of Title 15.2, §§ 15.2-6000 through 15.2-6015, creates the Virginia Coalfield Economic Development Authority and details its powers. The Authority is created as a "body politic and corporate, a political subdivision of the Commonwealth,"² to assist the Southwest Virginia coalfield region in economic development.³ "All powers, rights and duties conferred ... upon the Authority" are exercised by its sixteen-member Board.⁴ Dickenson County is one of the localities participating in the Authority, as specified in § 15.2-6002.

Chapter [60] is remedial in nature and is intended to address long-standing and intractable problems related to economic development and the absence of a diverse economic base in the coalfield region of Virginia. As a remedial statute, Chapter [60] should be liberally construed to accomplish this underlying legislative intent.^[5]

Section 15.2-6011 authorizes the Virginia Coalfield Economic Development Authority to pledge its funds and to make loans and grants for the benefit of qualified private, for-profit enterprises; nonprofit industrial development corporations; or industrial development authorities.⁶ Section 15.2-6011 also specifies the eligible uses and projects for which the Authority may pledge funds to industrial development authorities. Specifically, § 15.2-6011 provides that the Virginia Coalfield Economic Development Authority

is ... empowered to pledge its funds, and make loans and grants to ... industrial development authorities for financing the following:

1. Purchase of real estate;

2. Grading of site(s);
3. Construction of flood control dams;
4. Water, sewer, natural gas and electrical line replacement and extensions;
5. Construction or rehabilitation or expansion of buildings;
6. Construction of parking facilities;
7. Access roads construction and street improvements;
8. Purchase or lease of machinery and tools;
9. Construction of improvements outside the Commonwealth if in the Breaks Interstate Park; and
10. Such other improvements as the Authority deems necessary to accomplish its purpose.^[7]

The Virginia Coalfield Economic Development Authority may pledge its funds for one of the eligible purposes specified in § 15.2-6011, including the purchase of real property and certain other property⁸ by the industrial development authority.⁹ The Authority may pledge its funds and make a loan or grant, as enumerated in § 15.2-6011, provided it makes an independent legislative determination that the contemplated use of the funds furthers the public purposes of the authority.¹⁰ Therefore, the Virginia Coalfield Economic Development Authority has the discretion to pledge its funds to the industrial development authority for the purchase of real estate and such things as machinery and tools, so long as it is satisfied, based on all the relevant facts, that the pledge is for one or more of the purposes set forth in § 15.2-6011.

Under well-accepted principles of statutory construction, when a statute creates a specific grant of authority, the authority exists only to the extent specifically granted in the statute.¹¹ Section 15.2-6011 may not be read to authorize the Authority to pledge funds to the industrial development authority to fund the operating expenses of a medical facility. Funding for "operating expenses" is not listed as a permitted financing by the Authority.

Conclusion

Accordingly, it is my opinion that § 15.2-6011 authorizes the Virginia Coalfield Economic Development Authority to pledge its funds as collateral for a line of credit to the Dickenson County Industrial Development Authority for the purchase of machinery and tools or real estate of a medical facility, which qualifies as an "authority facilit[y]" as defined in § 15.2-4902. It is also my opinion that § 15.2-6011 authorizes the Authority to loan or grant funds to the industrial development authority for the purchase of machinery and tools or real estate of a medical facility, which qualifies as an "authority facilit[y]" as defined in § 15.2-4902. In both cases, the Virginia Coalfield Economic Development Authority may pledge its funds and make a loan or grant, for any of the purposes enumerated in § 15.2-6011, provided the Authority makes an independent legislative determination that the contemplated use of the funds furthers its public purposes. Finally, it is my opinion that § 15.2-6011 does not authorize the Authority to make a pledge, loan or grant to the Dickenson County Industrial Development Authority to fund the operating expenses of a medical facility.

¹For the purposes of this opinion I assume that the Dickenson County Medical Center is a medical facility that qualifies as an "authority facilit[y]" as defined in § 15.2-4902.

²Va. Code Ann. § 15.2-6000 (Michie Repl. Vol. 1997).

³See § 15.2-6001 (Michie Repl. Vol. 1997); 1997 Op. Va. Att'y Gen. 167, 168.

⁴Section 15.2-6003 (Michie Repl. Vol. 1997); see also 1997 Op. Va. Att'y Gen., *supra* note , at 168.

⁵1989 Op. Va. Att'y Gen. 132, 134 (citing Chapter 40, predecessor to Chapter 60); see also § 15.2-6013 (Michie Repl. Vol. 1997) (providing that Chapter 60 "shall be liberally construed to effect the purposes thereof").

⁶See also 1989 Op. Va. Att'y Gen., *supra* note , at 133 (interpreting § 15.1-1646, predecessor to § 15.2-6011).

⁷Section 15.2-6011 (Michie Repl. Vol. 1997).

⁸ Section 15.2-6011(1), (8).

⁹1995 Op. Va. Att'y Gen. 97, 99 (citing § 15.1-1646, predecessor to § 15.2-6011).

¹⁰1983-1984 Op. Va. Att'y Gen. 103, 106 (concluding that industrial development authority must make independent legislative determination that use of funds it receives from county furthers public purposes of authority).

¹¹See 2A Norman J. Singer, Sutherland Statutory Construction § 47:23 (6th ed. 2000) (explaining maxim, *expressio unius est exclusio alterius*, as applied to

statutory construction); Op. Va. Att'y Gen.: 1992 at 145, 146; 1989 at 252, 253; 1980-1981 at 209, 209-10.

[Back to November 2002 Index](#)