



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell
Attorney General

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900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable Thomas Davis Rust
Member, House of Delegates
730 Elden Street
Herndon, Virginia 23219

Dear Delegate Rust:

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

Issue Presented

You ask whether a local law-enforcement agency may enter into an agreement with the Department of Homeland Security to enforce selected immigration laws pursuant to § 15.2-1726.

Response

It is my opinion that pursuant to § 15.2-1726 a local law-enforcement agency may enter into an agreement with the Department of Homeland Security to enforce selected immigration laws.

Applicable Law and Discussion

Section 15.2-1726 provides, in part, that:

Any locality may, in its discretion, enter into a reciprocal agreement with any other locality, any agency of the federal government exercising police powers, police of any state-supported institution of higher learning appointed pursuant to § 23-233, or with any combination of the foregoing, for such periods and under such conditions as the contracting parties deem advisable, for cooperation in the furnishing of police services. Such localities also may enter into an agreement for the cooperation in the furnishing of police services with the Department of State Police. The governing body of any locality also may, in its discretion, enter into a reciprocal agreement with any other locality, or combination thereof, for the consolidation of police departments or divisions or departments thereof. Subject to the conditions of the agreement, all police officers, officers, agents and other employees of such consolidated or cooperating police departments shall have the same powers, rights, benefits, privileges and immunities in every jurisdiction subscribing to such agreement, including the authority to make arrests in every such jurisdiction subscribing to the agreement; however, no police officer of any locality shall have authority to enforce federal laws unless specifically empowered to do so by statute, and no federal law-enforcement officer shall have authority to enforce the laws of the Commonwealth unless specifically empowered to do so by statute.

The Honorable Thomas Davis Rust
May 10, 2007
Page 2

"[A] fundamental rule of statutory construction requires that courts view the entire body of legislation and statutory scheme to determine the 'true intention of each part.' In construing statutes, courts should give the fullest possible effect to the legislative intent embodied in the entire statutory enactment."¹ One must look at the entire statute to ascertain the intent of the General Assembly.²

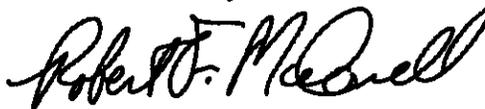
Section 15.2-1726 sets forth a procedure and gives broad discretion for local law-enforcement agencies to enter into agreements with federal law-enforcement agencies to cooperate in the furnishing of police services. The only limitation § 15.2-1726 imposes on local law-enforcement agencies regarding such agreements is that "no police officer of any locality shall have authority to enforce federal laws unless specifically empowered to do so by statute." Specifically, 8 U.S.C. § 1357(g) authorizes local law-enforcement agencies to enforce immigration laws provided local law-enforcement and federal law-enforcement agencies enter into a written agreement of understanding.³ Thus, under § 15.2-1726, a local law enforcement agency may exercise its discretion to enter into an agreement with the Department of Homeland Security to enforce selected immigration laws.

Conclusion

Accordingly, it is my opinion that pursuant to § 15.2-1726 a local law-enforcement agency may enter into an agreement with the Department of Homeland Security to enforce selected immigration laws.

Thank you for letting me be of service to you.

Sincerely,



Robert F. McDonnell

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¹Va. Real Estate Bd. v. Clay, 9 Va. App. 152, 157, 384 S.E.2d 622, 625 (1989) (quoting McDaniel v. Commonwealth, 199 Va. 287, 292, 99 S.E.2d 623, 627 (1957)).

²See Commonwealth v. Jones, 194 Va. 727, 731, 74 S.E.2d 817, 820 (1953) (noting that to derive true purpose of act, "statute should be construed so as to give effect to its component parts").

³Cf. VA. CODE ANN. § 19.2-12 (Supp. 2006) (designating special agent or law enforcement officer of Department of Homeland Security as conservator of the peace); § 19.2-18 (2003) (vesting conservators of the peace with certain powers of arrest to enforce Virginia state law). The reciprocal nature of 8 U.S.C. § 1357(g) and *Virginia Code* §§ 19.2-12 and 19.2-18 are indicative of a situation where a local law-enforcement agency could enter into a reciprocal agreement with a federal law enforcement agency under *Virginia Code* § 15.2-1726.