



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II  
Attorney General

May 27, 2011

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Sharon E. Pandak, Esquire  
County Attorney, Orange County  
4004 Genesee Place, Suite 201  
Woodbridge, Virginia 22192

Dear Ms. Pandak:

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 inquire as to the proper process Orange County should follow under § 24.2-220 of the *Code of Virginia*, in the event the County changes its method of electing the Board of Supervisors. Specifically, should the County choose to elect all of its Supervisors at the same time for four-year terms, instead of holding the current staggered elections every two years, you ask in what year would all of the Supervisors be elected to four-year terms in a single election if the Board acts now to change the method of election.

## Response

It is my opinion that once the applicable county ordinance is changed properly to eliminate the method of electing Supervisors to staggered four-year terms and to replace that method with an election for all of the Supervisors every four years, the provisions of § 24.2-220 would require that the Supervisors in Districts 2, 3 and 5 be elected to four-year terms in 2011, while the Supervisors in Districts 1 and 4 be elected to a two-year term in 2013, so that the entire Board of Supervisors would be elected to a four-year term beginning in 2015.

## Background

You relate that Orange County is currently governed by a five-member Board of Supervisors. The Supervisors are elected to four-year terms based on a staggered, two-year, or "biennial" electoral cycle. Under the existing ordinance, three Supervisors' seats, those in Districts 2, 3, and 5, are to be elected to four-year terms in 2011, and the remaining two seats, in Districts 1 and 4, are to be elected to four-year terms in 2013. You indicate that the current Board of Supervisors is considering a proposal to change to non-staggered terms this electoral cycle. In order to implement this change, the Board would amend the applicable Orange County ordinance to repeal the provision for staggered terms and, instead, all Supervisors would be elected to serve four-year terms at the same time every four years, or "quadrennially." You conclude that, pursuant to § 24.2-220, the implementation schedule for changing to a concurrent quadrennial election cycle would provide for three Supervisors elected in 2011 to serve a

four year term, for two Supervisors in 2013 to serve a two-year term, and the entire Board of Supervisors serve concurrent four-year terms following the election in 2015.<sup>1</sup>

### **Applicable Law and Discussion**

Section 24.2-220 allows for a county board of Supervisors, which by a previously adopted ordinance is elected biennially to staggered four-year terms pursuant to § 24.2-219, to revert to the quadrennial election of all members. The previously adopted ordinance calling for staggered terms for the Supervisors must first be repealed, either by the county's governing body or by a proper petition and referendum by the qualified voters of the county.<sup>2</sup>

Once the existing County ordinance properly is repealed, § 24.2-220 provides that "the successors to those Supervisors whose terms expire in 1995 or any fourth year thereafter shall be elected for a four-year term and immediate successors to those Supervisors whose terms expire in 1993 or any fourth year thereafter shall be elected for a two-year term and all subsequent successors for a four-year term."<sup>3</sup>

Applying this statute, one must first determine which Supervisors are the "successors to those Supervisors whose terms expire[d] in 1995 or any fourth year thereafter." You relate that the Supervisors in Districts 2, 3, and 5 are the successors of the Supervisors whose term expired in 1995. Under § 24.2-220, these Supervisors would be elected in 2011 to "a four-year term." Next, the statute calls for the "immediate successors to Supervisors whose terms expire[d] in 1993 and each fourth year thereafter" to serve a two-year term, so as to even out the previously staggered terms. You relate that the Supervisors in Districts 1 and 4 are the successors of Supervisors whose terms expired in 1993. Therefore, these Supervisors would be elected to a two year term in 2013.<sup>4</sup> In sum, the Supervisors in Districts 2, 3 and 5 would be elected to four-year terms in 2011, the Supervisors in Districts 1 and 4 would be elected to a two-year term in 2013, and the entire board of Supervisors would be elected to four-year terms beginning in 2015.

### **Conclusion**

Accordingly, it is my opinion that once the applicable county ordinance properly is changed to eliminate the method of electing Supervisors to staggered four-year terms and to replace that method with an election for all of the Supervisors every four years, the provisions of § 24.2-220 would require that the Supervisors in Districts 2, 3 and 5 be elected to four-year terms in 2011, while the Supervisors in Districts

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<sup>1</sup> Section 2.2-505(B) requires that an opinion request from a county attorney "shall itself be in the form of an opinion embodying a precise statement of all facts together with such attorney's legal conclusions."

<sup>2</sup> See VA. CODE ANN. § 24.2-220 (2006).

<sup>3</sup> *Id.*

<sup>4</sup> "[W]e determine the legislative intent from the words used in the statute, applying the plain meaning of the words unless they are ambiguous or would lead to an absurd result." *Wright v. Commonwealth*, 278 Va. 754, 759, 685 S.E.2d 655, 657 (2009). "[W]e must give effect to the legislature's intention as expressed by the language used unless a literal interpretation of the language would result in a manifest absurdity." *Conyers v. Martial Arts World of Richmond, Inc.*, 273 Va. 96, 104, 639 S.E.2d 174, 178 (2007). "If a statute is subject to more than one interpretation, we must apply the interpretation that will carry out the legislative intent behind the statute." *Id.* "The plain, obvious, and rational meaning of a statute is to be preferred over any curious, narrow, or strained construction." *Commonwealth v. Zamani*, 256 Va. 391, 395, 507 S.E.2d 608, 609 (1998).

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1 and 4 be elected to a two-year term in 2013, so that the entire Board of Supervisors would be elected to a four-year term beginning in 2015.

With kindest regards, I am

Very truly yours,

A handwritten signature in blue ink that reads "Ken C II". The signature is stylized, with the first name "Ken" and the last name "C" being prominent, followed by "II".

Kenneth T. Cuccinelli, II  
Attorney General