



COMMONWEALTH of VIRGINIA

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The Honorable Clarence E. Bud Phillips
Member, House of Delegates
Post Office Box 36
Castlewood, Virginia 24224

Dear Delegate Phillips:

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 § 27-14 of the *Code of Virginia* permits a locality to adopt an ordinance authorizing a volunteer fire department to assess and charge a fee to an individual's homeowners' or automobile insurance policy for responding to a fire emergency.

Response

It is my opinion that § 27-14 does not permit a locality to adopt an ordinance authorizing a volunteer fire department to assess and charge a fee to an individual's homeowners' or automobile insurance policy for responding to a fire emergency.

Applicable Law and Discussion

A previous opinion of this office addresses the question whether volunteer fire departments may assess and charge a fee to an individual's homeowners' or automobile insurance policy for responding to a fire emergency.¹ That opinion concludes that there is "no statutory basis upon which to bill an individual's homeowners' or automobile policy for responding to a fire emergency."

Although the prior opinion does not specifically mention § 27-14, the analysis and conclusion remain the same. Section 27-14 provides, in pertinent part, that a "governing body may make such ordinances in relation to the powers and duties of fire/EMS departments, companies, chiefs or directors and other officers as it may deem proper." By its plain terms, the statute does not specifically accord localities the authority to permit fire departments to charge insurance policies for services rendered.

Under the Dillon Rule, localities have "only those powers which are expressly granted by the state legislature, those powers fairly or necessarily implied from expressly granted powers, and those powers which are essential and indispensable."² As the previous opinion and the plain language of § 27-14

¹ 2011 Op. Va. Att'y Gen. No. 11-052, *available at* <http://www.vaag.com/Opinions%20and%20Legal%20Resources/Opinions/2011opns/11-052-Phillips.pdf>.

² *City of Va. Beach v. Hay*, 258 Va. 217, 221, 518 S.E.2d 314, 316 (1999) (citing *Commonwealth v. County Bd. of Arlington Cnty.*, 217 Va. 558, 574, 232 S.E.2d 30, 40 (1977)).

demonstrate, there is no legislation expressly enabling localities to adopt such measures. The question thus becomes whether such power can be inferred from § 27-14. To find a “particular power from a power expressly granted, it must be found that the legislature intended that the grant of the express also would confer the implied.”³

Because the Virginia Code constitutes one body of law,⁴ statutes are not to be read in isolation.⁵ As noted in the previous opinion, § 32.1-111.14(B) authorizes localities “to make reasonable charges for use of emergency medical services vehicles, including charging insurers for ambulance services” and § 15.2-1716 permits localities to provide for recovery of expenses incurred in responding to certain calls when a conviction for specified crimes has occurred. Moreover, § 27-47 expressly provides that a locality can levy a property tax to fund the fire/EMS departments serving designated fire/EMS zones or districts, and §§ 15.2-953 (B) and (D) authorize localities to make certain payments to volunteer fire companies. Reading § 27-14 so broadly as to permit a locality to authorize a volunteer fire department to assess the fee would render these statutes superfluous.

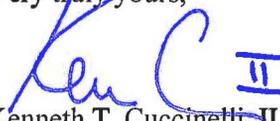
As evidenced in these other statutes, the legislature knows how to express its intention⁶ with regard to permitting charges assessed against insurers and the financing of volunteer fire departments, and chose not to include such language in § 27-14. Further, where one power is expressed, another will not be inferred,⁷ and any doubt as to the existence of a power must be resolved against the locality.⁸ I therefore cannot conclude that the grant of power provided in § 27-14 includes the ability to adopt an ordinance authorizing a volunteer fire department to assess and charge a fee to an individual’s homeowners’ or automobile insurance policy for responding to a fire emergency.⁹

Conclusion

Accordingly, it is my opinion that § 27-14 does not permit a locality to adopt an ordinance authorizing a volunteer fire department to assess and charge a fee to an individual’s homeowners’ or automobile insurance policy for responding to a fire emergency.

With kindest regards, I am

Very truly yours,


Kenneth T. Cuccinelli, II
Attorney General

³ *Arlington Cnty.*, 217 Va. at 577, 232 S.E.2d at 42.

⁴ 2001 Op. Va. Att’y Gen. 192, 193 (citing *Branch v. Commonwealth*, 14 Va. App. 836, 419 S.E.2d 422 (1992)).

⁵ 2010 Op. Va. Att’y Gen 173, 176 n.6 and citations therein. See *Prillaman v. Commonwealth*, 199 Va. 401, 405, 100 S.E.2d 4, 7 (1957) (“statutes are not to be considered as isolated fragments of law, but as a whole, or as parts of . . . a single and complete statutory arrangement”).

⁶ See e.g., 2010 Op. Va. Att’y Gen. 5, 6 and citation therein; *id.* at 7, 9; *id.* at 178, 170 and citation therein.

⁷ See *Harris v. USAA Casualty Ins. Co.*, 37 Va. Cir. 553, 572 (Norfolk 1994).

⁸ *Marble Techs., Inc. v. City of Hampton*, 279 Va. 409, 417, 690 S.E.2d 84 (2010) (quoting *Bd. of Sprvrs. v. Reed’s Landing Corp.*, 250 Va. 397, 400, 463 S.E.2d 668, 670 (1995)).

⁹ Section 27-14 generally authorizes ordinances governing the organizational and operational needs of a department, such as training requirements, equipment, and personnel issues. See 1987-88 Op. Va. Att’y Gen. 361 (concluding that a governing body has authority to establish training requirements).