



# COMMONWEALTH of VIRGINIA

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June 14, 2013

William H. Hefty, Esquire  
County Attorney for Surry County  
Hefty & Wiley, P.C.  
Old City Hall, Suite 230  
1001 East Broad Street  
Richmond, Virginia 23219

Dear Mr. Hefty:

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

## Issue Presented

Your inquiry concerns whether Surry County is subject, on July 1, 2013, to the regional transportation taxes and fees included in the 2013 Transportation Funding Bill, Chapter 766 of the Virginia Acts of Assembly, 2013 Reconvened Session (“the Act”).

## Response

It is my opinion that on July 1, 2013, Surry County will not be subject to the regional transportation taxes and fees included in the Act.

## Background

You relate that Surry County is physically located in Planning District 19.<sup>1</sup> You further relate that Surry County, pursuant to § 15.2-4220 of the *Code of Virginia*, has elected to become a member of the Planning District Commission for Planning District 23.

## Applicable Law and Discussion

The Act provides for the imposition of certain specific taxes and fees by localities “located in” a planning district that meets certain population, registered vehicle, and transit ridership criteria.<sup>2</sup> Currently, Planning District 23 and Planning District 8 are the only districts that meet these criteria.<sup>3</sup>

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<sup>1</sup> Planning Districts are created pursuant to Chapter 42 of Title 15.2 in order to facilitate regional cooperation and to promote joint effort in regional planning in matters of a regional nature. *See* VA. CODE ANN. § 15.2-4201 (2012).

<sup>2</sup> 2013 Va. Acts. ch. 766.

<sup>3</sup> Planning District 8 is located in Northern Virginia and is not germane to the discussion here.

Surry County is located in Planning District 19. The fact that Surry County is also a member of the District 23 Planning District Commission does not change the fact that Surry County is located in Planning District 19. Section 15.2-4220 of the *Code of Virginia* does provide that a county or other locality can be a member of more than one planning district commission. Nevertheless, a locality can be physically "located in" only one planning district. Ordinarily when a particular word or phrase in a statute is not defined therein one must give it its ordinary meaning.<sup>4</sup> Surry County is located in Planning District 19. The additional local taxes provided by the Act do not apply to localities located in Planning District 19.

#### Conclusion

Accordingly, it is my opinion that on July 1, 2013, Surry County will not be subject to the regional transportation taxes and fees included in the Act.

With kindest regards, I am

Very truly yours,

A handwritten signature in black ink that reads "Ken C II". The signature is stylized, with "Ken" written in a cursive script and "C II" written in a more formal, blocky style.

Kenneth T. Cuccinelli, II  
Attorney General

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<sup>4</sup> Moyer v. Commonwealth, 33 Va. App. 8, 35, 513 S.E. 2d 580,593 (2000) (citing McKeon v. Commonwealth, 211 Va. 24, 27, 175 S.E. 2d 282, 284 (1970)).